

* Set 1 *

School District Organization

Administrative Procedure - Checklist for Handling Intergovernmental Agreement Requests

The Superintendent completes this checklist whenever the District receives a request to enter into an intergovernmental agreement. ¹

- Acknowledge the receipt of the request to the sender.
- Confer with the School Board President as to when to put the request on an open meeting agenda as a discussion and/or action item.
- Inform the request's sender of approximately when the request will be presented to the Board.
- Investigate the factual context and the impact of granting or not granting the request.
- Determine if the request is for procurement purposes and evaluate whether an intergovernmental agreement would be exempt under 105 ILCS 5/10-20.21.
- Prepare an evaluation of the request and a recommendation that takes into account the Board's priorities in the allocation of resources, including funds, time, personnel, and facilities, and is the transmission of knowledge and culture through which students learn in areas necessary to their continuing development and entry into the world of work. ²
- Consult the Board attorney for a legal review of the proposed intergovernmental agreement.
- Include the evaluation and recommendation in the appropriate Board meeting packet.

The footnotes should be removed before the material is used.

¹ If the pre-existing process for handling requests to enter into an intergovernmental agreement is that the board receives all requests, use the following alternative:

Whenever the Board, having received a request to enter into an intergovernmental agreement, requests the Superintendent to provide an evaluation and recommendation, the Superintendent will:

² The language describing what must be considered is from board policy 6:15, *School Accountability*. ~~Neither federal nor State law requires districts to enter into an intergovernmental agreement to accept students under §11-16 of No Child Left Behind.~~ Some issues for consideration include: (1) space availability, (2) teacher-student ratio, (3) available resources, (4) costs, (5) effect on General State Aid, transportation reimbursement, special education reimbursement, (6) rival gang factors and other safety concerns, and (7) current levels of school performance.

School Board

School District Elections ¹

School District elections are non-partisan, governed by the general election laws of the State, and include the election of School Board members, various public policy propositions, and advisory questions. ² Board members are elected at the consolidated election held on the first Tuesday in April in odd-numbered years. ³ If, however, that date conflicts with the celebration of Passover, the consolidated election is postponed to the first Tuesday following the last day of Passover. ⁴ The canvass of votes is conducted by the election authority within 21 days after the election. ⁵

The Board, by proper resolution, may cause to be placed on the ballot: (a) public policy referendum according to Article 28 of the Election Code, or (b) advisory questions of public policy according to Section 9-1.5 of the School Code. ⁶

The Board Secretary serves as the local election official. He or she receives petitions for the submission of a public question to referenda and forwards them to the proper election officer and otherwise provides information to the community concerning District elections. ⁷

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¹ State law controls this policy's content. Consult the board attorney early concerning any election question.

² 105 ILCS 5/9-10, ~~amended by P.A. 98-115~~, provides that nominating petitions are filed with the county clerk or the county board of election commissioners if one was created pursuant to 10 ILCS 5/6A-1. Objections to nominating petitions or to a petition for a public question are submitted to the county officers electoral board (10 ILCS 5/10-8 and 10-9, ~~amended by P.A. 98-115~~). ~~P.A. 98-115 amended~~ ~~the Election Code also addresses regarding~~ reportable campaign contributions (10 ILCS 9-1.8); simultaneous filing of nominating petitions (10 ILCS 5/10-6.2); withdrawal from nomination (10 ILCS 5/10-7); Electoral Board duties (10 ILCS 5/10-10); and advertising in proximity of a polling place (10 ILCS 5/19A-70). See also 10 ILCS 5/1-3, ~~amended by P.A. 99-522, eff. 1-1-17~~, (definitions), 5/2A (time of holding elections), and 5/28 (submitting public questions). The school board secretary or clerk has no statutory duties regarding the election of members to the school board. He or she is well-~~advised~~ to refer all questions to the county clerk or the county board of election commissioners, whichever is applicable.

³ 10 ILCS 5/2A-1.1.

⁴ 10 ILCS 5/2A-1.1a.

⁵ The appropriate *election authority* (county clerk or election commission) canvasses the vote for school district elections (10 ILCS 5/1-8). The election authority must canvass the vote within 21 days after the election (10 ILCS 5/22-17 and 5/22-18). Within 28 days after the consolidated election, boards must hold an organizational meeting to elect officers and fix a time and place for regular meetings (105 ILCS 5/10-16). See policy 2:210, *Organizational School Board Meeting*.

⁶ This policy addresses two types of public questions: (1) binding referendum governed by 10 ILCS 5/28, and (2) advisory questions of public policy governed by 105 ILCS 5/9-1.5. An advisory question must be authorized by majority vote of the board. A third type of public question – a voter-initiated petition – is not covered in the policy; the board does not have any duties regarding this type of petition. A voter-initiated petition must be filed with the school board secretary who, if the timelines are met, must certify the question to be placed on the ballot to the county clerk (10 ILCS 5/10-15, 5/28-2, and 5/28-5).

⁷ 10 ILCS 5/28-6 provides that any petition for the submission of a public question to referendum must be filed with the *local election official*. The board secretary or clerk is the *local election official* (105 ILCS 5/9-2 and 10 ILCS 5/1-3). ~~P.A. 98-115 reassigned many~~ See ~~fn 2~~ as many of the duties of the *local election official* were reassigned after the 2014 changes to the law; see ~~fn 2~~. ~~The board may delete the following PR function: "and otherwise provides information to the community concerning District elections."~~

LEGAL REF.: 10 ILCS 5/1-3, 5/2A, 5/10-9, 5/22-17, 5/22-18, and 5/28.
105 ILCS 5/9 and 5/9-1.5.

CROSS REF.: 2:40 (Board Member Qualifications), 2:50 (Board Member Term of Office),
2:210 (Organizational School Board Meeting)

School Board

Board Member Development ¹

The School Board desires that its individual members learn, understand, and practice effective governance principles. ² The Board is responsible for Board member orientation and development. Board members have an equal opportunity to attend State and national meetings designed to familiarize members with public school issues, governance, and legislation.

The Board President and/or Superintendent shall provide all Board members with information regarding pertinent education materials, publications, and notices of training or development.

Mandatory Board Member Training ³

Each Board member is responsible for his or her own compliance with the mandatory training laws that are described below:

1. Each Board member ~~elected or appointed to fill a vacancy of at least one year's duration~~ must complete at least ~~4~~ four hours of professional development leadership training in education and labor law, financial oversight and accountability, and fiduciary responsibilities within the first year of his or her first term. ~~4 This requirement is applicable to Board members who are elected after June 13, 2011 or who are appointed to fill a vacancy of at least one year's duration after that date.~~
2. Each Board member must complete training on the Open Meetings Act no later than 90 days after taking the oath of office for the first time. After completing the training, each Board member must file a copy of the certificate of completion with the Board. Training on the Open Meetings Act is only required once. ⁵
3. Each Board member must complete a training program on evaluations under the Performance Evaluation Reform Act (PERA) before participating in a vote on a tenured teacher's dismissal using the optional alternative evaluation dismissal process. This dismissal process is available after the District's PERA implementation date. ⁶

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¹ State law governs the mandatory board member training provisions in this sample policy.

² The IASB *Foundational Principles of Effective Governance* is available online at www.iasb.com.

³ A board may omit the description of mandatory training requirements by deleting "that are described below" and deleting the numbered list.

⁴ 105 ILCS 5/10-16a, added by P.A. 97-8.

⁵ 5 ILCS 120/1.05(b) and (c), amended by P.A. 97-504. IASB is an authorized provider of this training.

⁶ 105 ILCS 5/24-16.5, added by P.A. 97-8. This mandatory training requirement ~~was~~ will be phased-in as districts ~~implemented~~ phase-in teacher evaluations that incorporate student growth as a significant factor, otherwise known as Performance Evaluation Reform Act (PERA) evaluations. The implementation timeline for PERA evaluations varied from district to district but ~~will be one of the following: (a) the date in an applicable grant agreement; (b) beginning Sept. 1, 2015 for those districts whose student performance ranks in the lowest 20% among all districts of their type; and (c) beginning Sept. 1, 2016 for all remaining districts~~ must now implement PERA evaluations. After the implementation of PERA evaluations, a district may use an optional alternative evaluative dismissal process using the PERA evaluation. Before voting on a dismissal based upon an optional alternative evaluative dismissal process, a board member must complete a training program on PERA evaluations. IASB is an authorized provider of this training. For more information about PERA, see *PERA Overview for School Board Members*, iasb.com/law/pera.cfm.

The Superintendent or designee shall maintain on the District website a log identifying the complete training and development activities of each Board member, including both mandatory and non-mandatory training. ⁷

Professional Development; Adverse Consequences of School Exclusion; Student Behavior ⁸

The Board President or Superintendent, or their designees, will make reasonable efforts to provide ongoing professional development to Board members about the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, and developmentally appropriate disciplinary methods that promote positive and healthy school climates, i.e., *Senate Bill 100 training topics*.

Board Self-Evaluation

The Board will conduct periodic self-evaluations with the goal of continuous improvement. ⁹

New Board Member Orientation ¹⁰

The orientation process for newly elected or appointed Board members includes:

1. The Board President or Superintendent, or their designees, shall give each new Board member a copy of or online access to the Board Policy Manual, the Board's regular meeting minutes for the past year, and other helpful information including material describing the District and explaining the Board's roles and responsibilities.
2. The Board President or designee shall schedule one or more special Board meetings, or schedule time during regular meetings, for Board members to become acquainted and to review Board processes and procedures.
3. The Board President may request a veteran Board member to mentor a new member. ¹¹
4. All new members are encouraged to attend workshops for new members conducted by the Illinois Association of School Boards.

Candidates

The Superintendent or designee shall invite all current candidates for the office of Board member to attend: (1) Board meetings, except that this invitation shall not extend to any closed meetings, and (2) pre-election workshops for candidates.

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⁷ 105 ILCS 5/10-16a, added by P.A. 97-8, requires each school district to post on its website, if any, the names of all board members who have completed the minimum of 4 hours of training described in #1. Recognizing that a board may want to highlight all training and development achievements, the sample policy extends this reporting requirement to all training and development activities. For a website reporting template, see 2:120-E2, *Website Listing of Development and Training Completed by Board Members*.

A board may choose to strictly follow the statute by using the following alternative: "The Superintendent or designee shall post on the District website the names of all Board members who have completed the professional development leadership training described in number 1, above."

⁸ Optional. 105 ILCS 5/10-22.6(c-5). Information about professional development opportunities is available through IASB's Online Learning Center (OLC). Inquire at: onlinelearning@iasb.com.

⁹ Boards are not required to conduct self-evaluations, but may hold a closed meeting with representatives of a State association authorized under Article 23 of the School Code for the purpose of discussing self-evaluation practices and procedures, or professional ethics (5 ILCS 120/2(B)(6)).

¹⁰ New board member orientation is a critical step in helping new board members become effective and in promoting a smooth functioning *new team*. The first paragraph should be customized to add references to the IASB policy services that the district receives (e.g., **PRESS**, **PRESS Online**, **School Board Policies Online**, and **PRESS Plus**).

¹¹ See 2:120-E1, *Guidelines for Serving as a Mentor to a New School Board Member*.

LEGAL REF.: 5 ILCS 120/1.05 and 120/2.
105 ILCS 5/10-16a and 5/24-16.5.

CROSS REF.: 2:80 (Board Member Oath and Conduct), 2:125 (Board Member Compensation
Expenses), 2:200 (Types of School Board Meetings)

School Board

Board Member Compensation; Expenses ¹

Board Member Compensation Prohibited ²

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

Roll Call Vote ³

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

Regulation of School District Expenses ⁴

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

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¹ State law controls this policy's content (105 ILCS 5/10-9, 5/10-10 and 5/22-1 (no compensation allowed, conflicts of interest prohibited); 105 ILCS 5/10-22.32 (expense advancements); and the Local Government Travel Expense Control Act (ECA) 50 ILCS 150/10, added by P.A. 99-604, eff. 1-1-17 (regulation of travel expenses)). The deadline for implementation of this policy under the ECA is 7-1-17, but as a practical matter, see the third paragraph of *f/n* 3, below.

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

³ 50 ILCS 150/15, added by P.A. 99-604, eff. 1-1-17. 105 ILCS 5/10-7 also states, "[o]n all questions involving the expenditure of money, the yeas and nays shall be taken and entered on the records of the proceedings of the board," i.e., a *roll call vote*.

Although the School Code has always required a roll call vote on public expenditures, on and after 60 days after the effective date of the ECA, a roll call vote will also be required for any:

1. Officer or employee of the board that exceeds the *maximum allowable reimbursement amount* (MARA) set by the board in its resolution to regulate expenses, and
2. Board member (50 ILCS 150/15, added by P.A. 99-604, eff. 1-1-17).

A majority of school law firms agree that the "on or after 60 days" date discussed in the paragraph above is 3-2-17. Some school law firms will use the date 3-1-17. There is also a policy-component deadline "[o]n and after 180 days after the effective date of [the ECA]." That date is 6-30-17. Many school law firms opine that, as a practical matter, boards should complete both the MARA and policy requirements of the ECA by late Feb. 2017 and no later than 3-1-17. Consult the board attorney about these dates. See *f/n* 13, below for more discussion about amending or adopting another resolution when expenses exceed the MARA required by the ECA.

⁴ 50 ILCS 150/10, added by P.A. 99-604, eff. 1-1-17 requires boards to regulate the reimbursement of expenses by *resolution* or *ordinance*. Unlike like the powers granted by the Ill. General Assembly to municipalities to pass ordinances, school boards govern by rules referred to as *policies* (105 ILCS 5/10-20.5). Further, school boards may only exercise powers given to them that are consistent with the School Code that may be requisite or proper for the maintenance, operation, and development of any school or schools under the jurisdiction of the board (105 ILCS 5/10-20). Therefore, to effectuate the intent of the ECA's requirement to *regulate* expenses with an ordinance or resolution and stay within the confines of the School Code and best practice (minimize liability while aligning with the IASB "Foundational Principles of Effective Governance"), the language in this subhead:

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

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

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

Money shall not be advanced or reimbursed, or purchase orders issued for: (1) the expenses of any person except the Board member,⁹ (2) anyone's personal expenses,¹⁰ or (3) entertainment expenses.¹¹ Entertainment includes, but is not limited to, shows, amusements, theaters, circuses, sporting events, or any other place of public or private entertainment or amusement, unless the entertainment is ancillary to the purpose of the program or event.¹²

⁶ 50 ILCS 150/10, added by P.A. 99-604, eff. 1-1-17 allows boards to determine this timeline locally.

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

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

Consider consulting the board's auditors to assist with this decision. Other options for the timing of when boards should set the MARA include:

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

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

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

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

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

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

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

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

¹⁰ Optional. *Personal expenses* are not defined in 50 ILCS 150/25, added by P.A. 99-604, eff. 1-1-17 or 105 ILCS 5/10-22.32. Consult the board attorney about this term and delete it only at the direction of the board attorney. Excluding personal expenses from advancements, reimbursements, and purchase orders is a generally-accepted best practice. The practice also aligns well with the State's widely-accepted transparency movement. Reimbursing personal expenses is also a magnet for the media.

¹¹ 50 ILCS 150/25, added by P.A. 99-604, eff. 1-1-17.

¹² *Id.*

Exceeding the Maximum Allowable Reimbursement Amount(s)

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

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

Advancements

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

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

Expense advancement requests must be submitted to the Superintendent or designee on the Board's standardized estimated expense approval form. After spending expense advancements, Board members must use the Board's standardized expense reimbursement form and submit to the Superintendent: (a) the itemized, signed advancement voucher that was issued, and (b) the amount of actual expenses by attaching receipts. A Board member must return to the District any portion of an expense advancement not used.¹⁶ If an expense advancement is not requested, expense reimbursements may be issued by the Board to its members for the activities listed in numbers one through three, above, along with registration fees or tuition for a course(s) that allowed compliance

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¹³ 50 ILCS 150/10 and 15, added by P.A. 99-604, eff. 1-1-17. A board may need to revisit its resolution to regulate expenses more often than annually if (a) an expense reimbursement amount exceeds the MARA set in the board's resolution, and (b) an *emergency* or an *extraordinary circumstance* does not exist. Consult the board attorney in these circumstances to determine whether the board may need to revisit and amend its resolution to increase the MARA before approving the expenses exceeding it.

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

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

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

¹⁵ Use this alternative for districts in suburban Cook County: replace "Regional Superintendent of Schools" with "appropriate Intermediate Service Center." The Ill. Gen. Assembly abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.

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

with the mandatory trainings described in policy 2:120, *Board Member Development* and other professional development opportunities that are encouraged by the School Code (see the **Reimbursements and Purchase Orders** subhead, below).¹⁷ Expense advancements and vouchers shall be presented to the Board in its regular bill process.

Reimbursements and Purchase Orders

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

Credit and Procurement Cards ¹⁹

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

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

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

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

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

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

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

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

Standardized Expense Form(s) Required 20

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

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

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

1. Registration. When possible, registration fees will be paid by the District in advance.
2. Travel. The least expensive method of travel will be used, providing that no hardship will be caused to the Board member. Board members will be reimbursed for:
 - a. Air travel at the coach or economy class commercial airline rate. First class or business class air travel will be reimbursed only if emergency circumstances warrant. The emergency circumstances must be explained on the expense form and Board approval of the additional expense is required. Copies of airline tickets must be attached to the expense form.
 - b. Rail or bus travel at actual cost. Rail or bus travel costs may not exceed the cost of coach airfare. Copies of tickets must be attached to the expense form to substantiate amounts.
 - c. Use of personal automobiles at the standard mileage rate approved by the Internal Revenue Service for income tax purposes. The reimbursement may not exceed the cost of coach airfare. Mileage for use of personal automobiles in trips to and from transportation terminals will also be reimbursed. Toll charges and parking costs will be reimbursed.
 - d. Automobile rental costs when the vehicle's use is warranted. The circumstances for such use must be explained on the expense form.
 - e. Taxis, airport limousines, or other local transportation costs.
3. Meals. Meals charged to the School District should represent mid-fare selections for the hotel/meeting facility or general area, consistent with the maximum allowable reimbursement

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20 50 ILCS 150/20, added by P.A. 99-604, eff. 1-1-17. The School Code uses the term *voucher* for expense advancements (105 ILCS 5/10-22.32). The PRESS materials on expenses marry the School Code's advancement voucher requirement into the ECA's requirement for a standardized estimated expense form. For an example, see 2:125-E2, *Board Member Estimated Expense Approval Form* and 5:60-E2, *Employee Estimated Expense Approval Form*. These forms provide three methods for board members or district employees to submit anticipated/estimated expenses:

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

21 Id. at (2) and (3).

amount set by the Board.²² Tips are included with meal charges. Expense forms must explain the meal charges incurred. Alcoholic beverages will not be reimbursed.

4. Lodging. Board members should request conference rate or mid-fare room accommodations. A single room rate will be reimbursed. Board members should pay personal expenses at checkout. If that is impossible, deductions for the charges should be made on the expense form.
5. Miscellaneous Expenses. Board members may seek reimbursement for other expenses incurred while attending a meeting sponsored by organizations described herein by fully describing the expenses on the expense form, attaching receipts.

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

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

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

²² Alternatively, a board could set a daily limit on meal costs, such as:

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

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

RENAMED & REWRITTEN

October 2016

2:125-E1

School Board

Exhibit - Board Member Travel Expense Voucher-Reimbursement Form

Submit to the Superintendent, who will include this request in the monthly list of bills presented to the School Board. Please print and attach receipts for all expenditures. Use of this form is required by 2:125-E3, Resolution to Regulate Expense Reimbursements. Please print.

Name: _____ Title/Office: _____

Travel Destination: _____ Purpose: _____

Departure Date: _____ Return Date: _____

Receipts attached Request Date: _____

Approved expense advancement (voucher) attached, if applicable* (Completed 2:125-E2, Board Member Estimated Expense Approval Form.)

Actual Expense Report										
* Board members will be reimbursed for actual and necessary expenses that exceed the amount advanced, but must refund any expense advancement that exceeds the actual and necessary expenses incurred. (105 ILCS 5/10-22.32)										
Auto Travel Allowance: _____ per mile										
Date	Mileage		Comm. Travel Expenses	Lodging	Meals			Other Item	Cost	Daily Total
	Miles	Cost			Bkfst	Lunch	Dinner			
Subtotal										
Advances										
TOTAL (a negative amount indicates refund due from Board member)									\$	

Submitting Board Member's Signature

Date

Superintendent Signature

Date

School Board Action: Approved Denied
 Approved in Part Exceeds Maximum Allowable Amount

RENAMED & REWRITTEN

October 2016

2:125-E2

School Board

Exhibit - Board Member Travel-Estimated Expense Purchase Order Approval Form

Submit to the Superintendent, who will include this request in the monthly list of bills presented to the School Board. Use of this form is required by 2:125-E3, Resolution to Regulate Expense Reimbursements. Please print.

