

District 23 Policy Committee Meeting

Wednesday, July 19, 2023 5:00 PM

Grodsky Administration Building, 700 N Schoenbeck Rd, Prospect Heights, IL 60070

I. Call to Order

II. Roll Call

III. Working Items

III.A. Press Policy 112

III.A.1. Policy 2.80 - Board Member Oath and Conduct

III.A.2. Policy 2:170 Procurement of Architectural, Engineering, and Land Surveying Services

III.A.3. Policy 4:45 Insufficient Fund Checks and Debt Recovery

III.A.4. Policy 4:100 - Insurance Management

III.A.5. Policy 5:230 - Maintaining Student Discipline

III.A.6. Policy 6:10 - Educational Philosophy and Objectives

III.A.7. Policy 6:190 - Extracurricular and Co-Curricular Activities

III.A.8. Policy 6:240 - Field Trips

III.A.9. Policy 7:275 - Orders to Forgo Life-Sustaining Treatment

III.A.10. Policy 7:305 - Student Athlete Concussions and Head Injuries

III.A.11. Policy 7:330 - Student Use of Buildings - Equal Access

III.A.12. Policy 8:25 - Advertising and Distributing Materials in Schools Provided by Non-School Related Entities

III.A.13. Policy 8:95 Parental Involvement

IV. New Business

V. Adjournment

School Board

Procurement of Architectural, Engineering, and Land Surveying Services ¹

The School Board selects architects, engineers, and land surveyors to provide professional services to the District on the basis of demonstrated competence and qualifications, and in accordance with State law.

LEGAL REF.: 40 U.S.C. §1101 *et seq.*
 50 ILCS 510/, Local Government Professional Services Selection Act.
 105 ILCS 5/10-20.21.
 Shively v. Belleville Twp. High Sch. Dist. 201, 329 Ill.App.3d 1156 (5th Dist. 2002), *appeal denied*.

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

¹ State law controls this policy's content. The Local Government Professional Services Selection Act describes the required selection procedure. 50 ILCS 510/. A district may not, prior to selecting a firm for contract negotiation, seek formal or informal submission of verbal or written estimates of costs or proposals in terms of dollars, hours required, percentage of construction cost, or any other measure of compensation. *Id.* at 510/5. If the district has a satisfactory relationship with a person or firm, the relationship may continue. *Id.* at 510/4 through 6.

Construction manager services, unlike general contractor services, are significantly different from construction work because they involve a professional activity (i.e., assisting the owner with the project's planning, costing, and management). As such, a construction-management contract is exempt from mandatory bidding by virtue of the professional services exemption. Shively v. Belleville Twp. High Sch. Dist. 201, 329 Ill.App.3d 1156 (5th Dist. 2002).

Operational Services

Insufficient Fund Checks and Debt Recovery

Insufficient Fund Checks ¹

The Superintendent or designee is responsible for collecting up to the maximum fee authorized by State law for returned checks written to the District that are not honored upon presentation to the respective bank or other depository institution for any reason. The Superintendent is authorized to contact the Board Attorney whenever necessary to collect the returned check amount, fee, collection costs and expenses, and interest.

Delinquent Debt Recovery ²

The Superintendent is authorized to seek collection of delinquent debt owed the District to the fullest extent of the law. ³

A Local Debt Recovery Program may be available through the Illinois Office of the Comptroller (IOC). To participate in it, an intergovernmental agreement (IGA) between the District and the IOC must be in existence. The IGA establishes the terms under which the District may refer a delinquent debt to the IOC for an offset (deduction). The IOC may execute an offset, in the amount of the

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¹ State law controls this policy's content. 810 ILCS 5/3-806 authorizes a \$25.00 collection fee whenever a check is not honored upon presentation because the individual does not have an account with the bank, the individual does not have sufficient funds in his or her account, or the individual does not have sufficient credit with the bank.

This fee may be considered punitive considering several banks rarely charge this amount for an insufficient funds check. To allow more flexibility for the superintendent and his or her designees to charge the full collection fee of \$25.00, a portion thereof, or none of it, the first sentence states "up to the maximum fee." Boards choosing to allow this flexibility should discuss equal protection issues with the board attorney. As a general rule, any flexibility should be applied with uniform rules to all individuals and/or groups to avoid triggering the Constitution's Equal Protection Clause.

Boards that wish to charge the maximum fee in all circumstances should delete the words *up to* in the first sentence: "The Superintendent or designee is responsible for collecting ~~up to~~ the maximum fee authorized by State law for returned checks written to the District that are not honored upon presentation to the respective bank or other depository institution for any reason."

² This section is optional but because the policy's title refers to debt recovery, at least the first sentence should be retained. Deletion of this section may affect a district's ability to enter the Ill. Office of the Comptroller's (IOC) Local Debt Recovery Program (LDRP) for collecting debt owed to school districts by persons receiving payments from the State. This section helps the board's monitoring function by identifying the LDRP's important components. It also serves as an element of due process by informing the public and the district's debtors that the district may collect debt through the LDRP.

The IOC operates an Offset System for collecting debt owed to the State, political subdivisions of the State, and school districts by persons receiving payments from the State. Seeking debt recovery through an offset of a future payment the State makes to a debtor is optional. The requirements in this policy for obtaining an offset are either in statute or the IOC's intergovernmental agreement (IGA). 15 ILCS 405/10.05 and 10.05d. The first step to participate is to contact a LDRP manager with the IOC to request an IGA with the IOC's office. Program managers work one-on-one with districts and matters are handled on a case-by-case basis. The LDRP's number for local governments is 312-814-3090. Contact the board attorney for advice and assistance.

The Hunger-Free Students' Bill of Rights Act (HFSBRA) (105 ILCS 123/) allows districts with *participating schools* under the National School Lunch and Child Nutrition Acts (defined in 7 C.F.R. Parts 210, 220, and 245) to seek an offset under the State Comptroller Act (15 ILCS 405/) when they have made reasonable efforts, for at least one year, to collect a debt owed for meals and snacks in the amount of no less than \$500 from a student's parent or guardian.

³ There are methods other than the IOC's LDRP to collect delinquent debts owed to the school district, i.e., small claims court, private collection agencies, etc. If the district decides it will not ever seek to enter the IOC's Local Debt Recovery Program, keep the first sentence and delete everything after it.

delinquent debt owed to the District, from a future payment that the State makes to an individual or entity responsible for paying the delinquent debt.

