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**TO: Dr. José M. Torres**

**FROM: Miguel Rodriguez**

**RE: Board Policy Review—Section 7**

**DATE: April 3, 2013**

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We are recommending the following changes because of recent amendments in the law. We are also recommending new policies in the areas of: *Release Time for Religious Instruction/Observance* and *Student Interviews*. We have included the policies that have been modified, an explanation for the modification and the IASB corresponding policy.

/kf

**cc: Kelvin Lane**  
**Luis Rodriguez**

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**The Table of Contents has been updated to incorporate the recommended changes.**

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## **Equal Educational Opportunities**

- 7.010 The proposed policy change includes all currently protected classes.**

## EQUAL EDUCATIONAL OPPORTUNITIES

The Board of Education will pursue equal educational and extracurricular opportunities for all students without regard to race, color, *nationality, ancestry* ~~*natural origin*~~, sex, sexual orientation, religious beliefs, disability, status as homeless, *order of protection status, actual or perceived marital or parental status, gender identity, pregnancy*, and any other legally protectable category. Provisions for these opportunities will be commensurate with student needs, abilities, interests, and diverse cultural backgrounds.

Further, the District will not knowingly enter into agreements with an entity or any individual that discriminates against students on the basis of sex or any other protected status, except that the District remains viewpoint neutral when granting access to school facilities under Board policy 4.035.

Any student may file a discrimination grievance by using the Uniform Grievance procedure.

LEGAL REF.: Illinois School Code: 105 ILCS 5/10, -21.3, -22.5; 105 ILCS 5/22-11; 5/22-19;  
105 ILCS 5/27-1  
Civil Rights Act of 1964, as amended in 172, 20 USC § 1681 et seq.  
McKinney Homeless Assistance Act, 42 U.S.C. §11431 et seq.  
Rehabilitation Act of 1973, 29 U.S.C. §791 et seq.  
Religious Freedom Restoration Act, 775 ILCS 35/5  
Ill. Constitution Article I, §8  
23 Ill.Admin. Code §1.240  
Illinois Human Rights Act, 775 ILCS 5/1 et seq.

CROSS REF.: Administrative Procedure Handbook – Section 7.37-.40

## Students

### Equal Educational Opportunities <sup>1</sup>

Equal educational and extracurricular opportunities shall be available for all students without regard to color, race, nationality, religion, sex, sexual orientation, ancestry, age, physical or mental disability, gender identity, status of being homeless, order of protection status, actual or potential marital or parental status, including pregnancy. <sup>2</sup> Further, the District will not knowingly enter into agreements with any entity or any individual that discriminates against students on the basis of sex or any other protected status, except that the District remains viewpoint neutral when granting access to school facilities under School Board policy 8:20, *Community Use of School Facilities*. <sup>3</sup> Any student may file a discrimination grievance by using Board policy 2:260, *Uniform Grievance Procedure*. <sup>4</sup>

### Sex Equity <sup>5</sup>

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

<sup>1</sup> State or federal law requires this subject matter be covered by policy and controls this policy's content.

<sup>2</sup> Many civil rights laws guarantee equal education opportunities; see citations in the Legal References.

The Ill. Human Rights Act and an ISBE rule prohibit schools from discriminating against students on the basis of *sexual orientation* and *gender identity* (775 ILCS 5/5-101(11), amended by P.A. 95-668; 23 Ill.Admin.Code §1.240). *Sexual orientation* is defined as the "actual or perceived heterosexuality, homosexuality, bisexuality, or gender related identity, whether or not traditionally associated with the person's designated sex at birth," (775 ILCS 5/1-103(O-1)). *Gender identity* is included in the definition of sexual orientation in the Act. The Act permits schools to maintain single-sex facilities that are distinctly private in nature, e.g., restrooms and locker rooms (775 ILCS 5/5-103). 775 ILCS 5/1-102(A), amended by P.A. 96-447, added *order of protection status* to the list of protected categories.

The Ill. Human Rights Act's jurisdiction is specifically limited to: (1) failing to enroll an individual, (2) denying access to facilities, goods, or services, or (3) failing to take corrective action to stop severe or pervasive harassment of an individual (775 ILCS 5/5-102.2, added by P.A. 96-814).

<sup>3</sup> 23 Ill.Admin.Code §200.40(b) prohibits entering into agreements with entities that discriminate against students on the basis on sex. Section 200.80(a)(4) contains an exception for single sex youth organizations, e.g., Boy and Girl Scouts. Note that the U.S. Supreme Court refused to apply N.J.'s public accommodation law to the Boy Scouts because forcing the Scouts to accept a homosexual as a member would violate the Scouts' freedom of expressive association. Boy Scouts of America v. Dale, 120 S.Ct. 2446 (2002). When deciding whether to allow non-school groups to use its facilities, a public school district may not engage in viewpoint discrimination. Good News Club v. Milford Central School, 121 S.Ct. 2093 (2001).

<sup>4</sup> Districts must have a grievance procedure (See Legal References following policy). Absent a specific statute or rule, there is no consensus on whether students have the right to appeal a board's decision to the Regional Superintendent and thereafter to the State Superintendent pursuant to 105 ILCS 5/2-3.8.

<sup>5</sup> Every district must have a policy on sex equity (23 Ill.Admin.Code §200.40(b)). The Ill. Human Rights Act, Public Accommodation section, prohibits schools from: (1) failing to enroll an individual, (2) denying a individual access to its facilities, goods, or services, or (3) failing take corrective action to stop severe or pervasive harassment of an individual (775 ILCS 5-102.2, added by P.A. 96-814), on the basis of the individual's sex or sexual orientation, among other classifications (775 ILCS 5/5-101, amended by P.A. 95-668). Districts must periodically evaluate their policies and practices to identify and eliminate sex discrimination as well as evaluate course enrollment data to identify disproportionate enrollment based on sex. In-service training for all staff members is required (23 Ill.Admin.Code §1.420).

With some exceptions, Title IX guarantees that "[n]o person in the United States shall, on the basis of gender, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance...." (20 U.S.C. §§1681(a)). Equal participation and equal opportunity in athletics is addressed in the U.S. Dept. of Education's implementing rules (34 C.F.R. §106.41). Generally, when a school district offers a team for one gender but not for the other, a member of the excluded gender is allowed to try out for the team unless the sport is a *contact sport*. Contact sports are boxing, wrestling, rugby, ice hockey, football, basketball, and other sports involving bodily contact. The rules also list the factors that determine whether equal opportunities are available to both genders. These include: whether the selection of athletics accommodates the interests and abilities of both genders; equipment and supplies; scheduling; opportunity to receive coaching and academic tutoring; locker rooms, practice facilities, and fields; and publicity.

No student shall, based on sex, sexual orientation, or gender identity be denied equal access to programs, activities, services, or benefits or be limited in the exercise of any right, privilege, advantage, or denied equal access to educational and extracurricular programs and activities.

Any student may file a sex equity complaint by using Board policy 2:260, *Uniform Grievance Procedure*. A student may appeal the Board's resolution of the complaint to the Regional Superintendent (pursuant to 105 ILCS 5/3-10) and, thereafter, to the State Superintendent of Education (pursuant to 105 ILCS 5/2-3.8). 6

#### Administrative Implementation

The Superintendent shall appoint a Nondiscrimination Coordinator. 7 The Superintendent and Building Principal shall use reasonable measures to inform staff members and students of this policy and grievance procedure. 8

LEGAL REF.: 42 U.S.C. §11431 et seq., McKinney Homeless Assistance Act.  
20 U.S.C. §1681 et seq., 34 C.F.R. Part 106; Title IX of the Educational Amendments.  
29 U.S.C. §791 et seq., Rehabilitation Act of 1973.  
775 ILCS 35/5, Religious Freedom Restoration Act.  
Ill. Constitution, Art. I, §18.  
Good News Club v. Milford Central School, 121 S.Ct. 2093 (2001).  
105 ILCS 5/3.25b, 3.25d(b), 10-20.12, 10-22.5, and 27-1.  
775 ILCS 5/1-101 et seq., Illinois Human Rights Act.  
23 Ill.Admin.Code §1.240 and Part 200.

CROSS REF.: 2:260 (Uniform Grievance Procedure), 7:20 (Harassment of Students Prohibited), 7:130 (Student Rights and Responsibilities), 7:330 (Student Use of Buildings - Equal Access), 8:20 (Community Use of School Facilities)

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

6 Districts must have a grievance procedure and must tell students that they may appeal a board's resolution of a sex equity complaint to the Regional Superintendent and, thereafter, to the State Superintendent (23 Ill.Admin.Code §200.40).

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

7 Required by regulations implementing Title IX (34 C.F.R. Part 106.8).

8 Required by regulations implementing Title IX (34 C.F.R. Part 106; 23 Ill.Admin.Code §200.40). Comprehensive Faculty and student handbooks can provide required notices, along with other important information, to recipients. Handbooks can be developed by the building principal, but should be reviewed and approved by the superintendent and board. Faculty handbooks may contain working conditions and be subject to mandatory collective bargaining.

## **Nondiscrimination on the Basis of Disability**

**7.011 The proposed policy change adds a legal term.**

## NONDISCRIMINATION ON THE BASIS OF DISABILITY

Section 504 of the Rehabilitation Act of 1973 and its accompanying regulations apply to all school districts receiving federal funds. Under this body of law a school district:

1. May not discriminate against qualified persons with disabilities in any aspect of school district employment solely on the basis of the disability conditions.
2. Must make facilities, programs, and activities accessible, usable, and open to qualified persons with disabilities.
3. Must provide free appropriate education at elementary and secondary levels, including nonacademic and extracurricular services and activities, to qualified persons with disabilities.
4. May not exclude any qualified person with disabilities solely on the basis of disability from participation in any preschool education or day care program or activity or any adult education or vocational program or activity.
5. Must provide each qualified person with disabilities with the same health, welfare, and other social services as are provided other persons.

School District U-46 receives federal financial assistance and must comply with the above requirements. Additionally, the Board of Education is of the general view that:

1. Discrimination against a qualified person with disabilities, solely on the basis of disability, is illegal ~~unfair~~; and that
2. To the extent reasonably possible, qualified persons with disabilities should be in the mainstream of life in a school community.

Accordingly, employees of School District U-46 will comply with the above requirements of law and regulations.

LEGAL REF.: Section 504, Rehabilitation Act of 1973, 29 USC § 794  
Individuals with Disabilities Education Act, 20 USC § 1400 et seq.  
Americans with Disabilities Act, 42 USC § 12101, et seq.

CROSS REF.: 6.120 - Programs for Students with Disabilities

1986/1987/1989/1997/2013

Replaces: ACB

**Third-Party Student Surveys, Questionnaires,  
and Requests for Personal Information**

- 7.016 The proposed policy change adds a notification of rights and procedures section.**

### **THIRD-PARTY STUDENT SURVEYS, QUESTIONNAIRES, AND REQUESTS FOR PERSONAL INFORMATION**

Third party student surveys and questionnaires are those that are created by a person or entity other than a District official, staff member, or student. Third party student surveys and questionnaires shall be administered at the discretion of the superintendent and only when they serve to advance the District's educational objectives. Notice will be provided to parents prior to the administration of third party surveys or questionnaires and parents will, upon their request, be permitted to inspect the survey or questionnaire within a reasonable time of their request.

#### **Surveys Requesting Personal Information**

No student shall be required, as part of any applicable program, to submit to a District or third-party survey, analysis or evaluation that reveals the following information without prior written consent of his/her parent guardian:

- Political affiliations or beliefs of the student or his/her parent/guardian;
- Mental or psychological problems of a student or his/her family;
- Behavior or attitudes about sex;
- Illegal, anti-social, self-incriminating, or demeaning behavior;
- Critical appraisals of other individuals with whom students have close family relationships;
- Legally recognized privileged or analogous relationships, such as those with lawyers, physicians, and ministers;
- Religious practices, affiliations or beliefs of the student or his/her parents/guardians; or
- Income (other than required to determine eligibility for participation in a program or for receiving financial assistance under such program)

School staff shall not disclose the identity of any student who, upon written consent of the parent/guardian, completes any survey or evaluation regarding the above items. Notice will be provided to parents prior to the administration of surveys or questionnaires concerning the above information and parents, upon their request, will be permitted to inspect the survey or questionnaire within a reasonable time of their request.

#### **Selling or Marketing Students' Personal Information is Prohibited**

No school official or staff member shall market or sell personal information concerning students (or otherwise provide that information to others for that purpose.) The term "personal information" means individually identifiable information including: (1) a student or parent's first and last name, (2) a home or other physical address (including street name and the name of the city or town, (3) a telephone number, (4) a Social Security identification number or (5) driver's license number or State identification card.

The above paragraph does not apply: (1) if the student's parent(s)/guardian(s) have consented; or (2) to the collection, disclosure or, use of personal information collected from students for the exclusive purpose of developing, evaluating or providing educational products or services for, or to, students or educational institutions, such as the following:

1. College or other postsecondary education recruitment, or military recruitment.
2. Book clubs, magazines, and programs providing access to low-cost literary products.
3. Curriculum and instructional materials used by elementary schools and secondary schools.
4. Tests and assessments to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of the aggregate data from such tests and assessments.
5. The sale by students of products or services to raise funds for school-related or education-related activities.
6. Student recognition programs.

Under no circumstances may a school official or staff member provide a student's "personal information" to a business organization or financial institution that issues credit or debit cards.

**Notification of Rights and Procedures**

**This policy shall be included in ~~Through~~ the Student Handbook. The Superintendent/designee shall notify students' parents/guardians of:**

- 1. This Policy as well as its availability upon request from the District office.**
- 2. How to opt their child out of participation in activities as provided in this policy.**
- 3. How to request access to any survey or other material described in this policy.**

**~~This Notification shall be given to parents/guardians at least annually, at the beginning of the school year, in the student's handbook, and within a reasonable period after any substantive change in this policy.~~**

**The rights provided to parents/guardians in this policy transfer to the student when the student turns 18 years old, or is an emancipated minor.**

LEGAL REF.:

~~No Child Left Behind Act, 20 USC § 1232h~~

The Children's Privacy Protection and Parental Empowerment Act, 325 ILCS 17/1 et seq. P.A. 93-462

105 ILCS 5/10-20.28

Protection of Pupil Rights, 20 USC § 1232h

## Students

### Student and Family Privacy Rights 1

#### Surveys 2

All surveys requesting personal information from students, as well as any other instrument used to collect personal information from students, must advance or relate to the District's educational objectives as identified in School Board policy 6:10, *Educational Philosophy and Objectives*, or assist students' career choices. This applies to all surveys, regardless of whether the student answering the questions can be identified and regardless of who created the survey.

#### Surveys Created by a Third Party 3

Before a school official or staff member administers or distributes a survey or evaluation created by a third party to a student, the student's parent(s)/guardian(s) may inspect the survey or evaluation, upon their request and within a reasonable time of their request.

This section applies to every survey: (1) that is created by a person or entity other than a District official, staff member, or student, (2) regardless of whether the student answering the questions can be identified, and (3) regardless of the subject matter of the questions.

#### Survey Requesting Personal Information 4

School officials and staff members shall not request, nor disclose, the identity of any student who completes any survey or evaluation (created by any person or entity, including the District) containing one or more of the following items:

1. Political affiliations or beliefs of the student or the student's parent/guardian.
2. Mental or psychological problems of the student or the student's family.
3. Behavior or attitudes about sex.

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

<sup>1</sup> State or federal law requires this subject matter be covered by policy. State or federal law controls this policy's content. The No Child Left Behind Act significantly changed the Protection of Pupil Rights Act, a/k/a/ the Hatch Amendments. The Protection of Pupil Rights Act requires any school district, "that receives funds under any applicable program [to] develop and adopt policies, in consultation with parents, regarding [statutory privacy rights]." (20 U.S.C. §1232h(c)(1). "Any applicable program" generally refers to any federal program administered by the U.S. Department of Education (20 U.S.C. §1221(c). "Consultation with parents" is not defined; boards are advised, at minimum, to publicize the issue and request public comment during the policy's adoption.

<sup>2</sup> This paragraph is not dictated by law. It, however, contains the principles to guide staff and should be carefully considered and re-crafted by each board. Note that IASB sample board policy 6:10, *Educational Philosophy and Objectives*, is very broad and will thus justify surveys covering many subjects. However, it would prohibit the collection of information for marketing or selling (see f/n 13 of this policy); this reference must be struck if the board wants the option of selling personal information collected from students, such as in the following:

A survey requesting personal information from students, as well as any other instrument used to collect personal information from students, must have a business, educational, or marketing justification.

Another alternative is to strictly restrict the subjects on which students may be surveyed, as in the following:

All surveys requesting information from students, as well as any other instrument used to collect personal information from students, must be for the purpose of monitoring the quality of the District's educational programs or assisting students' career choices.

<sup>3</sup> Required by 20 U.S.C. §§1232h(c)(1)(A)(i) and 1232h(c)(2)(A)(ii).

<sup>4</sup> Required by 20 U.S.C. §1232h(c)(1)(B).

4. Illegal, anti-social, self-incriminating, or demeaning behavior.
5. Critical appraisals of other individuals with whom students have close family relationships.
6. Legally recognized privileged or analogous relationships, such as those with lawyers, physicians, and ministers.
7. Religious practices, affiliations, or beliefs of the student or the student's parent/guardian.
8. Income other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program.

The student's parent(s)/guardian(s) may:

1. Inspect the survey or evaluation upon, and within a reasonable time of, their request, 5 and/or
2. Refuse to allow their child or ward to participate in the activity described above. 6 The school shall not penalize any student whose parent(s)/guardian(s) exercised this option.

#### Instructional Material 7

A student's parent(s)/guardian(s) may inspect, upon their request, any instructional material used as part of their child/ward's educational curriculum within a reasonable time of their request.

The term "instructional material" means instructional content that is provided to a student, regardless of its format, printed or representational materials, audio-visual materials, and materials in electronic or digital formats (such as materials accessible through the Internet). The term does not include academic tests or academic assessments. 8

#### Physical Exams or Screenings 9

No school official or staff member shall subject a student to a non-emergency, invasive physical examination or screening as a condition of school attendance. The term "invasive physical examination" means any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injection into the body, but does not include a hearing, vision, or scoliosis screening.

The above paragraph does not apply to any physical examination or screening that:

1. Is permitted or required by an applicable State law, including physical examinations or screenings that are permitted without parental notification. 10

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

5 Id.

6 20 U.S.C. §1232h(c)(2)(A)(ii).

7 Required by 20 U.S.C. §1232h(c)(1)(C)(i).

8 20 U.S.C. §1232h(c)(6)(A).

9 The Protection of Pupil Rights Act states that student's parent(s)/guardian(s) may refuse to allow their child or ward to participate in "non-emergency, invasive physical examination or screening." (20 U.S.C. §1232h(c)(2)(A)(ii)). This does not necessarily mean, however, that schools have authority to conduct invasive physical examinations or screenings of students. In order to avoid misunderstandings, the sample policy prohibits physical examinations and screenings of students as those terms are defined in the policy (and federal law).

A board that wants to retain this option must strike the first sentence and replace it with the following:

A student's parent(s)/guardian(s) may refuse to allow their child or ward to participate in any non-emergency, invasive physical examination or screening that is: (a) required as a condition of attendance, (b) administered by the school and scheduled by the school in advance; and (c) not necessary to protect the immediate health and safety of the student, or of other students.

10 20 U.S.C. §1232h(c)(4)(B)(ii).

2. Is administered to a student in accordance with the Individuals with Disabilities Education Act (20 U.S.C. §1400 et seq.). <sup>11</sup>
3. Is otherwise authorized by Board policy. <sup>12</sup>

### Selling or Marketing Students' Personal Information Is Prohibited <sup>13</sup>

No school official or staff member shall market or sell personal information concerning students (or otherwise provide that information to others for that purpose). The term "personal information" means individually identifiable information including: (1) a student or parent's first and last name, (2) a home or other physical address (including street name and the name of the city or town), (3) a telephone number, (4) a Social Security identification number or (5) driver's license number or State identification card. <sup>14</sup>

The above paragraph does not apply: (1) if the student's parent(s)/guardian(s) have consented; or (2) to the collection, disclosure or, use of personal information collected from students for the exclusive purpose of developing, evaluating or providing educational products or services for, or to, students or educational institutions, such as the following: <sup>15</sup>

1. College or other postsecondary education recruitment, or military recruitment.
2. Book clubs, magazines, and programs providing access to low-cost literary products.
3. Curriculum and instructional materials used by elementary schools and secondary schools.
4. Tests and assessments to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of the aggregate data from such tests and assessments.
5. The sale by students of products or services to raise funds for school-related or education-related activities.
6. Student recognition programs.

Under no circumstances may a school official or staff member provide a student's "personal information" to a business organization or financial institution that issues credit or debit cards. <sup>16</sup>

### Notification of Rights and Procedures <sup>17</sup>

The Superintendent or designee shall notify students' parents/guardians of:

1. This policy as well as its availability upon request from the general administration office.

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

<sup>11</sup> 20 U.S.C. §1232h(c)(5)(ii).

<sup>12</sup> If a board adopted a drug-testing program for extracurricular participants, that policy should be referenced here and added to this policy's cross-references. (See the optional program in 7:240, *Conduct Code for Participants in Extracurricular Activities*.)