Name: _____ Title/Office: _____

Travel Destination: _____ Purpose: _____

Departure Date: _____ Return Date: _____

Estimated Expenses Approval Requested (50 ILCS 150/20)

Purchase Order Requested Purchase Order #: _____

Expense Advancement Voucher Requested (105 ILCS 5/10-22.32)
Voucher Amount: _____

Estimated Expense Report										
Auto Travel Allowance: _____ per mile										
Date	Mileage		Comm. Travel Expense	Lodging	Meals			Other Item	Cost	Daily Total
	Miles	Cost			Bkfst	Lunch	Dinner			
Total										\$

Submitting Board Member's Signature _____ Date _____

Superintendent Signature _____ Date _____

School Board Action: **Approved** **Denied**
 Approved in Part **Exceeds Maximum Allowable Amount**

School Board

Exhibit - Resolution to Regulate Expense Reimbursements

WHEREAS, Section 10-20 of the School Code (105 ILCS 5/10-20) grants school boards other powers that are not inconsistent with their duties;

WHEREAS, Section 10 of the Local Government Travel Expense Control Act (50 ILCS 150/, added by P.A. 99-604, eff. 1-1-17) provides that the School Board shall by resolution regulate the reimbursement of all travel, meal, and lodging expenses of officers and employees, including, but not limited to: (1) the types of official business for which travel, meal, and lodging expenses are allowed; (2) maximum allowable reimbursement for travel, meal, and lodging expenses; and (3) a standardized form for submission of travel, meal, and lodging expenses supported with minimum documentation;

WHEREAS, the Board regulates the types of expenses that are allowed in Board Policies 2:125, *Board Member Compensation; Expenses* and 5:60, *Expenses*;

WHEREAS, based upon the School District’s budget and other financial considerations, the Superintendent has recommended to the Board a maximum allowable reimbursement amount of \$[amount] _____ for Board members and District staff;

WHEREAS, the Board requires submission of appropriate standardized expense forms supported with required written minimum documentation (50 ILCS 150/10 and 20);

WHEREAS, submitted expenses that exceed the Board’s maximum allowable reimbursement amount may be approved by a roll call vote at an open meeting of the Board when an emergency or other extraordinary circumstance exists (50 ILCS 150/10 and 15);

WHEREAS, all Board member expenses must be approved by a roll call vote at an open meeting of the Board (50 ILCS 150/15);

THEREFORE, BE IT RESOLVED, that the Board hereby:

1. Defines and sets the types of allowable expenses through Board policy 2:125, *Board Member Compensation; Expenses* and 5:60, *Expenses*.
2. Sets the maximum allowable reimbursement for travel, meal, and lodging expenses to an amount not to exceed \$[amount] _____, effective on [date] _____ until the Resolution is rescinded or replaced by the Board.
3. Supersedes its previously adopted *Resolution to Regulate Expense Reimbursements* as of the effective date in paragraph two above.
4. Requires use of Board exhibits 2:125-E1, *Board Member Expense Reimbursement Form*; 2:125-E2, *Board Member Estimated Expense Approval Form*; 5:60-E1, *Employee Expense Reimbursement Form*; and 5:60-E2, *Employee Estimated Expense Approval Form*.
5. May approve expenses that exceed the Board’s maximum allowable reimbursement amount by a roll call vote at an open meeting when an emergency or other extraordinary circumstance exists.
6. Must approve its members’ expenses by a roll call vote at an open meeting.

Attested by: _____, Board President

Attested by: _____, Board Secretary

School Board

Types of School Board Meetings ¹

General

For all meetings of the School Board and its committees, the Superintendent or designee shall satisfy all notice and posting requirements contained herein as well as in the Open Meetings Act. This shall include mailing meeting notifications to news media that have officially requested them and to others as approved by the Board.² Unless otherwise specified, all meetings are held in the District's main office.³ Board policy 2:220, *School Board Meeting Procedure*, governs meeting quorum requirements.

The Superintendent is designated on behalf of the Board and each Board committee to receive the training on compliance with the Open Meetings Act that is required by Section 1.05(a) of that Act. The Superintendent may identify other employees to receive the training.⁴ In addition, each Board member must complete a course of training on the Open Meetings Act as required by Section 1.05(b) or (c) of that Act. ⁵

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

¹ State law controls this policy's content. The provisions of the Open Meetings Act (OMA) do not apply to collective bargaining negotiations and grievance arbitrations as provided in 115 ILCS 5/18.

² 5 ILCS 120/2.02. These responsibilities may be given to anyone.

³ State law only requires that meetings be held in a location convenient and open to the public and no open meeting is allowed to be held on a legal holiday unless the regular meeting day falls on that holiday (5 ILCS 120/2.01). According to an Ill. Atty. Gen. Public Access Counselor Opinion, a board may not meet in a private residence because it would not be convenient and open to the public (PAO 12-8). A board meeting 26 miles away from its regular location, while open to the public, was inconvenient because "the public, as a practical matter, would be deterred from attending it" (PAO 13-14). Any person may record an open meeting (5 ILCS 120/2.05). See policy 2:220, *School Board Meeting Procedure*.

⁴ Each board must designate at least one employee or member to receive training on compliance with OMA (5 ILCS 120/1.05). Revise this paragraph if the board designates other individual(s) to receive the training. A list of designated individual(s) must be submitted to the Attorney General's Public Access Counselor. The designated individual(s) must successfully complete an electronic training curriculum administered by the Attorney General's Public Access Counselor within 30 days after that designation, and thereafter must successfully complete an annual training program. The OMA does not specify duties for the designated individuals who receive the training but presumably they would assist the board in its OMA compliance efforts.

⁵ 5 ILCS 120/1.05(b) applies to training administered by the Attorney General's office; 1.05(c) applies to training administered by IASB. Board members elected or appointed after 1-1-2012 must complete the training not later than 90 days after taking the oath of office. Even before this law, compliance with the OMA has always been considered a shared responsibility of board members. Failing to complete the OMA training does not affect the validity of an action taken by the board nor is it considered a criminal violation (5 ILCS 120/1.05(b)) and 120/4. However, a person found to have violated any other provisions of the OMA is guilty of a Class C misdemeanor punishable by a \$1500 fine or 30 days in jail (5 ILCS 120/4).

Regular Meetings

The Board announces the time and place for its regular meetings at the beginning of each fiscal year.⁶ The Superintendent shall prepare and make available the calendar of regular Board meetings. The regular meeting calendar may be changed with ~~10-ten~~ days' notice in accordance with State law.⁷

A meeting agenda shall be posted at the District's main office and the Board's meeting room, or other location where the meeting is to be held, at least 48 hours before the meeting.⁸

Closed Meetings⁹

The Board and Board committees may meet in a closed meeting to consider the following subjects:

1. The appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee of the public body or against legal counsel for the public body to determine its validity.¹⁰ However, a meeting to consider an increase in compensation to a specific employee of a public body that is subject to the Local Government Wage Increase Transparency Act may not be closed and shall be open to the public and posted and held in accordance with [the Open Meetings Act], 5 ILCS 120/2(c)(1), amended by P.A. 99-646.¹¹

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

⁶ The OMA and the School Code have different provisions regarding the establishment of a regular meeting schedule. The OMA requires each public body to prepare and make available a regular meeting schedule at the beginning of each calendar or fiscal year (5 ILCS 120/2.03). The School Code states that this task is accomplished during the organizational meeting. By *announcing* the schedule at the beginning of each calendar or fiscal year and by *fixing* the schedule at the organizational meeting, a board can implement both laws. Note that the phrase in this sample policy, "at the beginning of each fiscal year," can be changed to "at the beginning of each calendar year."

⁷ Regular meeting dates may be changed by giving at least 10 days' notice in a newspaper of general circulation and posting a notice at the district's main office (5 ILCS 120/2.03). Districts with a population of less than 500, in which no newspaper is published, may give the ~~10-ten~~ days' notice by posting a notice in at least ~~3-three~~ prominent places within the district, in addition to posting a notice at the district's main office (*Id.*). Notice shall also be given to those news media having filed an annual request to receive notifications (*Id.*).

⁸ 5 ILCS 120/2.02(a). The posting location may need modification to comply with the law's requirement that the agenda be posted at the district's main office. For agenda requirements, see policy 2:220, *School Board Meeting Procedure*. OMA also requires that "any requested ~~red~~ notice and agenda for the meeting be *continuously available* for public ~~review~~ *viewing* during the entire 48-hour period preceding the meeting." Emphasis added, 5 ILCS 120/2.02(c). The requirement for *continuously available* is satisfied if the district posts any required notice and agenda on its website. However, to comply with the legislative intent, posting on the district website does not replace the posting described in this sentence. See Rep. Pihos remarks reported in *New open-meetings law; is hard-copy posting of agendas still required?*, Sept. 2012, Illinois Bar Journal.

For districts that do not post board meeting agendas on a website (because they do not have a website maintained by a fulltime staff member), add the following sentence:

The agenda shall be continuously available for public review during the entire 48-hour period preceding the meeting.

If a notice or agenda is not continuously available for the full 48-hour period due to actions outside of the district's control, the lack of availability does not invalidate any meeting or action taken.

⁹ The reasons for closed meetings are frequently addressed in court decisions and Attorney General opinions; only a few of these decisions/opinions are mentioned in the footnotes.

¹⁰ "Th[is] exception is not intended to allow private discussion of fiscal matters, notwithstanding that they may directly or indirectly impact the employees of the public body." See PAOs 12-11 and 15-03. Discussing the elimination of an employee's position for reasons unrelated to the performance of the employee is not within the scope of Section 2(c)(1). See PAO 15-07. Nor does the exception permit a public body to hold closed sessions to discuss employees in general or issues that may ultimately have an impact on employees. See PAO 15-05.

¹¹ The Local Government Wage Increase Transparency Act, 50 ILCS 155/1, added by P.A. 99-646, allows disclosable payments (described below) to IMRF employees only when the school board has first discussed the specific payment to be made at a meeting open to the public and posted and held in accordance with the requirements of the Open Meetings Act.

2. Collective negotiating matters between the public body and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees. 5 ILCS 120/2(c)(2). 12
3. The selection of a person to fill a public office, as defined in the Open Meetings Act, including a vacancy in a public office, when the public body is given power to appoint under law or ordinance, or the discipline, performance or removal of the occupant of a public office, when the public body is given power to remove the occupant under law or ordinance. 5 ILCS 120/2(c)(3).
4. Evidence or testimony presented in open hearing, or in closed hearing where specifically authorized by law, to a quasi-adjudicative body, as defined in the Open Meetings Act, provided that the body prepares and makes available for public inspection a written decision setting forth its determinative reasoning. 5 ILCS 120/2(c)(4).
5. The purchase or lease of real property for the use of the public body, including meetings held for the purpose of discussing whether a particular parcel should be acquired. 5 ILCS 120/2(c)(5).
6. The setting of a price for sale or lease of property owned by the public body. 5 ILCS 120/2(c)(6).
7. The sale or purchase of securities, investments, or investment contracts. 5 ILCS 120/2(c)(7).
8. Security procedures, school building safety and security, and the use of personnel and equipment to respond to an actual, a threatened, or a reasonably potential danger to the safety of employees, students, staff, the public, or public property. 5 ILCS 120/2(c)(8), amended by P.A. 99-235, eff. 1-1-16.
9. Student disciplinary cases. 5 ILCS 120/2(c)(9).
10. The placement of individual students in special education programs and other matters relating to individual students. 5 ILCS 120/2(c)(10).
11. Litigation, when an action against, affecting or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that an action is probable or imminent, in which case the basis for the finding shall be recorded and entered into the minutes of the closed meeting. 5 ILCS 120/2(c)(11).
12. The establishment of reserves or settlement of claims as provided in the Local Governmental and Governmental Employees Tort Immunity Act, if otherwise the disposition of a claim or potential claim might be prejudiced, or the review or discussion of claims, loss or risk

The provisions apply only to disclosable payments made to participating employees under Article Seven of the Illinois Pension Code (IMRF) who began participation before 1-1-11 and who are not subject to a collective bargaining agreement with respect to the employment upon which the participation is based.

Disclosable payments means a payment, whether in the form of an increase in the rate of earnings or a lump-sum payment, that would:

1. Be made by a participating employer to a participating employee after the employee has expressed to the employer his or her intent to retire or withdraw from service;
2. Have the effect of increasing the employee's reportable monthly earnings from that employer by more than 6% compared to the previous month; and
3. Be made between 12 months and 90 days prior to the employee's expected termination of service.

It does not include a refund of contributions or any payment required to be paid by State or federal law.

12 Discussing a hiring freeze is not within the scope of Section 2(c)(2). See PAO 15-07. And if a public body is not engaged in collective bargaining at the time of the meeting, discussion of a hiring freeze does not constitute a collective negotiating matter. Id.

management information, records, data, advice or communications from or with respect to any insurer of the public body or any intergovernmental risk management association or self insurance pool of which the public body is a member. 5 ILCS 120/2(c)(12).

13. Self evaluation, practices and procedures or professional ethics, when meeting with a representative of a statewide association of which the public body is a member. 5 ILCS 120/2(c)(16). ¹³
14. Discussion of minutes of meetings lawfully closed under the Open Meetings Act, whether for purposes of approval by the body of the minutes or semi-annual review of the minutes as mandated by Section 2.06. 5 ILCS 120/2(c)(21).
15. Meetings between internal or external auditors and governmental audit committees, finance committees, and their equivalents, when the discussion involves internal control weaknesses, identification of potential fraud risk areas, known or suspected frauds, and fraud interviews conducted in accordance with generally accepted auditing standards of the United States of America. 5 ILCS 120/2(c)(29).

The Board may hold a closed meeting, or close a portion of a meeting, by a majority vote of a quorum, taken at an open meeting. The vote of each Board member present, and the reason for the closed meeting, will be publicly disclosed at the time of the meeting and clearly stated in the motion and the meeting minutes. ¹⁴

A single motion calling for a series of closed meetings may be adopted when such meetings will involve the same particular matters and are scheduled to be held within ~~3~~three months of the vote. ¹⁵

No final Board action will be taken at a closed meeting. ¹⁶

Reconvened or Rescheduled Meetings

A meeting may be rescheduled or reconvened. Public notice of a rescheduled or reconvened meeting shall be given in the same manner as that for a special meeting, except that no public notice is required when the original meeting is open to the public and: (1) is to be reconvened within 24 hours, or (2) an announcement of the time and place of the reconvened meeting was made at the original meeting and there is no change in the agenda. ¹⁷

Special Meetings

Special meetings may be called by the President or by any ~~3~~three members of the Board by giving notice thereof, in writing, stating the time, place, and purpose of the meeting to remaining Board

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

¹³ IASB field services directors are available to facilitate a board self-evaluation.

¹⁴ 5 ILCS 120/2a. Provided the open meeting was properly noticed, no additional notice is required to close the meeting. A motion to close a meeting can be as simple as, "I move that the Board hold [go into] a closed session to discuss [state one of the closed meeting grounds with reference to the specific section authorizing the closed meeting]."

The adequacy of a motion to go into closed session was discussed in Henry v. Anderson and Champaign Community Unit School Dist. No. 4, 827 N.E.2d 522 (Ill.App.4, 2005). A statutory citation is not required in the motion to go into closed session, but the OMA does require a reference to the specific exception. The *litigation* exception is tricky. If the litigation has been filed and is pending, the motion to go into closed session need only state that the board will discuss litigation that has been filed and is pending. If the litigation has not been filed, the board must: (1) find that the litigation is probable or imminent, and (2) record and enter into the minutes the basis for that finding.

¹⁵ *Id.*

¹⁶ 5 ILCS 120/2(e). See also PAOs 13-03, 13-07, and 14-01.

¹⁷ 5 ILCS 120/2.02.

members by mail at least 48 hours before the meeting, or by personal service at least 24 hours before the meeting. 18

Public notice of a special meeting is given by posting a notice at the District's main office at least 48 hours before the meeting and by notifying the news media that have filed a written request for notice. A meeting agenda shall accompany the notice. 19

All matters discussed by the Board at any special meeting must be related to a subject on the meeting agenda. 20

Emergency Meetings

Public notice of emergency meetings shall be given as soon as practical, but in any event, before the meeting to news media that have filed a written request for notice. 21

Posting on the District Website 22

In addition to the other notices specified in this policy, the Superintendent or designee shall post the following on the District website: 1) the annual schedule of regular meetings, which shall remain posted until the Board approves a new schedule of regular meetings; (2) a public notice of all Board meetings; and (3) the agenda for each meeting which shall remain posted until the meeting is concluded.

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

18 105 ILCS 5/10-16 (~~two~~ members of a board of directors; 105 ILCS 5/10-6). Lawyers disagree whether ~~three~~ members may call a special meeting without violating the OMA, although there is general agreement that no violation occurs if ~~three~~ members call a special meeting while they are participating in a lawful board committee meeting with the matter on the agenda.

19 5 ILCS 120/2.02. News media that gave the board an address or telephone number within the district's territorial jurisdiction must be given notice in the same manner as given board members.

OMA requires that "any required notice and agenda be *continuously available* for public viewing during the entire 48-hour period preceding the meeting." Emphasis added, 5 ILCS 120/2.02(c). The requirement for *continuously available* is satisfied if the district posts any required notice and agenda on its website. Posting on the district website does not replace the posting described in this paragraph. See *f/n 8*.

For districts that do not post board meeting notices and agendas on a website (because they do not have a website maintained by a fulltime staff member), add the following sentence:

The notice and agenda shall be continuously available for public review during the entire 48-hour period preceding the meeting.

20 Lawyers disagree whether the Open Meetings Act mandates this restriction, i.e., whether it restricts board *discussions* to items related to an item on the special meeting agenda. The Act limits board *action* to items on the agenda (5 ILCS 120/2.02(c); it states that the validity of any action taken "which is germane to a subject on the agenda shall not be affected by other errors or omissions in the agenda," (5 ILCS 120/2.02(a)). For agenda requirements, see policy 2:220, *School Board Meeting Procedure*.

21 5 ILCS 120/2.02(a).

22 Required *only if* the district has a website that is maintained by a full-time staff member; if not, this section may be omitted (5 ILCS 120/2.02). Note that 5 ILCS 120/2.02(b) requires that a notice of *all* meetings be posted on the district website, but only notices of *regular* meetings must remain posted until the *regular* meeting is concluded. As this is an obvious oversight, it is wise to leave the notice of every meeting on the website until after the meeting occurred. The agenda must remain on the district website until the meeting is concluded (*Id.*).

LEGAL REF.: 5 ILCS 120/, Open Meeting Act.
5 ILCS 140/, Freedom of Information Act.
105 ILCS 5/10-6 and 5/10-16.

CROSS REF.: 2:110 (Qualifications Term, and Duties of Board Officers), 2:120 (Board Member Development), 2:210 (Organizational School Board Meetings), 2:220 (School Board Meeting Procedure), 2:230 (Public Participation at School Board Meetings and Petitions to the Board), 6:235 (Access to Electronic Networks)

School Board

Administrative Procedure - Types of School Board Meetings

Meeting Type	Notice	Agenda	Notice to News Media	District's Website ¹
Regular	<p>Given once a year when the Board adopts its regular meeting schedule. 105 ILCS 5/10-6, 5/10-16.</p> <p>The notice and agenda must be continuously available for public review during the entire 48-hour period before the meeting. Posting on the District's website satisfies the requirement for continuous posting. However, to comply with the legislative intent, posting on the District's website does not replace the posting described in the Agenda column.</p> <p>5 ILCS 120/2.02, amended by P.A. 97-827 (eff. 1-1-2013).</p>	<p>Post at the District's main office and at the meeting site, at least 48 hours before the meeting.</p> <p>5 ILCS 120/2.02.</p>	<p>Give to any news media that filed an annual request for such notices.</p> <p>5 ILCS 120/2.02.</p>	<p>Post the annual schedule of regular meetings and post a public notice of each meeting along with the meeting agenda.</p> <p>5 ILCS 120/2.02.</p> <p>Post regular Board meeting minutes within 10⁷ days after approval; the minutes remain there for at least 60 days.</p> <p>5 ILCS 120/2.06.</p>
Special	<p>Post a notice at the District's main office or, if no main office exists, at the meeting site, at least 48 hours before the meeting.</p> <p>5 ILCS 120/2.02.</p> <p>The notice and agenda must be continuously available and/or posted on the District's website as provided in the Regular meeting row.</p> <p>Notice to Board members must be served by mail 48 hours before the meeting or by personal service 24 hours before the meeting.</p> <p>105 ILCS 5/10-16.</p>	<p>Include with the public notice.</p> <p>5 ILCS 120/2.02.</p>	<p>Give to any news media that files an annual request. Must also give the same notice as that given Board members if the news media provides an address or telephone number within the District's jurisdiction.</p> <p>5 ILCS 120/2.02.</p>	<p>Post a public notice of each meeting along with the meeting agenda, at least 48 hours before the meeting. The notice and agenda must remain posted on the website until the meeting is concluded.</p> <p>5 ILCS 120/2.02.</p>
Emergency	<p>Post the notice at the District's main office or, if no main office exists, at the meeting site, as soon as practicable before the meeting.</p> <p>5 ILCS 120/2.02.</p> <p>The notice and agenda must be continuously available and/or posted on the District's website as provided in the Regular meeting row.</p>	<p>No State law requirements.</p>	<p>Same as for special meetings.</p>	<p>Post a public notice.</p> <p>5 ILCS 120/2.02.</p>

The footnotes should be removed before the material is used.