The Superintendent or designee shall execute the requirements of the IGA. While executing the requirements of the IGA, the Superintendent or designee is responsible, without limitation, for each of the following:

1. Providing a District-wide, uniform, method of notice and due process to the individual or entity against whom a claim for delinquent debt payment (*claim*) is made. Written notice and an opportunity to be heard must be given to the individual or entity responsible for paying a delinquent debt before the claim is certified to the IOC for offset. The notice must state the claim's amount, the reason for the amount due, the claim's date or time period, and a description of the process to challenge the claim. If reimbursable meals or snacks provided under the Hunger-Free Students' Bill of Rights Act are the basis of the District's delinquent debt claim of no less than \$500, the notice must be sent to a student's parent(s)/guardian(s) only after: (a) the student owes the District more than five meals and/or snacks; (b) the Superintendent or designee made: (i) repeated contacts to collect the amounts owed, and (ii) reasonable efforts to collect the amount due for at least one year; and (c) the District requested the student's parent(s)/guardian(s) to apply for meal benefits pursuant to policy 4:130, *Free and Reduced-Price Food Services*, and they either: (i) did not qualify, or (ii) refused to apply.⁴
2. An individual or entity challenging a claim shall be provided an informal proceeding to refute the claim's existence, amount, or current collectability; the decision following this proceeding shall be reviewable.
 - a. If a waiver of student fees is requested as a challenge to paying the claim, and the waiver of student fees is denied, an appeal of the denial of a fee waiver request shall be handled according to 4:140, *Waiver of Student Fees*. If no waiver of student fees is requested, reviews regarding payment of the claim shall be handled according to this policy before certification to the IOC for offset.
 - b. If application for meal benefits pursuant to policy 4:130, *Free and Reduced-Price Food Services*, is requested as a challenge to paying the claim, and the request is denied, an appeal of the denial of the request shall be handled according to 4:130, *Free and Reduced-Price Food Services*. If no request for meal benefits is received, review of the claim's payment shall be handled according to this policy before certification to the IOC for offset.

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⁴ Optional. For districts that do not participate in free and reduced-price meal programs under the National School Lunch and Child Nutrition Acts (defined in 7 C.F.R. Parts 210, 220, and 245), delete this sentence and ~~105 ILCS 123/~~, ~~Hunger-Free Students' Bill of Rights Act~~ from the Legal References. Inclusion of this sentence does not obligate a district to pursue all such delinquent debt claims. The district has discretion in this area, provided its recovery efforts are pursued on a non-discriminatory basis. Note that historically, the IOC has been reluctant to pursue school lunch debts under the LDRP.

For participating districts that do not want this sentence, delete it.

For participating districts that wish to retain this sentence, the HFSBRA allows school districts to determine a lower amount than five meals to trigger contact with a student's parent/guardian to collect owed monies. 105 ILCS 123/10.

For districts that want to set a lower amount than the equivalent of five meals, delete ~~five~~ and insert: [number]. Be sure that this sentence's number matches the required notice in 4:130-E, *Free and Reduced-Price Food Services; Meal Charge Notifications*. Before the board and the superintendent engage in a conversation about lowering this number, the superintendent may want to consider a conversation with his or her staff regarding the logistics of contacting a student's parent(s)/guardian(s) more than once per week (five lunches (the law states one free lunch or snack per day)) as setting a lower number may be impracticable for staff members to implement.

3. Certifying to the IOC that the debt is past due and legally enforceable, and notifying the IOC of any change in the status of an offset claim for delinquent debt.
4. Responding to requests for information from the IOC to facilitate the prompt resolution of any administrative review requests received by the IOC.

LEGAL REF.: 15 ILCS 405/10.05 and 10.05d, State Comptroller Act.
105 ILCS 123/, Hunger-Free Students' Bill of Rights Act.
810 ILCS 5/3-806, Uniform Commercial Code.

Operational Services

Insurance Management¹

The Superintendent shall recommend and maintain all insurance programs that provide the broadest and most complete coverage available at the most economical cost, consistent with sound insurance principles.

The insurance program shall include each of the following:²

1. Liability coverage to insure against any loss or liability of the School District and the listed individuals against civil rights damage claims and suits, constitutional rights damage claims and suits, and death and bodily injury and property damage claims and suits, including defense costs, when damages are sought for negligent or wrongful acts allegedly committed in the scope of employment or under the Board's direction or related to any mentoring services provided to the District's licensed staff members; School Board members; employees; volunteer personnel authorized by 105 ILCS 5/10-22.34, 5/10-22.34a, and 5/10-22.34b; mentors of licensed staff members authorized in 105 ILCS 5/21A-5 *et seq.* (new teacher), 105 ILCS 5/2-3.53a (new principal), and 2-3.53b (new superintendents); and student teachers.³
2. Catastrophic accident insurance at the mandated benefit level for student athletes in grades 9 through 12 who sustain an accidental injury while participating in school-sponsored or school-supervised interscholastic athletic events sanctioned by the Ill. High School Association that results in medical expenses in excess of \$50,000.⁴

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¹ State law controls this policy's content. The Health Insurance Portability and Accountability Act (HIPAA) guarantees the continuity of health insurance benefits for individuals changing employment. It also contains provisions promoting the: (1) standardization and efficiency for the electronic submission, processing, and payment of health care claims, and (2) security and privacy requirements for health information. See 45 C.F.R. §§160 and 164. **School officials are urged to consult with their insurance providers and legal counsel to devise a compliance plan.**

² Other types of district-purchased insurance should also be listed here, such as, insurance programs for employees and their dependents (authorized by 105 ILCS 5/10-22.3a). Note that: (1) any employee or retired employee insurance program is a mandatory subject of bargaining, and (2) State law provides persons entering into a civil union with the obligations, responsibilities, protections, and benefits afforded or recognized by Ill. law to spouses (750 ILCS 75/).

General liability and property insurance policies typically do not cover cyber risks. For more information, see https://rems.ed.gov/docs/Cybersecurity_K-12_Fact_Sheet_508C.PDF, at p. 4.

³ A board's duty to indemnify and protect specific individuals is found in 105 ILCS 5/10-20.20. A board's duty to insure against loss or liability is found in 105 ILCS 5/10-22.3. The lists of individuals to be protected are identical in both statutes except that *mentors* was added in 2009 to only the indemnification statute. As the best method for providing indemnification is through insurance, this policy includes mentors in its list of individuals covered by the district's liability insurance.

⁴ 105 ILCS 5/22-15 requires each school district having grades 9 through 12 to maintain catastrophic insurance coverage for student athletes participating in interscholastic athletic events sanctioned by the Ill. High School Association (IHSA). The minimum level of coverage must provide aggregate benefit levels of \$3 million or 5 years, whichever comes first, for injuries with total medical expenses exceeding \$50,000. The law authorizes IHSA to promulgate a plan of coverage under a group policy that provides the necessary coverage. If a district opts out of IHSA's group policy, it must offer alternative coverage and submit to IHSA a certificate from the provider stating that the insurance complies with the plan of coverage approved by IHSA.

3. Comprehensive property insurance covering a broad range of causes of loss involving building and personal property. The coverage amount shall normally be for the replacement cost or the insurable value.
4. Workers' Compensation to protect individual employees against financial loss in case of a work-related injury, certain types of disease, or death incurred in an employee-related situation.

Student Insurance⁵

The Board shall annually designate a company to offer student accident insurance coverage. The Board does not endorse the plan nor recommend that parents/guardians secure the coverage, and any contract is between the parents/guardians and the company.

LEGAL REF.: Consolidated Omnibus Budget Reconciliation Act, Pub. L. 99-272, §10001, 26 U.S.C. §4980B(f), 42 U.S.C. §300bb-1 et seq.
105 ILCS 5/2-3.53a, 5/2-3.53b, 5/10-20.20, 5/10-22.3, 5/10-22.3a, 5/10-22.3b, 5/10-22.3f, 5/10-22.34, 5/10-22.34a, 5/10-22.34b, 5/21A-5 et seq., and 5/22-15.
215 ILCS 5/, Ill. Insurance Code.
750 ILCS 75/, Ill. Religious Freedom Protection and Civil Union Act.
820 ILCS 305/, Workers' Compensation Act.