<sup>13</sup> The Children's Privacy Protection and Parental Empowerment Act, P.A. 93-462, prohibits the sale of personal information concerning a child under the age of 16, with a few exceptions, unless the parent(s)/guardian(s) have consented. Federal law [20 U.S.C. §1232h(c)(1)(E)] is similar but not identical. In order to effectuate both laws, the sample policy prohibits the sale or marketing of "personal information" unless the parents/guardians have consented.

<sup>14</sup> 20 U.S.C. §1232h(c)(6)(E); Children's Privacy Protection and Parental Empowerment Act, P.A. 93-462.

<sup>15</sup> *Id.*

<sup>16</sup> 105 ILCS 5/10-20.38.

<sup>17</sup> The details in this section are specified in and required by 20 U.S.C. §1232h(c)(2). This information should be in the student handbook.

2. How to opt their child or ward out of participation in activities as provided in this policy.
3. The approximate dates during the school year when a survey requesting personal information, as described above, is scheduled or expected to be scheduled. <sup>18</sup>
4. How to request access to any survey or other material described in this policy.

This notification shall be given parents/guardians at least annually, at the beginning of the school year, and within a reasonable period after any substantive change in this policy.

The rights provided to parents/guardians in this policy transfer to the student when the student turns 18 years old, or is an emancipated minor. <sup>19</sup>

LEGAL REF.:       Protection of Pupil Rights, 20 U.S.C. §1232h.  
                      Children's Privacy Protection and Parental Empowerment Act, 325 ILCS 17/1 et  
                              seq.  
                      105 ILCS 5/10-20.38.

CROSS REF.:       2:260 (Uniform Grievance Procedure), 6:210 (Instructional Materials), 6:260  
                      (Complaints About Curriculum, Instructional Materials, and Programs), 7:130  
                      (Student Rights and Responsibilities)

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

<sup>18</sup> If the board chose to keep the option of marketing personal information received from students and/or conducting physical exams, add the following to this list as appropriate: "collection of personal information from students for marketing and physical examinations or screenings."

<sup>19</sup> 20 U.S.C. §1232h(c)(5)(B).

## **Anti-Harassment Policy – Students**

- 7.020 The proposed policy change provides a more accurate definition of sexual harassment.

## ANTI-HARASSMENT POLICY – STUDENTS

### **Bully, Intimidation, and Harassment Prohibited**

No person, including a District employee or agent, or student, shall harass, intimidate, or bully a student on the basis of actual or perceived: race; color; nationality; sex; sexual orientation; gender identity; gender-related identity or expression; ancestry; age, religion; physical or mental disability; order of protection status; status of being homeless; actual or potential marital or parental status, including pregnancy; association with a person or group with one or more of the aforementioned actual or perceived characteristics; or any other distinguishing characteristic. The District will not tolerate harassing, intimidating conduct, or bullying whether verbal physical, cyber-bullying or visual, that affects the tangible benefits of education, that unreasonably interferes with a student's educational performance, or that creates an intimidating, hostile, or offensive educational environment. Examples of prohibited conduct include but are not limited to name-calling, using derogatory slurs, stalking, causing psychological harm, threatening or causing physical harm, threatened or actual destruction of property, or wearing or possessing items depicting or implying hatred or prejudice of one of the characteristics stated above. For purposes of this section "cyber-bullying" is defined as bullying that occurs over any information, social media, and/or communication technology.

### **Sexual Harassment Prohibited**

~~Sexual harassment is illegal and it is the Policy of School District U-46 that it will not be tolerated and is prohibited.~~

~~Sexual harassment is defined as "unwelcome sexual advances, requests for sexual favors and/or other verbal or physical conduct of a sexual nature." Sexual harassment may include, but is not limited to, such actions as: sex-oriented verbal "kidding", "teasing", or "jokes", subtle pressure for sexual activity, physical contact such as patting, punching, or brushing against another's body, or demands for sexual favors.~~

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

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

The terms "intimidating," "hostile," and "offensive" include conduct that has the effect of humiliation, embarrassment, or discomfort. Examples of sexual harassment include touching, crude jokes or pictures.

discussions of sexual experiences, teasing related to sexual characteristics, and spreading rumors related to a person's alleged sexual activities.

**Reporting a Complaint of Harassment**

Any student who feels that he or she has been the victim of harassment or who has witnessed harassment should notify a school employee or the Principal or Nondiscrimination Coordinator or Complaint Manager. The Non Discrimination Coordinator is the District's Chief Legal Officer and the Director of Human Resources or designee, both of whom can be reached at 355 East Chicago Street, Elgin, Illinois, 847-888-5000.

Any complaint or investigation will be treated with confidentiality to protect the privacy rights of the student involved. Students who make good faith complaints will not be disciplined.

Any employee receiving a harassment complaint from a student is required to report it to the Chief Legal Officer.

The Superintendent shall use reasonable measures to inform staff members and students that the District will not tolerate harassment such as by including this policy in the appropriate handbook. Any District employee who is determined, after an investigation, to have engaged in harassment will be subject to disciplinary action up to and including discharge. Any District student who is determined, after an investigation, to have engaged in harassment will be subject to disciplinary action, including but not limited to, suspension and expulsion consistent with the discipline policy.

Any person making a knowingly false accusation regarding harassment will likewise be subject to disciplinary action up to and including discharge, with regards to employees, or suspension and expulsion, with regards to students.

LEGAL REF.: Title IX of the Educational Amendments, 20 U.S.C. §1681 et seq.  
34 C.F.R. Part 106  
105 ILCS 5/10-22.5, and 5/27-1, 5/27-23.7  
23 Ill.Admin. Code §200.10 et seq.

## Students

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

#### Bullying, Intimidation, and Harassment Prohibited

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

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

<sup>1</sup> State or federal law requires this subject matter be covered by policy and controls this policy's content. Each district must have a policy on bullying (105 ILCS 5/27-23.7, amended by P.A. 96-952); see 7:180, *Preventing Bullying, Intimidation, and Harassment*.

This policy's list of protected classifications is identical to the list in 7:180, *Preventing Bullying, Intimidation, and Harassment*. The protected classifications are found in 105 ILCS 5/27-23.7(a), as amended by P.A. 96-952; 775 ILCS 5/1-103; and 23 Ill.Admin.Code §1.240. The bullying statute also includes *unfavorable discharge from military service* (105 ILCS 5/27-23.7(1), amended by P.A. 96-952); it is not included because of its irrelevance to students in K-12.

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

The Ill. Human Rights Act and an ISBE rule prohibit schools from discriminating against students on the basis of *sexual orientation* and *gender identity* (775 ILCS 5/5-101(11); 23 Ill.Admin.Code §1.240). *Sexual orientation* is defined as the "actual or perceived heterosexuality, homosexuality, bisexuality, or gender related identity, whether or not traditionally associated with the person's designated sex at birth," (775 ILCS 5/1-103(O-1)). *Gender identity* is included in the definition of sexual orientation in the Act. The Act permits schools to maintain single-sex facilities that are distinctly private in nature, e.g., restrooms and locker rooms (775 ILCS 5/5-103). 775 ILCS 5/1-102(A), amended by P.A. 96-447, added *order of protection status* to its list of protected categories. The Ill. Human Rights Act's jurisdiction is specifically limited to: (1) failing to enroll an individual, (2) denying access to facilities, goods, or services, or (3) failing to take corrective action to stop severe or pervasive harassment of an individual (775 ILCS 5/5-102.2, added by P.A. 96-814).

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

### Sexual Harassment Prohibited

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

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

The terms "intimidating," "hostile," and "offensive" include conduct that has the effect of humiliation, embarrassment, or discomfort. Examples of sexual harassment include touching, crude jokes or pictures, discussions of sexual experiences, teasing related to sexual characteristics, and spreading rumors related to a person's alleged sexual activities.

### Making a Complaint; Enforcement

Students are encouraged to report claims or incidences of bullying, harassment, sexual harassment, or any other prohibited conduct to the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, or a Complaint Manager. A student may choose to report to a person of the student's same sex. Complaints will be kept confidential to the extent possible given the need to investigate. Students who make good faith complaints will not be disciplined.

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

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<sup>3</sup> Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in any educational program or activity receiving federal financial assistance (20 U.S.C. §1681). The sample policy's definition of sexual harassment does not distinguish between welcome and unwelcome behaviors - each is prohibited if it has a result described in sub-paragraph 1 or 2. See Mary M. v. North Lawrence Community School Corp., 131 F.3d 1220 (7th Cir., 1997) (An eighth grade student did not need to show that a school employee's sexual advances were *unwelcome* in order to prove sexual harassment.).

Consult the board attorney to ensure the non-discrimination coordinator and complaint managers are trained to appropriately respond to allegations of discrimination based upon sexual violence under Title IX's sexual harassment umbrella. The U.S. Dept. of Education has issued guidance indicating that while acts of sexual violence are crimes, they may also be discrimination under Title IX. Many attorneys agree these guidance documents are a "heads-up" to schools to ensure appropriate responses and training. The guidance documents highlight appropriate responses to sexual violence under Title IX. See ¶n 3 in policy 2:260, *Uniform Grievance Procedure* for a listing and links to these documents.

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

The Superintendent shall insert into this policy the names, addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers. <sup>4</sup> At least one of these individuals will be female, and at least one will be male.

**Nondiscrimination Coordinator:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

**Complaint Managers:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

The Superintendent shall use reasonable measures to inform staff members and students of this policy, such as, by including it in the appropriate handbooks. <sup>5</sup>

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

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<sup>4</sup> Title IX regulations require districts to identify the person, address, and telephone number of the individual responsible for coordinating the district's compliance efforts. Each district must communicate its bullying policy to students and their parents/guardians (105 ILCS 5/27-23.7); see 7:180, *Preventing Bullying, Intimidation, and Harassment*.

<sup>5</sup> In addition to notifying students of the Uniform Grievance Procedure, a district must notify them of the person(s) designated to coordinate the district's compliance with Title IX (34 C.F.R. Part 106.8(a)). A comprehensive student handbook can provide required notices, along with other important information to recipients. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and school board.

- LEGAL REF.:** 20 U.S.C. §1681 et seq., Title IX of the Educational Amendments.  
34 C.F.R. Part 106.  
105 ILCS 5/10-20.12, 10-22.5, 5/27-1, and 5/27-23.7.  
775 ILCS 5/1-101 et seq., Illinois Human Rights Act.  
23 Ill.Admin.Code §1.240 and Part 200.  
Davis v. Monroe County Board of Education, 119 S.Ct. 1661 (1999).  
Franklin v. Gwinnett Co. Public Schools, 112 S.Ct. 1028 (1992).  
Gebser v. Lago Vista Independent School District, 118 S.Ct. 1989 (1998).  
West v. Derby Unified School District No. 260, 206 F.3d 1358 (10th Cir., 2000).
- CROSS REF.:** 2:260 (Uniform Grievance Procedure), 5:20 (Workplace Harassment Prohibited),  
7:10 (Equal Educational Opportunities), 7:180 (Preventing Bullying,  
Intimidation, and Harassment), 7:190 (Student Discipline)

## **Assignment of Students to Schools**

- 7.031 The proposed policy change reflects the District's current practice.**

## ASSIGNMENT OF STUDENTS TO SCHOOLS

The District will establish and maintain school attendance areas and boundaries that offer optimal educational opportunities through student assignments which effect maximum facility utilization. The Board recognizes the importance of assignment of students without consideration to race, color, creed, gender, or nationality. Married students living independent of their parents/guardians will attend school in the attendance area in which they reside. A student will attend school in the attendance center area in which he/she resides with the exceptions as noted below which may be granted at the discretion of the Superintendent/designee:

- ~~1. A student in elementary school, whose parents have employed a daytime babysitter, may attend school in the attendance area of the babysitter if space is available as determined by the principal.~~
- ~~21.~~ A student who has attained sixth, eighth, or twelfth grade status, whose parent or guardian moves within the school district, may complete the year in the school in which he/she was enrolled.
- ~~22.~~ A parent/guardian may request that his/her student be permitted to transfer to another school:
  - a. When the student or parent presents exceptional physical or mental needs.
  - b. When a majority of the student's curricular needs cannot be met in his/her attendance center.

All requests for attendance area exceptions noted above will be presented in writing by the parent/guardian with appropriate supportive documentation. The superintendent/designee will establish efficient administrative procedures to consider such requests. Final decisions regarding such requests will be the responsibility of the superintendent/designee. When exceptions are granted, transportation is the responsibility of the parent and/or student.

- ~~42.~~ Transfer of selected students attending a school identified for school improvement, corrective action or restructuring pursuant to Illinois Public Act 92-604, the Federal Public Law 107-110, Sec. 1116 (the federal Elementary and Secondary Education Act of 1965, as amended, 20 U.S.C. Sec. 6317) and the No Child Left Behind Act.

Students may not transfer to schools that do not have attendance capacity or schools that have academic admission criteria if the transferring student does not meet those criteria (unless such a school is the only school to which the student could transfer). The superintendent/designee may establish additional criteria for the identification of receiving schools, which may include, but not be limited to, attendance areas or geographic zones within which transfers may be authorized; services necessary to meet students' special education, bilingual or other programmatic educational needs; and/or minimum academic achievement levels for receiving schools.

The superintendent/designee shall develop the criteria for selection of students who may be eligible to transfer and the criteria for the identification of receiving schools pursuant to this policy and shall establish efficient administrative procedures to consider transfer requests under paragraph 4. The transfer criteria and administrative procedures shall be reviewed and approved by the Board of Education. Thereafter the transfer criteria and administrative procedures shall be reviewed annually by the superintendent/designee and any changes reported to the Board of Education.

LEGAL REF.: Illinois School Code: 105 ILCS 5/10-20.24, -21.3, -22.5, -22.41  
 Illinois Public Act 92-604; Federal Public Law 107-110, Sec. 1116 (the Federal Elementary and Secondary Education Act of 1965, as amended, 20 U.S.C. Sec. 6317)

CROSS REF.: Board Policy #7.063 – School Attendance Areas  
 Administrative Procedure Handbook – Section 20.1-.4; 20.23-.26; 20.31-.32

1986/1987/1989/1997/2001/2002/2005/2010/2013  
 Replaces Policy: JECC

## Students

### Student Assignment and Intra-District Transfer 1

#### Attendance Areas

The School District is divided into school attendance areas. The Superintendent will review the boundary lines annually and recommend any changes to the School Board. 2 The Superintendent or designee shall maintain a map of the District showing current school attendance areas. Students living in a given school attendance area will be assigned to that school. 3 Homeless children shall be assigned according to Board policy 6:140, *Education of Homeless Children*.

#### Transfers Within the District 4

A student's parent(s)/guardian(s) may request a transfer for their child to a District school other than the one assigned. A request should be directed to the Superintendent, who, at his or her sole discretion, may grant the request when the parent(s)/guardian(s) demonstrate that the student could be better accommodated at another school, provided space is available. If a request is granted, the parent/guardian shall be responsible for transportation. 5 The provisions in this section have no applicability to transfers pursuant to: (1) Title I covered in Board policy 6:15, *School Accountability*, or (2) the Unsafe School Choice Option covered in Board policy 4:170, *Safety*.

#### Class Assignments

The Superintendent or designee shall assign students to classes.

LEGAL REF.: 105 ILCS 5/10-21.3, 5/10-21.3a, and 5/10-22.5.

CROSS REF.: 4:170 (Safety), 6:15 (School Accountability), 6:30 (Organization of Instruction), 6:140 (Education of Homeless Children)

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

1 State law requires that intra-district transfers be covered by policy and controls this policy's content (105 ILCS 5/10-21.3a).

2 School attendance areas must be periodically revised, if necessary, to prevent or eliminate segregation by color, race, or nationality (105 ILCS 5/10-21.3).

3 State law grants boards broad authority concerning assignment of students to schools (105 ILCS 5/10-22.5). A child is presumed to be a resident of the district in which the child's parents, or custodial parent after a divorce, reside. The facts surrounding a transfer of custody will determine whether residency for school attendance purposes has changed. Turner v. Board of Education North Chicago Community High School District 123, 294 N.E.2d 264 (Ill. 1973).

4 The details for intra-district transfers are determined locally; State law does not address when, or even if, intra-district transfers should be granted. See sample policy 6:15, *School Accountability*, for transfers pursuant to Title I.

5 To limit the acceptable reasons supporting a transfer request, a board should consider this alternative: "...when the parent(s)/guardian(s) demonstrate that the student could be better accommodated by the educational program at another school ..."

## **Residency**

- 7.039    The proposed policy change identifies the relevant legal provision applicable to this section.**

## RESIDENCY

### Resident Students

Only students who are residents of the District may attend a District school without tuition charge, except as otherwise provided below or in State law. A student's residence is the same as the person who has legal custody of the student. The administration may require proof of residence and legal custody. "Legal custody" means:

1. Custody exercised by a natural or adoptive parent with whom a pupil resides;
2. Custody granted by order of a court to a person with whom the pupil resides for reasons other than to have access to the District's educational programs;
3. Custody exercised under a statutory short-term guardianship, provided that within 60 days of the student's enrollment, a court order is entered establishing a permanent guardianship and granting custody to a person with whom the pupil resides for a reason other than to have access to the District's educational programs;
4. Custody exercised by an adult caretaker relative who is receiving aid under the Illinois Public Aid Code for the pupil who resides with that adult caretaker relative for purposes other than to have access to the educational programs of the district; or
5. Custody exercised by an adult who demonstrates that, in fact, he or she has assumed and exercises legal responsibility for the pupil and provides the pupil with a regular fixed night-time abode for purposes other than to have access to the educational programs of the district.

The criteria for determining the residency of special education students are set forth in the School Code and must be applied in place of the criteria and procedures generally applicable to students, when appropriate.

A student whose family moves out of the District during the school term will be permitted to attend school for the remainder of the term without payment of tuition. Transportation will be the responsibility of the parent/student. However, the attendance and tuition obligations of a special education student who becomes a non-resident during the school year shall be determined in accordance with the provisions of Article 14 of the Illinois School Code.

If a student's family plans to move into the District within 31 calendar days after the beginning of school, the student may be allowed to attend school at the beginning of the school term without payment of tuition. Tuition fees will be determined on a per capita cost by the District's Chief Financial Officer.

### Military Status of Custodian

When a student's change of residence is due to the military service obligation of the student's legal custodian, the student's residence is deemed to be unchanged for the duration of the custodian's military service obligation if the student's custodian made a written request. The District, however, is not responsible for the student's transportation to or from school.

If, at the time of enrollment, a dependent child of military personnel is housed in temporary housing located outside of the District, but will be living within the District within 60 days after the time of initial enrollment, the child is allowed to enroll, subject to the requirements of State law, and will not be charged tuition.

#### **Non-Resident Students**

Non-resident students may attend District schools upon the superintendent's/designee's recommendation, approval of the Board of Education, and subject to the following:

1. The student will attend on a year-to-year basis. Approval for any one year is not authorization to attend a following year.
2. The student will be accepted only if there is sufficient room.
3. The student's parent(s)/guardian(s) will be charged the maximum amount of tuition as allowed by State law.
4. Transportation to and from school shall be the responsibility of the parent(s)/guardian(s).

Non-resident students may also attend District schools whenever any State or federal law, interagency agreement, or a court order mandates the acceptance of a non-resident student.

The Superintendent/designee is authorized to enter into written agreements with cultural exchange organizations and eleemosynary institutions to provide for the tuition-free attendance by foreign exchange students and non-resident pupils of eleemosynary institutions.

#### **Determining a Student's Residence Status**

The superintendent/designee may investigate and determine the residency of any student before or after enrollment in accordance with the applicable provisions of Illinois law and may require the involved persons to provide additional information to be considered by the District in determining residency. Such information may include, but is not limited to, real estate contracts, leases, financial documents, voter registration, tax documents, bills, and vehicle registrations and licenses. The investigation may include, but is not limited to, interviews, completion of questionnaires, observations and home visits. Whenever the superintendent/designee receives information believed to be reliable questioning the residency of the student, the superintendent/designee shall conduct an investigation to determine whether the student is a resident of the District.

If a student has not begun attendance in school when residency is questioned, the superintendent/designee shall generally deny attendance pending determination of the student's residency, however, students who qualify as homeless under the Education for Homeless Children Act, 105 ILCS 45/1-1 et seq., shall be enrolled immediately. At the conclusion of the investigation and after providing the student and the student's parents or other appropriate person an opportunity to discuss the matter, the superintendent/designee shall make a decision as to the student's residency. If the superintendent/designee determines that the student is not a resident, the superintendent/designee will take appropriate action, which may include refusing to enroll the student.

If the superintendent/designee determines that a student already enrolled is not a resident of the School District, he or she, on behalf of the School Board, shall notify the person who enrolled the student of the tuition amount that is due. The notice shall be given by certified mail, return receipt requested. The

~~*person who enrolled the student may challenge the determination and request a hearing pursuant to the Illinois School Code 105 ILCS 5/10-20.12b (2012). notice of the decision and an opportunity for a hearing shall be given, a hearing will be held before an appointed hearing officer if timely requested, and a decision will be made in accordance with the procedures specified in the School Code. The student may be disenrolled and tuition charged for the period of non-residency, if non-residency is found by the superintendent, subject to appeal to, and/or affirmation by, the Board. However, pending any appeal to, and/or affirmation by, the Board of the superintendent's determination of non-residency, a student enrolled and attending school in the District may continue to attend school. The person responsible for the student, or the student if 18 years or older, is responsible for tuition pending an appeal if non-residency is found by the Board, as well as tuition for the balance of the period of non-residency.*~~

#### Homeless Children

Any homeless child shall be immediately admitted, even if the child or child's parent/guardian is unable to produce records normally required to establish residency. Board policy 6:171, Education of Homeless Children, and its implementing administrative procedures, govern the enrollment of homeless children.