¹ Required *only if* the district has a website that is maintained by a full-time staff member; if not, this column may be omitted (5 ILCS 120/2.06(b)).

Meeting Type	Notice	Agenda	Notice to News Media	District's Website 1
	No specific notice to Board members is specified, but it is advisable to provide the notice as soon as possible.			
Closed	May hold a closed meeting, or close a portion of an open meeting, upon a majority vote of a quorum present, taken at a properly noticed open meeting. 5 ILCS 120/2a.	None required, but only topics specified in the vote to hold the closed meeting may be considered. 5 ILCS 120/2a.	No additional notice required.	Post a public notice. 5 ILCS 120/2.02.
Rescheduled or Reconvened	Post a notice at the District's main office or, if no main office exists, at the meeting site at least 48 hours before the meeting. 5 ILCS 120/2.02. The notice and agenda must be continuously available and/or posted on the District's website as provided in the Regular meeting row. No notice is needed when an open meeting is reconvened within 24 hours, or when the time and place of a reconvened meeting was announced at the original meeting and the agenda is not changed. 5 ILCS 120/2.02.	Included with any public notice.	Same as for a special meeting.	Post a public notice. 5 ILCS 120/2.02.

School Board

School Board Meeting Procedure ¹

Agenda

The School Board President is responsible for focusing the Board meeting agendas on appropriate content.² The Superintendent shall prepare agendas in consultation with the Board President. The President shall designate a portion of the agenda as a consent agenda for those items that usually do not require discussion or explanation before Board action. Upon the request of any Board member, an item will be withdrawn from the consent agenda and placed on the regular agenda for independent consideration.³

Each Board meeting agenda shall contain the general subject matter of any item that will be the subject of final action at the meeting.⁴ Items submitted by Board members to the Superintendent or the President shall be placed on the agenda for an upcoming meeting.⁵ District residents may suggest inclusions for the agenda.⁶ The Board will take final action only on items contained in the posted agenda; items not on the agenda may still be discussed.⁷

The Superintendent shall provide a copy of the agenda, with adequate data and background information, to each Board member at least 48 hours before each meeting, except a meeting held in the event of an emergency.⁸ The meeting agenda shall be posted in accordance with Board policy 2:200, *Types of School Board Meetings*.

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 boards to have a policy concerning: (1) the public's right to record meetings (5 ILCS 120/2.05), and (2) if applicable, attendance by video or audio means (5 ILCS 120/7). Boards are not mandated to have a policy on the remaining topics covered in this policy. The following items are matters of local discretion: agenda preparation and contents, process for board members to have items placed on agenda, receipt and handling of residents' requests for agenda inclusions, and order of business.

² Appropriate agenda content includes: establishing board processes, clarifying the district's purpose, delegating authority, defining operating limits, monitoring district progress, and taking legally required board action. See *IASB Foundational Principles of Effective Governance*.

³ To comply with the Open Meetings Act's mandate that minutes contain a "summary of discussion on all matters proposed, deliberated, or decided," a board should include a list of consent items in the agenda.

⁴ 5 ILCS 120/2.02(c), amended by P.A. 97-827 (eff. 1-1-2013). The Ill. Appellate Court held that the Open Meetings Act prohibits a board from voting on a matter at a regular meeting that is not on the pre-meeting published agenda (*Rice v. Board of Trustees of Adams County*, 762 N.E.2d 1205 (Ill.App.4, 2002)).

⁵ An alternative follows:

Any Board member may submit suggested agenda items to the Board President for his or her consideration.

⁶ See policy 2:230, *Public Participation at School Board Meetings and Petitions to the Board*. In districts governed by a board of school directors, an appointed board official must give a person requesting consideration of a matter by the board a formal written response no later than 60 days after receiving the request. The response must establish a meeting before the board or list the reasons for denying the request (105 ILCS 5/10-6).

Options follow to restrict the addition of new agenda items; the phrases between [] may be used together, separately, or eliminated.

Discussion items may be added to the agenda [at the beginning of a regular meeting] [upon unanimous approval of those Board members present].

⁷ An opinion from the Ill. Public Access Counselor found no violation of the OMA when a board removed an item from the agenda within the 48-hour notice time period (PAO 14-3). Removals inform the public that the board does not plan to proceed on the topic.

⁸ State law does not require this, except that 105 ILCS 5/10-16 requires members to receive a written notice of a special meeting that includes the meeting's purpose.

The Board President shall determine the order of business at regular Board meetings. Upon consent of a majority of members present, the order of business at any meeting may be changed.

Voting Method

Unless otherwise provided by law, when a vote is taken upon any measure before the Board, with a quorum being present, a majority of the votes cast shall determine its outcome.⁹ A vote of *abstain* or *present*, or a vote other than *yea* or *nay*, or a failure to vote, is counted for the purposes of determining whether a quorum is present. A vote of *abstain* or *present*, or a vote other than *yea* or *nay*, or a failure to vote, however, is not counted in determining whether a measure has been passed by the Board, unless otherwise stated in law. The sequence for casting votes is rotated.¹⁰

On all questions involving the expenditure of money and on all questions involving the closing of a meeting to the public, a roll call vote shall be taken and entered in the Board's minutes. An individual Board member may request that a roll call vote be taken on any other matter; the President or other

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⁹ In most situations, the failure of a member to vote has the effect of acquiescence or concurrence with the majority of votes cast. Prosser v. Village of Fox Lake, 438 N.E.2d 134 (Ill., 1982); People v. Bertrand, 2012 IL App (1st) 111419 (9-28-2012) 978 N.E.2d 681 (Ill.App.1, 2012). For example, a motion passes with a vote of ~~2-two yeas~~, ~~1-one nay~~, and ~~4-four abstentions~~. A motion fails with a vote of ~~2-two yeas~~, ~~3-three nays~~, and ~~2-two abstentions~~. A motion fails with a vote of ~~3 three yeas~~, ~~3-three nays~~, and one *abstain* because there is no majority. Exceptions include when a statute requires the *affirmative vote* of a majority or extra. Statutory exceptions include the following board actions:

1. Dismissing a teacher for any reason other than reduction of staff or elimination of that position requires approval by the majority of all members (105 ILCS 5/24-12).
2. Directing the sale of district real property or buildings thereon must be approved by at least 2/3 of the board members (105 ILCS 5/5-22, amended by P.A. 99-794, eff. 1-1-17), unless the sale is residential property constructed or renovated by students as part of a curricular program, in which case, the board could engage the services of a licensed real estate broker to sell the property for a commission not to exceed 7%, contingent upon the public listing of the property on a multiple listing service for a minimum of 14 calendar days and a sale of the property happens within 120 days.
3. Making or renewing a lease of school property to another school district or municipality or body politic and corporate for a term longer than ~~40-ten~~ years, or to alter the terms of such a lease whose unexpired term exceeds 10 years, requires approval by at least 2/3 of the board's full membership (105 ILCS 5/10-22.11).
4. Leasing any building, rooms, grounds, and appurtenances to be used by the district for school or administration purposes for a term longer than ~~40-ten~~ years, or to alter the terms of such a lease whose unexpired term exceeds ~~40-ten~~ years, requires approval by at least 2/3 of the board's full membership (105 ILCS 5/10-22.12).
5. Obtaining personal property by lease or installment contract requires approval by an affirmative vote of at least 2/3 of the board members. *Personal property* includes computer hardware and software and all equipment, fixtures, and improvements to existing district facilities to accommodate computers (105 ILCS 5/10-22.25a).
6. Adopting a supplemental budget after a successful referendum requires approval by a majority of the full board (105 ILCS 5/17-3.2).
7. Petitioning the circuit court for an emergency election requires approval by a majority of the members (10 ILCS 5/2A-1.4).
8. Expending funds in emergency situation in the absence of required bidding requires approval by at least 3/4 of the board (105 ILCS 5/10-20.21).
9. Exchanging school building sites requires approval by at least a 2/3 majority of the board (105 ILCS 5/5-23).
10. Waiving the administrative cost cap requires approval by an affirmative vote of at least 2/3 of the board (105 ILCS 5/17-1.5).
11. Authorizing an advisory question of public policy to be placed on the ballot at the next regularly scheduled election requires approval by a majority of the board (105 ILCS 5/9-1.5).

¹⁰ Voting sequence is at the board's discretion. A board may indicate how frequently it changes the voting sequence by adding *after each vote*, *monthly*, or *annually* to the end of the sentence. All board members, including officers, may make motions and vote.

presiding officer may approve or deny the request but a denial is subject to being overturned by a majority vote of the members present.¹¹

Minutes

The Board Secretary shall keep written minutes of all Board meetings (whether open or closed), which shall be signed by the President and the Secretary.¹² The minutes include: ¹³

1. The meeting's date, time, and place;
2. Board members recorded as either present or absent;
3. A summary of the discussion on all matters proposed, deliberated, or decided, and a record of any votes taken;
4. On all matters requiring a roll call vote, a record of who voted *yea* and *nay*;
5. If the meeting is adjourned to another date, the time and place of the adjourned meeting;
6. The vote of each member present when a vote is taken to hold a closed meeting or portion of a meeting, and the reason for the closed meeting with a citation to the specific exception contained in the Open Meetings Act authorizing the closed meeting;
7. A record of all motions, including individuals making and seconding motions;
8. Upon request by a Board member, a record of how he or she voted on a particular motion;¹⁴ and
9. The type of meeting, including any notices and, if a reconvened meeting, the original meeting's date.

The minutes shall be submitted to the Board for approval or modification at its next regularly scheduled open meeting. Minutes for open meetings must be approved within 30 days after the meeting or at the second subsequent regular meeting, whichever is later. ¹⁵

At least semi-annually in an open meeting, the Board: (1) reviews minutes from all closed meetings that are currently unavailable for public release, and (2) decides which, if any, no longer require confidential treatment and are available for public inspection.¹⁶ The Board may meet in a prior closed

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¹¹ This paragraph's first sentence contains the requirements in 105 ILCS 5/10-7. The second sentence is optional and may be deleted or amended. Other optional provisions include:

- Option 1: Any Board member may include a written explanation of his or her vote in the District file containing individual Board member statements; the explanation will not be part of the minutes.
- Option 2: Any Board member may request that his or her vote be changed before the President announces the result.

¹² 105 ILCS 5/10-7 and 5 ILCS 120/2.06. The minutes are the only record showing that the board took official action, including necessary prerequisites to make such action legally sufficient. A non-member recording secretary or clerk may be given these responsibilities (105 ILCS 5/10-14).

¹³ All items listed are required to be recorded in minutes **except** items 7-9; other items may be included at the board's discretion (5 ILCS 120/2.06 and 120/2a; 105 ILCS 5/10-7). The Ill. Public Access Counselor found a board's vague reference to a *personnel matter* insufficient to meet the requirements of #3 (PAO 13-07).

¹⁴ The intent behind this optional item is to give an individual member a means of recording his or her support or opposition to a motion that was taken by oral vote; it will record that the individual took an alternative position to that of the majority without having the minutes recite unnecessary detail.

¹⁵ Required by 5 ILCS 120/2.06(b).

¹⁶ Required by 5 ILCS 120/2.06(c). While board notes from closed sessions may be confidential under the Freedom of Information Act, they may be discoverable by the opposing party in a lawsuit. *Bobkoski v. Cary School Dist.* 26, 141 F.R.D. 88 (N.D. Ill., 1992).

The failure to strictly comply with the semi-annual review does not cause the written minutes or related verbatim record to become public, provided that the board, within 60 days of discovering its failure to strictly comply, reviews the closed session minutes and reports the result of that review in open session (5 ILCS 120/2.06).

session to review the minutes from closed meetings that are currently unavailable for public release. 17

The Board's meeting minutes must be submitted to the Board Treasurer at such times as the Treasurer may require. 18

The official minutes are in the custody of the Board Secretary.19 Open meeting minutes are available for inspection during regular office hours within ten days after the Board's approval;20 they may be inspected in the District's main office, in the presence of the Secretary, the Superintendent or designee, or any Board member.

Minutes from closed meetings are likewise available, but only if the Board has released them for public inspection, except that Board members may access closed session minutes not yet released for public inspection (1) in the District's administrative offices or their official storage location, and (2) in the presence of the Recording Secretary, the Superintendent or designated administrator, or any elected Board member.21 The minutes, whether reviewed by members of the public or the Board, shall not be removed from the District's administrative offices or their official storage location Superintendent's office except by vote of the Board or by court order.22

The Board's open meeting minutes shall be posted on the District website within ten days after the Board approves them; the minutes will remain posted for at least 60 days. 23

Verbatim Record of Closed Meetings

The Superintendent, or the Board Secretary when the Superintendent is absent, shall audio record all closed meetings.24 If neither is present, the Board President or presiding officer shall assume this responsibility. After the closed meeting, the person making the audio recording shall label the recording with the date and store it in a secure location. The Superintendent shall ensure that: (1) an audio recording device and all necessary accompanying items are available to the Board for every closed meeting, and (2) a secure location for storing closed meeting audio recordings is maintained close to the Board's regular meeting location. 25

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

17 5 ILCS 120/2 allows boards to discuss the confidentiality needs of closed meeting minutes in closed meetings.

18 Required by 105 ILCS 5/10-7.

19 Optional provision: "A copy of the minutes is kept in a secure location appropriate for valuables."

20 Required by 5 ILCS 120/2.06.

21 5 ILCS 120/2.06(e), amended by P.A. 99-515. The listed individuals in the statute are matched to the titles in the IASB Policy Reference Manual. If the board wishes to mirror the statutory language, delete: ~~the Recording Secretary, the Superintendent or designated administrator, or any elected Board member~~ and replace with: "a records secretary, an administrative official of the public body, or any elected official of the public body."

See the discussion in paragraph two of f/n 27 below about what *in the presence of* means.

22 *Id.*

23 Posting on the website is required *only if* the district has a website that is maintained by a full-time staff member; if not, this sentence may be omitted (5 ILCS 120/2.06(b)).

24 Boards must keep a verbatim record of their closed meetings in the form of an audio or video recording (5 ILCS 120/2.06, amended by P.A. 99-515). This sample policy uses audio recording only; a board that uses a video recording should amend this policy and exhibit 2:220-E1, *Board Treatment of Closed Meeting Verbatim Recordings and Minutes*.

The interests of continuity, efficiency, and ease of holding someone accountable suggest that the superintendent be made responsible for making and storing the verbatim recordings. If the superintendent is not present, e.g., during discussions concerning the superintendent's contract, the tasks should be given to a board member.

25 Alternatively, use: "is maintained within the District's administrative main offices or their official storage location."

After 18 months have passed since being made, the audio recording of a closed meeting is destroyed provided the Board approved: (1) its destruction, and (2) minutes of the particular closed meeting. 26

Individual Board members may access ~~listen to~~ verbatim recordings in the presence of the Recording Secretary, the Superintendent or designated administrator, or any elected Board member.²⁷ Access to the verbatim recordings is available at the District's administrative offices or the verbatim recording's official storage location.²⁸ Requests shall be made to the Superintendent or Board President, ~~when that action is~~ While a Board member is listening to a verbatim recording, it shall not be re-recorded or removed from the District's main office or official storage location, except by vote of the Board or by court order.²⁹

Before making such requests, Board members should consider whether such requests are germane to their responsibilities, service to District, and/or Oath of Office in policy 2:80, *Board Member Oath and Conduct*. In the interest of encouraging free and open expression by Board members during closed meetings, the recordings of closed meetings should not be used by Board members to confirm or dispute the accuracy of recollections. 30

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²⁶ This paragraph paraphrases 5 ILCS 120/2.06(c). No notification to, or the approval of, a records commission or the State Archivist is needed if a recording is destroyed under the conditions listed.

²⁷ 5 ILCS 120/2.06(e), amended by P.A. 99-515. The listed individuals align with the other titles used in the IASB Policy Reference Manual. If the board wishes to mirror the statute, delete: ~~the Recording Secretary, the Superintendent or designated administrator, or any elected Board member~~ and replace with: "a records secretary, an administrative official of the public body, or any elected official of the public body."

The intent of the *in the presence of* language is meant to protect both (1) the verbatim recordings/closed session minutes (see f/n 21 above), and (2) the board members requesting access to them. It ensures that a school district official is present at all times when a requesting board member accesses the verbatim recording/closed session minutes. The requirement is meant to prevent misuse and removal of the verbatim recording/closed session minutes from the district offices or official storage location. It is also meant to protect the board member who requests the access from being alone and in a situation where he or she could potentially be accused of tampering with or taking the verbatim recording/closed session minutes.

Consult the board attorney about:

1. The practice of sending an *appointed* board member to be present with a board member who requests access to verbatim recordings/closed session minutes. 105 ILCS 120/2.06(e) states, "any *elected* member of the Board;" appointed is not listed but is mentioned elsewhere in the language of this section of the law;
2. Access to verbatim recordings/closed session minutes by other officials employed by the district, e.g., superintendent or other high-level administrators and even the board attorney; and
3. How this law affects the sharing of closed session minutes with board members prior to a meeting at which the closed session minutes will be approved.

The intent of P.A. 99-515 was to manage a board member's *individual* request for access to these items in his or her individual capacity (see 2:80, *Board Member Oath and Conduct*), not change prior practices in regard to other officials and board attorneys or the required work of school boards under various laws. While many attorneys do not interpret the new law to restrict access or change procedures for these other high-level school officials and attorneys employed by the district, some attorneys do and it is important to obtain legal advice on this specific issue.

²⁸ Id.

²⁹ Id.

³⁰ This paragraph is optional. It provides boards an opportunity to discuss and encourage each member to carefully think about purposes for their requests to listen to verbatim recordings, which historically has been and should continue to be to "access information relevant to the exercise of duties" for the public body. Intra-board conflicts may escalate if the recording is used to confirm or dispute who-said-what. Prior to P.A. 99-515, the Open Meetings Act did (and still does) allow boards to release these types of information (5 ILCS 120/2.06(e)). Further, Att'y Gen. Op. 32, 1996, opined that board members cannot be denied access to information relevant to the exercise of his or her duties. Board members should evaluate whether their requests under P.A. 99-515 are "relevant to the exercise of their duties" before making such requests. Confirming or disputing who-said-what diverts resources away from operations of the district in educating its students. Additional considerations in listening to verbatim recordings may include personnel and student records confidentiality issues, which should be discussed with the board attorney.

Quorum and Participation by Audio or Video Means 31

A quorum of the Board must be physically present at all Board meetings. A majority of the full membership of the Board constitutes a quorum.

Provided a quorum is physically present, a Board member may attend a meeting by video or audio conference if he or she is prevented from physically attending because of: (1) personal illness or disability, (2) employment or District business, or (3) a family or other emergency. If a member wishes to attend a meeting by video or audio means, he or she must notify the recording secretary or Superintendent at least 24 hours before the meeting unless advance notice is impractical. The recording secretary or Superintendent will inform the Board President and make appropriate arrangements. A Board member who attends a meeting by audio or video means, as provided in this policy, may participate in all aspects of the Board meeting including voting on any item.

Rules of Order

Unless State law or Board-adopted rules apply, the Board President, as the presiding officer, will use Robert's Rules of Order, Newly Revised (10th Edition), as a guide when a question arises concerning procedure. 32

Broadcasting and Recording Board Meetings

Any person may record or broadcast an open Board meeting.³³ Special requests to facilitate recording or broadcasting an open Board meeting, such as seating, writing surfaces, lighting, and access to electrical power, should be directed to the Superintendent at least 24 hours before the meeting.

Recording meetings shall not distract or disturb Board members, other meeting participants, or members of the public. The Board President may designate a location for recording equipment, may restrict the movements of individuals who are using recording equipment, or may take such other steps as are deemed necessary to preserve decorum and facilitate the meeting.

LEGAL REF.: 5 ILCS 120/2a, 120/2.02, 120/2.05, and 120/2.06.
105 ILCS 5/10-6, 5/10-7, 5/10-12, and 5/10-16.

CROSS REF.: 2:80 (Board Member Oath and Conduct), 2:200 (Types of School Board Meetings), 2:150 (Committees), 2:210 (Organizational School Board Meeting), 2:230 (Public Participation at School Board Meetings and Petitions to the Board)

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

³¹ 5 ILCS 120/2.01 and 120/7. See also 105 ILCS 5/10-6 and 5/10-12. In order to allow attendance by video or audio means, a board must adopt a policy conforming to the restrictions in the Open Meetings Act. The statute requires the board member who wishes to attend remotely to notify the "recording secretary or clerk of the public body." The policy includes the superintendent as a possible person to receive the notice. Everything in this section is required aside from provisions on the length of notification that is given the secretary and the process for accommodating the request. Alternatively, a board may: (1) prohibit members from participating by video or audio means by omitting this section, (2) add other requirements, or (3) alter the 24 hour notification. Note that the statute does not contemplate someone either *approving* or *denying* a request, only that the request be accommodated if the notification is provided.