CROSS REF.: 7:300 (Extracurricular Athletics)

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Delete item #2 if the district: (1) does not maintain grades 9-12, or (2) qualifies for an exemption from the mandatory coverage (contact IHSA or the board attorney for information about claiming an exemption). A district maintaining grades K-8 may, but is not required to, provide accident and/or health insurance on a group or individual basis for students injured while participating in any school-sponsored athletic activity. If so, the following may be *added to* item #2 (for unit districts) or may *replace* item #2 (for elementary districts): "Accident and/or health insurance on a group or individual basis for students in grades kindergarten through 8 participating in any school-sponsored athletic activity." If item #2 is deleted and the option is not used, the board should omit the citation to catastrophic accident insurance (105 ILCS 5/22-15) in the legal references.

⁵ Optional. Until May 2014, this paragraph was included in sample policy 4:170, *Safety*.

Professional Personnel

Maintaining Student Discipline¹

Maintaining an orderly learning environment is an essential part of each teacher's instructional responsibilities. A teacher's ability to foster appropriate student behavior is an important factor in the teacher's educational effectiveness. The Superintendent shall ensure that all teachers, other certificated [licensed] educational employees (except for individuals employed as paraprofessional educators), and persons providing a student's related service(s):² (1) maintain discipline in the schools as required in the School Code, and (2) follow the School Board policies and administrative procedures on student conduct, behavior, and discipline.

When a student's behavior is unacceptable, the teacher should first discuss the matter with the student, if appropriate.³ If the unacceptable behavior continues, the teacher should consult with the Building Principal and/or discuss the problem with the parent(s)/guardian(s). A teacher may remove any student from the learning setting whose behavior interferes with the lessons or participation of fellow students.⁴ A student's removal must be in accordance with Board policy and administrative procedures.

Teachers shall not use disciplinary methods that may be damaging to students, such as ridicule, sarcasm, or excessive temper displays. Corporal punishment (including slapping, paddling, or prolonged maintenance of a student in physically painful positions, and intentional infliction of bodily harm) may not be used. Teachers may use reasonable force as needed to keep students, school personnel, and others safe, or for self-defense or defense of property.⁵

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

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

² 23 Ill.Admin. Code §1.280. "Persons providing a student's related service(s)" includes both certificated [licensed] and non-certificated [non-licensed] employees. 105 ILCS 5/24-24.

³ School officials determine whether a behavioral intervention is *appropriate*. See 105 ILCS 5/10-22.6(b-20).

⁴ Teachers must be given the authority to remove disruptive students from the classroom. 105 ILCS 5/24-24.

An in-school suspension program may focus on promoting non-violent conflict resolution and positive interaction with other students and school personnel, and districts may employ a school social worker or a licensed mental health professional to oversee in-school suspension programs. 105 ILCS 5/10-22.6(l). Consult the board attorney regarding whether a teacher needs to be present for an in-school suspension program overseen by a school social worker or licensed mental health professional, and whether other licensed school support personnel (such as a school counselor or school psychologist) may oversee an in-school suspension program.

⁵ Required by 105 ILCS 5/24-24. See sample policy 7:190, *Student Behavior*, for a discussion of corporal punishment.

LEGAL REF.: 105 ILCS 5/24-24.
23 Ill.Admin.Code §1.280.

CROSS REF.: 2:150 (Committees), 7:190 (Student Behavior), 7:230 (Misconduct by Students
with Disabilities)

Instruction

Educational Philosophy and Objectives ¹

The District's educational program will seek to provide an opportunity for each student to develop to his or her maximum potential. The objectives for the educational program are to:

1. Foster students' self-discovery, self-awareness, and self-discipline.
2. Develop students' awareness of and appreciation for cultural diversity.
3. Stimulate students' intellectual curiosity and growth.
4. Provide students with fundamental career concepts and skills.
5. Help students develop sensitivity to the needs and values of others and a respect for individual and group differences.
6. Help each student strive for excellence and instill a desire to reach the limit of his or her potential.
7. Encourage students to become lifelong learners.
8. Provide an educational climate and culture free of bias concerning the protected classifications identified in policy 7:10, *Equal Educational Opportunities*.

In order for the Board to monitor whether the educational program is attaining these objectives and to be knowledgeable of current and future resource needs, the Superintendent shall prepare an annual report that includes:

1. A review and evaluation of the present curriculum.
2. A projection of curriculum and resource needs.
3. An evaluation of, and plan to eliminate, any bias in the curriculum or instructional materials and methods concerning the classifications referred to in item 8, above.
4. Any plan for new or revised instructional program implementation.
5. A review of present and future facility needs.

CROSS REF: 1:30 (School District Philosophy), 3:10 (Goals and Objectives), 6:15 (School Accountability), 7:10 (Equal Educational Opportunities)

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¹ For more information about detecting ends and efficiently monitoring district performance, see IASB's *Foundational Principles of Effective Governance*, at: www.iasb.com/principles.cfm.

The items in both the objectives and monitoring lists are only examples. Each board should customize this policy, and re-visit it periodically, to ensure it is responsive to the district's needs and is effective and dynamic.

Alternative or additional objectives for the educational program might include one or more of the following:

1. Have all students meet or exceed State standards in their academic pursuits.
2. Provide meaningful learning activities for all students who have the capacity to learn.
3. Provide opportunities for students to develop emotionally, morally, and socially as well as to gain knowledge and skills to develop and maintain healthy minds and bodies.
4. Foster an appreciation for the efficient use of natural resources.
5. Cultivate students' understanding and appreciation for democracy and the history of the United States.
6. Have students take responsibility for their own actions including understanding their role in creating a positive learning environment as well as being active participants in the learning process.
7. Provide opportunities for students' parents/guardians to participate in their child's academic achievement and school performance.

Instruction

Extracurricular and Co-Curricular Activities¹

The Superintendent must approve an activity in order for it to be considered a District-sponsored extracurricular or co-curricular activity, using the following criteria:

1. The activity will contribute to the leadership abilities, social well-being, self-realization, good citizenship, or general growth of student-participants.
2. Fees assessed students are reasonable and do not exceed the actual cost of operation.²
3. The District has sufficient financial resources for the activity.
4. Requests from students.
5. The activity will be supervised by a school-approved sponsor.

Non-school sponsored student groups are governed by School Board policy, 7:330, *Student Use of Buildings - Equal Access*.³

Academic Criteria for Participation

For students in kindergarten through 8th grade,⁴ selection of members or participants is at the discretion of the teachers, sponsors, or coaches, provided that the selection criteria conform to the District's policies. Students must satisfy all academic standards and must comply with the activity's rules and the student conduct code.

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¹ Each school board in a district that maintains any of grades 9-12 must have a *no pass-no play* policy. 105 ILCS 5/10-20.30. State or federal law controls some aspects of this policy's content. The criteria for determining whether to sponsor a specific activity is a local board decision, except that an ISBE rule requires that: (1) programs for extra classroom activities provide opportunities for all students; (2) the desires of the student body be considered; and (3) co-curricular activities be carefully supervised by a school-approved sponsor. 23 Ill. Admin. Code §1.420(j).

As State law does not define extracurricular or co-curricular, a board may desire to explain these terms in the policy, such as by including the following option at the beginning of the policy:

Extracurricular or co-curricular activities are school-sponsored programs for which some or all of the activities are outside the instructional day. They do not include field trips, homework, or occasional work required outside the school day for a scheduled class. *Co-curricular activity* refers to an activity associated with the curriculum in a regular classroom and is generally required for class credit. *Extracurricular activity* refers to an activity that is not part of the curriculum, is not graded, does not offer credit, and does not take place during classroom time; it includes competitive interscholastic activities and clubs.