#### Criminal Punishment for Misrepresentation of Residency

Illinois law has made it a crime, punishable by imprisonment and fine, to knowingly or willfully present any false information regarding the residency of a student for purposes of enabling that student to attend on a tuition-free basis or to knowingly enroll or attempt to enroll a student on a tuition-free basis when the student is known to be a non-resident of the District. The Superintendent is authorized to seek prosecution to the full extent of the law of any person who the Superintendent believes has committed any residency-related crime with approval of the Board. Civil proceedings may also be initiated with the approval of the Board.

LEGAL REF.: McKinney Homeless Assistance Act, 42 U.S.C. § 11431 et seq.  
30 ILCS 220/11.  
105 ILCS 5/10-20.12a, 5/10-20.12b, and 5/10-22.5.  
105 ILCS 45/1-5.  
23 Ill. Admin. Code § 1.240(e).

CROSS REF.: 6:171 (Education of Homeless Children)  
Administrative Procedure Handbook – Section 20.5-.14

## Students

### Residence <sup>1</sup>

#### Resident Students

Only students who are residents of the District may attend a District school without a tuition charge, except as otherwise provided below or in State law. <sup>2</sup> A student's residence is the same as the person who has legal custody of the student.

A person asserting legal custody over a student, who is not the child's natural or adoptive parent, shall complete a signed statement, stating: (a) that he or she has assumed and exercises legal responsibility for the child, (b) the reason the child lives with him or her, other than to receive an education in the District, and (c) that he or she exercises full control over the child regarding daily educational and medical decisions in case of emergency. If the District knows the current address of the child's natural or adoptive parent, the District shall request in writing that the person complete a signed statement or Power of Attorney stating: (a) the role and responsibility of the person with whom their child is living, and (b) that the person with whom the child is living has full control over the child regarding daily educational and medical decisions in case of emergency. <sup>3</sup>

A student whose family moves out of the District during the school year will be permitted to attend school for the remainder of the year without payment of tuition. <sup>4</sup>

When a student's change of residence is due to the military service obligation of the student's legal custodian, the student's residence is deemed to be unchanged for the duration of the custodian's military service obligation if the student's custodian made a written request. The District, however, is not responsible for the student's transportation to or from school. <sup>5</sup>

If, at the time of enrollment, a dependent child of military personnel is housed in temporary housing located outside of the District, but will be living within the District within 60 days after the time of initial enrollment, the child is allowed to enroll, subject to the requirements of State law, and must not be charged tuition. <sup>6</sup>

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

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

<sup>2</sup> In certain cases, no tuition may be charged for non-resident children placed: (1) by DCFS with a foster parent or childcare facility (105 ILCS 5/10-20.12b), or (2) with a person who (i) has temporary custody of a child of a person who is on active military duty, and (ii) is responsible for making decisions for that child (105 ILCS 70/, added by P.A. 96-953). When special education services are provided, *resident district* is determined by 105 ILCS 5/14-1.11 and 14-1.11a.

<sup>3</sup> 105 ILCS 5/10-20.12b. In order to establish residence, a school district may not require a parent to transfer custody/guardianship to the person with whom the child is living. Israel S. by Owens v. Board of Education of Oak Park and River Forest High School Dist. 200, 601 N.E.2d 1264 (Ill.App. 1992). See also Joel R. v. Board of Education of Manheim School Dist. 83, 686 N.E.2d 650 (Ill.App., 1997).

<sup>4</sup> 105 ILCS 5/10-20.12a.

<sup>5</sup> 105 ILCS 5/10-20.12b(a-5).

<sup>6</sup> 105 ILCS 5/10-22.5a. Military personnel must provide proof that the child will be living within the district within 60 days after the date of initial enrollment. Proof of residency may include postmarked mail addressed to the military personnel and sent to an address located within the district, a lease agreement for occupancy of a residence located within the district, or proof of ownership of a residence located within the district.

### Requests for Non-Resident Student Admission 7

Non-resident students may attend District schools upon the approval of a request submitted by the student's parent(s)/guardian(s) for non-resident admission. The Superintendent may approve the request subject to the following: 8

1. The student will attend on a year-to-year basis. Approval for any one year is not authorization to attend a following year.
2. The student will be accepted only if there is sufficient room.
3. The student's parent(s)/guardian(s) will be charged the maximum amount of tuition as allowed by State law. 9
4. The student's parent(s)/guardian(s) will be responsible for transporting the student to and from school.

### Admission of Non-Resident Students Pursuant to an Agreement or Order 10

Non-resident students may attend District schools tuition-free pursuant to:

1. A written agreement with an adjacent school district to provide for tuition-free attendance by a student of that district, provided both the Superintendent or designee and the adjacent district determine that the student's health and safety will be served by such attendance.
2. A written agreement with cultural exchange organizations and institutions supported by charity to provide for tuition-free attendance by foreign exchange students and non-resident pupils of charitable institutions.
3. According to an intergovernmental agreement.
4. Whenever any State or federal law or a court order mandates the acceptance of a non-resident student.

### Homeless Children

Any homeless child shall be immediately admitted, even if the child or child's parent/guardian is unable to produce records normally required to establish residency. 11 School Board policy 6:140, *Education of Homeless Children*, and its implementing administrative procedure, govern the enrollment of homeless children.

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

7 Optional. IMPORTANT: Admitting non-resident students under this section probably requires the district to admit students transferring from another district under NCLBA's school choice provision. Thus, a board that will reject any invitation to enter into an intergovernmental agreement to accept non-resident students under NCLBA's school choice should delete this section. A district that wants to include this subhead should specify and customize the listed criteria to match local conditions.

8 State law is silent regarding non-resident student enrollment except to require the parent(s)/guardian(s) to pay tuition (105 ILCS 5/10-20.12a and 5/10-20.12b).

9 105 ILCS 5/10-20.12a specifies a formula for calculating the maximum amount a district can charge non-resident students.

10 If a board intends to reject any invitation to accept non-resident students under NCLBA's school choice, it should seek its attorney's opinion before entering into any agreement described in this section. The agreement described in #1 is optional (105 ILCS 5/10-22.5a) and districts are not required to enter into such agreements nor to alter existing transportation services due to the attendance of such non-resident students. The agreement described in #2 is optional (105 ILCS 5/10-22.5a); districts should be sure it is consistent with policy 7:50, *School Admissions and Student Transfers To and From Non-District Schools*. An example of an agreement described in #3 is one to accept non-resident students under the NCLBA's school choice provisions; entering into such an agreement is optional.

11 Required by 105 ILCS 45/1-1 *et seq.* and the McKinney Homeless Assistance Act, 42 U.S.C. §11431 *et seq.*, as amended by the NCLBA. See §11432 (g)(3)(C)(i).

### Challenging a Student's Residence Status <sup>12</sup>

If the Superintendent or designee determines that a student attending school on a tuition-free basis is a non-resident of the District for whom tuition is required to be charged, he or she on behalf of the School Board shall notify the person who enrolled the student of the tuition amount that is due. The notice shall be given by certified mail, return receipt requested. The person who enrolled the student may challenge this determination and request a hearing as provided by The School Code, 105 ILCS 5/10-20.12b.

- LEGAL REF.: McKinney Homeless Assistance Act, 42 U.S.C. §11431 et seq.  
105 ILCS 5/10-20.12a, 5/10-20.12b, and 5/10-22.5.  
105 ILCS 45/ and 70/.  
23 Ill.Admin.Code §1.240.  
Israel S. by Owens v. Board of Educ. of Oak Park and River Forest High School Dist. 200, 601 N.E.2d 1264 (Ill.App.1, 1992).  
Joel R. v. Board of Education of Manheim School District 83, 686 N.E.2d 650 (Ill.App.1, 1997).  
Kraut v. Rachford, 366 N.E.2d 497 (Ill.App.1, 1977).
- CROSS REF.: 6:15 (School Accountability *containing* "School Choice for Students Enrolled in a School Identified for Improvement, Corrective Action, or Restructuring"), 6:140 (Education of Homeless Children), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:70 (Attendance and Truancy)

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

<sup>12</sup> Id. See administrative procedure 7:60-AP, *Challenging a Student's Residence Status*, for sample procedures implementing this paragraph.

## School Admission

- 7.050 The proposed policy change clarifies the admission of students who have been suspended or expelled from another school district.**

## SCHOOL ADMISSION

Admission of school-aged children to the schools of District U-46 will be consistent with the Illinois School Code and other legal or appropriate directives which bear upon the Board of Education. The superintendent/designee will establish administrative practices which will afford each qualified school-aged child of the District the opportunity to attend school.

A student may transfer into or out of the District according to State law and procedures developed by the Superintendent/designee. A student *that has been suspended or expelled from another school district* seeking to transfer into the District *will have his or her suspension or expulsion examined under the District's student discipline policies and procedures to determine admission.* ~~must serve the entire term of any suspension or expulsion imposed for any reason by any public or private school, in this or any other state, before being admitted into the School District.~~ Where the duration of the transferring student's suspension or expulsion is not indicated, the superintendent/designee will recommend, and the Board of Education will determine, the duration of the suspension or expulsion. Expulsions ~~of indefinite duration~~ shall not exceed two calendar years from the date of the expulsion. The superintendent/designee may make exceptions *for all expelled students seeking admission to the District* on a case-by-case basis. The superintendent/designee has the right to review private school expulsions, and enroll a student prior to serving the entire term of any suspension or expulsion. ~~when the suspension or expulsion is based on a matter unrelated to the student's misconduct.~~ Where an appropriate program is available, the District may, at its discretion, place the transfer student in an alternative program for the duration of the student's suspension or expulsion.

LEGAL REF.: Illinois School Code: 105 ILCS 5/10-20.12, -20.24, -22.25, -22.6, 5/2-3.13a

## Students

### School Admissions and Student Transfers To and From Non-District Schools <sup>1</sup>

#### Age [Elementary or Unit Districts only]

To be eligible for admission, a child must be 5 years old on or before September 1 of that school term. <sup>2</sup> A child entering first grade must be 6 years of age on or before September 1 of that school term. <sup>3</sup> Based upon an assessment of the child's readiness, a child will be allowed to attend first grade if he or she attended a non-public preschool, continued his or her education at that school through kindergarten, was taught in kindergarten by an appropriately certified teacher, and will be 6 years old on or before December 31. <sup>4</sup> A child with exceptional needs who qualifies for special education services is eligible for admission at 3 years of age. <sup>5</sup> <sup>6</sup>

#### Admission Procedure

All students must register for school each year on the dates and at the place designated by the Superintendent. Parents/guardians of students enrolling in the District for the first time must present:

1. A certified copy of the student's birth certificate. If a birth certificate is not presented, the Superintendent or designee shall notify in writing the person enrolling the student that within 30 days he or she must provide a certified copy of the student's birth certificate. A student

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

<sup>1</sup> State law requires some of the subject matter contained in this sample policy to be covered by policy and controls this policy's content. Boards must adopt a policy on school admissions (105 ILCS 5/10-21.2) and restricting a student from transferring from another school while under a suspension or expulsion from that school (105 ILCS 5/10-22.6).

<sup>2</sup> 105 ILCS 5/10-20.12. The district may, however, establish a kindergarten for children between the ages of 4 and 6 years old (105 ILCS 5/10-20.19a and 5/10-22.18). Any child between the ages of 7 and 17 (unless the child has already graduated from high school) must attend public or private school, with certain exceptions allowed for physical and mental disability, lawful employment, or other reasons as specified by statute (105 ILCS 5/26-1). The phrase "a child between the ages of 7 and 17" is liberally construed to fully carry out the true intent and meaning of the General Assembly (5 ILCS 70/1.01), which is to ensure that students graduate from high school (105 ILCS 5/26-1). Therefore "the ages of 7-17" means a child is 17 until his or her 18<sup>th</sup> birthday.

<sup>3</sup> Optional sentence.

<sup>4</sup> Required by 105 ILCS 5/10-20.12. Use the following alternative in a district operating on a full year school basis:

To be eligible for admission, a child must be at least 5 years old within 30 days after the commencement of that school term. Based upon an assessment of the child's readiness, a child may attend first grade if he or she attended a non-public preschool and continued his or her education at that school through kindergarten, was taught in kindergarten by an appropriately certified teacher, and will attain age 6 within 4 months after the commencement of the term.

<sup>5</sup> 105 ILCS 5/14-1.02 and 5/14-1.03a. An ISBE rule states: "Each school district shall be responsible for actively seeking out and identifying all children from birth through age 21 within the district (and those parentally-placed private school children for whom the district is responsible under 34 C.F.R. §300.131) who may be eligible for special education and related services," (23 Ill.Admin.Code §226.100). Note that after a child is determined to be eligible for special education services, the child must be placed in the appropriate program no later than the beginning of the next school semester (105 ILCS 5/14-8.02(b)).

<sup>6</sup> 105 ILCS 5/10-20.12. Districts that wish to permit early admission may add the following optional paragraph:  
Parents/guardians may request early admission for a child. The Superintendent or designee shall assess the child's readiness to attend school and make the decision accordingly.

Districts that implement this option should also consider implementing specific and objective criteria for early admissions and address such issues as who pays the costs for assessments, etc.

will be enrolled without a birth certificate. <sup>7</sup> When a certified copy of the birth certificate is presented, the school shall promptly make a copy for its records, place the copy in the student's temporary record, and return the original to the person enrolling the child. If a person enrolling a student fails to provide a certified copy of the student's birth certificate, the Superintendent or designee shall immediately notify the local law enforcement agency, and shall also notify the person enrolling the student in writing that, unless he or she complies within 10 days, the case will be referred to the local law enforcement authority for investigation. If compliance is not obtained within that 10-day period, the Superintendent or designee shall so refer the case. The Superintendent or designee shall immediately report to the local law enforcement authority any material received pursuant to this paragraph that appears inaccurate or suspicious in form or content. <sup>8</sup>

2. Proof of residence, as required by Board policy 7:60, *Residence*.
3. Proof of disease immunization or detection and the required physical examination, as required by State law and Board policy 7:100, *Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students*. <sup>9</sup>

The individual enrolling a student shall be given the opportunity to voluntarily state whether the student has a parent or guardian who is a member of a branch of the U. S. Armed Forces and who is either deployed to active duty or expects to be deployed to active duty during the school year. <sup>10</sup>

### Homeless Children

Any homeless child shall be immediately admitted, even if the child or child's parent/guardian is unable to produce records normally required for enrollment. <sup>11</sup> Board policy 6:140, *Education of*

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

<sup>7</sup> Presenting a certified copy of a student's birth certificate is a missing children's law enforcement issue that may not be used for denying enrollment. Consult the board attorney if a student cannot produce a certified copy of his or her birth certificate and wishes to provide a passport, visa or other governmental documentation of identity. To balance the tension between the missing children's laws reporting requirements and *Plyler v. Doe*, many attorneys advise not to report a student's failure to produce a birth certificate; however always consult the board attorney for assistance based upon the specific facts of the enrollment situation (see f/n <sup>8</sup> below).

<sup>8</sup> Two almost identical laws govern this requirement: Missing Children Records Act (325 ILCS 50/) and Missing Children Registration Law (325 ILCS 55/). We reconciled their differences as much as possible but chiefly used the language from the Registration Law because it has the clearest explanation. The statutory enforcement requirements, as nonsensical as they may seem, are quoted in the policy. **Important:** Schools cannot deny admission based upon immigration (illegal) status alone. Note that singling out foreign-looking students for visa requests is probably illegal discrimination. See *Plyler v. Doe*, 102 S.Ct. 2382 (1982). See also f/n <sup>12</sup> below.

According to the State Police, a certified copy of the student's birth certificate is the only acceptable proof of the child's identity and age (20 Ill.Admin.Code §1290.60(a)). For more discussion about acceptable proof of identity, see f/n <sup>1</sup> in 7:50-AP, *School Admissions and student Transfers To and From Non-District Schools*. The Missing Children's Records Act requires schools to make prompt copies of these certified copies. Once made, schools need not request another certified copy with respect to that child for any other year in which the child is enrolled in that school or other entity. While the Act does not mandate where the copy should be kept, it is appropriate for placement in the student's temporary record. See 23 Ill.Admin.Code §375.10. The school person who receives the copy of the certified birth certificate should initial and date the document. That way, if there is a question or an investigation (which can happen even years after enrollment) there will not be an issue as to who received the document and the date it was processed.

A district must also *flag* a student's record on notification by the State police of the student's disappearance and report to the State police any request for a *flagged* student record.

<sup>9</sup> Each school must maintain records for each student that reflect compliance with the examinations and immunizations required by 105 ILCS 5/27-8.1; 23 Ill.Admin.Code §1.530(a). A Tuberculosis skin test is required if the student lives in an area designated by the Dept. of Public Health as having a high incidence of Tuberculosis.

<sup>10</sup> While this paragraph is optional in this policy, it states a requirement in 105 ILCS 5/22-65, added by P.A. 97-505. Each school district must report this enrollment information as aggregate data to ISBE (*Id.*).

*Homeless Children*, and its implementing administrative procedure, govern the enrollment of homeless children.

### Student Transfers To and From Non-District Schools 12

A student may transfer into or out of the District according to State law and procedures developed by the Superintendent. A student seeking to transfer into the District must serve the entire term of any suspension or expulsion, imposed for any reason by any public or private school, in this or any other state, before being admitted into the School District.

### Foreign Students [High School or Unit Districts only] 13

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11 Required by 105 ILCS 45/ and the McKinney Homeless Assistance Act, 42 U.S.C. §11431 *et seq.*, amended by the No Child Left Behind Act. See §11432(g)(3)(C)(i).

12 105 ILCS 5/2-3.13a requires each transferor (original) school to keep documentation of transfers in the student's record. It also requires "notification [by the transferee (recipient) school] of the transfer on or before July 31 following the school year during which the student withdraws from the transferor school or school district or the student shall be counted in the calculation of the transferor school's or school district's annual student dropout rate." ISBE rule, 23 Ill.Admin.Code §375.75(e), as amended on 1-24-2012, is consistent with this requirement. The amended rule also requires the transferring school or district to maintain any documentation of the student's transfer, including records indicating the school or school district to which the student transferred, in that student's temporary record.

Out-of-state transfer students, including children of military personnel, may use unofficial transcripts for admission to a school until official transcripts are obtained from the student's last school district (105 ILCS 5/10-8.1). See also 7:50-AP, *School Admissions and Student Transfers To and From Non-District Schools*.

A board has 2 basic options for students transferring into the district who are serving a suspension or expulsion. Under option one, it may comply with the minimum requirements of section 2-3.13a by refusing to allow a student transferring from any public school to attend classes until the period of any suspension or expulsion has expired when the penalty was for: (1) knowingly possessing in a school building or on school grounds a weapon as defined in the Gun Free Schools Act, (2) knowingly possessing, selling, or delivering in a school building or on school grounds a controlled substance or cannabis, or (3) battering a staff member of the school. Under option two, a board may require a student who was suspended or expelled for *any* reason from any public or private school in this or any other state to complete the entire term of the suspension or expulsion before being admitted to the school district. The sample policy uses the second, more simple, more comprehensive alternative.

A board may adopt a policy providing that if a student is suspended or expelled for any reason from any school, anywhere, the student must complete the suspension's or expulsion's entire term in an alternative school program under Article 13A or an alternative learning opportunities program under Article 13B before being admitted into the school district if there is no threat to the safety of students or staff in the alternative program (105 ILCS 5/2-3.13a; 5/10-22.6, amended by P.A. 97-495). If a board wants to provide for this alternative, it may add the following to either of the above options:

The Superintendent is authorized to allow a student who was suspended or expelled from any public or private school to be placed in an alternative school program established under Article 13A of the School Code for the remainder of the suspension or expulsion.

13 Generally, a citizen of a foreign country who wishes to enter the U.S. must first obtain either: (1) a nonimmigrant visa (for temporary stay for tourism, medical treatment, business, temporary work, or study), or (2) an immigrant visa for permanent residence. Common visas presented by foreign students are:

1. J-1 nonimmigrant visas for participants in educational and cultural exchange programs designated by the U.S. Department of State, Exchange Visitor Program, and Designation Staff. These students are enrolled provided they otherwise qualify for admission. For information about J-1 visas and the Exchange Visitor Program, see [j1visa.state.gov/programs](http://j1visa.state.gov/programs).
2. F-1 nonimmigrant student visa. F-1 visas are not issued for attendance at an elementary or middle school (K-8). Before obtaining an F-1 student visa, the individual must submit evidence that the school district has been reimbursed for the unsubsidized per capita cost of the education. These students are enrolled provided they otherwise qualify for admission. However, attendance at U.S. public high schools cannot exceed a total of 12 months.
3. B-2 visitor nonimmigrant visas. There is disagreement over whether these students must be enrolled tuition free. Their "visitor" visa is evidence of non-resident status. Call INS or the district's attorney for guidance.
4. The qualified school-age child of an alien who holds another type of visa (i.e., A, E, H, I, L, etc.), other than a visitor visa. These students are enrolled provided they otherwise qualify for admission. Likewise, dependents of foreign nationals on long-term visas are enrolled provided they otherwise qualify for admission.