³² Boards are not required to follow any particular rules of order. Rules, however, must be in writing and available for public inspection, in order to have any legal effect (105 ILCS 5/10-20.5).

³³ The public's right to record meetings must be addressed in board policy (5 ILCS 120/2.05). However, a provision requiring advance notice to record a meeting is invalid (PAO 12-10).

School Board

Exhibit - Board Treatment of Closed Meeting Verbatim Recordings and Minutes

The following procedures govern the verbatim audio recordings and minutes of School Board meetings that are closed to the public.

Actor	Action
<p><i>Before any Board meeting:</i> Superintendent or designee</p>	<p>Arranges to have an audio recording device with extra recording tapes and a back-up audio recording device in the Board meeting room during every Board meeting regardless of whether a closed meeting is scheduled. ¹</p> <p>The Board may close a portion of a public meeting without prior notice; it cannot, however, have a closed meeting unless it can record the session.</p>
<p><i>Before a closed meeting:</i> Board President or presiding officer</p>	<p>On the closed meeting date: (1) convenes an open meeting, (2) requests a motion to adjourn into closed meeting making sure the reason for the meeting is identified in the motion, (3) takes a roll call vote, (4) asks that the minutes record the vote of each member present and the reason for the closed meeting with a citation to the specific exception contained in the Open Meetings Act (OMA) authorizing the closed meeting (5 ILCS 120/2a), and (5) adjourns the open meeting.</p>
<p><i>Before a closed meeting:</i> Superintendent or Board Secretary ²</p>	<p>Immediately before a closed meeting, tests and activates the audio recording device.</p>
<p><i>During a closed meeting:</i></p>	<p>Convenes the closed meeting stating:</p>

The footnotes should be removed before the material is used.

¹ A verbatim record of all closed meetings in the form of an audio or video recording must be kept (5 ILCS 120/2.06, amended by P.A. 99-515). ~~A board deciding to use a video recording should amend this board procedure to so reflect. A verbatim recording may be through made using an audio or video technology recording.~~ The IASB sample policy and exhibit procedure use just audio recording on the basis that audio is generally more accessible less invasive than video recording. In addition, producing an audio recording is generally less challenging and less expensive than producing a video. ~~A board that uses a video recording should amend this exhibit and policy 2:220, School Board Meeting Procedure.~~

² This responsibility may be given to anyone. The interests of continuity, efficiency, and ease of holding someone accountable suggest that the superintendent be made responsible for making and storing the verbatim recordings and managing board member requests for later access to them pursuant to 5 ILCS 120/2.06 (e), amended by P.A. 99-515. If the superintendent is not present in closed session (e.g., during discussions concerning the superintendent's performance as part of an evaluation in his or her absence) the task should be given to the board secretary. A board may also want to discuss renting a safety deposit box at a local financial institution that only the board president and secretary have access to for placement of audio recordings concerning the superintendent's performance as part of an evaluation in the superintendent's absence. See f/n 5 below for a discussion of board member access to the verbatim recordings pursuant to 5 ILCS 120/2.06 (e), amended by P.A. 99-515. However, consult the board attorney about the logistics of managing a storage location away from the district's administrative offices in light of 5 ILCS 120/2.06 (e), amended by P.A. 99-515. This law added another purpose for access to verbatim recordings, allowing board members to listen to them without board approval.

See f/n 5 for a discussion about the logistics of access to these recordings, including the intent of the *in the presence of* language.

Actor	Action
Board President or presiding officer	<p>Seeing a quorum of the Board of Education gathered today, ___ date, at ___ o'clock, at ___ location, for the purpose of holding a closed meeting in order to confidentially discuss ___, I call the meeting to order. In order to record who is present, I request that each individual state his or her name and position with the District. (NOTE: This script is an example.)</p> <p>Limits discussion to the topics that were included in the motion to go into a closed meeting.</p> <p>The failure to immediately call a person out-of-order who strays from the purposes included in the motion may result in an appearance of acquiescence. This responsibility to call a person out-of-order falls on each Board member in the event of the President's failure. ³</p> <p>Once the closed meeting is finished, announces a return to an open meeting or adjournment, and states the time.</p>
<p><i>After a closed meeting:</i></p> <p>Superintendent, Recording Secretary, or Board Secretary ⁴</p>	<p><u>For Verbatim Recordings:</u></p> <p>Takes possession of the audio recording of the closed meeting and labels it with identification information, specifically the date and items discussed.</p> <p>Adds the identification information contained on the audio recording's label to a cumulative list of closed meeting recordings.</p> <p>As soon as possible, puts the recording of the closed meeting in the previously identified secure location for storing recordings of closed meetings.</p> <p><u>Upon request of a Board member: ⁵</u></p>

The footnotes should be removed before the material is used.

³ A violation of the Open Meetings Act is a Class C misdemeanor (5 ILCS 120/4) punishable by a fine of up to \$1500 and imprisonment for up to 30 days (720 ILCS 5/8/3, 5-9-1).

⁴ See ~~the discussion in footnote f/n 23, above~~^{supra}. While the responsibilities for the *preparation and storage of verbatim recordings and closed session minutes* may be delegated to anyone, 5 ILCS 120/2.06(e), amended by P.A. 99-515 (adding another purpose for access to verbatim recordings and closed session minutes) requires certain individuals to be present when seated board members request access to these items, which in these instances will not allow delegation by the superintendent, recording secretary, or board secretary (as discussed in f/n 2, above) in the context of supervising access to closed session minutes and verbatim recordings only. Delegation is appropriate in all other circumstances. Access to these items no longer requires board approval and must be provided in the public body's main office or official storage location, in the presence of:

- a. A records secretary,
- b. An administrative official of the board, or
- c. Any elected board member.

See f/n 27 of policy 2:220, School Board Meeting Procedure for an at-length discussion about the intent of and challenges with the in the presence of language.

⁵ 5 ILCS 120/2.06(e), amended by P.A. 99-515 added another purpose for access to verbatim recordings, allowing board members to access them without board approval. For more discussion, see f/n 4, above.

If the board wishes to mirror the statutory language, delete: ~~the Recording Secretary, the Superintendent or designated administrator, or any elected Board member~~ and replace with: "a records secretary, an administrative official of the public body, or any elected official of the public body."

Actor	Action
	<p>1. <u>Provides access to the verbatim recordings minutes at a reasonable time and place without disrupting District operations;</u></p> <p>2. <u>Supervises the access to the closed session minutes or delegates it to one of the following individuals in the District:</u></p> <p>a. <u>The Recording Secretary,</u></p> <p>b. <u>The Superintendent or designated administrator, or</u></p> <p>c. <u>Any elected Board member; and</u></p> <p>3. <u>Logs the access to the recordings in 2:220-E7, <i>Access to Closed Meeting Minutes and Verbatim Recordings.</i></u></p> <p><u>For Closed Meeting Minutes:</u></p> <p>Prepares written closed meeting minutes that include: 6</p> <ul style="list-style-type: none"> • The date, time, and place of the closed meeting • The Board members present and absent • A summary of discussion on all matters proposed or discussed • The time the closed meeting was adjourned <p>Upon request of a Board member: 7</p> <p>1. <u>Provides access to the closed session minutes at a reasonable time and place without disrupting District operations;</u></p> <p>2. <u>Supervises the access to the closed session minutes or delegates it to one of the following individuals in the District:</u></p> <p>a. <u>The Recording Secretary,</u></p> <p>b. <u>The Superintendent or designated administrator, or</u></p> <p>c. <u>Any elected Board member; and</u></p> <p>3. <u>Logs the access in 2:220-E7, <i>Access to Closed Meeting Minutes and Verbatim Recordings.</i></u></p>
<p><i>After a closed meeting:</i></p> <p>School Board</p>	<p>Approves the previous closed meeting minutes at the next open meeting.</p>
<p><i>In preparation for the semi-annual review:</i> 8</p> <p>Superintendent or designee</p>	<p>Prepares a recommendation concerning the continued need for confidential treatment of closed meeting minutes; includes this recommendation in the packet for the meeting in which the Board will conduct its semi-annual review. 9</p>

The footnotes should be removed before the material is used.

6 5 ILCS 120/2.06, requires that minutes contain, at a minimum, the first ~~three~~3 items listed.

7 5 ILCS 120/2.06(e), amended by P.A. 99-515 added another purpose for access to closed session minutes, allowing board members to access them without board approval. For more discussion, see f/n 4, above.

If the board wishes to mirror the statutory language, delete: ~~the Recording Secretary, the Superintendent or designated administrator, or any elected Board member~~ and replace with: "a records secretary, an administrative official of the public body, or any elected official of the public body."

8 Required by 5 ILCS 120/2.06(d).

9 While not required, this is intended to assist board members during the semi-annual review of all closed meeting minutes.

Actor	Action
	<p>This step is in preparation of the Board’s meeting to decide whether the need for confidential treatment of specific closed meeting minutes continues to exist.</p> <p>If the Board wants to discuss closed meeting minutes in closed session, places “review of unreleased closed meeting minutes” on a closed meeting agenda. ¹⁰</p> <p>Places “result of Board’s review of unreleased closed meeting minutes” as an item on a subsequent open meeting agenda.</p>
<p><i>In preparation for the semi-annual review:</i></p> <p>Individual Board members</p>	<p>Before the meeting in which the Board will conduct its semi-annual review, examines the material supplied by the Superintendent.</p> <p>Individual Board members should consider: (1) the Superintendent’s recommendation, (2) the recommendation of the Board Attorney, (3) other Board members’ opinions, (4) the minutes themselves, and/or (5) whether the minutes would be exempted from public disclosure under the Illinois Freedom of Information Act.</p>
<p><i>During the semi-annual review:</i></p> <p>School Board</p>	<p>The Board decides in open session whether: (1) the need for confidentiality still exists as to all or part of closed meeting minutes, or (2) the minutes or portions thereof no longer require confidential treatment and are available for public inspection.</p> <p>The Board may have an earlier meeting in closed session to discuss the continued need for confidential treatment.</p>
<p><i>After the semi-annual review:</i></p> <p>Superintendent or designee</p>	<p>Re-labels and re-files closed meeting minutes as appropriate.</p>
<p><i>Monthly:</i></p> <p>Board President</p>	<p>Adds “destruction of closed meeting audio recording” as an agenda item to an upcoming open meeting.</p>
<p><i>Monthly:</i></p> <p>School Board</p>	<p>Approves the destruction of particular closed meeting recording(s) that are at least 18 months old and for which approved minutes of the closed meeting already exist.</p>

LEGAL REF.: 5 ILCS 120/1 et seq.

The footnotes should be removed before the material is used.

¹⁰ 5 ILCS 120/2 allows boards to discuss the confidentiality needs of closed meeting minutes in closed session.

School Board

Exhibit - Motion to Adjourn to Closed Meeting

Motion to Adjourn to Closed Meeting

Date: _____ Time: _____

Location: _____

A motion was made by _____, and seconded by _____, to adjourn to closed meeting to discuss:

- The appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the District or legal counsel for the District, including hearing testimony on a complaint lodged against an employee or against legal counsel for the District to determine its validity. However, a meeting to consider an increase in compensation to a specific employee of a public body that is subject to the Local Government Wage Increase Transparency Act may not be closed and shall be open to the public and posted and held in accordance with this Act. 5 ILCS 120/2(c)(1), amended by P.A. 99-646.
- Collective negotiating matters between the District and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees. 5 ILCS 120/2(c)(2).
- The selection of a person to fill a public office, including a vacancy in a public office, when the District is given power to appoint under law or ordinance, or the discipline, performance or removal of the occupant of a public office, when the District is given power to remove the occupant under law or ordinance. 5 ILCS 120/2(c)(3).
- Evidence or testimony presented in open hearing, or in closed hearing where authorized by law, to a quasi-judicative body, as defined in the Open Meetings Act, provided that the body prepares and makes available for public inspection a written decision with its determinative reasoning. 5 ILCS 120/2(c)(4).
- The purchase or lease of real property for the use of the District, including meetings held for the purpose of discussing whether a particular parcel should be acquired. 5 ILCS 120/2(c)(5).
- The setting of a price for sale or lease of property owned by the District. 5 ILCS 120/2(c)(6).
- The sale or purchase of securities, investments, or investment contracts. 5 ILCS 120/2(c)(7).
- Security procedures, school building safety and security, and the use of personnel and equipment to respond to an actual, a threatened, or a reasonably potential danger to the safety of employees, students, staff, the public, or public property. 5 ILCS 120/2(c)(8), amended by P.A. 99-235.
- Student disciplinary cases. 5 ILCS 120/2(c)(9).
- The placement of individual students in special education programs and other matters relating to individual students. 5 ILCS 120/2(c)(10).
- Litigation, when an action against, affecting or on behalf of the particular District has been filed and is pending before a court or administrative tribunal, or when the District finds that an action is probable or imminent, in which case the basis for the finding shall be recorded and entered into the closed meeting minutes. 5 ILCS 120/2(c)(11).
- The establishment of reserves or settlement of claims as provided in the Local Government and Governmental Employees Tort Immunity Act, if otherwise the disposition of a claim or potential claim might be prejudiced, or the review or discussion of claims, loss or risk management information, records, data, advice or communications from or with respect to any insurer of the District or any intergovernmental risk management association or self insurance pool of which the District is a member. 5 ILCS 120/2(c)(12).
- Self-evaluation, practices and procedures or professional ethics, when meeting with a representative of a statewide association of which the District is a member. 5 ILCS 120/2(c)(16).
- Discussion of minutes of meetings lawfully closed, whether for purposes of approval by the body of the minutes or semi-annual review of the minutes as mandated by Section 2.06. 5 ILCS 120/2(c)(21).
- Meetings between internal or external auditors and governmental audit committees, finance committees, and their equivalents, when the discussion involves internal control weaknesses, identification of potential fraud risk areas, known or suspected frauds, and fraud interviews conducted in accordance with generally accepted auditing standards of the United States of America. 5 ILCS 120/2(c)(29).

Closed Meeting Roll Call:

"Yeas"	"Nays"

Motion: Carried Failed

School Board

Exhibit - Open Meeting Minutes ¹

Meeting Minutes Protocol

1. Meeting minutes are the permanent record of the proceedings during a School Board meeting. All Board action must be recorded in the minutes; thus, the minutes focus on Board action.
2. The minutes only include information provided at the meeting. Information may not be corrected or updated in the minutes unless it was discussed at the meeting.
3. Minutes include a summary of the Board's discussion on an agenda topic; the minutes do not state what is said verbatim. The minutes do not repeat the same point made by different individuals. If appropriate, the minutes include a brief background and an explanation of the circumstances surrounding an issue discussed. The minutes do not include the names of members making specific points during discussion. Requests from individual Board members to include their vote or an opinion are handled according to Board policy 2:220, *School Board Meeting Procedure*.
4. The minutes include the topic of reports that are made to the Board including reports from the Superintendent or a Board committee. Written reports are filed with the minutes but do not become part of the minutes.
5. The minutes note when a member is not present for the entire meeting due to late arrival and/or early departure.
6. Although items may be considered by the Board in a different order than appeared on the agenda, items in the minutes are generally recorded in the same order as they appeared on the agenda. When a meeting is reconvened on a different date, the minutes must describe what happened on each meeting date.
7. The minutes should be recorded in an objective but positive/constructive tone. Answers and explanations, rather than questions, are recorded. Writing style, including choice of words and sentence structure, is at the discretion of the individual recording the minutes.
8. The minutes include individuals' names who speak during the meeting's public participation segment as well as the topics they address. All written documents presented at a Board meeting are filed with the minutes but do not become part of the minutes.
9. The following template generally governs meeting minutes.

¹ Other than the required inclusions, the listed meeting protocols are at the board's discretion. They should facilitate a discussion and common understanding concerning what the board wants recorded in its meeting minutes. The required inclusions for meeting minutes are: (5 ILCS 120/2.06)

1. The meeting's date, time, and place;
2. Board members recorded as either physically present, remotely present, or absent;
3. A summary of the discussion on all matters proposed, deliberated, or decided, and a record of any votes taken;
4. On all matters requiring a roll call vote, a record of who voted *yea* and/or *nay*;
5. If the meeting is adjourned to another date, the time and place of the adjourned meeting; and
6. When a vote is taken to hold a closed meeting, the vote of each member and the reason for the closed meeting with a citation to the specific exception authorizing the closed meeting.

Open Meeting Minutes

Date: _____ Time: _____

Location: _____

Type of meeting: Regular Special Reconvened or rescheduled Emergency

Name of person taking the minutes: _____

Name of person presiding: _____

Members in attendance:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.

Members absent:

- 1.
- 2.
- 3.

Members in attendance remotely:

- 1.
- 2.
- 3.

Approval of Agenda

List any items removed from the consent agenda:

Motion made by: _____

Motion: To approve

To add items as follows: *(No action may be taken on new agenda items.)*

Motion seconded by: _____

Action: Passed Failed

Approval of Previous Meeting Minutes *(Needed only if this item is not on the consent agenda.)*

Minutes from the Board meeting held on: _____

Motion made by: _____

Motion: To approve

To approve subject to incorporation of the following amendment(s):

Motion seconded by: _____

Action: Passed Failed

Approval of Items on Consent Agenda *(Delete if the Board does not use a consent agenda. This may include expense advancements, reimbursements, and/or purchase orders regulated by the Local Government Travel Expense Control Act (see Board policies 2:125, Board Member Compensation; Expenses, and 5:60, Expenses))*

Summary of discussion:

Motion to approve the consent agenda made by: _____

Motion seconded by: _____

Roll Call: *(Needed when consent agenda contains an item involving the expenditure of money.)*

“Yeas”

“Nays”

Action: Passed Failed

Public Comments *(Reproduce this section for each individual making a comment.)*

The following individual appeared and commented on the topic noted below: *(Include the title of any documents presented to the Board.)*

Name: _____

Topic:

Remaining Agenda Items *(Reproduce this section for each agenda item.)*

Agenda item:

Summary of discussion:

Motion made by: _____

Motion to:

Motion seconded by: _____

Action: Passed Failed

(If a roll call vote occurred, record the vote of individual Board members.)

“Yeas”

“Nays”

If Applicable, Approval of Motion to Adjourn to Closed Meeting *(Insert 2:220-E2, Motion to Adjourn to Closed Meeting.)*

Approval of Motion to Adjourn

Motion to adjourn made by: _____

Motion seconded by: _____

Action: Passed Failed

Time of adjournment: _____

Post-Meeting Action

Date minutes approved: _____

Date minutes were available for public inspection: _____

Date minutes were posted on District website: _____

School Board

Exhibit - Semi-Annual Review of Closed Meeting Minutes

Logging and Review Process

- Step 1. The Board Secretary or Recording Secretary maintains a log of the closed meeting minutes that are unavailable for public inspection. The meeting minutes are logged according to the reason the Board held the closed meeting. 2:220-E6, *Log of Closed Meeting Minutes*.
- Step 2. The Board meets in closed session to review the log of unreleased closed meeting minutes. The Board or Recording Secretary brings a copy of all unreleased closed meeting minutes and, if requested, allows Board members to review the actual minutes. The Board identifies which closed meeting minutes or portions thereof no longer need confidential treatment. Use *Report Following the Board's Semi-Annual Review of Closed Meeting Minutes*, below.
- Step 3. At least semi-annually in an open meeting, the Board takes action to release for public inspection those minutes, or portions thereof, no longer needing confidential treatment. Use *Action to Accept*, below. Closed meeting minutes will not be released for public inspection if confidential treatment is needed to protect the public interest or the privacy of an individual, including: (1) student disciplinary cases or other matters relating to an individual student, and (2) personnel files and employees' and Board members' personal information.
- Step 4. The Board or Recording Secretary: (1) updates the log of unreleased closed meeting minutes to remove any minutes that the Board made available for public inspection; (2) makes a notation on any applicable closed meeting minutes of the Board's action to release it or a portion of it for public inspection; ~~and~~ (3) continues to log new closed meeting minutes that the Board has not released for public inspection (~~—~~2:220-E6, *Log of Closed Meeting Minutes*), and (4) maintains logs for access to closed session minutes pursuant to 5 ILCS 120/2.06(e), amended by P.A. 99-515.

Report Following the Board's Semi-Annual Review of Closed Meeting Minutes

The School Board met on _____ in closed session to conduct its semi-annual review of closed meeting minutes that have not been released for public inspection.

The closed meeting minutes, or portions thereof, from the following dates no longer require confidential treatment: *(insert closed meeting dates)*

--	--	--	--	--	--

The need for confidentiality still exists as to all remaining closed meeting minutes to protect an individual's privacy or the District's interests.

Action to Accept the Board's Semi-Annual Review of Closed Meeting Minutes

Open meeting date: _____

Motion to approve the Board's semi-annual review of unreleased closed meeting minutes and to release for public inspection those minutes, or portions thereof, that the Board identified as no longer needing confidential treatment made by: _____

Motion seconded by: _____

Action: Passed Failed

School Board

Exhibit - Log of Closed Meeting Minutes

The purpose of this log is to facilitate the Board's semi-annual review of closed meeting minutes. See 2:220-E5, *Semi-Annual Review of Closed Meeting Minutes*.