In January 2013, the U.S. Dept. of Education, Office for Civil Rights, issued a *Dear Colleague Letter* concerning the participation of students with disabilities in extracurricular athletic activities. It clarifies the types of accommodations and services that districts must provide pursuant to Section 504. See www2.ed.gov/about/offices/list/ocr/letters/colleague-201301-504.html.

² Optional. Assessing fees that are reasonable and do not exceed the actual cost of operation is a best practice that aligns with School Code provisions seeking to minimize cost barriers to students and parents/guardians. See 105 ILCS 5/2-3.71a(d), 5/10-22.18b, and 5/10-22.18d.

³ *Non-curriculum related* extracurricular activities that meet during non-instruction time in secondary schools trigger the Equal Access Act (EAA) (20 U.S.C. §4071 *et seq.*). The EAA prohibits the school from denying fair opportunity or *equal access* to any students who wish to conduct a meeting within a limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such a meeting. The U.S. Supreme Court interpreted "non-curriculum related student group" as any student group that does not directly relate to the body of courses offered by the school. *Bd. of Ed. of Westside Community Sch. Dist. v. Mergens*, 496 U.S. 226 (1990).

⁴ High school districts should omit this paragraph.

For high school students,⁵ selection of members or participants is at the discretion of the teachers, sponsors, or coaches, provided that the selection criteria conform to the District's policies. Participation in co-curricular activities is dependent upon course selection and successful progress in those courses. In order to be eligible to participate in any school-sponsored or school-supported athletic or extracurricular activity, a student must maintain an overall ___ grade point average.⁶ Any student-participant failing to meet these academic criteria shall be suspended from the activity for ___ calendar days or until the specified academic criteria are met, whichever is longer.⁷

LEGAL REF.: 105 ILCS 5/10-20.30 and 5/24-24.

CROSS REF.: 4:170 (Safety), 7:10 (Equal Educational Opportunities), 7:40 (Nonpublic School Students, Including Parochial and Home-Schooled Students), 7:240 (Conduct Code for Participants in Extracurricular Activities), 7:300 (Extracurricular Athletics), 7:330 (Student Use of Buildings - Equal Access), 8:20 (Community Use of School Facilities)

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⁵ Elementary districts should omit this paragraph.

⁶ Each board in a district that maintains any of grades 9-12 must have a *no pass-no play* policy. 105 ILCS 5/10-20.30. The policy must specify a minimum grade point average (left blank in the sample policy) AND/OR a minimum grade in each course, such as *passing* (see alternatives below). The policy must provide a suspension period – stated in sample policy as “___ calendar days or until the specified academic criteria are met, whichever is longer.” The procedure for implementing this policy is an administrative, management function. Alternatives follow:

Alternative 1: ...a student must maintain an overall ___ grade point average and a passing grade [or minimum grade of ___] in each course the student is enrolled.

Alternative 2: ...a student must maintain a passing grade [or minimum grade of ___] in each course the student is enrolled.

Alternative 3: ...a student must satisfy the Illinois High School Association's scholastic standing requirements [doing passing work in at least 25 credit hours of high school work per week].

⁷ Alternatives include:

Alternative 1: ...shall be suspended from the activity for ___ calendar days. [*Delete the rest of the sentence.*]

Alternative 2: ...shall be suspended from the activity until the specified academic criteria are met.

Instruction

Field Trips¹

Field trips are permissible when the experiences are a part of the school curriculum and/or contribute to the District's educational objectives.²

All field trips must have the Superintendent or designee's prior approval, except that field trips beyond a 200-mile radius of the school or extending overnight must have the prior approval of the School Board.³ The Superintendent or designee shall analyze the following factors to determine whether to approve a field trip:⁴ educational value, student safety, parent concerns, heightened security alerts, and liability concerns. On all field trips, a bus fee set by the Superintendent or designee may be charged to help defray the transportation costs.⁵

Parents/guardians of students: (1) shall be given the opportunity to consent to their child's participation in any field trip; and (2) are responsible for all entrance fees, food, lodging, or other costs, except that the District will pay such costs for students who qualify for a fee waiver under Board policy 4:140, *Waiver of Student Fees*. All non-participating students shall be provided an alternative experience. Any field trip may be cancelled without notice due to an unforeseen event or condition.

Privately arranged trips, including those led by District staff members, shall not be represented as or construed to be sponsored by the District or school. The District does not provide liability protection for privately arranged trips and is not responsible for any damages arising from them.⁶

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¹ This is an optional policy. The following is an optional section for including class trips; add to the bottom of the policy and add "and Recreational Class Trips" to the policy's title.

Recreational Class Trips

Recreational class trips are permissible provided they do not interfere with the District's educational program. The provisions in this policy concerning field trips, except those regarding educational value, are also applicable to recreational class trips.

² As an alternative, substitute the verb "encouraged" for "permissible." State law also permits educational tours as a course supplement but does not authorize the use of school funds for such tours. 105 ILCS 5/10-22.29b.

³ According to 105 ILCS 5/29-3.1, "[t]he school board may provide transportation for pupils on bona fide field trips in Illinois or adjacent states." The superintendent or designee is delegated the responsibility to approve field trips after considering the factors in the policy.

105 ILCS 5/29-6.3 allows districts to transport students in multi-function school activity busses (MFSABs) for school sponsored activities.

⁴ These are at the local board's discretion.

⁵ Transportation fees are permitted by 105 ILCS 5/29-3.1. Such fees cannot exceed the cost of transportation but may include a reasonable allowance for vehicle depreciation. *Id.*

⁶ This paragraph is optional. It seeks to distinguish privately arranged trips from those that are controlled and sponsored by the district and provides a disclaimer.

LEGAL REF.: 105 ILCS 5/29-3.1.

CROSS REF.: 4:140 (Waiver of Student Fees), 6:10 (Educational Philosophy and Objectives),
7:10 (Equal Educational Opportunities), 7:270 (Administering Medicines to
Students)

Students

Orders to Forgo Life-Sustaining Treatment ¹

Written orders from parents/guardians to forgo life-sustaining treatment for their child must be signed by the student's physician and given to the Superintendent. This policy shall be interpreted in accordance with the Illinois Health Care Surrogate Act. 755 ILCS 40/. ²

Whenever an order to forgo life-sustaining treatment is received, the Superintendent shall convene a multi-disciplinary team that includes:

1. The student, when appropriate;
2. The student's parents/guardians;
3. Other medical professionals, e.g., licensed physician, physician's assistant, or nurse practitioner;
4. Local first responders for the building in which the student is assigned to attend school; ³
5. The school nurse;
6. Clergy, if requested by the student or his or her parents/guardians;
7. Other individuals to provide support to the student or his or her parents/guardians; and
8. School personnel designated by the Superintendent. ^{4 5}

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

¹ This policy is optional. State or federal law controls this policy's content. This policy concerns an area in which the law is unsettled in that there is no statute or binding decision resolving competing interests and providing direction to schools for handling *do not resuscitate* (DNR) orders or Practitioner Orders for Life-Sustaining Treatment (POLST) forms. For information on the Ill. Dept. of Public Health's Uniform POLST Form, see <https://dph.illinois.gov/topics-services/health-care-regulation/nursing-homes/advance-directives/polst-guidance-health-care.html#completing-reviewing-polst-form>.