The District accepts foreign exchange students with a J-1 visa and who reside within the District as participants in an exchange program sponsored by organizations screened by administration. Exchange students on a J-1 visa are not required to pay tuition. 14

Privately sponsored exchange students on an F-1 visa may be enrolled if an adult resident of the District has temporary guardianship, and the student lives in the home of that guardian. Exchange students on an F-1 visa are required to pay tuition at the established District rate. 15 F-1 visa student admission is limited to high schools, and attendance may not exceed 12 months.

The Board may limit the number of exchange students admitted in any given year. Exchange students must comply with District immunization requirements. Once admitted, exchange students become subject to all District policies and regulations governing students.

**Re-enrollment** 16 [*High School or Unit Districts only*]

Re-enrollment shall be denied to any individual 19 years of age or above who has dropped out of school and who could not earn sufficient credits during the normal school year(s) to graduate before his or her 21st birthday. However, at the Superintendent's or designee's discretion and depending on program availability, the individual may be enrolled in a graduation incentives program established under 105 ILCS 5/26-16 or an alternative learning opportunities program established under 105 ILCS 5/13B-1 (see 6:110, *Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program*). Before being denied re-enrollment, the District will offer the individual due process as required in cases of expulsion under policy 7:210, *Expulsion Procedures*. A person denied re-enrollment will be offered counseling and be directed to alternative educational programs, including adult education programs that lead to graduation or receipt of a GED

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5. No immigration documentation. Plyler v. Doe, 102 S.Ct. 2382 (1982). A school cannot deny admission based upon immigration (illegal) status alone. Note that singling out foreign-looking students for visa requests is probably illegal discrimination. Thus, undocumented aliens are enrolled, provided they otherwise qualify for admission.

6. Immigrant visa. These students are enrolled provided they otherwise qualify for admission.

The Student and Exchange Visitor Information System (SEVIS) is an Internet-based system that provides tracking and monitoring, with access to accurate and current information on nonimmigrant students (F and M visas) and exchange visitors (J visa), and their dependents (F-2, M-2, and J-2). See §641, *Illegal Immigration Reform and Immigrant Responsibility Act*. Section 641 is an exception to the *Family Educational Rights and Privacy Act*. See 8 C.F.R. §214.1(h). SEVIS enables schools and program sponsors to transmit electronic information and event notifications, via the Internet, to the INS and Department of State throughout a student's or exchange visitor's stay. SEVIS will provide system alerts, event notifications, and reports to the end-user schools and programs, as well as for INS and DOS offices.

According to federal regulations, students who apply for F-1, M-1, F-3, or M-3 visas must pay a \$100 fee, and students who apply for J-1 visas must pay a \$35 fee, to the Department of Homeland Security. The regulations describe when and how the fee is to be paid, who is exempt from the fee, and the consequences for failure to pay (8 C.F.R. Parts 103, 214, and 299).

**Important:** Admitting students on an F-1 visa may require the district to admit students transferring from another district under NCLBA's school choice provisions. See policy 7:60, *Residence*.

- 14 State law allows, but does not require, boards to waive nonresident tuition for these students (105 ILCS 5/10-22.5a).

- 15 Exchange students on F-1 visas must pay the full-unsubsidized public education costs before entering the U.S. (8 U.S.C. §1101). Boards may not waive the fee.

- 16 105 ILCS 5/26-2(b). The requirements in this section are provided in State law, that is: (1) it is mandatory that a district deny re-enrollment as provided in this section, (2) it is permissive whether to enroll the individual in a district graduation incentives program or alternative learning opportunities program (although depending on circumstances, a student below the age of 20 may be entitled to enroll in a graduation incentives program), (3) it is mandatory to provide due process before denying re-enrollment, (4) it is mandatory to offer the individual who is denied re-enrollment counseling and to direct that person to alternative educational programs, and (5) it is mandatory that this section not apply to students eligible for special education.

105 ILCS 5/26-2(c) allows a district to deny enrollment to a student 17 years of age or older for one semester for failure to meet minimum academic or attendance standards if certain conditions are met. See policy 7:70, *Attendance and Truancy*.

diploma. This section does not apply to students eligible for special education under the Individuals with Disabilities Education Improvement Act or accommodation plans under the Rehabilitation Act, Section 504.

**LEGAL REF.:** McKinney Homeless Assistance Act, 42 U.S.C. §11431 et seq.  
Family Educational Rights and Privacy Act, 20 U.S.C. §1232.  
Illegal Immigrant and Immigrant Responsibility Act of 1996, 8 U.S.C. §1101.  
Individuals With Disabilities Education Improvement Act, 20 U.S.C. §1400 et seq.  
Rehabilitation Act, Section 504, 29 U.S.C. §794.  
105 ILCS 5/2-3.13a, 5/10-20.12, 5/10-22.5a, 5/14-1.02, 5/14-1.03a, 5/26-1, 5/26-2,  
5/27-8.1, 10/8.1, 45/, and 70/.  
325 ILCS 50/ and 55/.  
410 ILCS 315/2e.  
20 Ill.Admin.Code Part 1290, Missing Person Birth Records and School  
Registration.  
23 Ill.Admin.Code Part 375, Student Records.

**CROSS REF.:** 6:30 (Organization of Instruction), 6:110 (Programs for Students At Risk of  
Academic Failure and/or Dropping out of School and Graduation Incentives  
Program), 6:140 (Education of Homeless Children), 6:300 (Graduation  
Requirements), 6:310 (Credit for Alternative Courses and Programs, and Course  
Substitutions), 7:60 (Residence), 7:70 (Attendance and Truancy), 7:100 (Health,  
Eye, and Dental Examinations; Immunizations; and Exclusion of Students),  
7:340 (Student Records)

## Entrance Age

- 7.051 The proposed policy change uses more precise language and clarifies the appropriate admission age for students with disabilities.

## ENTRANCE AGE

Provisions for the entrance age of students in District U-46 will be consistent with the statutory requirements of the state, the guidelines of the Illinois State Board of Education, and local requirements.

A child must be five years old on or before September 1 *of that school term* in order to enter kindergarten ~~for the ensuing school year~~. A child entering first grade must be 6 years of age on or before September 1 of that school term. Based upon an assessment of the child's readiness, a child will be allowed to attend first grade if he or she attended a non-public preschool, continued his or her education at that school through kindergarten, was taught in kindergarten by an appropriately certified teacher, and will be 6 years old on or before December 31.

A child ~~with exceptional needs~~ who qualifies for special education services is eligible for admission at 3 years of age.

LEGAL REF.: Illinois School Code: 105 ILCS 5/10-20.12, 5/14-1.02, 5/14-1.03a,  
23 Ill. Admin. Code §§1.450(d) and 226.120  
105 ILCS 5/10-20.12

## **Student Absences and Excuses**

- 7.058 The proposed policy change delineates the responsibilities of the parents/guardians regarding student absences.**

## STUDENT ABSENCES AND EXCUSES

The Board of Education expects parents/guardians to ensure regular student attendance. The administration will establish procedures whereby parents/guardians may notify the school of unavoidable absences.

*The parents/guardian of a student must authorize all absences from school and notify the school in advance or at the time of the student's absence. A valid cause for absence includes illness, observance of a religious holiday, death in the immediate family, family emergency, other situations beyond the control of the student, other circumstances that cause reasonable concern to the parent/guardian for the student's safety or health, or other reason as approved by the Superintendent/designee. ~~The following~~ ~~an exhaustive list shall be treated as unexcused absences: (1) Extended family vacations when children are to be in school shall be treated as unexcused absences for purposes of determining truancy. and/or (2) travel to country of origin.~~*

A student's parent(s)/guardian(s) must: (1) upon the child's enrollment, provide telephone numbers to the building principal and update them as necessary, and (2) authorize all absences and notify the school in advance or at the time of the child's absence.

If a student is absent without prior authorization by the parent(s)/guardian(s), the building principal/designee shall make a reasonable effort to notify the parent(s)/guardian(s) of the child's absence within 2 hours after the first class, by telephoning the numbers given.

LEGAL REF.: Illinois School Code: 105 ILCS 5/26-1, -2

CROSS REF.: Administrative Procedure Handbook – Section 5.1 – 5.20

### **Truancy and Resources Available for Truants**

- 7.060 The proposed policy change describes compulsory student attendance and provides specific reasons for student absences.**

## TRUANCY AND RESOURCES AVAILABLE FOR TRUANTS

### Compulsory School Attendance

This policy applies to individuals who have custody or control of a child: a) between the ages of 7 and 17 years of age (unless the child has graduated from high school), or b) who is enrolled in any of grades, kindergarten through 12, in the public school regardless of age. These individuals must cause the child to attend the District school wherein the child is assigned, except as provided herein or by State law. Subject to specific requirements in State law, the following children are not required to attend public school:

1. any child being home schooled.
2. any child who is physically or mentally unable to attend school (including a pregnant student suffering medical complications as certified by her physician).
3. any child lawfully and necessarily employed.
- ~~4. any child over 13 and under 14 years of age while in confirmation classes.~~
4. any child absent because his or her religion forbids secular activity on a particular day, and
5. any child 16 years of age or older who is employed and is enrolled in a graduation incentives program.

The Superintendent/designee will maintain procedures to deal with students who willfully or negligently avoid regular attendance when schools are in session. Such procedures will be consistent with the guidelines of the State Board of Education and the provisions of the Illinois School Code.

Each building principal has responsibility for monitoring truancy and chronic truancy and to assure that truant students have access to at least one or more of the resources available within the District.

### Definitions

Truant – A “truant” is a child subject to compulsory school attendance and who is absent without valid cause from such attendance for a school day or portion thereof.

Valid cause for absence – A child may be absent from school because of illness, observance of a religious holiday, death in the immediate family, family emergency, situations beyond the student’s control as determined by the School Board or such other circumstances which cause reasonable concern to the parent for the safety or health of the student.

Chronic or habitual truant – A “chronic or habitual truant” is a child who is subject to compulsory school attendance and who is absent without valid cause from such attendance for ~~40~~ 5 percent or more of the previous 180 regular attendance days.

Truant minor – A child to whom supportive services, including prevention, diagnostic, intervention and remedial services, alternative programs, and other school and community resources have been provided and have failed to result in the cessation of chronic truancy or have been offered and refused.

### **Truancy**

The School District will determine if the student is a truant, chronic or habitual truant, or a truant minor. The superintendent/designee shall direct the appropriate School District staff to develop diagnostic procedures to be used for identifying the cause(s) of unexcused student absenteeism. The diagnostic procedures shall include, but not be limited to, interviews with the student, his or her parent(s)/guardian(s), and any school official(s) or other people who may have information. The procedures shall also include a process to telephone, within 2 hours after the first class, the parents/guardians of students in grade 8 or below who are absent without prior parent/guardian notification.

The District may utilize the following resources available to help address truancy may include:

1. Referral to Service Team for suggested strategies.
2. Referral to the Kane County Truancy liaison officer according to the established procedure identified in The Administrative Procedure Handbook, 4.0 - 4.20.
3. Referral of students to specific grant programs.
4. Referral of the high school truant to his/her assigned counselor.
5. Referral of high school truants to the alternative high school program when appropriate and space is available in the program.

Any 17 year old resident may, upon providing documentation of dropout status for the previous 6 months, participate in the District's various programs and resources for truants.

If truancy continues after supportive services have been offered, the building principal shall refer the matter to the Superintendent. The Superintendent/designee may call upon the resources of outside agencies, such as the juvenile officers of the local police department or the truant office of the Regional Office of Education of the applicable county. The School Board, superintendent/designee, School District administrators, and teachers shall assist and furnish such information as they have to aid truant officers.

No punitive ~~action, including out of school suspensions, expulsions,~~ or court action shall be taken against a chronic truant for his or her truancy unless available supportive services and other school resources have been provided to the student.

LEGAL REF.: Illinois School Code: 105 ILCS 5/26-13  
23 Ill.Admin Code §1.290  
105 ILCS 5/26-1, 5/26-2a, 5/26-3b, 5/26-9, 5/26-12, 5/26-13, and 5/26-15

CROSS REF.: Administrative Procedure Handbook – Section 5.1-.20

## Students

### Attendance and Truancy <sup>1</sup>

#### Compulsory School Attendance <sup>2</sup>

This policy applies to individuals who have custody or control of a child: (a) between the ages of 7 and 17 years of age (unless the child has graduated from high school), or (b) who is enrolled in any of grades, kindergarten through 12, in the public school regardless of age. These individuals must cause the child to attend the District school wherein the child is assigned, except as provided herein or by State law. Subject to specific requirements in State law, the following children are not required to attend public school: (1) any child attending a private school (including a home school) or parochial school, (2) any child who is physically or mentally unable to attend school (including a pregnant student suffering medical complications as certified by her physician), (3) any child lawfully and necessarily employed, (4) any child over 12 and under 14 years of age while in confirmation classes, (5) any child absent because his or her religion forbids secular activity on a particular day, and (6) any child 16 years of age or older who is employed and is enrolled in a graduation incentives program.

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

#### Absenteeism and Truancy Program

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

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

<sup>1</sup> State law requires boards to adopt a policy covering some of the topics herein and controls this policy's content. 105 ILCS 5/26-13 requires a policy on supportive services and available resources for truant. 23 Ill.Admin.Code §1.290 requires the same plus contains a definition of *valid cause* for absence.

<sup>2</sup> 105 ILCS 5/26-2 addresses enrolled students below age 7 or over age 17. The amendment requires any persons having custody or control of a child who is enrolled in grades kindergarten through 12 in the public school to cause the child to attend school.

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

<sup>3</sup> These reasons are in 105 ILCS 5/26-2a, amended by P.A. 97-218, except that "other reason as approved by the Superintendent" was added. ISBE rule requires that the absenteeism and truancy policy defines valid causes for absence (23 Ill.Admin.Code §1.290). P.A. 97-218 changed the definition of *chronic or habitual truant*, which is now "a child who is subject to compulsory school attendance and who is absent without valid cause from such attendance for 5% or more of the previous 180 regular attendance days." P.A. 97-975 replaced the Juvenile Court Act's definition of *chronic truant* with a reference to the definition in Sec. 26-2a of the School Code.

1. A protocol for excusing a student from attendance who is necessarily and lawfully employed. The Superintendent or designee is authorized to determine when the student's absence is justified. <sup>4</sup>
2. A process to telephone, within 2 hours after the first class, the parents/guardians of students in grade 8 or below who are absent without prior parent/guardian notification. <sup>5</sup>
3. A process to identify and track students who are truants, chronic or habitual truants, or truant minors as defined in the School Code, Section 26-2a.
4. Methods for identifying the cause(s) of a student's unexcused absenteeism, including interviews with the student, his or her parent(s)/guardian(s), and staff members or other people who may have information. <sup>6</sup>
5. The identification of supportive services that may be offered to truant or chronically truant students, including parent-teacher conferences, student and/or family counseling, or information about community agency services. <sup>7</sup> See Board policy 6:110, *Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program*.
6. A process to request the assistance and resources of outside agencies, such as, the juvenile officer of the local police department or the truant office of the appropriate Regional Office of Education, if truancy continues after supportive services have been offered. <sup>8</sup>
7. A protocol for cooperating with non-District agencies including County or municipal authorities, the Regional Superintendent, truant officers, the Community Truancy Review Board, and a comprehensive community based youth service agency. Any disclosure of school student records must be consistent with Board policy 7:340, *Student Records*, as well as State and federal law concerning school student records. <sup>9</sup>

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

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

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

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

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

<sup>6</sup> Each district must have a policy describing diagnostic procedures to identify the cause(s) of absenteeism and supportive services and available resources for truants and chronic truants (105 ILCS 5/26-13; 23 Ill.Admin.Code §1.290).

<sup>7</sup> 23 Ill.Admin.Code §1.290. The School Code references to dropout prevention include: 105 ILCS 5/26-3a (regional superintendent activities and annual report); 105 ILCS 5/10-20.25a (annual report by boards); and 105 ILCS 5/1A-4(E) (State Board of Education report).

<sup>8</sup> Use this alternative for districts in suburban Cook County: replace "Regional Office of Education" with "appropriate Intermediate Service Center." Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center." P.A. 96-893 abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.

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

8. An acknowledgement that no punitive action, including out-of-school suspensions, expulsions, or court action, shall be taken against a chronic truant for his or her truancy unless available supportive services and other school resources have been provided to the student. 10
9. The criteria to determine whether a student's non-attendance is due to extraordinary circumstances shall include economic or medical necessity or family hardship and such other criteria that the Superintendent believes qualifies. 11

*[For high school and unit districts only]*

10. A process for a 17 year old resident to participate in the District's various programs and resources for truants. 12 The student must provide documentation of his/her dropout status for the previous 6 months. A request from an individual 19 years of age or older to re-enroll after having dropped out of school is handled according to provisions in 7:50, *Students School Admissions and Student Transfers To and From Non-District Schools*.
11. A process for the temporary exclusion of a student 17 years of age or older for failing to meet minimum academic or attendance standards according to provisions in State law. A parent/guardian has the right to appeal a decision to exclude a student. 13

LEGAL REF.: 105 ILCS 5/26-1 through 16.  
705 ILCS 405/3-33.5.  
23 Ill.Admin.Code §§1.242 and 1.290.

CROSS REF.: 6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program), 6:150 (Home and Hospital Instruction), 7:10 (Equal Educational Opportunities), 7:50 (School Admissions

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

10 105 ILCS 5/26-12 prohibits punitive action "unless available supportive services and other school resources have been provided to the student."

11 105 ILCS 5/26-3a requires the district to "establish, in writing, a set of criteria for use by the local superintendent of schools in determining whether a pupil's failure to attend school is the result of extraordinary circumstances, including but not limited to economic or medical necessity or family hardship."

This statute also requires the "clerk or secretary" of the board to quarterly report to the regional superintendent and Secretary of State the identity of students who were removed from the regular attendance roll, exclusive of transferees, because they were expelled; have withdrawn; left school; withdrew due to extraordinary circumstances; have re-enrolled in school since their names were removed from the attendance rolls; were certified to be chronic or habitual truants; or were previously certified as chronic or habitual truants who have resumed regular school attendance. The statute provides that the status of a driver's license or instructional permit will be jeopardized for a student who is the subject of this notification because of non-attendance unless the non-attendance is due to extraordinary circumstances as determined by the local district. State Superintendent Koch announced in his *Weekly Message*, 8-28-07, [www.isbe.net/board/archivemessages/message\\_082807.pdf](http://www.isbe.net/board/archivemessages/message_082807.pdf), p.2, that ISBE is delaying implementing this statute based upon legal guidance from the U.S. Department of Education's Family Policy Compliance Office that its implementation would violate the Federal Education Rights and Privacy Act.

12 A district must allow this participation; the length of the drop-out period and the documentation requirement contained in the next sentence are permissive (105 ILCS 5/26-14).

13 Optional, but provided in 105 ILCS 5/26-2(c); ISBE's rule controls the appeal process, 23 Ill.Admin.Code §1.242.

**and Student Transfers To and From Non-District Schools), 7:60 (Residence), 7:80 (Release Time for Religious Instruction/Observance), 7:190 (Student Discipline), 7:340 (Student Records)**

### **Student Dismissal Precautions**

- 7.061 The proposed policy change adds required process language before students are released during school hours.**

## STUDENT DISMISSAL PRECAUTIONS

No staff member will excuse any pupil from school prior to the end of the school day, or into any person's custody, without the direct prior approval and knowledge of the building principal/designee.

School personnel will not relinquish custody of a student to any person without the written approval of the parent or guardian having legal custody.

*For safety and security reasons, a prior written or oral consent of a students' parent/guardian is required before a student is released during school hours: 1) at any time before the regular dismissal time or at any time before school is officially closed, and/or 2) to any person other than a custodial parent/guardian.*

### **Release Time for Religious Instruction/Observance**

- 7.080 This new policy is recommended to delineate requirements when releasing students for religious instruction.**

## **RELEASE TIME FOR RELIGIOUS INSTRUCTION/OBSERVANCE**

A student shall be released from school, as an excused absence, to observe a religious holiday or for religious instruction. The student's parent/guardian must give written notice to the Building Principal at least 5 calendar days before the student's anticipated absence(s). This notice shall satisfy the District's requirement for a written excuse when the student returns to school.

The Superintendent shall develop and distribute to teachers appropriate procedures regarding student absences for religious reasons and include a list of religious holidays on which a student shall be excused from school attendance, how teachers are notified of a student's impending absence, and the State law requirement that teachers provide the student with an equivalent opportunity to make up any examination, study, or work requirement.

**LEGAL REF.:** Religious Freedom Restoration Act, 775 ILCs 35/  
105 ILCS 5/26-1 and 5/26-2b

## **Students**

### **Release Time for Religious Instruction/Observance** <sup>1</sup>

A student shall be released from school, as an excused absence, to observe a religious holiday or for religious instruction. The student's parent/guardian must give written notice to the Building Principal at least 5 calendar days before the student's anticipated absence(s). <sup>2</sup> This notice shall satisfy the District's requirement for a written excuse when the student returns to school.