The Board Secretary or Recording Secretary shall maintain a list of closed meeting minutes, arranged according to the reason for the closed meeting, that have not been released for public inspection.

Closed Session Held to Discuss:	Dates of Closed Sessions		
Specific employee(s) or District legal counsel; however, a meeting to consider an increase in compensation to a specific employee of a public body that is subject to the Local Government Wage Increase Transparency Act may not be closed and shall be open to the public and posted and held in accordance with [the Open Meetings Act], 5 ILCS 120/2(c)(1), amended by P.A. 99-646.			
Collective negotiating matters or deliberations concerning salary schedules for one or more classes of employees. 5 ILCS 120/2(c)(2).			
Selection of a person to fill a vacancy on the Board. 5 ILCS 120/2(c)(3).			
Evidence or testimony presented in a hearing where authorized by law. 5 ILCS 120/2(c)(4).			
Purchase or lease of real property. 5 ILCS 120/2(c)(5).			
Setting of a price for sale or lease of District property. 5 ILCS 120/2(c)(6).			
Sale or purchase of securities, investments, or investment contracts. 5 ILCS 120/2(c)(7).			
Security procedures and the use of personnel			

Closed Session Held to Discuss:	Dates of Closed Sessions		
and equipment to respond to an actual, a threatened, or a reasonably potential danger. 5 ILCS 120/2(c)(8).			
Student disciplinary cases. 5 ILCS 120/2(c)(9). <i>Minutes of meetings held for this reason shall never be released to protect the individual student's privacy.</i>			
Any matter involving an individual student. 5 ILCS 120/2(c)(10). <i>Minutes of meetings held for this reason shall never be released to protect the individual student's privacy.</i>			
Litigation, when an action against, affecting, or on behalf of the District has been filed and is pending before a court or administrative tribunal, or when the Board finds that an action is probable or imminent. 5 ILCS 120/2(c)(11).			
Establishment of reserves or settlement of claims as provided in the Local Government and Governmental Employees Tort Immunity Act or discussion of claims, loss or risk management information, records, data, advice or communications from or with respect to any insurer of the District or any intergovernmental risk management association or self insurance pool. 5 ILCS 120/2(c)(12).			
Self-evaluation, practices and procedures or professional ethics, when meeting with an IASB representative. 5 ILCS 120/2(c)(16).			
Minutes of meetings lawfully closed, whether for purposes of approval or semi-annual review. 5 ILCS 120/2(c)(21).			
Meetings between internal or external auditors and governmental audit committees, finance committees, and their equivalents, when the discussion involves internal control weaknesses, identification of potential fraud risk areas, known or suspected frauds, and fraud interviews conducted in accordance with generally accepted auditing standards of the United States of America. 5 ILCS 120/2(c)(29).			

School Board

Exhibit - Access to Closed Meeting Minutes and Verbatim Recordings

The Board must allow its duly elected officials or appointed officials filling a vacancy of an elected office access to closed session minutes and verbatim recordings (5 ILCS 120/2.06(e)), amended by P.A. 99-515. The following subheads implement the logistics of granting this access.

Note: If the board wishes to mirror the statutory language, replace checkboxes below with: " Records Secretary; Administrative official of the public body; and Any elected official of the public body."

Access to Closed Meeting Minutes

Duplicate this section for each grant of access to closed meeting minutes.

Date: _____ Time: _____ Storage Location: _____

Name of person(s) responsible for storing the closed meeting minutes: _____

Access granted

Date access occurred: _____ Start time: _____ End time: _____

Requesting Board member's name *(Please print)* _____

In the presence of: *(Check appropriate box and insert name on line.)*

- Recording Secretary _____
- Superintendent or designated administrator _____
- Elected Board member _____

For requesting Board member: *(Read the following and sign below.)*

While the Open Meetings Act does not provide a cause of action against me or the Board for disclosing closed session discussions (Swanson v. Board of Police Commissioners, 555 N.E. 2d 35 (1990)), I acknowledge and understand that any disclosures by me of information in the closed session minutes not yet released to the public could subject me to a possible civil action alleging that I created harm to another, i.e., an intentional tort(s).

Requesting Board Member Signature

Date

Verbatim Recording Access

Duplicate this section for each grant of access to verbatim recordings.

Date: _____ Time: _____ Storage Location: _____

Name of person(s) responsible for storing the verbatim recording: _____

Access granted

Date access occurred: _____ Start time: _____ End time: _____

Requesting Board member's name *(Please print)* _____

In the presence of: *(Check appropriate box and insert name on line.)*

Recording Secretary _____

Superintendent or designated administrator _____

Elected Board member _____

Access denied **Access unavailable.** Verbatim recording requested is older than 18 months and was destroyed pursuant to 5 ILCS 120/2.06(c).

For requesting Board member: *(Read the following and sign below.)*

While the Open Meetings Act does not provide a cause of action against me or the Board for disclosing closed session discussions (Swanson v. Board of Police Commissioners, 555 N.E. 2d 35 (1990)), I acknowledge and understand that any disclosures by me of information in the verbatim recordings could subject me to a possible civil action alleging that I created harm to another, i.e., an intentional tort(s).

Requesting Board Member Signature

Date

School Board

Exhibit - School Board Records Maintenance Requirements and FAQs

Open Meetings Act

The Open Meetings Act (OMA) requires public bodies to “keep written minutes of all their meetings, whether open or closed, and a verbatim record of all their closed meetings in the form of an audio or video recording.” 5 ILCS 120/2.06(a). Minutes must include, but are not limited to: (1) the date, time, and place of the meeting; (2) the members of the public body recorded as either present or absent and whether the members were physically present or present by means of video or audio conference; and (3) a summary of discussion on all matters proposed, deliberated, or decided, and record of any votes taken. *Id.*

The remainder of Section 2.06 addresses the approval of open meeting minutes, the treatment of verbatim recordings of closed meetings, the semi-annual review of closed meeting minutes, the confidential nature of closed meeting minutes, and the right of persons to address public officials under rules established and recorded by the public body. The requirements of Section 2.06, as well as OMA requirements pertaining to Board agendas, are included in policy 2:220, *School Board Meeting Procedure*.

Exhibit 2:220-E3, *Closed Meeting Minutes*, provides a sample template for keeping closed meeting minutes that incorporates the requirements of Section 2.06 of OMA. It also includes an area to designate if the Board has determined, pursuant to Section 2.06(d), that the closed meeting minutes no longer need confidential treatment.

Exhibit 2:220-E4, *Open Meeting Minutes*, contains an open meeting minute’s protocol that incorporates the requirements of Section 2.06 of OMA. It also provides a sample template for keeping open meeting minutes.

Exhibit 2:220-E5, *Semi-Annual Review of Closed Meeting Minutes*, contains a process for implementing the semi-annual review of closed meeting minutes, and exhibit 2:220-E6, *Log of Closed Meeting Minutes*, is designed to facilitate this semi-annual review.

Local Records Act

The Local Records Act (LRA) provides that public records, including “any book, paper, map, photograph, digitized electronic material, or other official documentary material, regardless of physical form or characteristics, made, produced, executed or received by any agency or officer pursuant to law or in connections with the transaction of public business and preserved or appropriate for preservation by such agency or officer” must be preserved unless the State Local Records Commission has given permission to destroy those records. 50 ILCS 205/3 and 7. Board records, including agendas, meeting packets and meeting minutes, fall into this definition.

Public bodies located in Cook County must work with the Local Records Commission of Cook County to determine how long they must retain public records. Public bodies located outside of Cook County must work with the Downstate Local Records Commission to determine how long they must retain public records.

Policy 2:250, *Access to District Public Records*, contains a subhead entitled **Preserving Public Records** which provides as follows:

Public records, including email messages, shall be preserved and cataloged if: (1) they are evidence of the District's organization, function, policies, procedures, or activities, (2) they contain informational data appropriate for preservation, (3) their retention is required by State or federal law, or (4) they are subject to a retention request by the Board Attorney (e.g., a litigation hold), District auditor, or other individual authorized by the School Board or State or federal law to make such a request. Unless its retention is required as described in items numbered 3 or 4 above, a public record, as defined by the Illinois Local Records Act, may be destroyed when authorized by the Local Records Commission.

See the sample policy, 2:200, *School Board Meeting Procedure*, for all relevant footnotes. Also see administrative procedure 2:250-AP2, *Protocols for Record Preservation and Development of Retention Schedules*, for recommendations regarding school district records retention protocols and links to web-based record management resources.

Open Meeting Minutes

Are you required to approve them?	Must they be semi-annually reviewed?	May you release them to the public?	May you destroy them?
<p>Yes, within 30 days or at the next subsequent meeting, whichever is later.</p> <p><i>A public body shall approve the minutes of its open meeting within 30 days after that meeting or at the public body's second subsequent regular meeting, whichever is later.</i> 5 ILCS 120/2.06(b).</p>	<p>No.</p> <p>Unlike the closed meeting requirement, OMA does not contain semi-annual review requirements for open meeting minutes.</p>	<p>Yes, must within ten days after minutes are approved.</p> <p><i>The minutes of meetings open to the public shall be available for public inspection within 10 days after the approval of such minutes by the public body. Beginning July 1, 2006, at the time it complies with other requirements of this subsection, a public body that has a website that the full-time staff of the public body maintains shall post the minutes of a regular meeting of its governing body open to the public on the public body's website within 10 days after the approval of the minutes by the public body. Beginning July 1, 2006, any minutes of meetings open to the public posted on the public body's website shall remain posted on the website for at least 60 days after their initial posting.</i> 5 ILCS 120/2.06(b).</p>	<p>No.</p> <p>There is no OMA provision permitting the destruction of open meeting minutes, and they must be preserved unless the State Local Records Commission has given permission to destroy them.</p> <p>If a public body would like to destroy open meeting minutes, then it must comply with the LRA and work with its Local Records Commission. It is highly unlikely, however, that the Local Records Commission would approve of their destruction.</p>

Open Meeting Verbatim Recordings

Are you required to approve them?	Must they be semi-annually reviewed?	May you release them to the public?	May you destroy them?
<p>No.</p> <p>OMA does not require public bodies to approve verbatim recordings of open meetings.</p>	<p>No.</p> <p>Unlike the closed meeting requirement, OMA does not require public bodies to keep verbatim recordings of open meetings. OMA does not contain semi-annual review requirements for open meeting verbatim recordings.</p>	<p>Yes.</p> <p>Unlike the closed meeting requirement, OMA does not require public bodies to keep verbatim recordings of open meetings. If a public body makes verbatim recordings of open meetings, then such recordings are subject to public disclosure pursuant to the Freedom of Information Act (5 ILCS 140/).</p>	<p>Possibly.</p> <p>If a public body would like to destroy open meeting verbatim recordings, then it must comply with the LRA and work with its Local Records Commission.</p>

Closed Meeting Minutes

Are you required to approve them?	Must they be semi-annually reviewed?	May you release them to the public?	May you destroy them?
<p>Yes.</p> <p>OMA does not directly state public bodies are required to approve closed meeting minutes, nor does it set a time frame for such approval. However, OMA Section 2.06(d) requires public bodies to meet at least semi-annually to “review minutes of all closed meetings.” 5 ILCS 120/2.06(d).</p> <p>Moreover, OMA Section 2.06(c) specifically allows the destruction of closed meeting verbatim recordings only if certain conditions are met, one of which is that “the public body approves minutes of the closed meeting that meet the written minutes requirements of subsection (a) of this Section.” 5 ILCS 120/2.06(c)(2). Both of these tasks would be difficult to achieve if closed meeting minutes were not</p>	<p>Yes.</p> <p><i>Each public body shall periodically, but not less than semi-annually, meet to review all existing minutes of all prior closed meetings (this includes records from all time that the board has been in existence). At such meetings a determination shall be made, and reported in an open session that (1) the need for confidentiality still exists as to all or part of those minutes or (2) that the minutes or portions thereof no longer require confidential treatment and are available for public inspection.</i> 5 ILCS 120/2.06(d).</p>	<p>Yes, if prerequisites are met.</p> <p><i>Minutes of meetings closed to the public shall be available only after the public body determines that it is no longer necessary to protect the public interest or the privacy of an individual by keeping them confidential.</i> 5 ILCS 120/2.06(f).</p>	<p>No.</p> <p>There is no OMA provision permitting the destruction of closed meeting minutes, and they must be preserved unless the State Local Records Commission has given permission to destroy them.</p> <p>In addition, per OMA Section 2.06(f), as amended by P.A. 99-515:</p> <p><i>No minutes of meetings closed to the public shall be removed from the public body's main office or official storage location, except by vote of the public body or by court order.</i> 5 ILCS 120/2.06(f).</p> <p>If a public body would like to destroy closed meeting minutes, then it must comply with the LRA and work with its Local Records Commission. It is highly unlikely, however, that the Local Records</p>

Are you required to approve them?	Must they be semi-annually reviewed?	May you release them to the public?	May you destroy them?
<p>first approved.</p> <p>One practice is to approve closed meeting minutes within the same time frame that open meeting minutes are approved – within 30 days of the meeting or at the next subsequent meeting, whichever is later.</p>			Commission would approve of their destruction.

Closed Meeting Verbatim Recordings

Are you required to approve them?	Must they be semi-annually reviewed?	May you release them to the public?	May you destroy them?
<p>No.</p> <p>OMA does not require approval of closed meeting verbatim recordings.</p>	<p>No.</p> <p>OMA does not require semi-annual review of closed meeting verbatim recordings.</p>	<p>Possibly but unlikely.</p> <p><i>Unless the public body has made a determination that the verbatim recording no longer requires confidential treatment or otherwise consents to disclosure, the verbatim record of a meeting closed to the public shall not be open for public inspection or subject to discovery in any administrative or judicial proceeding other than one brought to enforce this Act.</i> 5 ILCS 120/2.06(e).</p> <p>But see <u>Kodish v. Oakbrook Terrace Fire Protection District</u> (235 F.R.D. 447 (N.D. IL. 2006)), where a federal district court ordered that closed meeting verbatim recordings be disclosed to the Plaintiff in discovery because his primary claim was brought under federal law.</p>	<p>Yes, after 18 months if prerequisites are met.</p> <p><i>The verbatim record may be destroyed without notification to or the approval of a records commission or the State Archivist under the Local Records Act or the State Records Act no less than 18 months after the completion of the meeting recorded but only after: 1.) the public body approves the destruction of a particular recording; and 2.) the public body approves minutes of the closed meeting that meet the written minutes requirements of subsection (a) of this Section.</i> 5 ILCS 120/2.06(c).</p> <p>In addition, per OMA Section 2.06(f), as amended by P.A. 99-515:</p> <p><i>No verbatim recordings shall be recorded or removed from the public body's main office or official storage location, except by vote of the public body or by court order.</i> 5 ILCS 120/2.06(e).</p>

School Board

Access to District Public Records ¹

Full access to the District's *public records* is available to any person as provided in the Illinois Freedom of Information Act (FOIA), this policy, and implementing procedures. The Superintendent or designee shall: (1) provide the Board with sufficient information and data to permit the Board to monitor the District's compliance with FOIA and this policy, and (2) report any FOIA requests during the Board's regular meetings along with the status of the District's response. ²

Freedom of Information Officer ³

The Superintendent shall serve as the District's Freedom of Information Officer and assumes all the duties and powers of that office as provided in FOIA and this policy. The Superintendent may delegate these duties and powers to one or more designees, but the delegation shall not relieve the Superintendent of the responsibility for the action that was delegated.

Definition ⁴

The District's *public records* are defined as records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary material pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of the School District.

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

¹ The Illinois Freedom of Information Act (FOIA) governs the subject matter in this policy (5 ILCS 140/). School districts are required to make public records available to any person for inspection or copying, unless they fall within an exception (5 ILCS 140/3(a)). The *f/n*s only discuss sections of FOIA that are relevant to school districts. State law does not explicitly require boards to adopt a policy on access to their records. However, a board policy is the logical instrument to memorialize the actions that are required to implement FOIA. The laws limiting the disclosure of employee evaluations are discussed in *f/n* 7.

Any person denied access to a public record may request a review by the Ill. Public Access Counselor (PAC) established in the office of the Attorney General (5 ILCS 140/9.5). As a result of the review, the PAC may issue an opinion binding on the requester and public body. IASB reports on the opinions relevant to school districts on its website at:

www.iasb.com/law/decisions.cfm?SubjectArea=Freedom%20of%20Information%20Act%20-%20FOIA.

² This sentence allows a board to monitor the district's compliance with FOIA. This is an important duty as illustrated by FOIA's provision stating: "It is a fundamental obligation of government to operate openly and provide public records as expeditiously and efficiently as possible." The School Code requires the FOIA report described in #2 (105 ILCS 5/10-16); it is optional, however, for districts governed by a board of school directors.

³ Each board must designate one or more official(s) or employee(s) to act as its freedom of information officer(s) (5 ILCS 140/3.5)(referred to in the *f/n*s as *FOIA Officer*). A board may replace *Superintendent* in this paragraph with another job title, or may replace the paragraph with one of the alternatives below:

Alternative 1: The Board will appoint an employee to serve as the District's Freedom of Information Officer. That appointee assumes all the duties and powers of that office as provided in FOIA and this policy.

Alternative 2: The Superintendent shall appoint an employee, who may be himself or herself, to [continue as with alternative 1].

⁴ The definition is quoted from 5 ILCS 140/2(c). Substitute the following alternative for this paragraph if desired: "The definition of *public records*, for purposes of this policy, is the definition contained in Section 2(c) of FOIA without amendment."

Requesting Records 5

A request for inspection and/or copies of public records must be made in writing and may be submitted by personal delivery, mail, telefax, or email directed to the District's Freedom of Information Officer. Individuals making a request are not required to state a reason for the request other than to identify when the request is for a commercial purpose or when requesting a fee waiver. The Superintendent or designee shall instruct District employees to immediately forward any request for inspection and copying of a public record to the District's Freedom of Information Officer or designee.

Responding to Requests

The Freedom of Information Officer shall approve all requests for public records unless:

1. The requested material does not exist; 6
2. The requested material is exempt from inspection and copying by the Freedom of Information Act; 7 or
3. Complying with the request would be unduly burdensome. 8

Within five business days after receipt of a request for access to a public record, the Freedom of Information Officer shall comply with or deny the request, unless the time for response is extended as specified in Section 3 of FOIA.⁹ The Freedom of Information Officer may extend the time for a response for up to five business days from the original due date.¹⁰ If an extension is needed, the Freedom of Information Officer shall: (1) notify the person making the request of the reason for the

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

⁵ This section restates 5 ILCS 140/3(c). Districts may, but are not required to, accept oral requests. Compliance with an oral request may stave off the formal written request and permit more flexibility in the response. Add this option if the district wants to accept oral requests: "Oral requests may be accepted provided personnel are available to handle them." The response to an oral request should be documented. Districts may provide a request form for convenience but may not require its use. See 2:250-E1, *Written Request for District Public Records*.

⁶ FOIA does not require a public body to create a record (5 ILCS 140/1). However, compiling information already in the public body's possession into a different format in order to respond to a FOIA request does not constitute the creation of a new record (PAO 15-10). See also Hites v. Waubensee Community College, 2016 WL 150836 (Ill.App.Ct. June 6, 2016)(holding that databases which house aggregations of data and no not merely store documents are subject to FOIA).

⁷ 5 ILCS 140/7 and 140/7.5 describe numerous explicit exceptions to the presumption that all public records are available for public inspection. Each record is "presumed to be open to inspection or copying" and the district will have "the burden of proving by clear and convincing evidence that it is exempt," (5 ILCS 140/1.2 and 140/11(f)). A person who prevails in a court proceeding to enforce FOIA will be awarded attorney's fees; the public body may incur a civil penalty of between \$2,500 and \$5,000 for each occurrence of a willful or intentional violation of FOIA or other action in bad faith; and courts may impose additional penalties of up to \$1,000 for each day the violation continues if (1) the board fails to comply with the court's order after 30 days, (2) the court's order is not on appeal or stayed, and (3) the court does not grant the public body additional time to comply with the court's order to disclose public records (5 ILCS 140/11(i) and (j)), amended by P.A. 99-586, eff. 1-1-17. School officials should seek the board attorney's advice concerning the denial of a record request.

Two State laws limit the disclosure of employee personnel evaluations:

1. The Personnel Record Review Act prohibits the disclosure of performance evaluations (820 ILCS 40/11).
2. The School Code prohibits the disclosure of public school teacher, principal, and superintendent performance evaluations except as otherwise provided in the certified employee evaluation laws (105 ILCS 5/24A-7.1).

⁸ 5 ILCS 140/3(g).

⁹ 5 ILCS 140/3(d). Reasons for extensions are addressed at 5 ILCS 140/3(e). Public bodies must respond to FOIA requests (PAOs 16-05, 16-04, 16-04, and 16-03, and 16-01). Public bodies must also conduct a reasonable search for public records responsive to a FOIA request, which includes searching public employees' communications on personal devices or accounts for records pertaining to the transaction of public business (PAO 16-06).