² The Health Care Surrogate Act grants parents and court-appointed guardians the authority to decide whether to forgo life-sustaining treatment on behalf of their minor child in certain situations. 755 ILCS 40/20. The child must suffer a *qualifying condition*, which means the existence of a terminal condition, permanent unconsciousness, or an incurable or irreversible condition. These terms are defined in the Act.

The Act does not address the obligation of school staff members to comply with orders to forgo life-sustaining treatment, including DNR orders and POLST forms. Rather, the Act is silent regarding directives on life-sustaining care outside a health care facility or performed by a non-health care provider. The law does, however, indicate who should be the ultimate decision maker – the parents/guardians. School officials should use the Act, after consulting the school board's attorney, as a guideline.

³ Municipal and/or village ordinances may affect response time and care from first responders.

⁴ Consult the board attorney regarding the establishment of a multi-disciplinary team and whether attendance at meetings is necessary. Implementing orders to forgo life-sustaining care implicates the laws prohibiting discrimination on the basis of a disability. IDEA, 20 U.S.C. §1401; Section 504, 29 U.S.C. §794; ADAAA, 42 U.S.C. §12101 *et seq.*, amended by the Americans with Disabilities Act Amendments Act (ADAAA), Pub.L. 110-325 and modified by the Lilly Ledbetter Fair Act, Pub.L. 111-2. A school agreeing to abide by such an order does so because of the disability's severity; a less severely disabled or non-disabled student would be treated differently. The U.S. Dept. of Education's Office for Civil Rights approved a policy that provided for a multi-disciplinary team to develop individually designed interventions. School staff members must use these interventions that might require honoring an order to forgo life-sustaining care. 21 IDELR 83 (3-31-94). This sample policy balances the interests of the parents/guardians with the district's obligation under federal law by using such a team. However, liability may exist when a district determines specific interventions and then does not provide them. See *In re Estate of Stewart*, 406 Ill.Dec. 345 (2nd Dist. 2016) (denying tort immunity to district, finding its response to a student's asthma attack was willful and wanton (which district disputed as a possible heart attack)); *In re Estate of Stewart*, 412 Ill.Dec. 914 (Ill. 2017) (school district's appeal denied).

The team shall determine guidelines to be used by school staff members in the event the child suffers a life-threatening episode at school or a school event. ⁶

District personnel shall convey orders to forgo life-sustaining treatment to the appropriate emergency or healthcare provider.

LEGAL REF.: Health Care Surrogate Act, 755 ILCS 40/
Cruzan v. Director, Missouri Dept. of Health, 497 U.S. 261 (1990).
In re C.A., a minor, 236 Ill.App.3d 594 (1st Dist. 1992).

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⁵ Consult the board attorney about requiring teachers and other non-administrative school employees to administer medical care and/or treatment to students who are subjects of orders to forgo life-sustaining treatment. Generally, only licensed (formerly certificated) school nurses and non-licensed (formerly non-certificated) registered professional nurses may be required to administer medication to students. See 105 ILCS 5/10-22.21b and f/n 1 in policy 7:270, *Administering Medicines to Students*.

⁶ The following are two optional sentences to add at the end of this paragraph:

Option 1: The Superintendent or designee will ensure minutes are taken that summarize the decisions and guidelines made during multi-disciplinary meetings and obtain signatures of the child's parents/guardians on the minutes of each multi-disciplinary meeting.

Option 2: The Superintendent or designee will monitor the effectiveness of the guidelines established during the multi-disciplinary meetings at times the multi-disciplinary team determines are necessary. Boards may choose either or both options.

Students

Student Athlete Concussions and Head Injuries¹

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

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

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¹ Three Illinois statutes in the School Code have addressed student concussions:

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

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

² 105 ILCS 5/22-80.

³ 105 ILCS 5/22-80(d). A physician, to the extent possible, must be on the Team. If the school employs an athletic trainer and/or nurse, they must be on the Team to the extent practicable. The Team must include, at a minimum, one person who is responsible for implementing and complying with the return-to-play and return-to-learn protocols adopted by the Team. Other licensed health care professionals may be appointed to serve on the Team. The statute provides that the Team may be composed of only one person who need not be a licensed healthcare professional, however, that person may not be a coach. Id.

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

⁴ 105 ILCS 5/22-80(d).

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

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

It is an open question whether the return-to-play protocol is limited to when the concussion occurred during an interscholastic athletic activity because the statute does not state “whether or not the concussion took place while the student was participating in an interscholastic athletic activity.” It makes sense, however, to apply the return-to-play protocol whenever a student suffers a concussion before allowing him or her to participate in an interscholastic athletic activity. See IHSA’s *Post-concussion Consent Form (RTP/RTL)* at:

<http://ihsa.org/Resources/Sports-Medicine/Concussion-Management/Concussion-Resources>.

⁶ 105 ILCS 5/22-80(g). The supervisor of the person responsible for compliance with the return-to-learn protocol may not be a coach. The return-to-learn protocol governs a student’s return to the classroom after a concussion, whether or not the concussion took place while the student was participating in an interscholastic athletic activity. Guidance from Lurie Children’s Hospital explains that recovery from a concussion must be an individualized process because no two concussions are the same. See *Return to Learn after a Concussion: A Guide for Teachers and School Professionals*, Lurie Children’s Hospital, at: www.luriechildrens.org/globalassets/media/pages/specialties--conditions/programs/concussion-program/documents/lurie-return-to-learn-guide-2017-updated.pdf. This *Guide* explains that a student’s full recovery depends on both cognitive rest and physical rest. It suggests using a multidisciplinary team to facilitate a student’s return to the classroom and provides examples of accommodations and interventions. It also stresses the importance of identifying a school staff member who will function as a case manager or concussion management leader, such as a school nurse, athletic trainer, or school counselor. See IHSA’s *Post-concussion Consent Form (RTP/RTL)* at:

<http://ihsa.org/Resources/Sports-Medicine/Concussion-Management/Concussion-Resources>.

⁷ 105 ILCS 5/22-80(e). *Interscholastic athletic activity* is defined in 105 ILCS 5/22-80(a) as “any organized school-sponsored or school-sanctioned activity for students, generally outside of school instructional hours, under the direction of a coach, athletic director, or band leader, including, but not limited to, baseball, basketball, cheerleading, cross country track, fencing, field hockey, football, golf, gymnastics, ice hockey, lacrosse, marching band, rugby, soccer, skating, softball, swimming and diving, tennis, track (indoor and outdoor), ultimate Frisbee, volleyball, water polo, and wrestling.” The form must be approved by the IHSA. See <http://ihsa.org/Resources/Sports-Medicine/Concussion-Management/Concussion-Resources>, for *IHSA Concussion Protocols* and *IHSA Sports Medicine Acknowledgement & Consent Form* (Concussion, PES, Asthma Medication).