The Superintendent shall develop and distribute to teachers appropriate procedures regarding student absences for religious reasons and include a list of religious holidays on which a student shall be excused from school attendance, how teachers are notified of a student's impending absence, and the State law requirement that teachers provide the student with an equivalent opportunity to make up any examination, study, or work requirement. <sup>3</sup>

LEGAL REF.: Religious Freedom Restoration Act, 775 ILCS 35/  
105 ILCS 5/26-1 and 5/26-2b.

CROSS REF.: 7:70 (Attendance and Truancy)

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

<sup>1</sup> 105 ILCS 5/26-1(5) requires school boards to adopt a policy on student absences for religious holidays. See also 105 ILCS 5/26-2b. State and federal law controls this policy's content. 105 ILCS 5/26-1(4) allows a child over 12 and less than 14 years of age to be absent from school while in attendance at confirmation classes. The sample policy does not contain these age or specific religious rite limitations in order to be consistent with First Amendment jurisprudence. According to the United States Supreme Court, a release time policy does not violate the Establishment Clause; it only accommodates a program of outside religious instruction. *Zorach v. Clauson*, 72 S.Ct. 679 (1952).

<sup>2</sup> Five days is the most prior notice that can be required (105 ILCS 5/26-1(5)).

<sup>3</sup> 105 ILCS 5/26-2b.

## **Physical and Health Examination of Students**

- 7.100 The proposed policy change delineates the requirements for student physical and health examinations under State law.**

## PHYSICAL AND HEALTH EXAMINATIONS OF STUDENTS

Pursuant to the Illinois School Code and directives from other appropriate state agencies or departments, required written evidence of a completed physical and health examination one year prior to entering the kindergarten, fifth and ninth grades will be presented by all students. If students are initially enrolling in the District and prior compliance has not been met, a two-week grace period will be authorized before such evidence will be required. Students who have not provided such evidence within the two week grace period will be suspended from school and may be considered as truant until such evidence is presented. Students will be notified in June of the physical examination requirement and unless the student is homeless, if the examination is not completed by the opening of school, exclusion will take place immediately. New students who register after October 15 shall have 30 days following registration to comply with the health examination and immunization regulation.

### As required by State law:

1. Health examinations must be performed by a physician licensed to practice medicine in all of its branches, an advanced practice nurse who has a written collaborative agreement with a collaborating physician authorizing the advanced practice nurse to perform health examinations, or a physician assistant who has been delegated the performance of health examinations by a supervising physician.
2. A diabetes screening must be included as a required part of each health examination; diabetes testing is not required.
3. Before admission and in conjunction with required physical examinations, parents/guardians of children between the ages of 6 months and 6 years must provide a statement from a physician that their child was "risk-assessed" or screened for lead poisoning.
4. The Department of Public Health will provide all female students entering sixth grade and their parents/guardians information about the link between human papilloma virus (HPV) and cervical cancer and the availability of the HPV vaccine.

Any child who qualifies as homeless shall be immediately admitted, even if the child or child's parent/guardian is unable to produce health records normally required for enrollment.

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

The Superintendent/designee shall ensure that parents/guardians are notified of this eye examination requirement in compliance with the rules of the Department of Public Health. Schools shall not exclude a student from attending school due to failure to obtain an eye examination.

All children in kindergarten and the second and sixth grades must present proof of having been examined by a licensed dentist before May 15 of the current school year in accordance with rules adopted by the Illinois Department of Public Health. The Superintendent/designee shall ensure that parents/guardians are

notified of this dental examination requirement at least 60 days before May 15 of each school year. *If a child in the second or sixth grade fails to present proof by May 15, the school may hold the child's report card until they present proof of 1) completed dental examination or 2) that a dental examination will take place within 60 days after May 15.*

~~The parent/guardian must submit a signed statement in lieu of the examinations for students who object to physical examination on constitutional grounds.~~

~~A student will be exempted from the eye examination requirement if they can show an undue burden or lack of access to a physician licensed to practice medicine in all of its branches who provides eye examinations or a licensed optometrist. A student will be exempted from the dental examination requirement if they can show an undue burden or a lack of access to a dentist.~~

### **Exemptions**

*In accordance with rules adopted by the Illinois Department of Public Health, a student will be exempted from this policy's requirements for:*

- 1. Religious or medical grounds if the student's parents/guardians present to the Superintendent a signed statement explaining the objection;*
- 2. Health examination or immunization requirements on medical grounds if a physician provides written verification;*
- 3. Eye examination requirement if the student's parents/guardians show an undue burden or lack of access to a physician licensed to practice medicine in all of its branches who provides eye examinations or a licensed optometrist; or*
- 4. Dental examination requirement if the student's parents/guardians show an undue burden or a lack of access to a dentist.*

LEGAL REF.: Illinois School Code: 105 ILCS 5/27-8.1, 105 ILCS 45/1-20; 410 ILCS 45/7.1, 45/6.2; 77 Ill.Admin. Code §665.100 et seq. and 665.240; McKinney Homeless Assistance Act

CROSS REF.: Administrative Procedure Handbook – Section 20.26-.29

## **Students**

### **Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students** <sup>1</sup>

#### **Required Health Examinations and Immunizations**

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

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

As required by State law:

1. Health examinations must be performed by a physician licensed to practice medicine in all of its branches, an advanced practice nurse who has a written collaborative agreement with a collaborating physician authorizing the advanced practice nurse to perform health examinations, or a physician assistant who has been delegated the performance of health examinations by a supervising physician. <sup>4</sup>
2. A diabetes screening must be included as a required part of each health examination; diabetes testing is not required. <sup>5</sup>
3. Before admission and in conjunction with required physical examinations, parents/guardians of children between the ages of 6 months and 6 years must provide a statement from a physician that their child was "risk-assessed" or screened for lead poisoning. <sup>6</sup>
4. The Department of Public Health will provide all female students entering sixth grade and their parents/guardians information about the link between human papilloma virus (HPV) and cervical cancer and the availability of the HPV vaccine. <sup>7</sup>

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

<sup>1</sup> State or federal law controls this policy's content. The policy restates 105 ILCS 5/27-8.1. Immunization requirements are found in 77 Ill.Admin.Code §665.240. A Tuberculosis skin test is required if the student lives in an area designated by the Dept. of Public Health as having a high incidence of Tuberculosis. See also "Questions & Answers Regarding School Health Record Issues," revised 9/2011, and available at: [www.dhs.state.il.us/page.aspx/%20intranet.dhs/oneweb/page.aspx?item=32907](http://www.dhs.state.il.us/page.aspx/%20intranet.dhs/oneweb/page.aspx?item=32907).

<sup>2</sup> 105 ILCS 5/27-8.1; 77 Ill.Admin.Code §665.140 *et seq.* For the 2008-2009 school year only, a health examination conducted from August 2006 through September 2007 (for a child who was entering fifth grade for the 2007-2008 school year) was deemed to meet the requirements of 105 ILCS 5/27-8.1.

<sup>3</sup> 77 Ill.Admin.Code §665.140. If grade levels are not assigned, examinations must be completed within one year prior to the school year in which the child reaches the ages of 5, 11, and 15 (*Id.*).

<sup>4</sup> 105 ILCS 5/27-8.1; 77 Ill.Admin.Code §665.130 *et seq.*

<sup>5</sup> 105 ILCS 5/27-8.1; 77 Ill.Admin.Code §665.700 *et seq.*

<sup>6</sup> Required by 410 ILCS 45/7.1. Physicians are required to screen children over 6 years of age for lead poisoning when, in the physician's judgment, a child is at risk (410 ILCS 45/6.2).

<sup>7</sup> This sentence restates the requirement in the Communicable Disease Prevention Act regarding cervical cancer prevention (410 ILCS 315/2c).

Unless an exemption or extension applies, the failure to comply with the above requirements by October 15 of the current school year will result in the student's exclusion from school until the required health forms are presented to the District. <sup>8</sup> New students who register after October 15 of the current school year shall have 30 days following registration to comply with the health examination and immunization regulations. <sup>9</sup> If a medical reason prevents a student from receiving a required immunization by October 15, the student must present, by October 15, an immunization schedule and a statement of the medical reasons causing the delay. <sup>10</sup> The schedule and statement of medical reasons must be signed by the physician, advanced practice nurse, physician assistant, or local health department responsible for administering the immunizations.

Until June 30, 2015, a student transferring from out-of-state who does not have the required proof of immunizations by October 15 may attend classes only if he or she has proof that an appointment for the required vaccinations is scheduled with a party authorized to submit proof of the required vaccinations. <sup>11</sup> If the required proof of vaccination is not submitted within 30 days after the student is permitted to attend classes, the student may no longer attend classes until proof of the vaccinations is properly submitted. <sup>12</sup>

#### Eye Examination <sup>13</sup>

Parents/guardians are encouraged to have their children undergo an eye examination whenever health examinations are required. <sup>14</sup>

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

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

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

<sup>8</sup> 105 ILCS 5/27-8.1(5), amended by P.A. 97-216, requires compliance by October 15 unless a district establishes an earlier date with 60 days notice. If an earlier date is established, replace "October 15" in this paragraph with the earlier locally established date. During any student's exclusion from school for non-compliance with this policy, the student's parents/guardians shall be considered in violation of 105 ILCS 5/26-1 and subject to any penalty imposed by 105 ILCS 5/26-10, as provided in 105 ILCS 5/27-8.1, amended by P.A. 97-216.

<sup>9</sup> This sentence is optional. The timeframe of 30 days is a matter of local discretion except that out-of-state transfer students who fail to provide proof of the required vaccinations after 30 days must be excluded until such proof is properly submitted (105 ILCS 5/27-8.1(5), amended by P.A. 96-953). Consult the board attorney about establishing timeframes other than 30 days.

<sup>10</sup> This sentence and the following sentence restate 105 ILCS 5/27-8.1(5), amended by P.A. 97-216.

<sup>11</sup> Id. P.A. 97-216 changed the expiration year for special treatment of out-of-state transfer students to June 30, 2015. The special treatment of out-of-state transfer students resulted from the enactment of the Educational Opportunity for Military Children Act, 105 ILCS 70/, added by P.A. 96-953.

<sup>12</sup> 105 ILCS 5/27-8.1, amended by P.A. 97-216.

<sup>13</sup> Required by 105 ILCS 5/27-8.1(1.10) and (2). The IDPH's rules are published at 77 Ill.Admin.Code §665.610 et seq. §665.150 and 630 prescribe the statewide eye examination report form. It is available at: [www.idph.state.il.us/HealthWellness/EyeExamReport.pdf](http://www.idph.state.il.us/HealthWellness/EyeExamReport.pdf) or 77 Ill.Admin.Code §665, Appendix A.

<sup>14</sup> While 105 ILCS 5/27-8.1 requires eye examinations for students entering kindergarten or an Illinois school for the first time, it still encourages parent(s)/guardian(s) to have their children undergo eye examinations at the same points in time as their required health examinations. The IDPH must require that individuals conducting vision screenings give a child's parent/guardian a written notification stating:

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

parents/guardians are notified of this eye examination requirement in compliance with the rules of the Department of Public Health. Schools shall not exclude a student from attending school due to failure to obtain an eye examination.

#### Dental Examination 15

All children in kindergarten and the second and sixth grades must present proof of having been examined by a licensed dentist before May 15 of the current school year in accordance with rules adopted by the Illinois Department of Public Health.

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

#### Exemptions 16

In accordance with rules adopted by the Illinois Department of Public Health, a student will be exempted from this policy's requirements for:

1. Religious or medical grounds if the student's parents/guardians present to the Superintendent a signed statement explaining the objection;
2. Health examination or immunization requirements on medical grounds if a physician provides written verification;
3. Eye examination requirement if the student's parents/guardians show an undue burden or lack of access to a physician licensed to practice medicine in all of its branches who provides eye examinations or a licensed optometrist; or
4. Dental examination requirement if the student's parents/guardians show an undue burden or a lack of access to a dentist.

#### Homeless Child

Any homeless child shall be immediately admitted, even if the child or child's parent/guardian is unable to produce immunization and health records normally required for enrollment. <sup>17</sup> School Board policy 6:140, *Education of Homeless Children*, governs the enrollment of homeless children.

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

<sup>15</sup> Required by 105 ILCS 5/27-8.1(1.5). The IDPH's rules are published at 77 Ill.Admin.Code §665.410 et seq. §665.150 and 430 prescribe the statewide dental examination report form. It is available at: [www.idph.state.il.us/HealthWellness/oralhlth/DentalExamProof.pdf](http://www.idph.state.il.us/HealthWellness/oralhlth/DentalExamProof.pdf).

<sup>16</sup> Id. and 105 ILCS 5/27-8.1(1.10).

<sup>17</sup> Required by 105 ILCS 45/1-20 (Education for Homeless Children Act). Also required by the McKinney Homeless Assistance Act, 42 U.S.C. §1142(g)(3)(C)(i).

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

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

## **Student Discipline**

- 7.190 The proposed policy changes clarify prohibited student conduct in light of technological advances. Bullying and hazing are also more clearly defined, suspension limits have been reduced to 10 days per calendar year absent the Superintendent's/designee's approval, and restorative justice is now included as a disciplinary measure.**

## STUDENT DISCIPLINE

Disciplinary action may be taken against any student guilty of gross disobedience or misconduct.

Under the direction of the superintendent/designee, school personnel will establish, periodically review, and revise, if necessary, procedures for disciplining students.

All discipline procedures and guidelines will be fair, just, flexible, and in the best interests of the individual students and the school community. All discipline guidelines and procedures will comply with the appropriate state statutes and constitutional provisions.

### **Prohibited Student Conduct**

Disciplinary action may be taken against any student guilty of gross disobedience or misconduct, including, but not limited to, the following:

1. Using, possessing, distributing, purchasing, or selling tobacco materials.
2. Using, possessing, distributing, purchasing, or selling or intending to sell or being under the influence of alcoholic beverages. Students who are under the influence are not permitted to attend school or school functions and are treated as though they had alcohol in their possession. Being under the influence includes, but is not limited to, the emission of the odor of alcohol (having alcohol on the breath); or any impairment of normal functioning such as slurred speech, inability to walk properly or dilated pupils or having any level of alcohol in the student's system, even if under the legal limit .
3. Using, possessing, distributing, purchasing, or selling or intending to sell illegal drugs, controlled substances, "look-alike" drugs, or drug paraphernalia. Students who are under the influence of any prohibited substance or drug or in possession of any drug paraphernalia are not permitted to attend school or school functions and are treated as though they had drugs or paraphernalia, as applicable, in their possession.
4. Using, possessing, distributing, purchasing, or selling any performance enhancing substance on the Illinois High School Association's most current banned substance list unless administered in accordance with a physician's or licensed practitioner's prescription.
5. Using, possessing, distributing, purchasing, or selling any inhalant, regardless of whether it contains an illegal drug or controlled substance: a) that a student believes is or represents to be capable of, causing intoxication, hallucination, excitement, or dulling of the nervous system, or b) about which the student engaged in behavior that would lead a reasonable person to believe that the student intended the inhalant to cause intoxication, hallucination, excitement, or dulling of the nervous system or brain. The prohibition in this section does not apply to a student's use of asthma or other legally prescribed inhalant medications.
6. ~~Using or possessing an electronic paging device without authorization. Using a cellular telephone, video recording device, personal digital assistant (PDA), or other electronic device in any manner that disrupts the educational environment or violates the rights of~~

~~others, including using the device to take photographs in locker rooms or bathrooms, cheat, or otherwise violate student conduct rules. Prohibited conduct specifically includes, without limitation, creating, sending, sharing, viewing, receiving, or possessing an indecent visual depiction of oneself or another person through the use of a computer, electronic communication device, or cellular phone. Unless otherwise banned under this policy or by the Building Principal, all electronic devices must be kept powered off and out of sight during the regular school day unless: (a) the supervising teacher grants permission; (b) use of the device is provided in a student's individualized education program (IEP); or (c) it is needed in an emergency that threatens the safety of students, staff, or other individuals.~~

46. Using, possessing, controlling, or transferring or intending to transfer a weapon. Weapons include, but are not limited to:
- guns, knives, explosive devices, brass knuckles any other item which is typically used to cause bodily harm and any other item defined by law to be a weapon;
  - items such as baseball bats, pipes, bottles, locks, sticks, compasses, pencils and pens if used, or attempted to be used, to cause bodily harm; and
  - look-alike weapons.
  - The Superintendent or designee may grant an exception to this policy, ~~upon the prior request of an adult supervisor,~~ for students in theatre, cooking, ROTC, martial arts, and similar programs, whether or not school-sponsored, provided the item is not equipped, nor intended, to do bodily harm.
67. Using or possessing electronic signaling devices (e.g., pocket pagers) and two-way radios, unless authorized and approved by the building principal.
68. Using a cellular telephone, personal digital assistant (PDA), video recording device, or other electronic device (such as any pocket pager or similar electronic signaling/paging device) that is otherwise not banned by this policy, in any manner that disrupts the educational environment, including using the device to take photographs and/or video in locker rooms or bathrooms, cheat, or otherwise violate student conduct rules. Prohibited conduct specifically includes, without limitation, creating, sending, sharing, viewing, receiving, or possessing an indecent visual depiction of oneself or another person through the use of a computer, electronic communication device, or cellular phone, including "sexting". Unless otherwise banned under this policy, all electronic devices must be kept off and out of sight during the regular school day unless: (a) the supervising teacher grants permission, (b) use of the device is provided in a student's IEP, or (c) it is needed in an emergency that threatens the safety of students, staff, or other individuals. (In the event that a student has need of use of an electronic communication device for reasons of health or emergency, the student and his/her parent should notify the administration). Cellular telephone and personal media device usage shall be allowed in designated common areas. Building Administrators shall determine the location of designated common areas. ~~by building administrators.~~ Such usage that does not comply with Board Policy/Student Handbook Guidelines and/or disrupts the educational environment may result in confiscation and disciplinary action.
79. Using or possessing a laser pointer unless under a staff member's supervision and in the context of instruction.

**~~8~~10.** Disobeying directives from staff members or school officials and/or rules and regulations governing student conduct.

**~~9~~11.** Using any form or type of aggressive behavior that does physical or psychological harm to someone else and/or urging other students to engage in such conduct. Prohibited aggressive behavior includes, without limitation, the use of violence, force, noise, coercion, threats, intimidation, fear, bullying, **cyber-bullying** or other comparable conduct. Bullying and/or intimidation of others includes, but is not limited to, any aggressive or negative gesture, or written, verbal or physical act that places another student in reasonable fear of harm to his or her person or property, or that has the effect of insulting or demeaning any student in such a way as to disrupt or interfere with the school's educational mission or the education of any student. Bullying on the basis of actual or perceived race, color, nationality, sex, sexual orientation, gender identity, gender-related identity or expression, ancestry, age, religion, physical or mental disability, order of protection status, status of being homeless, or actual or potential marital or parental status, including pregnancy, association with a person or group with one or more of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic is prohibited. Bullying or intimidation most often will occur when a student asserts physical or psychological power over, or is cruel to, another student perceived to be weaker. Such behavior may include, but is not limited to: pushing, hitting, threatening, name-calling, or other physical or verbal conduct of a belittling or browbeating nature. The District shall fully inform staff members of the District's goal to prevent students from engaging in bullying and the measures being used to accomplish it. This includes: (a) communicating the District's expectation – and the State law requirement – that teachers and other certificated employees maintain discipline, and (b) establishing a process for staff members to fulfill their obligation to report alleged acts of bullying, intimidation, harassment, and other acts of actual or threatened violence.

**~~10~~12.** Causing or attempting to cause damage to, or stealing or attempting to steal, school property or another person's personal property.

**~~11~~13.** ~~Unexcused absenteeism; State law and Board policy on truancy control will be used with chronic and habitual truants.~~

**~~13~~14.** Involvement in gangs or gang-related activities, including the display of gang symbols or paraphernalia. A "gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more criminal acts or acts in violation of school rules, which has an identifiable name or identifying sign or symbol, and whose members individually or collectively engage in, or have engaged in, a pattern of criminal gang activity or activity relating to the violation of school rules. Gang activity includes, but is not limited to, any act in furtherance of the gang and possession or use of gang symbols, such as drawings, hand signs or attire.

**~~14~~15.** Engaging in any activity that constitutes an interference with school purposes or an educational function or any disruptive activity.

~~1516.~~ ~~*Cheating and/or academic dishonesty. Engaging in academic dishonesty, including cheating, intentionally plagiarizing, violation of copyright law, wrongfully giving or receiving help during an academic examination, and wrongfully obtaining test copies or scores.*~~

~~121316.~~ Being involved with any public school fraternity, sorority or secret society, by

- Being a member,
- Promising to join,
- Pledging to become a member, or
- Soliciting any other person to join, promise to join, or be pledged to become a member.

~~1617.~~ ~~*Hazing. "Hazing" means any act directed against a student for the purpose of being initiated into, affiliated with, holding office in, or maintaining membership in any organization, club or athletic team, whose members include other students. Engaging in hazing or any kind of bullying or aggressive behavior that does physical or psychological harm to a staff person or another student, or urging other students to engage in such conduct. Prohibited conduct specifically includes, without limitation, any use of violence, intimidation, force, noise, coercion, threats, stalking, harassment, sexual harassment, public humiliation, theft or destruction of property, retaliation, hazing, bullying, bullying using a school computer or a school computer network, or other comparable conduct.*~~

~~1718.~~ Abuse of Internet Privileges. See Acceptable Use of Technology Policy.