¹⁰ 5 ILCS 140/3(e).

extension, and (2) either inform the person of the date on which a response will be made, or agree with the person in writing on a compliance period. ¹¹

The time periods are extended for responding to requests for records made for a *commercial purpose*, requests by a *recurrent requester*, or *voluminous requests*, as those terms are defined in Section 2 of FOIA. The time periods for responding to those requests are governed by Sections 3.1, 3.2, and 3.6 of FOIA. ¹²

When responding to a request for a record containing both exempt and non-exempt material, the Freedom of Information Officer shall redact exempt material from the record before complying with the request. ¹³

Fees ¹⁴

Persons making a request for copies of public records must pay any and all applicable fees. The Freedom of Information Officer shall establish a fee schedule that complies with FOIA and this policy and is subject to the Board's review. The fee schedule shall include copying fees and all other fees to the maximum extent they are permitted by FOIA, including without limitation, search and review fees for responding to a request for a *commercial purpose* and fees, costs, and personnel hours in connection with responding to a *voluminous request*.

Copying fees, except when fixed by statute, shall be reasonably calculated to reimburse the District's actual cost for reproducing and certifying public records and for the use, by any person, of its equipment to copy records. In no case shall the copying fees exceed the maximum fees permitted by FOIA. If the District's actual copying costs are equal to or greater than the maximum fees permitted by FOIA, the Freedom of Information Officer is authorized to use FOIA's maximum fees as the District's fees. No copying fees shall be charged for: (1) the first 50 pages of black and white, letter or legal sized copies, or (2) electronic copies other than the actual cost of the recording medium, except if the response is to a *voluminous request*, as defined in FOIA.

A fee reduction is available if the request qualifies under Section 6 of FOIA. The Freedom of Information Officer shall set the amount of the reduction taking into consideration the amount of material requested and the cost of copying it. ¹⁵

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

¹¹ 5 ILCS 140/3(f). A board may replace the default paragraph with the following alternative: "The Freedom of Information Officer shall respond to record requests according to the time periods described in Section 3 of FOIA."

¹² The timelines are extended to respond to a: (1) *recurrent requester* (defined in Sec. 2(g)); (2) request with a *commercial purpose* (defined in Sec. 2(c-10)); and (3) *voluminous request* (defined in Sec. 2(h)). To use the extended timelines, a district must follow the requirements in Sec. 3.2~~4~~ for responding to a *recurrent requester*; Sec. 3.1~~2~~ for responding to a request with a *commercial purpose*; and Sec. 3.6 (added by P.A. 98-1129) for responding to a *voluminous request*. See the administrative procedure, 2:250-AP1, *Access to and Copying of District Public Records*, for additional information.

¹³ 5 ILCS 140/7. Redacting exempt portions is permitted, but not required, except that contractors' employees' addresses, telephone numbers, and social security numbers must be redacted before disclosure (5 ILCS 140/2.10). Reviewing past responses to FOIA requests will promote uniform treatment of requests for similar records.

¹⁴ 5 ILCS 140/6, amended by P.A. 98-1129. The first paragraph's intent is to be efficient and avoid paraphrasing a complex law. The procedure 2:250-AP1, *Access to and Copying of District Public Records*, contains a fee schedule identifying the maximum fees permitted.

Section 6(a) states: "If a request is *not* a request for a *commercial purpose* or a *voluminous request*, a public body *may not* charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records." (Emphasis added.) This implies that a search and review fee may be charged when responding to a request for a *commercial purpose* or a *voluminous request*. However, Sec. 6(b) states that the search and review fee described in Sec. 6(f) may be charged *only* to someone making a *commercial request*. Sec. 6(f) contains the maximum amounts that may be charged for search and review but does not explain when they may be charged. The FOIA Officer will need to consult the board attorney concerning fees.

Provision of Copies and Access to Records

A public record that is the subject of an approved access request will be available for inspection or copying at the District's administrative office during regular business hours, unless other arrangements are made by the Freedom of Information Officer. ¹⁶

Many public records are immediately available from the District's website including, but not limited to, the process for requesting a public record.¹⁷ The Freedom of Information Officer shall direct a requester to the District's website if a requested record is available there. If the requester is unable to reasonably access the record online, he or she may resubmit the request for the record, stating his or her inability to reasonably access the record online, and the District shall make the requested record available for inspection and copying as otherwise provided in this policy. ¹⁸

Preserving Public Records

Public records, including email messages, shall be preserved and cataloged if: (1) they are evidence of the District's organization, function, policies, procedures, or activities, (2) they contain informational data appropriate for preservation, (3) their retention is required by State or federal law, or (4) they are subject to a retention request by the Board Attorney (e.g., a litigation hold), District auditor, or other individual authorized by the School Board or State or federal law to make such a request.¹⁹ Unless its

¹⁵ 5 ILCS 140/6(c) makes it mandatory to furnish records "without charge or at a reduced charge" if the request is in the *public interest* as defined by FOIA. If a board wants to indicate when a reduction is available by paraphrasing the statute, it may substitute the following alternative for the default paragraph:

A fee reduction is available if the person requesting the record states a specific purpose for the request and indicates that a fee reduction is in the public interest by having as its principal purpose the preservation of the general public's health, safety, welfare, or legal rights and is not for the principal purpose of personal or commercial benefit. The Freedom of Information Officer shall set the amount of the reduction, taking into consideration the amount of material requested and the cost of copying it.

¹⁶ Public bodies may adopt rules for the times and places where records will be made available (5 ILCS 140/3(h)). A board may amend this sentence to reflect other times and/or places where records will be made available.

¹⁷ 5 ILCS 140/4. A district may reduce FOIA requests by posting records on its website. Many records are required to be web-posted, see 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. If the district does not have a website, change this ~~paragraph~~ sentence as follows: "Some public records are available for immediate access including a description of the process for requesting a public record, and a list of all types or categories of records under its control."

For a list of required web-postings, see exhibit 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. Using the district's website is also a convenient way to comply with FOIA's requirement to identify documents that are *immediately* available (5 ILCS 140/3.5(a)). Although not required to be web-posted, a list of all types or categories of records under its control must be prepared and made available (5 ILCS 140/5). See 2:250-AP1, *Access to and Copying of District Public Records*.

¹⁸ 5 ILCS 140/8.5, added by P.A. 98-1129.

¹⁹ The Local Records Act, 50 ILCS 205/3, requires the preservation of records described in items #1-3. The preservation of records described in item #3 is also required by the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, and the Ill. School Student Records Act, 105 ILCS 10/, among other laws. An example of a record described in item #4 is a record subject to a *litigation hold* or a document preservation requirement pursuant to Federal Rules of Civil Procedure, Rules 16 and 26.

Categorizing email messages is complicated because two laws apply and the rules differ when a board member is a party. See sample policy 2:140, *Communications To and From the Board*, for a discussion of email between or among board members. When employees or agents are using email for school purposes, the email messages may be *public records*, but will not necessarily be subject to disclosure depending on the topic discussed. FOIA's list of exemptions from disclosure determines whether these emails are subject to disclosure. For exemptions, see 5 ILCS 140/7 and 140/7.5.

Not all email messages between or among employees must be preserved, even if they are *public records* for purposes of FOIA. The definition of *public record* in the Local Records Act, 50 ILCS 205/3, is narrower than its definition in FOIA. Thus, staff email, like all district records, must be retained only when it contains material described in #1-4. While this is a slippery slope without definitive parameters, employee email that is conversational or personal, or contains brainstorming may generally be deleted.

retention is required as described in items numbered 3 or 4 above, a public record, as defined by the Illinois Local Records Act, may be destroyed when authorized by the Local Records Commission. 20

LEGAL REF.: 5 ILCS 140/, Illinois Freedom of Information Act.
105 ILCS 5/10-16 and 5/24A-7.1.
820 ILCS 40/11.
820 ILCS 130/5.

CROSS REF.: 2:140 (Communications To and From the Board), 5:150 (Personnel Records),
7:340 (Student Records)

The Prevailing Wage Act (820 ILCS 130/5, ~~amended by P.A.s 98-328 and 98-482~~) requires contractors, while participating in public works, to keep certified payroll records of all laborers, mechanics, and other workers employed by them on the project and to submit this record no later than the 15th of the month to the public body. The public body in charge of the project must keep the records submitted before 1-1-14 for a period of not less than ~~3~~ three years. Records submitted on or after 1-1-14 must be kept for a period of ~~5~~ five years. Records may be retained in paper or electronic format. These records must be made available in accordance with FOIA except that contractors' employees' addresses, telephone numbers, and social security numbers must be redacted before disclosure (5 ILCS 140/2.10).

20 50 ILCS 205/. Preservation and destruction of documents is covered in 2:250-AP2, *Protocols for Record Preservation and Development of Retention Schedules*. See also the Ill. Secretary of State's website for information on preserving and destroying records, — [www.cyberdriveillinois.com/departments/archives/records_management/reeman.html](http://www.cyberdriveillinois.com/departments/archives/records_management/www.cyberdriveillinois.com/departments/archives/records_management/reeman.html).

School Board

Administrative Procedure - Access to and Copying of District Public Records

- A. Legal Citations and Definitions
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- D. Fee Schedule
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A. Legal Citations and Definitions

The legal requirements contained in this procedure are followed by a citation to the controlling statute. Citations in parenthesis indicate the location of a named law. For additional clarification regarding a requirement, the cited law should be reviewed.

Definitions are found in the Illinois Freedom of Information Act (FOIA, 5 ILCS 140/2). For easy reference, some definitions are re-printed in this procedure. The IASB reports on Ill. Public Access Counselor (PAC) opinions concerning FOIA are on its website at **Recent Decisions**.

B. FOIA Compliance

The District's Freedom of Information Officer (FOIA Officer) implements the Board policy (2:250, *Access to District Public Records*) and has the duties, without limitation, listed below:

1. Manages the District's compliance with FOIA including without limitation, performing the following duties specified in FOIA, 5 ILCS 140/3.5:
 - a. Receives FOIA requests, ensures that the District responds to requests in a timely fashion, and issues responses to FOIA requests.
 - b. Develops a list of documents or categories of records that will be immediately disclosed upon request. See 2:250-E2, *Immediately Available Public Records and Web-Posted Reports and Records*.
 - c. Upon receiving a request for a public record, (a) notes the date the District received the written request; (b) computes the day on which the period for response will expire and makes a notation of that date on the written request; (c) maintains an electronic or paper copy of a written request, including all documents submitted with the request until the request has been complied with or denied; and (d) creates a file for the retention of the original request, a copy of the response, a record of written communications with the requester, and a copy of other communications.
2. Identifies other staff members to assist with FOIA compliance and delegates specific responsibilities to them. These individuals may include the information technology specialist and department heads.

3. Informs and/or trains staff members concerning their respective responsibilities regarding FOIA. This includes explaining the requirement that all FOIA requests must be immediately forwarded to the FOIA Officer, including those that are received via email.
4. Successfully completes the annual training program developed by the Public Access Counselor in the Attorney General's office. Each newly appointed FOIA Officer must successfully complete the training program within 30 days after assuming the position.

C. Availability and Posting Requirements

Full access to the District's *public records* is available to any person as provided in FOIA. The FOIA Officer approves all requests for *public records* unless: (1) the requested material does not exist, (2) the requested material is exempt from inspection and copying by FOIA, or (3) complying with the request will be unduly burdensome after extending an opportunity to the requester to reduce the request to manageable proportions.

The FOIA Officer shall:

1. Prominently display at each administrative office and school, and post on the District website, if any, the following:
 - a. A brief description of the District, and
 - b. The methods for requesting information and District public records, directory information listing the FOIA Officer and where requests for public records should be directed, and any fees. 5 ILCS 140/4. This information must be copied and mailed if requested.
2. Maintain and make available for inspection and copying a reasonably current list of all types or categories of records under the District's control. 5 ILCS 140/5. The list below contains the categories of records kept by the District; some of the records within these categories are exempt and, therefore, will not be disclosed in response to a FOIA request.
 - a. Board governance, including without limitation, Board meeting calendar and notices, Board meeting agendas and minutes, Board policy
 - b. Fiscal and business management, including without limitation, levy resolution and certificate of tax levy, audit, line-item budget, grant documents, account statements, accounts payable list, contracts, legal notices, bidding specifications, requests for proposals
 - c. Personnel, including without limitation, employee contact information, salary schedules, staff handbook, collective bargaining agreements, personnel file material
 - d. Students and instruction, including without limitation, accountability documents, calendars, student handbooks, learning outcomes, student school records

D. Fee Schedule

The FOIA Officer establishes a fee schedule (from time-to-time as appropriate) that complies with 5 ILCS 140/6, amended by P.A. 98-1129, including each of the following:

1. The fees, except when otherwise fixed by statute, must: (a) be reasonably calculated to reimburse the District's actual cost for reproducing and certifying public records and for the use, by any person, of its equipment to copy records, and (b) not exceed that maximum fee amount set by FOIA.
2. Statutory fees applicable to copies of public records when furnished in a paper format are not applicable to those records when furnished in an electronic format.

3. No fee is charged for the first 50 pages of black and white, letter or legal sized copies furnished to a requester.
4. The fee for black and white, letter or legal sized copies shall not exceed 15 cents per page.
5. If the District provides copies in color or in a size other than letter or legal, the fee may not be more than its actual cost for reproducing the records.
6. A fee reduction is available if the person requesting the record states a specific purpose for the request and indicates that a fee reduction is in the public interest by having as its principal purpose the general public's health, safety, welfare, or legal rights and is not for the principal purpose of personal or commercial benefit. In setting the reduction's amount, the FOIA Officer considers the amount of materials requested and the cost of copying them.
7. If a voluminous request is for electronic records and the responsive records are:
 - a. Not in a portable document format (PDF), the District charges up to \$20 for not more than 2 megabytes of data, up to \$40 for more than 2 but not more than 4 megabytes of data, and up to \$100 for more than 4 megabytes of data.
 - b. In a PDF, the District charges up to \$20 for not more than 80 megabytes of data, up to \$40 for more than 80 megabytes but not more than 160 megabytes of data, and up to \$100 for more than 160 megabytes of data.
 - c. In both a PDF and not in a PDF, the District separates the fees and charges the requester under both fee scales.
8. Unless the request is for a commercial purpose or a voluminous request, the costs of any search for and review of the records or other personnel costs associated with reproducing the records are not included in the fee calculation. 5 ILCS 140/6(a).

* Section 6(a) states: "If a request is *not* a request for a *commercial purpose* or a *voluminous request*, a public body *may not* charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records." (Emphasis added) This implies that a search and review fee may be charged when responding to a request for a *commercial purpose* or a *voluminous request*. However, Sec. 6(b) states that the search and review fee described in Sec. 6(f) may be charged *only to* someone making a *commercial request*. Sec. 6(f) contains the maximum amounts that may be charged for search and review but does not explain when they may be charged. The FOIA Officer will need to consult the Board Attorney.

When responding to a request for commercial purposes, as defined in 405 ILCS 140/2(c-10), the District charges:

- a. Up to \$10.00 for each hour spent by personnel in searching for or retrieving a requested record or examining the record for necessary reductions. No fee is charged for the first 8 hours spent by personnel in searching for or retrieving a requested record. 5 ILCS 140/6(f).
- b. The actual cost of retrieving and transporting public records from an off-site storage facility when the public records are maintained by a third-party storage company under contract with the District. 5 ILCS 140/6(f).

Someone making a voluminous request may be charged the fees as described above upon the FOIA Officer's consult with the Board Attorney.

The FOIA Officer provides the requester with an accounting of all fees, costs, and personnel hours in connection with the request for public records under 7 and 8 above. 5 ILCS 140/6(a-5) and (f).

E. Response to FOIA Requests

The FOIA Officer must:

1. Comply with or deny a request for inspection or copying within ~~5~~five business days of receiving a records request, unless the time for response is extended. 5 ILCS 140/3. He or she may use forms prepared by the Ill. Public Access Counselor available at: foia.ilattorneygeneral.net/foia_formssampleletters.aspx.
2. Redact any and all exempt portion(s) of requested records containing both exempt and non-exempt material and release the remaining material. 5 ILCS 140/7.
3. Comply with the Personnel Record Review Act, 820 ILCS 40/.
 - a. The response to a request for a disciplinary report, letter of reprimand, or other disciplinary action depends on the age of the responsive record.
 - 1) If the responsive record is more than ~~4~~four years old, the request must be denied unless the release is ordered in a legal action or arbitration. 5 ILCS 140/7.5(q); 820 ILCS 40/8.
 - 2) If the responsive record is ~~4~~four years old or less, it must be disclosed and the employee must be notified in writing (first class mail) or by email, if available, on or before the day any such record is released, unless notice is not required under the Personnel Record Review Act. 5 ILCS 140/7.5(q); 820 ILCS 40/7. A notice to the employee is not required if:
 - The employee specifically waived written notice as part of a written, signed employment application with another employer;
 - The disclosure is ordered to a party in a legal action or arbitration; or
 - Information is requested by a government agency as a result of a claim or complaint by an employee, or as a result of a criminal investigation by such agency.
 - b. A request for a performance evaluation(s) must be denied. 820 ILCS 40/11.

F. Extensions of Time to Respond

The District FOIA Officer may extend the time for a response for any of the reasons stated in 5 ILCS 140/3(e)(i-vii), **quoted below**:

- (i) The requested records are stored in whole or in part at other locations than the office having charge of the requested records;
- (ii) The request requires the collection of a substantial number of specified records;
- (iii) The request is couched in categorical terms and requires an extensive search for the records responsive to it;
- (iv) The requested records have not been located in the course of routine search and additional efforts are being made to locate them;
- (v) The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 of FOIA or should be revealed only with appropriate deletions;

- (vi) The request for records cannot be complied with by the public body within the time limits prescribed by paragraph (c) of Section 3 of FOIA without unduly burdening or interfering with the operations of the public body; or
- (vii) There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more components of a public body having a substantial interest in the determination or in the subject matter of the request.

If an extension of time for a response is needed, the FOIA Officer must perform one of the following actions within 5-five business days after receipt of the request:

1. Notify the requester that the District is extending its time for response for no longer than 5 business days from the original due date, and identify the reason for the delay and the date on which a response will be made. 5 ILCS 140/3(e) and (f); or
2. Confer with the requester in an attempt to reach an agreement on an extended compliance date. The agreement must be in writing. 5 ILCS 140/3(e).

G. Unduly Burdensome Requests

Before invoking the *unduly burdensome* exemption, the FOIA Officer must confer with the requester in an attempt to reduce the request to manageable proportions. 5 ILCS 140/3(e) and (g). A request may be unduly burdensome due, for example, to the request's breadth. The FOIA Officer must explain to the requester in writing when a request continues to be unduly burdensome, specifying the reason why the request is unduly burdensome.

H. Requests for Commercial Purposes

A request is for *commercial purposes*, according to 5 ILCS 140/2(c-10), if:

[T]he use of any part of a public record or records, or information derived from public records, in any form for sale, resale, or solicitation or advertisement for sales or services. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered to be made for a *commercial purpose* when the principal purpose of the request is (i) to access and disseminate information concerning news and current or passing events, (ii) for articles of opinion or features of interest to the public, or (iii) for the purpose of academic, scientific, or public research or education.

The FOIA Officer responds to a request that appears to be for commercial purposes pursuant to 5 ILCS 140/3.1 by:

1. Asking the requester to identify if the record is for a commercial purpose. See 2:250-E1, *Written Request for District Public Records*. It is unlawful for a person to knowingly obtain a public record for a commercial purpose without disclosing that it is for a commercial purpose, if requested to do so by the District. 5 ILCS 140/3.1(c).
2. Responding to a request for records to be used for a commercial purpose within 21 working days after receipt. The response must be one of the following: (a) provide an estimate of the time required by the District to provide the records and an estimate of the fees, which the requester may be required to pay in full before copying the requested documents; (b) deny the request pursuant to one or more of the exemptions; (c) notify the requester that the request is unduly burdensome and extend an opportunity to attempt to reduce the request to manageable proportions; or (d) provide the records requested.

3. Complying with a request, unless the records are exempt from disclosure, within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes.
4. Collecting a fee as described in subsection **D.** above.

I. Managing Requests from a Recurrent Requester

A request is from a *recurrent requester*, according to 5 ILCS 140/2(g), if:

[A] person that, in the 12 months immediately preceding the request, has submitted to the same public body (i) a minimum of 50 requests for records, (ii) a minimum of 15 requests for records within a 30-day period, or (iii) a minimum of ~~7~~seven requests for records within a ~~7~~seven-day period. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered in calculating the number of requests made in the time period in this definition when the principal purpose of the requests is (i) to access and disseminate information concerning new and current or passing events, (ii) for articles of opinion or features of interest to the public, or (iii) for the purpose of academic, scientific, or public research or education.

For purposes of this definition, one *request* may identify multiple records to be inspected or copied.