- official, an athletic trainer, the student's parent/guardian, the student, or any other person deemed appropriate under the return-to-play protocol.⁸
- e. A student who was removed from interscholastic athletic practice or competition shall be allowed to return only after all statutory prerequisites are completed, including without limitation, the return-to-play and return-to-learn protocols developed by the Concussion Oversight Team. An athletic team coach or assistant coach may not authorize a student's return-to-play or return-to-learn.⁹
 - f. The following individuals must complete concussion training as specified in the YSCSA: all coaches or assistant coaches (whether volunteer or a district employee) of interscholastic athletic activities; nurses, licensed healthcare professionals or non-licensed healthcare professionals who serve on the Concussion Oversight Team (whether or not they serve on a volunteer basis); athletic trainers; game officials of interscholastic athletic activities; and physicians who serve on the Concussion Oversight Team.¹⁰
 - g. The Board shall approve school-specific emergency action plans for interscholastic athletic activities to address the serious injuries and acute medical conditions in which a student's condition may deteriorate rapidly.¹¹
2. Comply with the concussion protocols, policies, and by-laws of the Illinois High School Association (IHSA), including its *Protocol for Implementation of NFHS Sports Playing Rules for Concussions, which includes its Return to Play (RTP) Policy*.¹² These specifically require that:
 - a. A student athlete who exhibits signs, symptoms, or behaviors consistent with a concussion in a practice or game shall be removed from participation or competition at that time.

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⁸ 105 ILCS 5/22-80(f).

⁹ 105 ILCS 5/22-80(g). Most students with a concussion will not need a formal 504 plan or individualized education program; contact the board attorney whenever one is requested or the student's symptoms are prolonged.

¹⁰ 105 ILCS 5/22-80(h). Individuals covered by this training mandate must take a training course from an authorized training provider prior to serving on a Concussion Oversight Team (Team) and at least once every two years (or if not serving on the Team, at least once every two years). See the footnotes in 5:100, *Staff Development Program*. Physicians on Teams are required, to the greatest extent practicable, to periodically take an appropriate medical course on concussions. 105 ILCS 5/22-80(h)(3).

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

¹¹ 105 ILCS 5/22-80(i), amended by P.A. 102-1006. A template is available on the IHSA website under *Emergency Action Plan (EAP) Resources* at:

<http://ihsa.org/Resources/Sports-Medicine/Concussion-Management/Concussion-Resources>.

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

- b. A student athlete who has been removed from an interscholastic contest for a possible concussion or head injury may not return to that contest unless cleared to do so by a physician licensed to practice medicine in all its branches in Illinois or a certified athletic trainer.
 - c. If not cleared to return to that contest, a student athlete may not return to play or practice until the student athlete has provided his or her school with written clearance from a physician licensed to practice medicine in all its branches in Illinois, advanced practice registered nurse, physician assistant or a certified athletic trainer working in conjunction with a physician licensed to practice medicine in all its branches in Illinois.¹³
3. Require that all high school coaching personnel, including the head and assistant coaches, and athletic directors obtain online concussion certification by completing online concussion awareness training in accordance with 105 ILCS 25/1.15.¹⁴
4. Require all student athletes to view the IHSA video about concussions.¹⁵
5. Inform student athletes and their parent(s)/guardian(s) about this policy in the *Agreement to Participate* or other written instrument that a student athlete and his or her parent/guardian must sign before the student is allowed to participate in a practice or interscholastic competition.¹⁶
6. Provide coaches and student athletes and their parent(s)/guardian(s) with educational materials from the IHSA regarding the nature and risk of concussions and head injuries, including the risks inherent in continuing to play after a concussion or head injury.¹⁷
7. Include a requirement for staff members to notify the parent/guardian of a student who exhibits symptoms consistent with that of a concussion.¹⁸
8. Include a requirement for staff members to distribute the Ill. Dept. of Public Health concussion brochure to any student or the parent/guardian of a student who may have sustained a concussion, regardless of whether or not the concussion occurred while the student was participating in an interscholastic athletic activity, if available.¹⁹

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¹³ 105 ILCS 5/22-80(g)(4) and 225 ILCS 65/20-10. P.A. 100-513 amended the Nurse Practice Act to add *registered* to the definition of *advanced practice registered nurse*; P.A. 100-747 similarly amended 105 ILCS 5/22-80.

¹⁴ 105 ILCS 25/1.15(b) requires high school coaching personnel and athletic directors hired before 8-18-14 to have been certified by 8-19-15. Coaching personnel and athletic directors hired on or after 8-19-14 must be certified before the starting date of their position.

¹⁵ 105 ILCS 25/1.15(e).

¹⁶ Required by 23 Ill.Admin.Code §1.530(b). IHSA drafted a sample *Concussion Information Sheet*, which is included within the *IHSA Sports Medicine Acknowledgement & Consent Form* and has been incorporated into 7:300-E1, *Agreement to Participate*. See <http://ihsa.org/Resources/Sports-Medicine/Concussion-Management/Concussion-Resources>.

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

¹⁷ IHSA has produced educational materials on concussions for coaches, parents/guardians, student athletes, and the school and health care providers on concussions. See:

<http://ihsa.org/Resources/Sports-Medicine/Concussion-Management/Concussion-Resources>.

¹⁸ This provision is optional.

¹⁹ Required by 20 ILCS 2310/2310-307. The Ill. Dept. of Public Health did not develop its own brochure, but it refers to the CDC's *Heads Up* campaign brochures which include concussion fact sheets for athletes, parents, coaches, and school professionals, see <https://dph.illinois.gov/topics-services/prevention-wellness/injury-violence-prevention/concussion.html>.

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

9. Include a requirement for certified athletic trainers to complete and submit a monthly report to the IHSA on student-athletes who have sustained a concussion during: 1) a school-sponsored activity overseen by the athletic trainer; or 2) a school-sponsored event of which the athletic director is made aware. ²⁰

LEGAL REF.: 105 ILCS 5/22-80.
105 ILCS 25/1.15, Interscholastic Athletic Organization Act.
20 ILCS 2310/2310-307, Civil Administrative Code of Illinois.

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

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²⁰ Required by 105 ILCS 25/1.20 for high school districts that belong to the IHSA and have certified athletic trainers.

Students

Student Use of Buildings - Equal Access¹

[For high school and unit districts]

Student groups or clubs that are not school sponsored are granted free use of school premises for a meeting or series of meetings under the following conditions:²

1. The meeting is held during those non-instructional times identified by the Superintendent or designee for non-curricular student groups, clubs, or organizations to meet. *Non-instructional*

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¹ State or federal law controls this policy's content. This policy concerns an area in which the law is unsettled. This sample policy implements the Equal Access Act (EAA) (20 U.S.C. §4071 *et seq.*). The EAA applies to public secondary schools that receive federal financial assistance. The policy should be adopted by districts with secondary school(s) that wish to establish or already have a *limited open forum* as defined in the EAA and quoted below. The policy allows non-school sponsored student groups to meet on school premises, free of charge, on the same basis that non-curriculum related student groups are allowed to meet. Hence the policy is named, *Equal Access*.

The EAA has no applicability to the community's use of school facilities. See sample policy 8:20, *Community Use of School Facilities*.

The EAA requires a secondary school to grant fair opportunity or *equal access* to students who wish to conduct a meeting within a *limited open forum* without regard to the religious, political, philosophical, or other content of the speech at such a meeting. A secondary school has a *limited open forum* whenever it "grants an offering to or opportunity for one or more noncurriculum related student groups to meet on school premises during noninstructional time." 20 U.S.C. §4071(a). Thus, the equal access obligation is triggered when a secondary school allows one *non-curriculum related* group, e.g., a sports team, to meet.