For purposes of this policy, the term "possession" means having any knowledge of, and any control over, an item. Control includes, but is not limited to, having access to an item in a school locker, personal effects, a vehicle, or other place where the item is located. It is not necessary that a student intend to control the item. A student may acquire knowledge of an item visually, by being told about the item, or through other sensory perception. A student's knowledge will be determined based on the surrounding circumstances, not just the student's statements. For example, "forgetting" that an item is in one's locker or personal effects does not constitute a lack of knowledge. Also, for example, coming onto school grounds or to a school-sponsored event in a vehicle which the student knows contains an item constitutes possession of that item, even if the vehicle or the item is not the student's. This provision on possession applies to any policy or rule which regulates or prohibits possession of any item, such as weapons or drug paraphernalia, and such substances as tobacco, alcohol, drugs and look-alikes of such items or substances.

A "look-alike" is any substance or item which is not, but reasonably appears to be, or is represented to be, the real substance or item. Examples include:

- a toy gun which is very difficult to distinguish, except upon close examination, from an actual gun,
- a green leafy plant material which is not, but is claimed, believed or intended to appear to be, marijuana,
- a white powdered substance which is not, but is claimed, believed or intended to appear to be a toxic chemical or biological agent.

### **Application of Grounds for Disciplinary Action**

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

The grounds for disciplinary action, including those described more thoroughly later in this policy, apply whenever the student's conduct is reasonably related to school or school activities, including, but not limited to:

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

Disciplinary measures may include:

1. Disciplinary conference.
2. Withholding of privileges.
3. Seizure of contraband.
4. Suspension from school and all school activities for up to 10 school days, provided that appropriate procedures are followed. A suspended student is prohibited from being on any District school grounds. Furthermore, out-of-school suspensions are limited to will be capped at 10 school days per year, per student. Any out-of-school suspensions above 10 school days in a school year must be approved by the Superintendent/designee.
5. Suspension of bus riding privileges, provided that appropriate procedures are followed.
6. Expulsion from school and all school-sponsored activities and events for a definite time period not to exceed 2 calendar years, provided that the appropriate procedures are followed. An expelled student is prohibited from being on school grounds.
7. Notification of juvenile authorities whenever the conduct involves illegal drugs (controlled substances), look-alikes, alcohol, or weapons.
8. Notification of parent(s)/guardian(s).
9. Removal from classroom.
- ~~10. In school suspension for a period not to exceed 5 school days. The building principal/designee shall ensure that the student is properly supervised.~~
- ~~10.~~ 10. Detention or Saturday School, provided the student's parent(s)/guardian(s) have been notified. If transportation arrangements cannot be agreed upon, an alternative disciplinary measure must be used. The student must be supervised by the detaining teacher or the building principal/designee.
11. Restorative justice and community service. The Superintendent/designee shall promulgate practices and procedures to administer this section.

A student who is subject to suspension or expulsion may be eligible for a transfer to an alternative school program.

Corporal punishment shall not be used. Corporal punishment is defined as slapping, paddling, or prolonged maintenance of students in physically painful positions, or intentional infliction of bodily harm. Corporal punishment does not include reasonable force as needed to maintain safety for students, staff, or other persons, or for the purpose of self-defense or defense of property.

#### **Required Notices**

A school staff member shall immediately notify the Building Principal in the event that he or she: (1) observes any person in possession of a firearm on or around school grounds; however, such action may be delayed if immediate notice would endanger students under his or her supervision, (2) observes or has reason to suspect that any person on school grounds is or was involved in a drug-related incident, or (3) observes a battery committed against any staff member. Upon receiving such a report, the building principal/designee shall immediately notify the local law enforcement agency, State Police, and the student's parent(s)/guardian(s).

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

#### **Delegation of Authority**

Each teacher, and any other school personnel when students are under his or her charge, is authorized to impose any disciplinary measure, other than suspension, expulsion, corporal punishment or in-school suspension, which is appropriate and in accordance with the policies and rules on student discipline. Teachers, other certificated educational employees and other persons providing a related service for or with respect to a student, may use reasonable force as needed to maintain safety for other student, school personnel, or other persons, or for the purpose of self-defense or defense of property. Teachers shall promptly notify the principal/designee when temporarily removing students from a classroom for disruptive behavior.

The superintendent/designee, ~~building~~ principal, assistant ~~building~~ principal, or dean of students ~~are authorized to impose the same disciplinary measures as teachers and~~ may suspend students guilty of gross disobedience or misconduct from school (including all school functions) and from riding the school bus, up to 10 consecutive school days per student, per year, provided the appropriate procedures are followed. The School Board may suspend a student from riding the bus in excess of 10 school days for safety reasons.

#### **Student Handbook**

The superintendent/designee, with input from the parent-teacher advisory committee, shall prepare disciplinary rules implementing the District's disciplinary policies. These disciplinary rules shall be presented annually to the Board for its review and approval.

23 Ill. Admin. Code §1.210, 1.280  
Gun-Free Schools Act, 20 U.S.C. §8921 et seq.  
20 U.S.C. §6081  
105 ILCS 5/10-20.5b, 5/10-20.14, 5/10-20.28, 5/10-20.35, 5/10-21.7, 5/10-21.10,  
5/10-22.6, 5/10-27.1A, 5/10-27.1B, 5/24-24, 5/26-12, and 5/31-3.  
23 Ill. Admin. Code §§1.210 and 1.280  
Pro-Children Act of 1994, 20 U.S.C. §6081

**CROSS REF.:**           Administrative Procedure Handbook – Section 7.1-.6; 7.12-.18; 7.36

## Students

### Student Discipline 1

#### Prohibited Student Conduct 2

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

1. Using, possessing, distributing, purchasing, or selling tobacco materials. 3
2. Using, possessing, distributing, purchasing, or selling alcoholic beverages. 4 Students who are under the influence of an alcoholic beverage are not permitted to attend school or school functions and are treated as though they had alcohol in their possession.
3. Using, possessing, distributing, purchasing, or selling:
  - a. Any illegal drug, controlled substance, or cannabis (including marijuana and hashish). 5
  - b. Any anabolic steroid unless being administered in accordance with a physician's or licensed practitioner's prescription. 6
  - c. Any performance-enhancing substance on the Illinois High School Association's most current banned substance list unless administered in accordance with a physician's or licensed practitioner's prescription. 7
  - d. Any prescription drug when not prescribed for the student by a physician or licensed practitioner, or when used in a manner inconsistent with the prescription or prescribing physician's or licensed practitioner's instructions.
  - e. Any inhalant, regardless of whether it contains an illegal drug or controlled substance: (a) that a student believes is, or represents to be capable of, causing intoxication, hallucination, excitement, or dulling of the brain or nervous system; or (b) about which the student engaged in behavior that would lead a reasonable person to believe that the student intended the inhalant to cause intoxication, hallucination, excitement, or dulling

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

1 All districts must have a policy on student discipline, including corporal punishment (105 ILCS 5/10-20.14; 23 Ill.Admin.Code §1.280). Teachers and other certificated employees must maintain discipline (105 ILCS 5/24-24). Staff members may *not* use isolated time out or physical restraint unless authorized to do so by an administrative procedure or policy (105 ILCS 5/2-3.130, 5/10-20.33, and 5/24-24; 23 Ill.Admin.Code §1.280(c) and 1.285). See *fn* 35 and 7:190-AP4, *Use of Isolated Time Out and Physical Restraint*. Given the unique concerns facing school officials, school disciplinary codes are not required to be drafted as narrowly or with the same precisions as criminal statutes. Bethel School Dist. v. Fraser, 106 S.Ct. 3159 (1986).

2 Boards for elementary districts may customize the items listed as *prohibited student conduct* that clearly will not apply to their students.

3 Federal law prohibits smoking within schools by anyone (Pro-Children Act of 1994, 20 U.S.C. §6081). Districts that fail to comply risk a civil penalty of up to \$1,000 per violation per day. See policy 8:30, *Visitors to and Conduct on School Property*, for more information.

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

5 Controlled substance is defined in 720 ILCS 570/102; cannabis is defined in 720 ILCS 550/3. Either spelling, "marihuana" or "marijuana," is correct; however, "marijuana" is more common.

6 Anabolic steroid is defined in 720 ILCS 570/102.

7 105 ILCS 25/2 requires IHSA to prohibit a student from participating in an IHSA-sponsored athletic competition unless the student has agreed not to use any performance-enhancing substances on IHSA's current banned drug list and to submit to performance-enhancing substance testing. See policy 7:240, *Conduct Code for Participants in Extracurricular Activities*.

of the brain or nervous system. The prohibition in this section does not apply to a student's use of asthma or other legally prescribed inhalant medications.

- f. "Look-alike" or counterfeit drugs, including a substance not containing an illegal drug or controlled substance, but one: (a) that a student believes to be, or represents to be, an illegal drug or controlled substance; or (b) about which a student engaged in behavior that would lead a reasonable person to believe that the student expressly or impliedly represented to be an illegal drug or controlled substance. <sup>8</sup>
- g. Drug paraphernalia, including devices that are or can be used to: (a) ingest, inhale, or inject cannabis or controlled substances into the body; and (b) grow, process, store, or conceal cannabis or controlled substances. <sup>9</sup>

Students who are under the influence of any prohibited substance are not permitted to attend school or school functions and are treated as though they had the prohibited substance, as applicable, in their possession.

- 4. Using, possessing, controlling, or transferring a "weapon" as that term is defined in the *Weapons* section of this policy, or violating the *Weapons* section of this policy. <sup>10</sup>
- 5. Using or possessing an electronic paging device. Using a cellular telephone, video recording device, personal digital assistant (PDA), or other electronic device in any manner that disrupts the educational environment or violates the rights of others, including using the device to take photographs in locker rooms or bathrooms, cheat, or otherwise violate student conduct rules. Prohibited conduct specifically includes, without limitation, creating, sending, sharing, viewing, receiving, or possessing an indecent visual depiction of oneself or another person through the use of a computer, electronic communication device, or cellular phone. Unless otherwise banned under this policy or by the Building Principal, all electronic devices must be kept powered-off and out-of-sight during the regular school day unless: (a) the supervising teacher grants permission; (b) use of the device is provided in a student's individualized education program (IEP); or (c) it is needed in an emergency that threatens the safety of students, staff, or other individuals. <sup>11</sup>
- 6. Using or possessing a laser pointer unless under a staff member's direct supervision and in the context of instruction.

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

<sup>8</sup> "Look-alike" and counterfeit substances are defined in 720 ILCS 570/102. "Look-alike" drugs should be defined; an unpublished Ill. Court of Appeals decision in 2000 found a board policy prohibiting possession of "look-alikes" to have vagueness problems.

<sup>9</sup> Drug paraphernalia is defined in 720 ILCS 600/2.

<sup>10</sup> This language is broader than the *Weapons* section of this policy. The *Weapons* section contains the statutorily required punishment for "a student who is determined to have brought" a weapon to school along with the statutory definition of *weapon* (105 ILCS 5/10-22.6). The language in item #4 is broader because it prohibits "using, possessing, controlling, or transferring" a weapon in addition to violating the *Weapons* section.

<sup>11</sup> 105 ILCS 5/10-21.10 prohibits student possession of electronic paging devices, but State law leaves to local boards the discretion whether to prohibit student possession of cellular phones (105 ILCS 5/10-20.28). Camera phones are now common and their misuse could seriously invade a student's privacy. A board wanting a sweeping prohibition may use the following alternative for item 5:

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

Operating transmitters designed to jam or block wireless communications violates the federal Communications Act of 1934 (47 U.S.C. §§301, 302a, and 333). Fines for a first offense can range as high as \$11,000 for each violation or imprisonment for up to one year, and the device may also be seized by the U.S. government. 47 U.S.C. §§501-510.

Making a video recording or live video transmission of another person without their consent in a restroom, locker room, or changing room is a felony (720 ILCS 5/26-4). A minor who distributes or disseminates an indecent visual depiction of another minor through the use of a computer or electronic communication device may be subject to adjudication as a minor in need of supervision (705 ILCS 405/3-40, added by P.A. 96-1087).

7. Disobeying rules of student conduct or directives from staff members or school officials. Examples of disobeying staff directives include refusing a District staff member's request to stop, present school identification, or submit to a search.
8. Engaging in academic dishonesty, including cheating, intentionally plagiarizing, wrongfully giving or receiving help during an academic examination, and wrongfully obtaining test copies or scores.
9. Engaging in hazing or any kind of bullying or aggressive behavior that does physical or psychological harm to a staff person or another student, or urging other students to engage in such conduct. Prohibited conduct specifically includes, without limitation, any use of violence, intimidation, force, noise, coercion, threats, stalking, harassment, sexual harassment, public humiliation, theft or destruction of property, retaliation, hazing, bullying, bullying using a school computer or a school computer network, or other comparable conduct. 12
10. Causing or attempting to cause damage to, or stealing or attempting to steal, school property or another person's personal property. 13
11. Being absent without a recognized excuse; State law and School Board policy regarding truancy control will be used with chronic and habitual truants. 14
12. Being involved with any public school fraternity, sorority, or secret society, by: (a) being a member; (b) promising to join; (c) pledging to become a member; or (d) soliciting any other person to join, promise to join, or be pledged to become a member. 15
13. Being involved in gangs or gang-related activities, including displaying gang symbols or paraphernalia. 16

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

12 All districts must have a policy on bullying (105 ILCS 5/27-23.7(d), amended by P.A. 96-952). Policy 7:180, *Preventing Bullying, Intimidation, and Harassment*, contains the statutory definition of *bullying*.

105 ILCS 5/10-20.14 requires boards, in consultation with their parent-teacher advisory committees and other community-based organizations, to include provisions in their student discipline policy to address aggressive behavior, including bullying. Implementing procedures must include a method for informing parents/guardians when their child or ward engaged in aggressive behavior as well as early intervention procedures based upon available community and district resources. See 7:190-E, *Aggressive Behavior Reporting Letter and Form*.

A trial court's order enjoining a student's expulsion for committing aggressive behavior was overturned in Wilson ex rel. Geiger v. Hinsdale Elementary School Dist. 181, 810 N.E.2d 637 (Ill.App.2, 2004). The board expelled an 11-year-old student for bringing 2 CDs to school containing a song entitled, "Gonna Kill Mrs. Cox's Baby." Mrs. Cox was the student's pregnant science teacher. The student was expelled for the remainder of the school year for violating the district's policy prohibiting aggressive behavior. The Court of Appeals reversed the trial court's temporary restraining order (that had stopped the penalty's imposition until after a trial) finding that the student had violated school rules subjecting him to exclusion and that the penalty was not unreasonable, arbitrary, capricious, or oppressive.

See also Gendelman v. Glenbrook North High School and Northfield Township School District 225, 2003 WL 21209880 (N.D.Ill., 2003)(student suspensions for hazing were upheld).

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

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

13 720 ILCS 5/26-1 makes threatening to destroy a school building or school property, whether or not school is in session, or causing such a threat to be transmitted, a Class 4 felony.

14 105 ILCS 5/26-2a, amended by P.A. 97-218, 5/26-9, and 5/26-12. See policy 6:110, *Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program*, and 7:70, *Attendance and Truancy*.

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

14. Violating any criminal law, including but not limited to, assault, battery, arson, theft, gambling, eavesdropping, and hazing.
15. Making an explicit threat on an Internet website against a school employee, a student, or any school-related personnel if the Internet website through which the threat was made is a site that was accessible within the school at the time the threat was made or was available to third parties who worked or studied within the school grounds at the time the threat was made, and the threat could be reasonably interpreted as threatening to the safety and security of the threatened individual because of his or her duties or employment status or status as a student inside the school. <sup>17</sup>
16. Engaging in any activity, on or off campus, that interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; or (b) endanger the health or safety of students, staff, or school property. <sup>18</sup>

For purposes of this policy, the term “possession” includes having control, custody, or care, currently or in the past, of an object or substance, including situations in which the item is: (a) on the student’s person; (b) contained in another item belonging to, or under the control of, the student, such as in the student’s clothing, backpack, or automobile; (c) in a school’s student locker, desk, or other school property; or (d) at any location on school property or at a school-sponsored event. <sup>19</sup>

Efforts, including the use of early intervention and progressive discipline, shall be made to deter students, while at school or a school-related event, from engaging in aggressive behavior that may reasonably produce physical or psychological harm to someone else. The Superintendent or designee shall ensure that the parent/guardian of a student who engages in aggressive behavior is notified of the incident. <sup>20</sup> The failure to provide such notification does not limit the Board’s authority to impose discipline, including suspension or expulsion, for such behavior.

No disciplinary action shall be taken against any student that is based totally or in part on the refusal of the student’s parent/guardian to administer or consent to the administration of psychotropic or psychostimulant medication to the student. <sup>21</sup>

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<sup>16</sup> See *Kelly v. Board of Educ. of McHenry Community High School Dist.*, 156, 2007 WL 114300 (N.D.Ill., 2007)(upheld student’s expulsion for drawing gang symbols while at school; testimony that the danger posed by gang signs and the presence of gangs at school supported the board’s insistence on strict enforcement of board policy prohibiting gang related behavior and made expulsion a proper remedy). Significantly, the General Assembly recognized in 105 ILCS 5/27-23.7(a), that “[g]iven the higher rates of criminal offending among gang members, as well as the availability of increasingly lethal weapons, the level of criminal activity by gang members has taken on new importance for law enforcement agencies, schools, the community, and prevention efforts.”

<sup>17</sup> 740 ILCS 147/15 *et seq.* allows a school district to bring a civil suit against a gang, gang officers, or gang members for losses it suffers due to their criminal activity.

<sup>18</sup> This statement of misconduct restates 105 ILCS 5/10-22.6(d-5), added by P.A. 97-340. The following alternative provides a shorter statement but will require the administrator to check the statute before imposing discipline based on it:

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

<sup>19</sup> A catchall provision, e.g., this one, gives staff members authority to respond to unforeseen situations.

<sup>20</sup> If the board adopts a mandatory uniform policy (see 7:165, *School Uniforms*), add the following item to the list as number 16: “Failing to comply with the mandatory uniform policy, but only after repeated attempts to secure compliance, such as conferences with parents/guardians, have been unsuccessful.”

<sup>21</sup> “Possession” should be defined to avoid vagueness problems.

<sup>22</sup> See footnote 12.

<sup>23</sup> Mandated by 105 ILCS 5/10-20.36.

The grounds for disciplinary action, including those described more thoroughly later in this policy, apply whenever the student's conduct is reasonably related to school or school activities, including, but not limited to: 22

1. On, or within sight of, school grounds before, during, or after school hours or at any time;
2. Off school grounds at a school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school;
3. Traveling to or from school or a school activity, function, or event; or
4. Anywhere, if the conduct interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including, but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; or (b) endanger the health or safety of students, staff, or school property. 23

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22 A school's power over students does not cease when students leave the campus. Illinois statutes provide little guidance concerning off-campus jurisdiction. Board policy must provide a jurisdictional statement telling students and staff the circumstances under which the district will take disciplinary action. Rules taking jurisdiction of off-campus misconduct generally survive the test of reasonableness if they are limited to situations having a direct nexus to the school. Jurisdictional rules in board policy should generally be as broad as possible in order to give staff members authority to respond to unforeseen situations. However, a countervailing interest concerns liability for off-campus student injuries, i.e., the greater the jurisdiction a district is willing to impose, the greater the scope of liability it may be assuming. Ultimately, a decision whether to discipline for off-campus misconduct requires a factual inquiry to determine the degree of nexus and impact on the school. Two decisions issued by the same federal court of appeals are informative. Both cases involved students who created a very unflattering MySpace profile parodying their principal but there was little evidence that the profiles caused, or could cause, substantial disruption in the schools. Absent this factor, the school districts were not empowered to punish out-of-school expressive conduct, even if it is lewd, indecent, or offensive speech. J.S. v. Blue Mountain Sch. Dist., combined with Layshock v. Hermitage Sch. Dist., 650 F.3d 205 (3d Cir. 2011), *cert. denied* 2012 WL 117558 (U.S.).

There are many other decisions on disciplining a student for off-campus misconduct; for examples, see: Morse v. Frederick, 127 S.Ct. 2618 (2007) (held school's compelling interest in stopping student drug abuse allows schools to prohibit student speech that maybe reasonably regarded as promoting illegal drug use); Boucher v. School Dist. of Greenfield, 134 F.3d 821 (7th Cir. 1998) (upheld expulsion for off-campus speech – an article explaining how to hack into the school's computers); Giles v. Brookville Area School District, 669 A.2d 1079 (Pa. Commw. 1995) (upheld expulsion for selling marijuana to another student off-campus where negotiations took place on campus); J.S. v. Bethlehem Area School District, 807 A.2d 847 (Pa. 2002) (suspension upheld for posting on a private web site derogatory, offensive, and threatening statements directed toward a teacher); Wisniewski v. Weedsport Cent. School District, 494 F.3d 34 (2<sup>nd</sup> Cir. 2007), (upheld suspension for off-campus speech - an instant message icon illustrating a pistol firing a bullet at teacher's head with words "kill Mr. Vandermolen."); Doe v. Pulaski Co. Special School, 306 F.3d 616 (8<sup>th</sup> Cir. 2002) (vacated holding in Doe v. Pulaski Co. Special School, 263 F.3d 833 (8th Cir. 2001), holding that the school board did not violate the student's First Amendment rights when it expelled him for writing a letter at home referring to killing his girlfriend).