The District complies with a request from a recurrent requester within a reasonable period considering the size and complexity of the record, unless the records are exempt from disclosure. 5 ILCS 140/3.2(c).

The FOIA Officer responds to a request from a recurrent requester by:

1. Notifying the requester within ~~5~~five business days after receiving a request from a recurrent requester (5 ILCS 140/3.2(b)) that:
 - a. The request is being treated as coming from a recurrent requester under ~~405~~ ILCS 140/2(g);
 - b. The reasons the request is being treated as coming from a recurrent requester;
 - c. The District will send an initial response within 21 business days after receipt of the request; and
 - d. The proposed FOIA responses that may be asserted pursuant to 5 ILCS 140/3.2(a). These are the same responses that the District can provide within 21 business days after receipt of a request.
2. Responding within 21 business days after receipt of a recurrent request with one of the following (5 ILCS 140/3.2(a)):
 - a. An estimate of the time required by the District to provide the records and an estimate of the fees, which the requester is required to pay in full before the District copies the requested documents;
 - b. A denial pursuant to one or more of the exemptions;
 - c. Notification that the request is unduly burdensome and extend an opportunity to attempt to reduce the request to manageable proportions; or
 - d. The records as requested.

J. Managing Voluminous Requests

A *voluminous request*, according to 5 ILCS 140/2(hg), means:

[A] request that:

- i. Includes more than ~~5-five~~ individual requests for more than ~~5-five~~ different categories of records or a combination of individual requests that total requests for more than ~~5 five~~ different categories of records in a period of 20 business days; or
- ii. Requires the compilation of more than 500 letter or legal-sized pages of public records unless a single requested record exceeds 500 pages. *Single requested record* may include, but is not limited to, one report, form, email, letter, memorandum, book, map, microfilm, tape, or recording.

According to 5 ILCS 140/2(hg), a *voluminous request* “does not include a request made by news media and non-profit, scientific, or academic organizations if the principal purpose of the request is: (1) to access and disseminate information concerning news and current or passing events; (2) for articles of opinion or features of interest to the public; or (3) for the purpose of academic, scientific, or public research or education.”

The FOIA Officer responds to a voluminous request by:

1. Notifying the requester within ~~5five~~ business days after receiving a voluminous request that:
 - a. The District is treating the request as a voluminous request under Section 3.6 of the Freedom of Information Act (FOIA).
 - b. The District is treating the request as voluminous for one of the following reasons:
 - 1) Includes more than ~~5-five~~ individual requests for more than ~~5-five~~ different categories of records or a combination of individual requests that total requests for more than ~~5 five~~ different categories of records in a period of 20 business days; or
 - 2) Requires the compilation of more than 500 letter or legal-sized pages of public records unless a single requested record exceeds 500 pages.
 - c. The requester must respond to the District within ~~10-ten~~ business days after this response is sent. The requester must specify whether the requester would like to amend the request in such a way that the District will no longer treat the request as a voluminous request.
 - d. If the requester does not respond within ~~10-ten~~ business days or if the request continues to be a voluminous request following the requester response, the District will respond to the request and assess any fees the District charges pursuant to Section 6 of FOIA.
 - e. The District has ~~5-five~~ business days after receipt of the requester’s response or ~~5-five~~ business days from the last day for the requester to amend the request, whichever is sooner, to respond to the request.
 - f. The District may request an additional ~~10-ten~~ business days to comply with the request.
 - g. The requester has the right to review the District’s determination by the public access counselor whose address and phone number follows:

Public Access Counselor
Office of the Attorney General
500 S. 2nd Street
Springfield, Illinois 62706
Phone: 1-877-299-3642
 - h. If the requester fails to accept or collect the responsive records, the District will still charge the requester for its response pursuant to Section 6 of FOIA and the requester’s

failure to pay will be considered a debt due and owing to the District and may be collected in accordance with applicable law.

2. Providing the requester ~~10-ten~~ business days from the date the District responded to amend the request in such a way that the District will no longer treat it as a voluminous request.
3. If a request continues to be a voluminous request following the requester's reply or the requester fails to reply, responding within the earlier of ~~5-five~~ business days after the District receives the requester's reply or ~~5-five~~ business days after the final day for the requester to reply to the District's notification. The District's response must:
 - a. Provide an estimate of the fees to be charged, indicating whether the District requires the person to pay in full before the District copies the requested documents;
 - b. Deny the request pursuant to one or more of the exemptions sent out in FOIA;
 - c. Notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or
 - d. Provide the records as requested.

The District may extend the time for responding by not more than ~~5five~~~~10~~ business days from the final date for the requester to reply to the District's notification for any of the reasons provided in subsection Section 3(e) of FOIA.

The requester and District may agree in writing to extend the time for compliance for a period to be determined by the parties.

K. Denials

The FOIA Officer will deny a FOIA request for any of the exemptions in 5 ILCS 140/7 or 7.5. He or she will comply with 5 ILCS 140/9 by:

1. Providing the requester with a written response containing: (a) the reasons for the denial, including a detailed factual basis for the application of any exemption claimed; (b) the names and titles or positions of each person responsible for the denial; and (c) information about his or her right to review by the Public Access Counselor (include the address and phone number for the Public Access Counselor), and to judicial review under 5 ILCS 140/11, amended by P.A. 99-586.
2. Specifying the exemption claimed to authorize the denial and the specific reasons for the denial, including a detailed factual basis and a citation to supporting legal authority when the denial is based on the grounds that the records are exempt under 5 ILCS 140/7.
3. Retaining copies of all denial notices in a single central office file that is open to the public and indexed according to the type of exemption asserted and, to the extent feasible, according to the types of records requested. 5 ILCS 140/9(b).

L. Consultation with the Board Attorney

The FOIA Officer may consult with the Board Attorney, as needed, for legal advice concerning compliance with FOIA, including without limitation:

1. Responding to specific requests,
2. Communicating with the Office of the Ill. Attorney General or Public Access Counselor, or
3. During any judicial proceeding.

LEGAL REF.: 5 ILCS 140/, Freedom of Information Act.

School Board

Administrative Procedure - Protocols for Record Preservation and Development of Retention Schedules

Legal Citations

Each legal requirement in this procedure is followed by a citation to the controlling rule and/or statute. Citations in parenthesis indicate the location of a named law. For additional clarification regarding a requirement, the cited law should be reviewed.

Actor	Action
<p>All Staff Members and School Board Members</p>	<p>Maintain all records, as defined and required in the Illinois Local Records Act (LRA). No public record shall be destroyed except as allowed by the LRA.</p> <p><i>“Public record means any book, paper, map, photograph, <u>born-digital electronic material</u>, digitized electronic material, <u>electronic material with a combination of digitized and born-digital material</u>, or other official documentary material, regardless of physical form or characteristics, made, produced, executed or received by any agency or officer pursuant to law or in connection with the transaction of public business and preserved or appropriate for preservation by such agency or officer, or any successor thereof, as evidence of the organization, function, policies, decisions, procedures, or other activities thereof, or because of the informational data contained therein.” 50 ILCS 205/3.</i></p> <p>Do not destroy any District record, no matter its form, if it is subject to a litigation hold. F.R.C.P. 37(e).</p> <p>In federal lawsuits there is an automatic discovery of virtually all types of electronically created or stored data that might be relevant. Attorneys will generally notify their clients at the beginning of a legal proceeding to not destroy any electronic records that might be relevant. The receipt of a <i>litigation hold</i> or preservation letter from the Board’s attorney requires all potentially relevant electronic information to be identified, located, and preserved. This includes all email, e-documents, the tapes and servers of discarded systems, and backup data stored elsewhere.</p> <p>Whenever disposing of materials containing <i>personal information</i>, render the <i>personal information</i> unreadable, unusable, and undecipherable. 815 ILCS 530/40 and 44 Ill.Admin.Code §4000.40(b).</p> <p>The Personal Information Protection Act (815 ILCS 530/) contains mandates for disposing of materials containing personal information</p>

Actor	Action
	<p>(defined as an individual's name combined with social security number; driver's license number or State identification card number; or financial account information, including without limitation, credit or debit card numbers; <u>medical information; health information; or unique biometric data, including without limitation fingerprints</u>). The Attorney General is authorized to impose a fine and <u>bring court action</u> for noncompliance. 815 ILCS 530/40, amended by P.A. 99-503, eff. 1-1-17 and 44 Ill.Admin.Code §4000.40(b).</p>
Superintendent	<p>Assign the following activities to the Records Custodian and Head of Information Technology (IT):</p> <ol style="list-style-type: none"> 1. Develop and maintain a protocol for preserving and categorizing District records; 2. Develop and maintain a record retention and destruction schedule; and 3. Develop protocols to implement a litigation hold.
Records Custodian and Head of IT	<ol style="list-style-type: none"> 1. Develop and maintain a protocol for preserving and categorizing District records. <p>Develop and maintain a list of all District records organized in categories and sub-categories, e.g., records relating to business, students, personnel, board meetings, etc. Align this list with the list of District records required by the Freedom of Information Act. 5 ILCS 140/5.</p> <p>Paper records may be easier to locate than electronic records. Electronic records will potentially exist in all of the available clouds, servers, tapes, hard drives, computers, and similar types of electronic devices (e.g., laptops, tablets, smart phones, voicemail, etc.).</p> <p>Prepare a description of how District records stored by means of electronic data processing may be obtained in a form understandable to persons lacking computer knowledge. 5 ILCS 140/5 and <i>Digital Reproduction</i>, 44 Ill.Admin.Code 4000.70 and <i>Management of Electronic Records</i>, 44 Ill.Admin.Code §4000.80.</p> <p>Such a description may include contact information for a person who can aid in obtaining records stored electronically.</p> <p>Provide for keeping only <i>records</i> and destroying non-records. Avoid filing non-record material with records. Determine what is a non-record, e.g., identical copies of documents maintained in the same file; extra copies of printed or processed materials (official copies of which are retained by the office); blank forms; and personal communications.</p> <p>The goal is to control excessive accumulation of material. Non-</p>

Actor	Action
	<p>record material may be destroyed at any time. 50 ILCS 205/9.</p> <p>Absent a litigation hold, email must be retained only when it contains: (1) evidence of the District’s organization, function, policies, procedures, or activities, or (2) informational data appropriate for preservation. 50 ILCS 205/3. Email that is conversational, personal, or contains brainstorming may generally be deleted.</p> <p>A consistent email retention policy for use across the District ensures that the necessary emails are being retained and emails that are not required to be preserved are purged on a regular basis.</p> <p>Determine whether each sub-category of documents should be reproduced by photography (44 Ill.Admin.Code §4000.60), microphotographic and electronic microimaging processes (44 Ill.Admin.Code §4000.50), or digitized electronic format (44 Ill.Admin.Code §4000.70).</p> <p>Any public record may be reproduced in a microfilm or digitized electronic format and the analog/paper version destroyed, provided: (a) the records are reproduced on “a durable medium that accurately and legibly reproduces the original record in all details,” and “that does not permit additions, deletions, or changes to the original document images;” and (b) the Local Records Commission is notified when the original record is disposed of and also when the reproduced record is disposed of. Local Records Act, 50 ILCS 205/7.</p> <p>Use this web link to the Illinois Secretary State’s publication, <u>Guidelines for Using Electronic Records</u> and 44 Ill.Admin.Code §§4000.APPENDIX A <i>Sustainable File Formats for Electronic Records - A Guide for Government Agencies</i> (<u>www.ilga.gov/commission/jcar/admincode/044/04404000ZZ9996aR.html</u>) and 4000.APPENDIX B <i>Reliable Storage Media for Electronic Records - A Guide for Government Agencies</i> (<u>www.ilga.gov/commission/jcar/admincode/044/04404000ZZ9996BR.html</u>).</p> <p>Identify and index the location of each category and sub-category of District records. Organize electronic record and data storage.</p> <p>The goal is to ensure that all documents, including electronically created ones, are retained for the required timeframes and are easy to retrieve and produce if necessary.</p> <p>2. Develop and maintain a record retention and destruction schedule for submission to the Superintendent and eventually to the Local Records Commission.</p>

Actor	Action
	<p>Prepare a list of public records that: (1) are not needed for current business, and (2) do not have sufficient administrative, legal, or fiscal value to warrant their further preservation. Stated differently, identify records that have no administrative, legal, or fiscal value, as this is the criteria the Commission uses to determine whether or not to authorize the records' destruction.</p> <p>Records that have no administrative, legal, or fiscal value may be destroyed according to provisions in the Local Records Act. 50 ILCS 205/10.</p> <p>Prepare a schedule for record destruction by identifying the length of time a record category or series warrants retention after it has been received or produced by the District.</p> <p>The ultimate goal is to obtain permission to destroy unnecessary public records. The Local Records Commission must approve the destruction of any public record. 50 ILCS 205/7, 44 Ill.Admin.Code Part 4000 (Local Records Commission for agencies comprising counties of less than 3,000,000 inhabitants); 44 Ill.Admin.Code Part 4500 (Local Records Commission of Cook County). See the Archives Department on the Secretary of State's website: www.cyberdriveillinois.com/departments/archives/databases/home.html</p> <p>44 Ill.Admin.Code Part 4000.30 details the procedures for compiling and submitting lists and schedules of records for disposal.</p> <p>The School Code and other statutes (e.g., statutes of limitations) contain mandatory retention timelines. The Board's attorney should be consulted.</p> <p>The e-discovery rules provide a safe harbor for parties during a lawsuit that cannot provide information because it was destroyed as a result of routine practices. F.R.C.P. 37(e).</p> <p>3. Develop protocols to implement a litigation hold.</p> <p>Understand what a <i>litigation hold</i> is.</p> <p>A litigation hold refers to the notification made by the Board's attorney telling the District to preserve all information that may be relevant to current or anticipated litigation. While it may occur anytime in the legal process, it will usually occur during discovery, the pretrial phase of a lawsuit designed to compel the exchange of information between parties. A litigation hold triggers the need to immediately suspend destruction of electronic and other records relevant to the current or potential claim. F.R.C.P 37(e).</p> <p>Specify how to implement a litigation hold, i.e.:</p>

Actor	Action
	<ul style="list-style-type: none"> • Who can trigger a litigation hold? • How is a litigation hold communicated? • Who should gather the records? • What records are subject to a litigation hold and who determines this? • In what format should records be gathered? • Where should records be gathered? <p>Identify how to implement a litigation hold for all IT systems, including backup tapes, to ensure they are not deleted or overwritten as part of the normal tape rotation process.</p> <p>Prepare a map of potentially relevant data and otherwise assist the Board's attorneys in locating all potentially relevant information.</p>
Superintendent	<p>Submit new or revised record retention and destruction lists and schedules to the Local Records Commission for approval.</p> <p>Disseminate the record retention schedule, along with instructions, to all affected staff members and Board members.</p> <p>Immediately inform the Records Custodian and Head of IT whenever a record must be preserved because: (1) it may be relevant to present or future litigation, or (2) the Board Attorney has notified the District to preserve a record, including electronic information (<i>litigation hold</i>).</p> <p>Authorize and/or order the destruction of District records after ensuring that the following steps have been performed:</p> <ol style="list-style-type: none"> 1. The Local Records Commission approved a schedule for continuing authority to destroy District records after the expiration of the applicable period. 2. Any record is retained and removed from the disposal list if it is or may be evidence in litigation, or is otherwise subject to a <i>litigation hold</i>. 3. Thirty days prior to disposal or destruction of any records, regardless of physical format or characteristics, submit a Local Records Disposal Certificate to the Commission and dispose only after a copy of that certificate has been reviewed and approved by the Chairman and returned to the District. The original copy of that Local Records Disposal Certificate is kept in the files of the Commission, and the duplicate copy approved and returned by the Chairman must be retained by the District. Section 4000.40(c) of the rules of the Downstate Local Records Commission and Section 4500.40(c) of the rules of the Cook County Local Records Commission. 4. In the case of records with scheduled retention of less than one year,

Actor	Action
	<p>a single Local Records Disposal Certificate for more than one disposal event within a given year may be used. Local Records Disposal Certificates submitted with this intent must include a schedule of proposed records disposal in addition to the normally required information. The District must wait to dispose of records until receipt of approval from the Commission, as required in number 3, above. Section 4000.40(d) of the rules of the Downstate Local Records Commission and Section 4500.40(d) of the rules of the Cook County Local Records Commission.</p> <p>5. For records that have been damaged by water, fire, smoke, insects or vermin, mold or some other natural disaster that poses a health or safety risk to employees, the District may apply to the Commission for permission to dispose of those records ahead of their scheduled disposal date. The request must include a Local Records Disposal Certificate accompanied by the District's explanation of why the records need early disposal. The Commission may grant the request only after physically reviewing the damaged records. Section 4000.40(e) of the rules of the Downstate Local Records Commission and Section 4500.40(e) of the rules of the Cook County Local Records Commission.</p>
<p>Links to Web-based Record Management Resources:</p> <p><u>Cook County Local Records Commission Meetings</u></p> <p><u>Cook County Local Records Commission Rules (44 Ill Admin Code Title PART 4500)</u></p> <p><u>Downstate Local Records Commission Meetings</u></p> <p><u>Rules of the Downstate Local Records Commission (44 Ill Admin Code Title PART 4000)</u></p> <p><u>Filmed Records Certification Act (50 ILCS 210)</u></p> <p><u>Filmed Records Destruction Act (50 ILCS 215)</u></p> <p><u>Illinois School Student Records Act (105 ILCS 10)</u></p> <p><u>Local Records Act (50 ILCS ACT-205)</u></p> <p><u>Local Records Disposal Certificate</u></p>	

LEGAL REF.: Federal Rules of Civil Procedure, Rules 16, 26 and 37.
5 ILCS 140/, Freedom of Information Act.
50 ILCS 205/, Local Records Act.
105 ILCS 10/, Ill. School Student Records Act.
815 ILCS 530/, Personal Information Protection Act.
820 ILCS 40/, Ill. Personnel Record Review Act.
44 Ill.Admin.Code Part 4000, Local Records Commission.
44 Ill.Admin.Code Part 4500, Cook County Local Records Commission.

School Board

Exhibit - Immediately Available District Public Records and Web-Posted Reports and Records ¹

[For use by only those Districts that have websites.]

The District’s Freedom of Information Officer designates the public records that are listed in this table as being immediately available to the public. The records that are asterisked are posted on the District’s website and may be immediately inspected, downloaded, printed, and/or copied. Any asterisked public record is also immediately available for inspection or copying upon request at the District’s administrative office during its regular business hours, provided any applicable fees are paid. Records without an asterisk will be provided within 5 business days as allowed by the Freedom of Information Act, provided any applicable fees are paid.

Web-posted records and information <i>(use of an * is explained in the paragraph above this table)</i>	Web-posting statutory reference and special instructions
<p>*Annual schedule of regular meetings for the current school year that are posted at the beginning of each calendar or fiscal year</p> <p>*Public notice of each Board meeting that is posted at least 48 hours before the meeting and remains posted until the meeting is concluded</p> <p>*Agenda of each regular meeting that is posted at least 48 hours before a meeting and remains posted until the meeting is concluded</p> <p>Note: For school districts that do not post board meeting notices and/or agendas on a website (because they do not have a website maintained by a fulltime staff member), the notice and agenda must be continuously available for public review during the entire 48-hour period preceding the meeting</p>	<p>5 ILCS 120/2.02.</p>

¹ This exhibit has two purposes: (1) to identify the data and documents that must be posted on a district’s website, if the district has a website, and (2) to fulfill the requirement in the Freedom of Information Act (FOIA) for the district’s FOIA officer to designate the public records that are immediately available to the public (5 ILCS 140/3.5(a)). Many attorneys agree that using the required items for web-posting is an easy and practical way for the FOIA Officer to develop a list of public records that are *immediately available*. Some attorneys prefer that the district also retain copies of its web-posted public records for immediate inspection and/or copying upon request at the administrative office. The introductory paragraph manages this issue by indicating that copies of certain identified public records will also be immediately available in the district’s administrative office. This exhibit suggests identifying public records for immediate availability that are easily reproduced and stored, i.e., not voluminous. The FOIA Officer should customize this list as appropriate to the district’s circumstances.

Note, however, that simply referring a FOIA requester to a responsive document that is available on the district’s website is not a sufficient response and that a copy must be provided on request (see reference in Public Access Counselor binding opinion 2010-001). Consult the board attorney for ideas to manage the district’s specific FOIA compliance issues.

The “Intermediate Service Center” is given as an alternative to “Regional Superintendent” herein because 105 ILCS 5/2-3.62, abolished the Regional Office of Education for Suburban Cook County and transferred its powers and duties to Intermediate Service Centers.