The EAA's requirements may be avoided by closing the forum, i.e., by refusing to permit any non-curriculum related group to use its facilities (thereby creating a closed forum). But creating a closed forum is difficult given the U.S. Supreme Court's expansive interpretation of *non-curriculum related*.

A student group is *non-curriculum related* if it does not directly relate to the body of courses offered by the school. *Bd. of Ed. of Westside Community Sch. Dist. v. Mergens*, 496 U.S. 226 (1990). School officials cannot avoid triggering the EAA's equal access requirements by tying the purposes of the student clubs it wants to allow to some broadly defined educational goal. Likewise, it does not matter whether the school sponsors, recognizes, or supports the student group – the Act's equal access requirements will be triggered whenever any student group is allowed to meet that is unrelated to the curriculum. The *Mergens* Court said that a student group directly relates to a school's curriculum only if:

4. The group's subject matter is actually taught, or will soon be taught, in a regularly offered course;
5. The group's subject matter concerns a body of courses as a whole; or
6. Participation in the group is required for a particular course or results in academic credit.

Just as a *non-curriculum related* determination is fact-sensitive, so is determining whether a particular time period is *non-instructional time*. A morning activity period was found to be *non-instructional time* making a high school's refusal to allow a student Bible club to meet in school during that period a violation of the EAA. *Donovan v. Punxsutawney Area Sch. Bd.*, 336 F.3d 211 (3d. Cir. 2003). The Ninth Circuit reached the opposite conclusion in a similar case. *Prince v. Jacoby*, 303 F.3d 1074 (9th Cir. 2002).

A school violates the EAA by allowing some student groups to meet on campus but refusing similar access to gay-lesbian clubs. *Colin v. Orange Unified Sch. Dist.*, 83 F.Supp.2d 1135 (C.D. Cal. 2000); *White County High School Peers Rising In Diverse Ed. v. White Cty. Sch. Dist.*, 2006 WL 1991990 (D. Ga. 2006); *SAGE v. Osseo Area Sch. Dist. No. 279*, 2007 WL 2885810 (D. Minn. 2007). But see *Caudillo v. Lubbock Ind. Sch. Dist.*, 311 F.Supp.2d 550 (N.D.Tex. 2004)(school did not violate the EAA when it denied a gay student club's request for access because the "maintain order and discipline" exception applied). Note the U.S. Supreme Court refused to apply N.J.'s public accommodation law to the Boy Scouts because forcing the Boy Scouts to accept a homosexual as a member would violate the Scouts' freedom of expressive association. *Boy Scouts of Amer. v. Dale*, 530 U.S. 120 (2000).

- ² All of the listed conditions are from the EAA, except for 10 and 11.

time means time set aside by the school before actual classroom instruction begins or after actual classroom instruction ends. *Non-curricular student groups* are those student groups, clubs, or organizations that do not directly relate to the curriculum.³

2. All non-curriculum related student groups that are not District sponsored receive substantially the same treatment.⁴
3. The meeting is student-initiated, meaning that the request is made by a student.
4. Attendance at the meeting is voluntary.
5. The school will not sponsor the meeting.
6. School employees are present at religious meetings only in a non-participatory capacity.
7. The meeting and/or any activities during the meeting do not materially or substantially interfere with the orderly conduct of educational activities.
8. Non-school persons do not direct, conduct, control, or regularly attend the meetings.
9. The school retains its authority to maintain order and discipline.⁵
10. A school staff member or other responsible adult is present in a supervisory capacity.
11. The Superintendent or designee approves the meeting or series of meetings.

The Superintendent or designee shall develop administrative procedures to implement this policy.

LEGAL REF.: 20 U.S.C. §4071 *et seq.*, Equal Access Act.
Bd. of Ed. of Westside Community Sch. Dist. v. Mergens, 496 U.S. 226 (1990).
Gernetzke v. Kenosha Unified Sch. Dist. No. 1, 274 F.3d 464 (7th Cir. 2001), *cert. denied*, 535 U.S. 1017.

CROSS REF.: 7:10 (Equal Educational Opportunities), 8:20 (Community Use of School Facilities)

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³ 20 U.S.C. §4072.

⁴ The Ninth Circuit Court of Appeals found that a school district violated the EAA and the student's First Amendment rights by denying her Bible club the same rights and benefits as other student clubs. Prince v. Jacoby, 303 F.3d 1074 (9th Cir. 2002). Nothing in the decision suggests that the school was required to *sponsor* the Bible club and financially support it. However, the school board voluntarily gave "associated student body" clubs certain benefits that were denied the plaintiff's religious club. Thus, the district unlawfully treated one non-curriculum related student club differently from another non-curriculum related student club.

⁵ In response to a school's invitation for all student groups to paint murals in the school hallway, a Bible club sought to include a large cross. The school principal forbade the cross in order to avoid conflicts among students – there was evidence the student body contained Satanic and neo-Nazi adherents. The principal's decision was insulated from liability under the EAA by the Act's provision that "nothing in [the Act] shall be construed to limit the authority of the school ... to maintain order and discipline on school premises." Gernetzke v. Kenosha Unified Sch. Dist. No. 1, 274 F.3d 464 (7th Cir. 2001), *cert. denied*, 535 U.S. 1017 (2002).

Community Relations

Advertising and Distributing Materials in Schools Provided by Non-School Related Entities¹

No material or literature shall be posted or distributed that would: (1) disrupt the educational process, (2) violate the rights or invade the privacy of others, (3) infringe on a trademark or copyright, or (4) be defamatory, obscene, vulgar, or indecent. No material, literature, or advertisement shall be posted or distributed without advance approval as described in this policy.

Community, Educational, Charitable, or Recreational Organizations

Community, educational, charitable, recreational, or similar groups may, under procedures established by the Superintendent, advertise events pertinent to students' interests or involvement.² All advertisements must (1) be student-oriented, (2) prominently display the sponsoring organization's name, and (3) be approved in advance by the Superintendent or designee. The District reserves the right to decide where and when any advertisement or flyer is distributed, displayed, or posted.³

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¹ State or federal law controls this policy's content, but the area of law is unsettled. Schools are *nonpublic forums*, meaning they need not open their doors to private speakers but may not discriminate against disfavored viewpoints or subjects, e.g., religion. *Id.*, Lamb's Chapel v. Center Moriches Union Free Sch. Dist., 508 U.S. 384 (1993). This policy establishes a limited public forum, i.e., non-school entities may only distribute material concerning events pertinent to students' interests or involvement. Alternatively, boards may refuse to allow the distribution or posting of any material requested by non-school related organizations. Hedges v. Wauconda Community Unit Sch. Dist. No. 18, 9 F.3d 1295 (7th Cir. 1993). The following language can be used to completely ban the distribution of material by non-school related organizations:

No material or literature shall be posted in schools or distributed to students by non-school related organizations or individuals.

² This sentence establishes a limited public forum, i.e., the school limits non-school expressive activity to "events pertinent to students' interests or involvement." Such a limitation survives First Amendment scrutiny if it is reasonable and not based on the speaker's viewpoint. A school's refusal to post an individual's sign containing the Ten Commandments on the baseball field's fence open to commercial advertising did not violate the individual's free speech rights because the fence was open for a limited purpose (commercial ads) and the school's content restrictions were reasonable. DiLoreto v. Downey Unified Sch. Dist., 196 F.3d 958 (9th Cir. 1999).