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

A judge may transfer a student to another school for committing stalking or non-consensual sexual contact against another student, or for aiding and abetting such an act; the parents/guardians are responsible for transportation and other costs associated with the transfer (Stalking No Contact Order Act and the Civil No Contact Order Act, 740 ILCS 21/80 and 22/213, amended by P.A. 97-294). The school district and will probably not be notified before a transfer order is issued. School officials should immediately seek the board attorney's advice concerning available options.

23 Suspending or expelling a student for off-campus misconduct is problematic when the school's jurisdiction is premised on nothing more than "the student's presence at school may reasonably be considered to create an interference with school purposes or an educational function." If possible, other grounds for jurisdiction should be added. The factual context will determine jurisdiction. Even when there is no other jurisdictional ground, if the nature of the conduct is particularly troublesome, a detrimental impact on the school can be inferred. See Doe v. Superintendent of Schools of Stoughton, 767 N.E.2d 1054 (Mass., 2002) (suspension for off-campus commission of a felony was upheld).

## Disciplinary Measures <sup>24</sup>

Disciplinary measures may include: <sup>25</sup>

1. Disciplinary conference.
2. Withholding of privileges.
3. Seizure of contraband.
4. Suspension from school and all school activities for up to 10 days, provided that appropriate procedures are followed. <sup>26</sup> A suspended student is prohibited from being on school grounds.
5. Suspension of bus riding privileges, provided that appropriate procedures are followed. <sup>27</sup>
6. Expulsion from school and all school-sponsored activities and events for a definite time period not to exceed 2 calendar years, provided that the appropriate procedures are followed. <sup>28</sup> An expelled student is prohibited from being on school grounds. <sup>29</sup>
7. Notifying juvenile authorities or other law enforcement whenever the conduct involves illegal drugs (controlled substances), "look-alikes," alcohol, or weapons.
8. Notifying parents/guardians.
9. Temporary removal from the classroom.
10. In-school suspension for a period not to exceed 5 school days. The Building Principal or designee shall ensure that the student is properly supervised. <sup>30</sup>
11. After-school study or Saturday study <sup>31</sup> provided the student's parent/guardian has been notified. If transportation arrangements cannot be agreed upon, an alternative disciplinary

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<sup>24</sup> Aside from procedural due process protection, students have a constitutional substantive due process right. This right protects them from an abuse of government power which "shocks the conscience." While the scope of substantive due process is very limited, it is available to students who believe they were subject to arbitrary and excessive discipline. Generally, however, school officials need not fear being found guilty of a substantive due process violation. Federal courts are loath to second-guess school officials.

An example of the judicial reluctance to interfere is Tun v. Whitticker, 398 F.3d 899 (7th Cir., 2005). A student named Brandon brought a substantive due process claim against the school for expelling him without evidence of wrongdoing. Brandon and three others were expelled for allowing nude pictures of themselves to be taken in the school shower. After Brandon appealed using the school's procedures, the expulsion was rescinded and his record expunged of any reference to the incident. Brandon, however, brought a federal court action alleging that his substantive due process rights were violated. While the Court believed that school officials overacted to boys "just horsing around," it did not believe the expulsion amounted to a substantive due process violation - it fell short of the required "shocks the conscience" standard.

<sup>25</sup> Most school attorneys advise against using a grade reduction as a disciplinary measure. One case upheld the application of such a policy. Knight v. Board of Education, 348 N.E.2d 299 (Ill.App. 4, 1976). Another case, however, found unconstitutional, a grade reduction policy requiring 9-week grades to be reduced 4% for each day of a suspension. Smith v. School City of Hobart, 811 F.Supp. 391 (N.D.Ind., 1993).

<sup>26</sup> 105 ILCS 5/10-22.6. The next sentence is optional.

<sup>27</sup> Id.

<sup>28</sup> 105 ILCS 5/10-22.6. The Indiana Supreme Court upheld a policy to deny semester credit to a student expelled anytime during the semester. South Gibson School Board v. Sollman, 768 N.E.2d 437 (Ind. 2002). An optional provision, such as the following, should first be discussed with the board's attorney before adoption:

Unless the Building Principal determines otherwise, a student expelled anytime during a semester will be denied credit for the semester regardless of whether the student had completed sufficient course work to earn a passing grade before being expelled.

<sup>29</sup> Optional (105 ILCS 5/10-22.6).

<sup>30</sup> State law does not cover in-school suspensions. Generally, an educational program must be included in an in-school suspension; otherwise, it may become a regular suspension with procedural requirements.

measure must be used. The student must be supervised by the detaining teacher or the Building Principal or designee.

12. Community service with local public and nonprofit agencies that enhances community efforts to meet human, educational, environmental, or public safety needs. <sup>32</sup> The District will not provide transportation. School administration shall use this option only as an alternative to another disciplinary measure giving the student and/or parent/guardian the choice.

A student who is subject to a suspension in excess of 20 school days or an expulsion may be immediately transferred to an alternative program in the manner provided in Article 13A or 13B of the School Code. <sup>33</sup>

Corporal punishment is prohibited. Corporal punishment is defined as slapping, paddling, or prolonged maintenance of students in physically painful positions, or intentional infliction of bodily harm. Corporal punishment does not include reasonable force as needed to maintain safety for students, staff, or other persons, or for the purpose of self-defense or defense of property. <sup>34</sup> <sup>35</sup>

### Weapons <sup>36</sup>

A student who is determined to have brought one of the following objects to school, any school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school shall be expelled for a period of at least one calendar year but not more than 2 calendar years:

1. A firearm, meaning any gun, rifle, shotgun, or weapon as defined by Section 921 of Title 18 of the United States Code (18 U.S.C. § 921), firearm as defined in Section 1.1 of the Firearm

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<sup>31</sup> Teachers may not be required to teach on Saturdays (105 ILCS 5/24-2).

<sup>32</sup> Optional. See Herndon v. Chapel Hill-Carrboro City Bd., 89 F.3d 174 (C.A. 4, 1996)(upheld policy requiring students to complete community service in order to graduate).

<sup>33</sup> This restates 105 ILCS 5/10-22.6(a) and (b), amended by P.A. 97-495. Most school lawyers say that a suspension over 10 days is automatically an expulsion and must be treated as such as per Goss v. Lopez, 95 S.Ct. 729 (1975). Subsection 10-22(b) used the phrase “is suspended in excess of 20 school days” even though such a suspension should be treated as an expulsion. It is an open question whether an alternative program is available to a student who is suspended for 11 to 20 days because that student is technically expelled and, as such, qualifies under subsection (a) of Section 10-22.6 even though s/he would not qualify under subsection (b) of that statute. The alternative program may not deny the transfer on the basis of the suspension or expulsion, except in cases in which the transfer is deemed to cause a threat to the safety of students or staff in the alternative program.

<sup>34</sup> This paragraph paraphrases 105 ILCS 5/24-24.

<sup>35</sup> School district staff may not use isolated time out or physical restraint unless the superintendent or board authorizes its use in a procedure or policy (105 ILCS 5/2-3.130, 5/10-20.33, and 5/24-24; 23 Ill.Admin.Code §1.280(c) and 1.285). See 7:190-AP4, *Use of Isolated Time Out and Physical Restraint*. An ISBE rule states that a district must have a *policy* on isolated time out and physical restraint in order to authorize their use. As the School Code does not contain such a requirement, ISBE has found that a district procedure will suffice to authorize the use of isolated time-out and restraint. A board may, but is not required to, include both or one of the following sentences:

School District staff members shall not use isolated time out and physical restraint other than as permitted in Section 10-20.33 of the School Code, State Board of Education rules, and procedures developed by the Superintendent. Neither isolated time out nor physical restraint shall be used in administering discipline to individual students, i.e., as a form of punishment.

The first sentence in the above optional paragraph will require the superintendent to develop administrative procedures; the second sentence is from ISBE rule 23 Ill.Admin.Code §1.285.

<sup>36</sup> This section restates 105 ILCS 5/10-22.6. See also the Gun-Free Schools Act, 20 U.S.C. §7151 *et seq.* This section contains the statutorily required punishment for bringing a weapon to school along with the statutory definition of *weapon* (105 ILCS 5/10-22.6). Item #4 in the *Prohibited Student Conduct* section is broader because it prohibits “using, possessing, controlling, or transferring” a weapon in addition to violating the *Weapons* section.

When preparing for a due process hearing, a principal needs to use the applicable State and federal law definitions of “firearm”– not just the School Code. Analyzing the student’s circumstances on a case-by-case basis may avoid a judicial finding that an expulsion is too severe. See Washington v. Smith, 618 N.E.2d 561 (Ill.App., 1993).

Owners Identification Card Act (430 ILCS 65/), or firearm as defined in Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1).

2. A knife, brass knuckles, or other knuckle weapon regardless of its composition, a billy club, or any other object if used or attempted to be used to cause bodily harm, including “look alikes” of any firearm as defined above.

The expulsion requirement under either paragraph 1 or 2 above may be modified by the Superintendent, and the Superintendent’s determination may be modified by the Board on a case-by-case basis. The Superintendent or designee may grant an exception to this policy, upon the prior request of an adult supervisor, for students in theatre, cooking, ROTC, martial arts, and similar programs, whether or not school-sponsored, provided the item is not equipped, nor intended, to do bodily harm. <sup>37</sup>

#### Required Notices

A school staff member shall immediately notify the office of the Building Principal in the event that he or she: (1) observes any person in possession of a firearm on or around school grounds; however, such action may be delayed if immediate notice would endanger students under his or her supervision, (2) observes or has reason to suspect that any person on school grounds is or was involved in a drug-related incident, or (3) observes a battery committed against any staff member. <sup>38</sup> Upon receiving such a report, the Building Principal or designee shall immediately notify the local law enforcement agency, State Police, and any involved student’s parent/guardian. <sup>39</sup> “School grounds” includes modes of transportation to school activities and any public way within 1000 feet of the school, as well as school property itself.

#### Delegation of Authority

Each teacher, and any other school personnel when students are under his or her charge, is authorized to impose any disciplinary measure, other than suspension, expulsion, corporal punishment, or in-school suspension, that is appropriate and in accordance with the policies and rules on student discipline. Teachers, other certificated educational employees, and other persons providing a related service for or with respect to a student, may use reasonable force as needed to maintain safety for other students, school personnel, or other persons, or for the purpose of self-defense or defense of property. <sup>40</sup> Teachers may temporarily remove students from a classroom for disruptive behavior. <sup>41</sup>

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<sup>37</sup> Optional.

<sup>38</sup> 105 ILCS 5/10-27.1A, 5/10-27.1B, and 5/10-21.7. “School grounds” includes the real property comprising any school, any conveyance used to transport students to school or a school-related activity, and any public way within 1,000 feet of any school ground. To satisfy the reporting requirement, ISBE created the School Incident Reporting System (SIRS), a web-based application on IWAS for schools to report incidents electronically. Reporting on SIRS does not satisfy the requirement to report incidents to local law enforcement authorities.

<sup>39</sup> *Id.* State law imposes this duty to report firearm possession only on school officials; this duty may be also imposed on volunteers and community members. Only staff members, however, are vulnerable to committing a petty offense for their failure to report, and only staff members are protected from civil or criminal liability that might arise as a result of making a report (although the liability potential for anyone making a report is remote).

The building principal must notify the student’s parents/guardians only when the alleged offense is firearm possession. The policy expands this notification duty; a board disinclined to do this should substitute the following sentence:

Upon receiving such a report, the Building Principal or designee shall immediately notify the applicable local law enforcement agency, State Police, and, if a student is reportedly in possession of a firearm, also the student’s parents/guardians.

<sup>40</sup> Required by 105 ILCS 5/24-24 and 23 Ill.Admin.Code §1.280.

<sup>41</sup> *Id.*

The Superintendent, Building Principal, Assistant Building Principal, or Dean of Students is authorized to impose the same disciplinary measures as teachers and may suspend students guilty of gross disobedience or misconduct from school (including all school functions) and from riding the school bus, up to 10 consecutive school days, provided the appropriate procedures are followed. <sup>42</sup> The Board may suspend a student from riding the bus in excess of 10 school days for safety reasons. <sup>43</sup>

### Student Handbook

The Superintendent, with input from the parent-teacher advisory committee, <sup>44</sup> shall prepare disciplinary rules implementing the District's disciplinary policies. These disciplinary rules shall be presented annually to the Board for its review and approval.

A student handbook, including the District disciplinary policies and rules, shall be distributed to the students' parents/guardians within 15 days of the beginning of the school year or a student's enrollment.

LEGAL REF.: Gun-Free Schools Act, 20 U.S.C. §7151 et seq.  
Pro-Children Act of 1994, 20 U.S.C. §6081.  
105 ILCS 5/10-20.5b, 5/10-20.14, 5/10-20.28, 5/10-20.36, 5/10-21.7, 5/10-21.10,  
5/10-22.6, 5/10-27.1A, 5/10-27.1B, 5/24-24, 5/26-12, 5/27-23.7, and 5/31-3.  
23 Ill.Admin.Code §1.280.

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

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<sup>42</sup> Required by 105 ILCS 5/10-22.6, amended by P.A. 96-998.

<sup>43</sup> Id.

<sup>44</sup> The board must establish and maintain a parent-teacher advisory committee to develop guidelines on student discipline. See policy 2:150, *Committees*. This policy's dissemination requirements are from 105 ILCS 5/10-20.14.

A comprehensive student handbook can provide notice of the school's conduct rules, extracurricular and athletic participation requirements, and other important information. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board.

### **Student Interviews**

- 7.198 The proposed policy change requires the Superintendent to develop procedures for student interviews.**

## STUDENT INTERVIEWS

The Superintendent shall manage requests by agency officials or police officers to interview students at school through procedures that: (1) recognize individual student rights and privacy, (2) minimize potential disruption, (3) foster a cooperative relationship with public agencies and law enforcement, and (4) comply with State law. The Superintendent will ~~maintain~~ develop and maintain procedures for interviewing students and distribute them to appropriate school staff ~~school principals~~.

LEGAL REF.: 55 ILCS 80/, Children's Advocacy Center Act.  
325 ILCS 5/, Abused and Neglected Child Reporting Act.  
720 ILCS 5/31-1 et seq., Interference with Public Officers Act.  
725 ILCS 120/, Rights of Crime Victims and Witnesses Act.

## Student ~~Interrogations and~~ Searches and Seizure of Property

- 7.199 The proposed policy change renames the policy, defines reasonable suspicion and clarifies when student property can be seized.

## STUDENT ~~INTERROGATIONS AND SEARCHES~~ AND SEIZURE OF PROPERTY

~~In order to maintain order and security and an effective and responsive educational program for all students, school officials will pursue reasonable and proper questioning of students when there is concern regarding safety, or hazard, or other impropriety.~~

~~District U 46 property, e.g., lockers, will be searched by a school administrator and one other school employee when it is believed that an illegal or dangerous substance or material is present. Such searches will be conducted with or without the students' consent and may be in company with the student. Civil authorities will not direct such searches. General and random searches of district property and equipment as well as students personal effects left there, by district personnel may be conducted in order to reduce fire, health, or other safety hazards. (District personnel includes school liaison police officers) Students have no reasonable expectation of privacy in these places or areas or in their personal effects left there. (This policy applies to student vehicles parked on school property.)~~

~~The Superintendent/designee may request the assistance of law enforcement officials to conduct inspections and searches of lockers, desks, parking lots, and other school property and equipment for illegal drugs, weapons, or other illegal or dangerous substances or materials, including searches conducted through the use of specially trained dogs.~~

~~If a seizure produces evidence that the student violated or is violating either the law or the District's policies or rules, such evidence may be seized and impounded by school authorities, and disciplinary action may be taken. When appropriate, such evidence may be transferred to law enforcement authorities.~~

*In order to maintain order and security in the schools, school authorities are authorized to conduct reasonable searches of school property and equipment, as well as of students and their personal effects. "School authorities" includes school liaison police officers.*

### *School Property and Equipment as well as Personal Effects Left There by Students*

*School authorities may inspect and search school property and equipment owned or controlled by the school (such as, lockers, desks, and parking lots), as well as personal effects left there by a student, without notice to or the consent of the student. Students have no reasonable expectation of privacy in these places or areas or in their personal effects left there.*

*The Superintendent may request the assistance of law enforcement officials to conduct inspections and searches of lockers, desks, parking lots, and other school property and equipment for illegal drugs, weapons, or other illegal or dangerous substances or materials, including searches conducted through the use of specially trained dogs.*

### *Students*

When law enforcement officials find it necessary to question students during the school day or periods of extracurricular activities, the school principal/designee will be present. Immediate effort will be made to contact the parent/guardian of the student to notify them of the situation. If custody and/or arrest is involved, the principal will request that all procedural safeguards, as prescribed by law, will be observed by the law enforcement officials.

School authorities may search a student and/or the student's personal effects in the student's possession (such as, purses, wallets, knapsacks, book bags, lunch boxes, etc.) when there is a reasonable ground for suspecting that the search will produce evidence the particular student has violated or is violating either the law or the District's student conduct rules. The search itself must be conducted in a manner that is reasonably related to its objective and not excessively intrusive in light of the student's age and sex, and the nature of the infraction.

"Reasonable Suspicion" means knowledge that is sufficiently trustworthy to lead a District employee or School Official to believe s/he has a moderate chance of finding that a student or visitor possesses evidence of wrongdoing. Reasonable Suspicion may be based upon direct observation of the student or visitor or on information an authorized District employee receives from a reliable third party. Reasonable Suspicion may arise, for example, from seeing a weapon-shaped bulge in clothing, smelling marijuana, Metal-Detector Activation, viewing a suspicious object via an x-ray monitor, or information from a reliable student or adult that a student currently has a weapon or contraband in his/her possession. Neither a mere hunch nor a generalized suspicion is a sufficient basis for conducting a Weapons Pat Down, Belongings Search, Contraband Search, or individual locker or desk search.

When feasible, the search should be conducted as follows:

1. Outside the view of others, including students.
2. In the presence of a school administrator or adult witness, and
3. By a certificated employee or liaison police officer of the same sex as the student.

Immediately following a search, a written report shall be made by the school authority who conducted the search, and given to the Superintendent.

#### Seizure of Property

If a search produces evidence that the student has violated or is violating either the law or the District's policies or rules, such evidence may be seized and impounded by school authorities, and disciplinary action may be taken. When appropriate, such evidence may be transferred to law enforcement authorities.

LEGAL REF.: 105 ILCS 5/10-20.14, 5/10-22.6, and 5/10-22.10a.

Cornfield v. Consolidated High School Dist. No. 230, 991 F.2d 1316 (7th Cir., 1993).

People v. Dilworth, 661 N.E.2d 310 (Ill., 1996), cert. denied, 116 S.Ct. 1692 (1996).

People v. Pruitt, 662 N.E. 2d 540 (Ill.App.1, 1996), app. denied, 667 N.E. 2d 1061 (Ill.App.1, 1996).

T.L.O. v. New Jersey, 105 S.Ct. 733 (1985).

Vernonia School Dist. 47J v. Acton, 115 S.Ct. 2386 (1995).

Safford Unified School Dist. No. 1 v. Redding, 129 S. Ct. 2633 (2009).

## **Student Suspension**

- 7.200 The proposed policy change limits the number of out-of-school suspensions to 10 calendar days per year absent the Superintendent's/designee's approval.**

## STUDENT SUSPENSION

The Board authorizes the superintendent/designee or building administrator of any school to suspend students guilty of gross disobedience or misconduct while on school premises, while in attendance at school-sponsored or conducted activities, while riding the school bus, and at any place where the misconduct has a reasonable relationship to the school, for a reasonable period not to exceed ten school days, per school year, per student. suspendable act of misconduct. No Requests for additional suspension days must be approved by ~~can be administered to a student without the prior approval of the Superintendent/designee.~~ A suspended student is sent home with parent knowledge and is not allowed to attend classes, school functions, or be on school grounds or at school-sponsored events for the duration of the suspension.

Parents/guardians have the right to appeal and request a hearing before the appointed hearing officer of the Board of Education. At such review, the parents/guardians may appear and discuss the suspension with the hearing officer. If a hearing officer is appointed by the Board he/she shall report to the Board a written summary of the evidence heard at the meeting. After the hearing or upon receipt of the written report of the hearing, the Board will review the report and take such action as deemed appropriate. All proceedings will be conducted pursuant to the rights of the students as set forth in the Illinois School Code, the guidelines established by the Illinois State Board of Education, and the rules and regulations of District U-46.