Web-posted records and information <i>(use of an * is explained in the paragraph above this table)</i>	Web-posting statutory reference and special instructions
*Official open meeting minutes that are posted within 10 <u>ten</u> days of the Board's approval and remain posted for at least 60 days	5 ILCS 120/2.06(b).
*Description of the District and its records including: Summary of the District's purpose Functional subdivisions Total amount of operating budget Number and location of all of its separate offices Approximate number of full and part-time employees (see also, salary and benefits information report for the Superintendent, administrators, and teachers, District's Statement of Affairs) Identification and membership of the Board Brief description of the methods whereby the public may request information and public records Directory information for the Freedom of Information Officer Address where requests for public records should be directed Fees	5 ILCS 140/4. The District must prominently post the list at each administrative office and make it available for inspection and copying.
*A hyperlink to an email address(es) for members of the public to communicate with members of the Board	50 ILCS 205/20, added by P.A. 98-930. The hyperlink must be easily accessible from the District's home page.
Annual budget for current fiscal year, itemized by receipts and expenditures	105 ILCS 5/17-1.2. This may be accomplished using ISBE's School District Budget Form 50-36 or the summary pages from it. ² The District must notify its students' parents/guardians when the budget is web-posted along with its website address.
*District Report Card and a Report Card for each School (the Report Cards will be provided by ISBE by Oct. 31 of each year)	105 ILCS 5/10-17a. Annually, no more than 30 calendar days after receiving the Report Cards from the

² For school officials who are concerned that some of their district's constituents may not have the proper software to access these documents, ISBE provides links to free *viewer* or *reader* products that support the ISBE School District Budget Form (50-36). These products can be downloaded and used to access the budget as posted on the district's website. See www.isbe.net/sfms/budget/freeviewer.htm.

Web-posted records and information <i>(use of an * is explained in the paragraph above this table)</i>	Web-posting statutory reference and special instructions
	<p>State Superintendent, the District must: (1) present them at a regular Board meeting, (2) post them the District's website, (3) make them available to a newspaper of general circulation serving the District, and (4) upon request, send them home to parents/guardians.</p> <p>The District also must send a written notice home to parents/guardians stating: (1) that the Report Cards are available on the website, (2) the website's address, (3) that a printed copy will be sent upon request, and (4) the telephone number to request a printed copy.</p>
<p>*A list of all contracts in excess of \$25,000 and any contracts with an exclusive bargaining representative</p>	<p>105 ILCS 5/10-20.44.</p> <p>There is no statutory timeline for web-posting.</p> <p>Each year, in conjunction with the submission of the Statement of Affairs to ISBE, before Dec. 1, the District must submit to ISBE an annual report on all contracts over \$25,000 awarded during the previous fiscal year.</p>
<p>*Contract(s) with any commercial driver training school(s) for driver education</p>	<p>105 ILCS 5/2-3.25g(d).</p> <p>The District is required to web-post this document if it has a website. If the District has no website, it must make the contract available upon request.</p>
<p>Annual Statement of Affairs</p>	<p>105 ILCS 5/10-17.</p> <p>The District is not required to web-post this document. It must, annually by Dec. 1, submit the Statement to ISBE for posting on ISBE's website, have copies of the Statement available in the main administrative office, and publish a summary of the Statement in a newspaper of general circulation published in the District.</p>
<p>*Board policy, 7:180, <i>Prevention of and Response to Bullying, Intimidation, and Harassment</i> *Information developed as a result of the evaluation</p>	<p>105 ILCS 5/27-23.7(b)(10) & (11), amended by P.A. 98-669.</p>

Web-posted records and information (<i>use of an * is explained in the paragraph above this table</i>)	Web-posting statutory reference and special instructions
and assessment of the bullying policy's outcomes and effectiveness	
*Board policy, 7:290, <i>Suicide and Depression Awareness and Prevention</i>	105 ILCS 5/2-3.1663, added by P.A. 99-443.
*Administrator and Teacher Salary and Benefits Report (itemized salary report for the Superintendent and all administrators and teachers); <i>benefits</i> includes without limitation vacation days, sick days, bonuses, annuities, and retirement enhancements	105 ILCS 5/10-20.47. Annually on or before October 1: (1) the information must be presented at a regular Board meeting and posted on the District's website, and (2) after the Board meeting at which the information was presented, the Report must be provided to ISBE.
*As an employer that participates in the Illinois Municipal Retirement Fund (IMRF), a compensation report for employees who have a total compensation package that exceeds \$75,000 per year; <i>total compensation package</i> means salary, health insurance, a housing allowance, a vehicle allowance, a clothing allowance, bonuses, loans, vacation days granted, and sick days granted As of Oct. 1, 2010 -1-15, IASB has not received a response from the Ill. Attorney General's office to its request for guidance concerning whether this requirement applies to employees who do not participate in IMRF, e.g., TRS participants.	5 ILCS 120/7.3. The report must be posted within 6 <u>six</u> business days after the District approves a budget. The District may choose to post a physical copy of this information at its principal office in lieu of posting the information directly on the website in which case it must post directions on the website for accessing that information.
*As an employer that participates in the Illinois Municipal Retirement Fund, a compensation report for employees who have a total compensation package that is equal to or in excess of \$150,000 per year; <i>total compensation package</i> means payment by the employer to the employee for salary, health insurance, a housing allowance, a vehicle allowance, a clothing allowance, bonuses, loans, vacation days granted, and sick days granted As of Oct. 1, 2010 -1-15, IASB has not received a response from the Ill. Attorney General's office to its request for guidance concerning whether this requirement applies to employees who do not participate in IMRF, e.g., TRS participants.	5 ILCS 120/7.3. The report must be posted at least 6 <u>six</u> days before the District approves an employee's total compensation package that is equal to or in excess of \$150,000. The District may choose to post a physical copy of this information at its principal office in lieu of posting the information directly on the website in which case it must post directions on the website for accessing that information.
A description of activities to address intergroup conflict (an optional program authorized by Sec. 27-23.6)	105 ILCS 5/27-23.6(c).

Web-posted records and information <i>(use of an * is explained in the paragraph above this table)</i>	Web-posting statutory reference and special instructions
*Names of Board members who have completed professional development leadership training	<p>105 ILCS 5/10-16a requires the District to post on its website the names of all Board members who have completed professional development leadership training (required for board members taking office after <u>6/13/206-13-11</u>). The web-posting may be expanded to log all Board members' training and development activities.</p> <p>5 ILCS 120/1.05(b) and (c) require each Board member to complete training on the Open Meetings Act. After completing the training, each Board member must file a copy of their certificate of completion with the School Board.</p> <p>105 ILCS 5/24-16.5 requires each Board member to complete a training program on performance evaluations before voting on a dismissal based on a performance evaluation pursuant to the Performance Evaluation Reform Act.</p>
Immunization data reported to ISBE by each Nov. 15	<p>105 ILCS 5/27-8.1.</p> <p>By Dec. 1, the District must annually make the immunization <i>data</i> that it must report to ISBE each year publicly available. The data, not its format, must be identical to the data reported to ISBE. Boards have control over the method(s) used to make this data publicly available. One method is to instruct the reader to ask for the data directly from ISBE.</p>
Information on mental health issues and local treatment resources	The Ill. House of Representatives encouraged this in HR 478 (5-31-2015).
<u>All reliable assessments, scored by entities other than the District, that are administered in each of the District's schools.</u>	<p><u>105 ILCS 5/22-82(b), added by P.A. 99-590.</u></p> <p><u>These must be made available to parents and/or guardians through the District's Internet website or paper handouts.</u></p>

General School Administration

Superintendent 1

Duties and Authority

The Superintendent is the District's executive officer and is responsible for the administration and management of the District schools in accordance with School Board policies and directives, and State and federal law. District management duties include, without limitation, preparing, submitting, publishing, and posting reports and notifications as required by State and federal law.² The Superintendent is authorized to develop administrative procedures and take other action as needed to implement Board policy and otherwise fulfill his or her responsibilities. The Superintendent may delegate to other District staff members the exercise of any powers and the discharge of any duties imposed upon the Superintendent by Board policies or by Board vote. The delegation of power or duty, however, shall not relieve the Superintendent of responsibility for the action that was delegated.³

Qualifications

The Superintendent must be of good character and of unquestionable morals and integrity. The Superintendent shall have the experience and the skills necessary to work effectively with the Board, District employees, students, and the community. The Superintendent must have and maintain a Professional Educator License with a superintendent endorsement issued by the Illinois State Educator Preparation and Licensure Board.⁴

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. Unless the district has only one school with fewer than four teachers, the board must employ a superintendent or a chief executive officer as allowed under specific circumstances (105 ILCS 5/10-21.4, amended by P.A. 99-846). This statute assigns some specific duties to the superintendent including to: (1) make recommendations to the board concerning the budget, building plans, the locations of sites, the selection, retention, and dismissal of teachers and all other employees, the selection of textbooks, instructional material, and courses of study, (2) report to the board, ISBE, and chief administrative official any employee named in an abused child report, and (3) keep or cause to be kept the records and accounts as directed and required by the board, aid in making reports required by the board, and perform such other duties as the board may delegate to him/her. 105 ILCS 5/10-16.7 requires boards to direct, through policy, the superintendent, in his or her charge of the district's administration.

ISBE is required, subject to an annual appropriation by the General Assembly, to establish a new superintendent mentoring program. With limited exceptions, any individual serving as a first-time superintendent in Illinois must participate in the mentoring program for two school years (105 ILCS 5/2-3.53b). The ISBE-selected provider will assign a mentor to a new superintendent based on similarity of grade level or type of district, learning needs, and geographical proximity. The mentor must not be required to evaluate the new superintendent on the basis of the mentoring relationship.

² See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*, for an annotated list of documents and reports that must be posted on the district's website, if the district has a website. While not comprehensive, see the IASB's *Annual School Calendar* for the required reports that do not need web-posting, available on the IASB website at: www.iasb.com/pdf/schoolcal.pdf; iasb.com/law/.

³ This paragraph strengthens the policy's connection to the IASB's *Foundational Principles of Effective Governance*. It allows the superintendent broad delegation authority even when a policy fails to specifically provide for delegation.

⁴ 105 ILCS 5/21B-20 and 5/21B-25 govern Professional Educator Licenses and superintendent endorsements. See also 23 Ill.Admin.Code §§25.355 (endorsements on or after 9-1-162019 [rule only states the year]), 25.360 (through 8-31-2019), 29.100 (Ill. Professional School Leader Standards), and 29.130 (Superintendent Standards).

Evaluation

The Board will evaluate, at least annually, the Superintendent's performance and effectiveness, using standards and objectives developed by the Superintendent and Board that are consistent with the Board's policies and the Superintendent's contract.⁵ A specific time should be designated for a formal evaluation session with all Board members present. The evaluation should include a discussion of professional strengths as well as performance areas needing improvement.

The Superintendent shall annually present evidence of professional growth through attendance at educational conferences, in-service training, or similar continuing education pursuits.⁶

Compensation and Benefits⁷

The Board and the Superintendent shall enter into an employment agreement that conforms to Board policy and State law. This contract shall govern the employment relationship between the Board and the Superintendent. The terms of the Superintendent's employment agreement, when in conflict with this policy, will control.

LEGAL REF.: 105 ILCS 5/10-16.7, 5/10-20.47, 5/10-21.4, 5/10-23.8, 5/21B-20, 5/21B-25, 5/24-11, and 5/24A-3.
23 Ill.Admin.Code §§1.310, 1.705, and 29.130.

CROSS REF: 2:20 (Powers and Duties of the School Board; Indemnification), 2:130 (Board-Superintendent Relationship), 2:240 (Board Policy Development), 3:10 (Goals and Objectives)

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

⁵ 105 ILCS 5/10-16.7 requires a board to evaluate the superintendent. See **The Superintendent Evaluation Process** on the IASB website. While greater detail may be added to this paragraph (e.g., a timeline, self-evaluation provision, and discussion requirements), a board must be sure that the policy and the superintendent's contract are consistent.

⁶ The reporting requirements in this paragraph are optional, but school boards must "require evaluators to participate in an in-service training on the evaluation of licensed personnel provided or approved by [ISBE] prior to undertaking any evaluation and at least once during each license renewal cycle," (105 ILCS 5/24A-3).

⁷ According to 105 ILCS 5/10-23.8, a superintendent must be employed under either: (1) a one-year contract, in which case he or she gains and retains tenure rights, or (2) a multi-year performance-based contract, in which case he or she waives all tenure rights but does not lose any previously acquired tenure credit with the district. A multi-year performance-based contract must contain specific student performance and academic improvement goals and indicators; see **Superintendent Performance Contracts**, published by IASB. Residency requirements, if desired, should be included in a superintendent's employment contract.

The employment contract should be *in writing* even though the School Code does not require it to be written. Contact the board attorney for assistance. An administrator who is not working under a written contract is presumed to have a contract of one year's duration. Schaumburg Community Consolidated School Dist. v. TRS, 985 N.E.2d 305 (Ill.App.4, 2013)(interpreting 105 ILCS 5/10-23.8a). The Ill. Statute of Frauds may make it impossible to execute an *oral* multi-year administrator contract or to *orally* extend a multi-year written contract (740 ILCS 80/1).

The Open Meetings Act requires all Ill. Municipal Retirement Fund (IMRF) employers, which includes school boards, to: (1) within 6 business days after approving a budget, web-post each employee's total compensation package if it exceeds \$75,000 per year; and (2) at least ~~6~~ six days before approval, web-post an employee's total compensation package if it is \$150,000 or more (5 ILCS 120/7.3). Conflicting opinions concern whether school districts must comply with these posting requirements for their employees who do not participate in IMRF. Contact the board attorney for advice.

Annually by Oct. 1, each school board must report to ISBE the base salary and benefits of the superintendent, administrators, and teachers it employs (105 ILCS 5/10-20.47). Before this annual reporting to ISBE, the information must be presented at a regular school board meeting and then posted on the district's website, if any.

General School Administration

Administrative Personnel Other Than the Superintendent ¹

Duties and Authority

The School Board establishes District administrative and supervisory positions in accordance with the District's needs and State law. This policy applies to all administrators other than the Superintendent, including without limitation, Building Principals. The general duties and authority of each administrative or supervisory position are approved by the Board, upon the Superintendent's recommendation, and contained in the respective position's job description. ² In the event of a conflict, State law and/or the administrator's employment agreement shall control.

Qualifications

All administrative personnel shall be appropriately licensed and shall meet all applicable requirements contained in State law and Illinois State Board of Education rules. ³

Evaluation

The Superintendent or designee shall evaluate all administrative personnel and make employment and salary recommendations to the Board. ⁴

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

¹ State or federal law controls this policy's content. 105 ILCS 5/10-23.8a requires each principal, assistant principal, and other school administrator to be employed under either: (1) a one-year contract, in which case he or she gains and retains tenure rights, or (2) a multi-year performance-based contract, in which case he or she waives all tenure rights but does not lose any previously acquired tenure credit with the district. A multi-year performance-based contract must contain specific student performance and academic improvement goals and indicators.

² Job descriptions are advisable, but optional. See policy 5:30, *Hiring Process and Criteria*, for a discussion of job descriptions. An ISBE rule (23 Ill.Admin.Code §1.310) allows *divided service*, meaning that a superintendent or principal may be employed by two school districts or serve in ~~two~~ two professional capacities provided that full-time equivalency results in a maximum of one full-time position. In districts with an enrollment of 100 or fewer, an individual may serve as superintendent/principal and teach up to ~~one-half~~ ½ day.

³ 105 ILCS 5/21B-20 and 5/21B-25 govern Professional Educator Licenses and administrative, principal, and chief school business official endorsements. The requirements for supervisory or administrative staff are in 23 Ill.Admin.Code §1.705; the requirements for endorsements are in 23 Ill.Admin.Code Part 25, Subpart E. Standards for Administrative Endorsements are in 23 Ill.Admin.Code Part 29.

The following option may be added at the end of this paragraph:

Administrative personnel must reside in the District within a specified period as provided in their initial employment agreement.

State law (105 ILCS 5/24-4.1) prohibiting residency requirements for teachers does not apply to non-instructional personnel, e.g., assistant principals. *Owen v. Kankakee School Dist.*, 632 N.E.2d 1073 (Ill.App.3, 1994). A board may impose residency requirements on a principal or assistant principal only if the individual's initial contract with the district made residency an express condition of employment or continued employment as a principal (105 ILCS 5/10-21.4a). Residency within a district may not be considered in determining a principal's compensation, assignment, or transfer (*Id.*).

⁴ All licensed school district employees must be evaluated (105 ILCS 5/24A-1, 23 Ill.Admin.Code §1.320). Each district must implement a performance evaluation plan for its principals and assistant principals (105 ILCS 5/24A-15, 23 Ill.Admin.Code §50.300). The statutory deadline for evaluating principals and assistant principals depends on whether the individual's employment contract is for one year or multiple years: (1) the evaluation of individuals on a single year contract must take place annually by March 1, and (2) the evaluation of individuals on a multi-year contract must take place by March 1 of the contract's final year (105 ILCS 5/24A-15). Individual contracts may require an earlier deadline. 105 ILCS 5/24A-3 requires that an individual who conducts an evaluation of a teacher, principal, or assistant principal, (1) be prequalified before undertaking any evaluation, and (2) participate in a regularly scheduled retraining program.

Administrators shall annually present evidence to the Superintendent of professional growth through attendance at educational conferences, additional schooling, in-service training, and Illinois Administrators' Academy courses, or through other means as approved by the Superintendent. ⁵

Administrative Work Year

The work year for administrators shall be the same as the District's fiscal year, July 1 through June 30, unless otherwise stated in the employment agreement. In addition to legal holidays, administrators shall have vacation periods as approved by the Superintendent. All administrators shall be available for work when their services are necessary. ⁶

Compensation and Benefits

The Board and each administrator shall enter into an employment agreement that complies with Board policy and State law. ⁷ The terms of an individual employment contract, when in conflict with this policy, will control.

The Board will consider the Superintendent's recommendations when setting compensation for individual administrators. These recommendations should be presented to the Board no later than the March Board meeting or at such earlier time that will allow the Board to consider contract renewal and nonrenewal issues. ⁸

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

⁵ The professional growth reporting requirements in this paragraph are optional. However, professional development activities are required for license renewal. 105 ILCS 5/21B-45, amended by P.A. 99-591, eff. 1-1-17, contains the license renewal process, along with the professional development hours and carry over of these hours.

A school board must require the administrators who evaluate employees to complete training on the evaluation of licensed personnel that is provided or approved by ISBE (105 ILCS 5/24A-3 and 5/24A-20(a)(4)). Any prequalification process or retraining program developed and used by a school district must, at a minimum, meet the requirements of 23 Ill.Admin.Code Part 50, Subpart E. Administrative personnel must participate in this training (1) before they evaluate, and (2) at least once during each certificate renewal cycle (Id.).

⁶ Legal holidays are provided by 105 ILCS 5/24-2.

⁷ According to 105 ILCS 5/10-23.8a, a principal, assistant principal, and any other school administrator must be employed under either: (1) a one-year contract, in which case he or she gains and retains tenure rights, or (2) a multi-year performance-based contract, in which case he or she waives all tenure rights but does not lose any previously acquired tenure credit with the district. A multi-year performance-based contract must contain specific student performance and academic improvement goals and indicators.

The employment contract should be *in writing* even though the School Code does not require it to be written. Contact the board attorney for assistance. An administrator who is not working under a written contract is presumed to have a contract of one year's duration. Schaumburg Community Consolidated School Dist. v. TRS, 985 N.E.2d 305 (Ill.App.4, 2013)(interpreting 105 ILCS 5/10-23.8a). The Ill. Statute of Frauds may make it impossible to execute an *oral* multi-year administrator contract or to *orally* extend a multi-year written contract (740 ILCS 80/1).

The Open Meetings Act requires all Ill. Municipal Retirement Fund (IMRF) employers, which includes school boards, to: (1) within ~~6-six~~ business days after approving a budget, web-post each employee's total compensation package if it exceeds \$75,000 per year; and (2) at least ~~6-six~~ days before approval, web-post an employee's total compensation package if it is \$150,000 or more (5 ILCS 120/7.3). Conflicting opinions concern whether school districts must comply with these posting requirements for their employees who do not participate in IMRF. Contact the board attorney for advice.

Annually by Oct. 1, each school board must report to ISBE the base salary and benefits of the superintendent, administrators, and teachers it employs (105 ILCS 5/10-20.47). Before this annual reporting to ISBE, the information must be presented at a regular school board meeting and then posted on the district's website, if any.

⁸ State law does not address when the board should consider salary issues. The March deadline was chosen because the statutory notice deadline for reclassification is April 1 of the year in which a principal or assistant principal's contract expires unless the contract provides for an earlier deadline (105 ILCS 5/10-23.8b). Alternatively, the policy could require that recommendations be presented "in a timely manner."

Unless stated otherwise in individual employment contracts, all benefits and leaves of absence available to teaching personnel are available to administrative personnel. ⁹

LEGAL REF: 105 ILCS 5/10-21.4a, 5/10-23.8a, 5/10-23.8b, 5/21B, and 5/24A.
23 Ill.Admin.Code §§1.310, 1.705, and 50.300; and Parts 25 and 29.

CROSS REF: 3:60 (Administrative Responsibility of the Building Principal), 5:30 (Hiring Process and Criteria), 5:250 (Leaves of Absence)

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

⁹ State law does not require that administrative and teaching personnel receive identical benefits and leaves of absence, but it does set the minimum in days and type for all certificated personnel.