³ This section authorizes the superintendent or designee to approve non-commercial ads. Most boards do not want to approve these ads because of their frequency; however, a board may use the following alternative for #3, "be approved in advance by the Board."

The distribution of flyers from religious youth organizations will survive scrutiny under the First Amendment's Establishment Clause if the organization's religious message is sufficiently separated from the school to prevent students from confusing the two. Sherman v. CCSD 21, 8 F.3d 1160 (7th Cir. 1993); Rusk v. Crestview Local Schools, 379 F.3d 418 (6th Cir. 2004). However, a policy allowing viewpoint discrimination will be set aside. Hills v. Scottsdale Unified Sch. Dist., No. 48, 329 F.3d 1044 (9th Cir. 2003)(refusal to distribute summer camp brochures offering Bible classes because of their religious content violated the First Amendment); Child Evangelism Fellowship of NJ v. Stafford Twp. Sch. Dist., 386 F.3d 514 (3rd Cir. 2004)(struck a policy prohibiting classroom distribution of religious fliers because it discriminated on basis of viewpoint); Child Evangelism Fellowship v. Montgomery Co. Public Schools, 457 F.3d 376 (4th Cir. 2006)(policy limiting classroom distribution of materials from outside groups based on *type of group*, rather than content of the materials, violates religious group's free speech rights because of inadequate protection against viewpoint discrimination, i.e., it gave school officials *unfettered discretion* to engage in viewpoint discrimination).

Commercial Companies and Political Candidates or Parties⁴

Commercial companies may purchase space for their advertisements in or on: (1) athletic field fences; (2) athletic, theater, or music programs; (3) student newspapers or yearbooks; (4) scoreboards; or (5) other appropriate locations.⁵ The advertisements must be consistent with this policy and its implementing procedures and be appropriate for display in a school context. Prior approval from the Board is needed for advertisements on athletic fields, scoreboards, or other building locations. Prior approval is needed from the Superintendent or designee for advertisements on athletic, theater, or music programs; student newspapers and yearbooks; and any commercial material related to graduation, class pictures, or class rings.

No individual or entity may advertise or promote its interests by using the names or pictures of the School District, any District school or facility, staff members, or students except as authorized by and consistent with administrative procedures and approved by the Board.

Material from candidates and political parties will not be accepted for posting or distribution, except when used as part of the curriculum.

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

Limitations that are not based on the material's viewpoint are permissible. Victory Through Jesus Sports Ministry v. Lee's Summit R-7 Sch. Dist., 640 F.3d 329 (8th Cir. 2011), *cert. denied*, 565 U.S. 1036 (2011) (policy limiting the volume of promotional materials sent home with elementary students did not violate the First Amendment rights of a nonprofit Ministry Foundation).

Allowing Gideons to meet with students and distribute Bibles during instructional time violates the Establishment Clause. Berger v. Rensselaer Central Sch. Corp., 982 F.2d 1160 (7th Cir. 1993); Doe v. South Iron R-1 Sch. Dist., 498 F.3d 878 (8th Cir. 2007).

⁴ Commercial advertising may be accepted without making the school a forum for all types of expressive activity. See f/n 2 above. If the board does not want to sell advertising space, use the following alternative:

Commercial companies and political candidates or organizations are prohibited from advertising in schools, on the school grounds, or on school or District websites.

The list of places where commercial companies may purchase space for their advertisements must be tailored to meet local needs and circumstances.

This sample policy requires board approval only for ads that alter the look of school property. Boards that want to approve all commercial and political ads may use the following alternative for the final two sentences:

Prior approval from the Board is needed for all commercial or political advertisements.

Boards that want to authorize the superintendent or designee to approve all commercial and political ads may use the following alternative:

Prior approval from the Superintendent or designee is needed for all commercial or political advertisements.

⁵ Consult the board attorney when commercial advertising companies seek to purchase space for their advertisements within the school's available technology platforms. The Student Online Personal Protection Act (SOPPA) (105 ILCS 85/) provides safeguards to protect the privacy and security of data about students when it is collected by educational technology companies and specifies that the use of such data may only be for *beneficial purposes* such as providing personalized learning and innovative educational technologies. It specifically prohibits *targeted advertising* (presenting advertisements to students where they are selected based on information obtained or inferred from that students' online behaviors, usage of applications, or *covered information* (as defined by SOPPA)). But students may be targeted for online advertisements when they visit an online location based upon their own response to or request for information or feedback, e.g., using Google brand products, where ads are an inherent part of the search engine, or other types of search engines or Internet-based resources to do assignments.

LEGAL REF.: Lamb's Chapel v. Center Moriches Union Free Sch. Dist., 508 U.S. 384 (1993).
Berger v. Rensselaer Central Sch. Corp., 982 F.2d 1160 (7th Cir. 1993), *cert. denied*, 113 S.Ct. 2344 (1993).
Sherman v. Community Consolidated Sch. Dist. 21, 8 F.3d 1160 (7th Cir. 1993), *cert. denied*, 8 F.3d 1160 (1994).
Hedges v. Wauconda Community Unit Sch. Dist. No. 118, 9 F.3d 1295 (7th Cir. 1993).
Victory Through Jesus Sports Ministry v. Lee's Summit R-7 Sch. Dist., 640 F.3d 329 (8th Cir. 2011), *cert. denied*, 565 U.S. 1036 (2011).
DiLoreto v. Downey Unified Sch. Dist., 196 F.3d 958 (9th Cir. 1999).

CROSS REF.: 7:325 (Student Fundraising Activities), 7:330 (Student Use of Buildings - Equal Access)

Community Relations

Parental Involvement¹

In order to assure collaborative relationships between students' families and the District, and to enable parents/guardians to become active partners in their children's education, the Superintendent² shall:

1. Keep parents/guardians thoroughly informed about their child's school and education.
2. Encourage parents/guardians to be involved in their child's school and education.
3. Establish effective two-way communication between parents/guardians and the District.
4. Seek input from parents/guardians on significant school-related issues.
5. Inform parents/guardians on how they can assist their children's learning.

The Superintendent shall periodically report to the School Board on the implementation of this policy.

CROSS REF.: 6:170 (Title I Programs), 6:250 (Community Resource Persons and Volunteers), 8:10 (Connection with the Community), 8:90 (Parent Organizations and Booster Clubs)

ADMIN. PROC.: 6:170-AP1, E1 (District-Level Parent and Family Engagement Compact), 6:170-AP1, E2 (School-Level Parent and Family Engagement Compact)

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

¹ A board may allow the district to participate and implement a *Bring Your Parents to School Day* the first Monday in October of each year. 105 ILCS 5/10-20.55. Its purpose is to promote parental involvement and student success. Consult the board attorney for advice before implementing this law. It may be an item upon which collective bargaining may be required. Any policy that impacts wages, hours, or terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. Boards may also want to consider the impact *Bring Your Parents to School Day* may have upon students' instructional time and how the implementation of this day will impact school safety and security. See policy 4:170, *Safety*, and its implementing procedures.

If a board chooses to implement this day, insert the following optional subhead as the second paragraph and add the Legal Reference before the Cross Reference:

Bring Your Parents to School Day

On the first Monday in October of each year, students' parents/guardians are invited to attend class with their children and meet with teachers and administrators during the school day.

The following Legal Reference must also be inserted into the policy: "105 ILCS 5/10-20.55."

² The default text of this policy does not use "or designee" because it is important and the board likely wants to monitor it.