LEGAL REF.: Illinois School Code: 105 ILCS 5/10-22.6

CROSS REF.: Administrative Procedure Handbook – Section 7.3-.6; 7.12-.17

## Students

### Suspension Procedures <sup>1</sup>

The Superintendent shall implement suspension procedures that provide, at a minimum, for the following: <sup>2</sup>

1. Before a student may be suspended, the student shall be provided a conference during which the charges will be explained and the student will be given an opportunity to respond to the charges.
2. A pre-suspension conference is not required and the student can be immediately suspended when the student's presence poses a continuing danger to persons or property or an ongoing threat of disruption to the educational process. In such cases, the notice and conference shall follow as soon as practicable.
3. Any suspension shall be reported immediately to the student's parent(s)/guardian(s). A written notice of the suspension shall state the reasons for the suspension, including any school rule that was violated, and a notice to the parent(s)/guardian(s) of their right to a review of the suspension. The School Board must be given a summary of the notice, including the reason for the suspension and the suspension length.
4. Upon request of the parent(s)/guardian(s), a review of the suspension shall be conducted by the Board or a hearing officer appointed by the Board. <sup>3</sup> At the review, the student's parent(s)/guardian(s) may appear and discuss the suspension with the Board or its hearing officer and may be represented by counsel. After presentation of the evidence or receipt of the hearing officer's report, the Board shall take such action as it finds appropriate.

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

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

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<sup>1</sup> State law requires districts to have a policy on student discipline (105 ILCS 5/10-20.14; 23 Ill.Admin.Code §1.280). State or federal law controls this policy's content.

Boards may authorize *by policy* the superintendent, building principal, assistant building principal, or dean of students to suspend students guilty of gross disobedience or misconduct from school, including all school functions (105 ILCS 5/10-22.6(b), amended by P.A. 96-998. See 7:190, *Student Discipline*, for such an authorization.

<sup>2</sup> Suspension procedures are required by State law (105 ILCS 5/10-22.6(b), amended by P.A. 96-998. The right to attend school is a property right protected by the due process clause of the U.S. Constitution. Goss v. Lopez, 95 S.Ct. 729 (1975). Imposing a short deprivation of this property right by suspending a student for 10 or fewer days requires only minimal due process. The student must be generally informed of the reasons for the possible suspension, and be permitted to tell his/her version of the story. Making a decision to suspend before the hearing violates the basic due process requirement that the hearing be meaningful. Sieck v. Oak Park-River Forest High School, 807 F.Supp. 73 (N.D. Ill., E.D., 1992).

<sup>3</sup> A board may hear student disciplinary cases in a meeting closed to the public (5 ILCS 120/2(B)(3)).

## **Interscholastic Athletics**

- 7.301 The proposed policy change delineates the requirement of accident insurance coverage and parental permission for students to submit to random drug and alcohol tests if required.**

## INTERSCHOLASTIC ATHLETICS

Eligibility for participation in interscholastic activities will be governed by Illinois High School Association (IHSA) regulations as well as District Policy. Violation of the provisions noted below will result in a student becoming ineligible for participation in interscholastic activities for the remainder of the semester and until the infraction is corrected. Violation will also result in the school organization involved forfeiting all intra-district competitions occurring while the student was a member of the activity.

1. A student is eligible to participate in interscholastic activities only in the school where he/she is enrolled or scheduled to be enrolled.
2. A student who attends a school out of his/her attendance area and whose parent or guardian resides in School District U-46 is ineligible to participate in interscholastic activities unless he/she has met the school assignment requirements described in Board Policy #7.031.

All high school athletes will be required to read and agree to the District's Athletic Code of Conduct prior to participation in interscholastic athletics. In addition, all coaches and sponsors of interscholastic athletic programs shall provide instruction on steroid abuse prevention to students in grades 7 through 12, participating in these programs. Furthermore, student must show proof of accident insurance coverage either by a policy purchased through the District-approved insurance plan or a parent(s)/guardian(s) written statement that the student is covered under a family insurance plan. The student and his or her parent(s)/guardian(s) must provide written consent to random drug and alcohol testing pursuant to the Extracurricular Drug and Alcohol Testing Program.

The student must present a certificate of physical fitness issued by a licensed physician, an advanced practice nurse, or a physician assistant who assures that the students' health status allows for active athletic participation. The student and his or her parent(s)/guardian(s) must complete forms required by the Illinois High School Association (IHSA) concerning its performance-enhancing substance testing program, implemented in accordance with State law, before the student may participate in an athletic competition sponsored or sanctioned by IHSA.

LEGAL REF.: Illinois School Code: 105 ILCS 5/22-15; 105 ILCS 5/27-1, 105 ILCS 5/27-23.3, 105 ILCS 5/10-20.30, 25/2.  
23 Ill. Admin. Code §1.530(b)

CROSS REF.: Board Policy #7.031 – Assignment of Students to Schools

1986/1987/1989/1997/2001/2005/2006/2010/2013

Replaces: IGDJ

## Students

### Extracurricular Athletics 1

Student participation in school-sponsored extracurricular athletic activities is contingent upon the following:

1. The student must meet the academic criteria set forth in the School Board policy on school sponsored extracurricular activities. 2
2. The parent(s)/guardian(s) must provide written permission for the student's participation, giving the District full waiver of responsibility of the risks involved.
3. The student must present a certificate of physical fitness issued by a licensed physician, an advanced practice nurse, or a physician assistant who assures that the student's health status allows for active athletic participation. 3
4. The student must show proof of accident insurance coverage either by a policy purchased through the District-approved insurance plan or a parent(s)/guardian(s) written statement that the student is covered under a family insurance plan. 4
5. The student and his or her parent(s)/guardian(s) must provide written consent to random drug and alcohol testing pursuant to the Extracurricular Drug and Alcohol Testing Program. 5
6. The student and his or her parent(s)/guardian(s) must complete forms required by the Illinois High School Association (IHSA) concerning its performance-enhancing substance testing program, implemented in accordance with State law, before the student may participate in an athletic competition sponsored or sanctioned by IHSA. 6

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

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

<sup>2</sup> A comprehensive Student Handbook can provide notice to parents and students of the school's conduct rules, extracurricular and athletic participation requirements, and other important information. The building principal usually develops the Handbook, subject to review and approval by the superintendent and board.

Each board in a district that maintains any of grades 9 through 12 must have a *no pass-no play* policy (105 ILCS 5/10-20.30). See policy 6:190, *Extracurricular and Co-Curricular Activities*, for complete details.

For purposes of clarity, the IASB uses a curricular-extracurricular dichotomy. All classes are included in the category "curricular" as well as what was formally known as co-curricular, e.g., band and choral performances that are a required part of the class. The category "extracurricular" includes all school-sponsored activities that are not a part of a student's educational program as reflected in the student's class schedule. Examples include football, cheerleading, French club, Key Club, and student government. Note that extracurricular activities may be curriculum-related or non-curriculum-related for purposes of determining access to school facilities under the federal Equal Access Act. See sample IASB policy 7:330, *Student Use of Buildings - Equal Access*.

<sup>3</sup> Students participating in interscholastic athletics must have an annual physical exam (23 Ill.Admin.Code §1.530(b). The Illinois High School Association, by-law 2.140, requires schools to have on file for each student participating in interscholastic athletics a certificate of physical fitness issued by a licensed physician, physician's assistant, or nurse practitioner.

<sup>4</sup> 105 ILCS 5/22-15 allows districts to purchase insurance on athletes.

<sup>5</sup> Optional, but must be consistent with policy 7:240, *Conduct Code for Participants in Extracurricular Activities*. The Seventh Circuit upheld the constitutionality of a high school's random drug testing program for students involved in extracurricular activities in *Todd v. Rush County Schools*, 133 F.3d 984 (7th Cir. 1998).

<sup>6</sup> 105 ILCS 25/2, added by P.A. 96-132, recodified by P.A. 96-1000. See IHSA policy #24, *Performance Enhancing Drug Testing Policy* for its requirements, [www.ihsa.org/org/policy/2009-10/policies.pdf](http://www.ihsa.org/org/policy/2009-10/policies.pdf).

The Superintendent or designee shall maintain the necessary records to ensure student compliance with this policy.

LEGAL REF.: 105 ILCS 5/10-20.30, 25/2.  
23 Ill.Admin.Code §1.530(b).

CROSS REF.: 4:170 (Safety), 6:190 (Extracurricular and Co-Curricular Activities), 7:240 (Conduct Code for Participants in Extracurricular Activities), 7:330 (Student Use of Buildings - Equal Access), 7:340 (Student Records)

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State law requires the Illinois High School Association (IHSA) to: (1) prohibit a student from participating in an athletic competition sponsored or sanctioned by IHSA unless the student has agreed not to use any performance-enhancing substances on IHSA's current banned drug list, and (2) require that the student's parent/guardian, if the student is in high school, sign a statement acknowledging that the student may be subject to performance-enhancing substance testing, that State law regulates the use of such substances, and that a violation of State law is a crime. IHSA, with oversight from the Illinois Department of Public Health, administers a performance-enhancing substance testing program under which high school students participating in athletic competition sponsored or sanctioned by IHSA are tested at multiple times throughout the athletic season for the presence of performance-enhancing substances on the IHSA's most current banned drug list in the students' bodies.

**Important student records note:** Several State and federal statutes prohibit schools from releasing student information without appropriately issued consents to disclosures; consult the board attorney about these issues.

## **Student Records**

- 7.340 The proposed policy change includes the legal definition of student records and delineates the rights of students/parents to inspect, copy and challenge school student records.**

## STUDENT RECORDS

Information about students which is considered essential in accomplishing the educational objectives of our schools and in promoting the welfare of students will be collected and maintained under the supervision of certified staff in accordance with federal and state law. A school student record is any writing or other recorded information concerning a student and by which a student may be identified individually that is maintained by a school or at its direction or by a school employee, regardless of how or where the information is stored, except for certain records kept in a staff member's sole possession; records maintained by law enforcement officers working in the school; video and other electronic recordings that are created in part for law enforcement, security, or safety reasons or purposes; and electronic recordings made on school buses.

State and federal law grants students and parents/guardians certain rights, including the right to inspect, copy, and challenge school student records. The information contained in school student records shall be kept current, accurate, clear, and relevant. All information maintained concerning a student receiving special education services shall be directly related to the provision of services to that child. The District may release directory information as permitted by law, but a parent/guardian shall have the right to object to the release of information regarding his or her child. However, the District will comply with an ex parte court order requiring it to permit the U.S. Attorney General or designee to have access to a student's school records without notice to, or the consent of, the student's parent/guardian.

A current and accurate cumulative record will be maintained for each student enrolled in the schools of District U-46. Moreover, current and suitable entries in common with the cumulative record will be made on District health records of students as required or deemed necessary. All student records are confidential and information from them shall not be released other than as provided by law. In accordance with the directives and guidelines of the State Board of Education and the laws of the state and federal governments, such records may only be released to, reviewed by, or shared with properly authorized persons. All information maintained concerning a student receiving special education services shall be directly related to the provision of services to that child. The superintendent/designee will formulate and disseminate proper custodial procedures which will govern the collection, handling, release, storage, maintenance, accessibility and retention of such records and student information, and will be designed to carry out the primary task of the school while protecting individual rights and preserving the confidential nature of various records pursuant to state and federal law.

The superintendent shall also designate a records custodian who shall maintain student records. The superintendent/designee shall inform staff members, students and parent(s)/guardian(s) of this Policy, as well as their rights regarding student school records.

LEGAL REF.: Illinois Student Records Act 105 ILCS 10/1 et seq. and 5/14-1.01 et seq.  
Family Educational Rights and Privacy Act, 20 U.S.C. §1232; 34 C.F.R. Part 99  
50 ILCS 205/7  
23 Ill.Admin. Code §226 and 375

CROSS REF.: Administrative Procedure Handbook – Section 19.1-.30

1986/1987/1989/1997/2005/2013

Replaces Policy: JO

## Students

### Student Records <sup>1</sup>

School student records are confidential and information from them shall not be released other than as provided by law. <sup>2</sup> A school student record is any writing or other recorded information concerning a student and by which a student may be identified individually that is maintained by a school or at its direction or by a school employee, regardless of how or where the information is stored, except for certain records kept in a staff member's sole possession; records maintained by law enforcement officers working in the school; video and other electronic recordings that are created in part for law enforcement, security, or safety reasons or purposes; and electronic recordings made on school buses. <sup>3</sup>

State and federal law grants students and parents/guardians certain rights, including the right to inspect, copy, and challenge school student records. The information contained in school student records shall be kept current, accurate, clear, and relevant. All information maintained concerning a student receiving special education services shall be directly related to the provision of services to that child. <sup>4</sup> The District may release directory information as permitted by law, but a parent/guardian shall have the right to object to the release of information regarding his or her child. <sup>5</sup> However, the

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

<sup>1</sup> State law requires school boards to adopt policy and procedures implementing the Illinois School Student Records Act and specifying the content of school student records (23 Ill.Admin.Code §§375.100 and 226.740). Both State and federal law address school student records. See the federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g, and the School Student Records Act, 105 ILCS 10/, implemented by ISBE rules at 23 Ill.Admin.Code Part 375.

Confusion persists regarding the interplay between the FERPA and the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The Privacy Rule implementing HIPAA, issued by the U.S. Dept. of Health and Human Services, addresses the disclosure of individuals' health information by *covered entities*. Generally speaking, a school district becomes a *covered entity*, and must comply with applicable sections in the Privacy Rule, if it provides health care and transmits health information in electronic form in connection with transactions. However, *educational records* as defined by FERPA are excluded from HIPAA's definition of *protected health information* (45 C.F.R. §164.501). In most cases this exception relieves school districts of complying with burdensome privacy notices and authorization forms. The board attorney should be consulted on all HIPAA-related questions.

<sup>2</sup> A plethora of statutory and decisional law protects student records. Aside from the laws identified in ¶n #1, other laws protecting student records include:

1. Schools may not provide a student's *personal information* to a business organization or financial institution that issues credit or debit cards (105 ILCS 5/10-20.37).
2. Schools may not sell personal information concerning a child under the age of 16, with a few exceptions, unless a parent has consented (Children's Privacy Protection and Parental Empowerment Act, 325 ILCS 17/).
3. The release of confidential information given by a student to a therapist, e.g., school counselor or psychologist, is governed by the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110/).
4. Schools must keep a sex offender registration form received from law enforcement separately from school student records maintained on behalf of the juvenile sex offender (730 ILCS 152/121).

Allowing students to grade each other's papers does not violate FERPA; such student work is not a *school record* until it is recorded by the teacher. *Owasso I.S.D. No. 1-011 v. Falvo*, 122 S.Ct. 934 (2002). School student records are *per se* prohibited from disclosure; a district is under no obligation to redact them. *Chicago Tribune Co. v. Chicago Bd. of Ed.*, 773 N.E.2d 674 (Ill.App.1, 2002).

<sup>3</sup> 20 U.S.C. §1232g(a)(4)(A); 34 C.F.R. §99.3; 105 ILCS 10/2(d); 23 Ill.Admin.Code §375.10. Rather than listing the exceptions in the policy, a school board may choose the following alternative for this sentence:

A school student record is any writing or other recorded information concerning a student and by which a student may be identified individually that is maintained by a school or a school employee, except as provided in State or federal law.

<sup>4</sup> 23 Ill.Admin.Code §226.740.

<sup>5</sup> This sentence is required if the board allows schools to release student directory information (20 U.S.C. §1232g; 23 Ill.Admin.Code §375.80; 34 C.F.R. §99.6(a)(4)).

District will comply with an *ex parte* court order requiring it to permit the U.S. Attorney General or designee to have access to a student's school records without notice to, or the consent of, the student's parent/guardian. <sup>6</sup>

The Superintendent shall fully implement this policy and designate an *official records custodian* for each school who shall maintain and protect the confidentiality of school student records, inform staff members of this policy, and inform students and their parents/guardians of their rights regarding school student records. <sup>7</sup>

#### Student Biometric Information Collection <sup>8</sup>

The Superintendent or designee may recommend a student biometric information collection system solely for the purposes of identification and fraud prevention. <sup>9</sup> Such recommendation shall be consistent with budget requirements and in compliance with State law. Biometric information means any information that is collected through an identification process for individuals based on their unique behavioral or physiological characteristics, including fingerprint, hand geometry, voice, or facial recognition or iris or retinal scans.

Before collecting student biometric information, the District shall obtain written permission from the person having legal custody <sup>10</sup> or the student (if over the age of 18). <sup>11</sup> Upon a student's 18<sup>th</sup> birthday, the District shall obtain written permission from the student to collect student biometric information. <sup>12</sup> Failure to provide written consent to collect biometric information shall not be the basis for refusal of any services otherwise available to a student.

All collected biometric information shall be stored and transmitted in a manner that protects it from disclosure. Sale, lease, or other disclosure of biometric information to another person or entity is strictly prohibited. <sup>13</sup>

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

<sup>6</sup> 20 U.S.C. §1232(g)(j), as added by the Sec. 507 of the U.S.A. Patriot Act of 2001.

<sup>7</sup> Each school must have an *official records custodian* (105 ILCS 10/4(a). Districts must notify students and parents/guardians of their rights concerning school student records (105 ILCS 10/3; 23 Ill.Admin.Code §375.30; 34 C.F.R. §99.7). Comprehensive faculty and student handbooks can provide required notices, along with other important information, to recipients. Handbooks can be developed by the building principal, but should be reviewed and approved by the superintendent and board. See exhibit 7:340-AP1, E1, *Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records*, and administrative procedure 7:340-AP1, *School Student Records*.

<sup>8</sup> This program is optional; however, districts either wishing to implement such a program or districts that have already engaged in the collection of student biometric information must have a policy consistent with the requirements of 105 ILCS 5/10-20.40 *et seq.* This section restates the School Code's requirements for a student biometric information policy.

<sup>9</sup> For districts already collecting biometric information the following is an alternative:

The Superintendent or designee shall maintain a biometric screening program that is consistent with budget requirements and in compliance with State law.

<sup>10</sup> 105 ILCS 5/10-20.40(b)(1) states the definition of legal custody is the same as the definition of legal custody for purposes of residency, payment of tuition, hearings, and criminal penalties at 105 ILCS 5/10-20.12b(2)(i)-(v). Several statutes define legal custody and when a court may grant it; the term requires statutory construction/interpretation and school boards should discuss this issue with their attorney prior to adopting a policy on collection of student biometric information.

<sup>11</sup> Based upon 105 ILCS 5/10-20.40, written permission is not required annually; it is valid until a request for discontinuation of the use of biometric information is received or until the student reaches the age of 18. See 7:340-AP1, E5, *Biometric Information Collection Authorization*.

<sup>12</sup> Districts must reissue 7:340-AP1, E5, *Biometric Information Collection Authorization* to students turning 18 years of age during the school year. This is because all rights and privileges accorded to a parent under the Ill. School Student Records Act become exclusively those of the student upon his or her 18<sup>th</sup> birthday, graduation from secondary school, marriage, or entry into military service, whichever comes first. 105 ILCS 10/2(g).

<sup>13</sup> State law contains two exceptions: (1) the individual who has legal custody of the student or the student (if over the age of 18) consents to the disclosure, and (2) the disclosure is required by court order. 105 ILCS 10-20.40(b)(5).

The District will discontinue use of a student's biometric information and destroy all collected biometric information within 30 days after: (1) the student graduates or withdraws from the School District, or (2) the District receives a written request to discontinue use of biometric information from the person having legal custody of the student or the student (if over the age of 18). <sup>14</sup> Requests to discontinue using a student's biometric information shall be forwarded to the Superintendent or designee.

The Superintendent or designee shall develop procedures to implement this policy consistent with State and federal law. <sup>15</sup>

**LEGAL REF.:** Chicago Tribune Co. v. Chicago Bd. of Ed., 773 N.E.2d 674 (Ill.App.1, 2002).  
Owasso I.S.D. No. I-011 v. Falvo, 122 S.Ct. 934 (2002).  
Family Educational Rights and Privacy Act, 20 U.S.C. §1232g; 34 C.F.R. Part 99.  
Children's Privacy Protection and Parental Empowerment Act, 325 ILCS 17/.  
105 ILCS 5/10-20.21b, 20.37, 20.40, 5/14-1.01 et seq., and 10/.  
50 ILCS 205/7.  
23 Ill.Admin.Code Parts 226 and 375.

**CROSS REF.:** 5:100 (Staff Development Program), 5:130 (Responsibilities Concerning Internal Information), 7:15 (Student and Family Privacy Rights), 7:220 (Bus Conduct)

**ADMIN PROC.:** 7:15-E (Notification to Parents of Family Privacy Rights), 7:340-API (School Student Records), 7:340-API, E1 (Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records), 7:340-API, E3 (Letter to Parents Concerning Military Recruiters and Postsecondary Institutions Receiving Student Directory Information), 7:340-AP2 (Storage and Destruction of School Student Records), 7:340-AP2, E1 (Schedule for Destruction of School Student Records)

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

<sup>14</sup> 105 ILCS 5/10-20.40(d). No notification to or approval from the district's local records commission, pursuant to the Local Records Act, is required to destroy student biometric information.

<sup>15</sup> Whether the student biometric information is an education record under the FERPA, 20 U.S.C. §1232g, or falls under an exception to an education record under FERPA is an issue about which school boards should consult their board attorney. Protected Health Information under the U.S. Department of Health and Human Service's interpretations of the HIPAA excludes education records covered by FERPA, and thus HIPAA requirements are not expected to be triggered by districts collecting student biometric information. However, before implementing policies and procedures to collect student biometric information, a board should discuss these issues with the board attorney.