ISBE Approved Professional Leadership Development Training for Newly Elected Officials

May 5, 2025 and May 7, 2025

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ISBE Approved Professional Development Leadership Training
May 5, 2025, and May 7, 2025

AGENDA

May 5, 2025

6:00 p.m. – 8:00 p.m.	**GENERAL SESSION**
	Avoiding Problems with the Open Meetings Act
	Presented by: Catherine R. Locallo
	The Freedom of Information Act
	Presented by: Catherine R. Locallo
	Ethics, Gift Ban and Fiduciary Duties
	Presented by: Matthew J. Gardner
	Parliamentary Procedures Made Easy
	Presented by: Matthew J. Gardner

May 7, 2025

6:00 p.m. – 8:00 p.m.	**RESUME GENERAL SESSION**
	Construction Project Oversight
	Presented by: Matthew J. Gardner
	Tort Immunity Act and Immunities for Elected Officials
	Presented by: Matthew J. Gardner
	Collective Bargaining
	Presented by: Thomas C. Garretson
	PERA Overview
	Presented by: Thomas C. Garretson
	School Boards and Student Discipline & Trauma Informed Practices
	Presented by: Zaria N. Udeh
	Improving Student Outcomes
	Presented by: Zaria N. Udeh

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ISBE Approved Professional Leadership Development Training

Part 1

May 5, 2025

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ISBE Approved Professional Leadership Development Training

Part 1: May 5, 2025

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REMINDER

You have registered for the two-part ISBE Approved Professional Leadership Development Training Series, required by the Illinois State Board of Education. All elected or appointed school board members must complete **a minimum of four hours** of professional leadership development training.

Part 2 of this mandatory training will be held on Wednesday, May 7, 2025, from 6:00 p.m. to 8:00 p.m. Please use the Zoom link provided at the time of registration to join the session.

*Note: Attendance at **both parts** of the training is required in order to receive a Certificate of Completion and to satisfy ISBE's training requirements.*

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Avoiding Problems with the Open Meetings Act

Presented by: Catherine R. Locallo

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Introduction

Catherine R. Locallo
Partner

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What is a “Meeting” and What is a “Public Body”?

- A majority of a quorum of a public body may not meet to discuss public business without complying with the Open Meetings Act ("OMA").
- For a seven-member board, a quorum is four and a majority of a quorum is three.
- A “meeting” includes communication in person or by video or audio conference, phone call, e-mail, other electronic messaging, or “other means of contemporaneous interactive communication.”

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What is a “Meeting” and What is a “Public Body”?

- If no public business is discussed, it is not a “meeting.”
- However, if public business is discussed, then the gathering qualifies as a meeting. Notice must be posted and minutes must be kept.
- "Public body" also includes committees. If the board creates a two-member (or three-member) committee to deal with a particular topic, the committee must post notices and agendas for its meetings and keep minutes.

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Meeting Notice and Meeting Agenda

- A public body must give public notice of the schedule of its regular meetings (including dates, times, and places) at the beginning of each calendar or fiscal year.
- If a change is made in regular meeting dates, at least 10 days' notice must be given by publication in a newspaper of general circulation in the public body's service area and must also be posted in the principal office of the public body or (if no such office exists) at the building in which the meeting is to be held.
- The public body must also post an agenda for each regular and special meeting at least 48 hours in advance of the meeting, at the principal office of the public body, at the meeting location and on the public body's website.
- Public bodies are to supply a copy of the notice of their regular meetings, and of any special, emergency, rescheduled regular, or reconvened meetings, to any news medium that has filed an annual request for such notice.

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Must a topic be on the Agenda to be Discussed at that Meeting by the Board?

- The OMA states that "the requirement of a regular meeting agenda shall not preclude the consideration of items not specifically set forth in the agenda."
- The Illinois Appellate Court has held that this language means that items not specifically listed in a regular meeting agenda may only be deliberated and discussed by boards - not acted upon - at that meeting.
- Boards are strongly advised to be sure that any matter to be voted upon is included on their regular meeting agendas.
- An amended agenda which adds new proposed action items should be posted and sent to requesting news media at least 48 hours ahead of the meeting.

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What Type of Notice Must be Given for Action Items?

The agenda must set forth the general subject matter of any final action to be taken at the meeting.

Final action at a meeting shall be preceded by a public recital of the nature of the matter being considered and other information that will inform the public of the business being conducted.

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May a Board Member Attend a Meeting by Video Conference or Telephone Call?

- If allowed by the public body under rules adopted on the subject, an absent member may be permitted to participate electronically only if he or she is prevented from physically attending the meeting due to:
  - Personal illness or disability;
  - Employment purposes;
  - Business of the public body;
  - A family emergency or other emergency; or
  - Unexpected childcare obligations.
- A member who wishes to attend electronically must notify the "recording secretary or clerk" of the board before the meeting unless it is "impracticable" to do so.
- Board takes action at the meeting to allow the member to attend by video conference or telephone call.
- A quorum of the board must be physically present at the actual location of the meeting. Absent members may not "call in" to make up a quorum.

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What Topics May the Board Discuss in a Closed Meeting?

- The OMA requires public bodies to meet in public, unless an exception to the requirement of open meetings applies.

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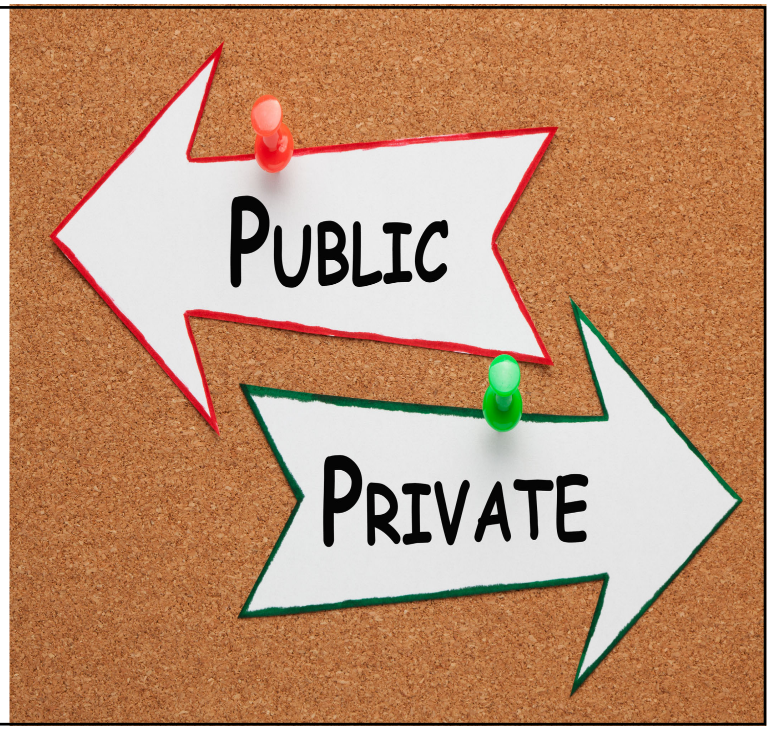

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What Procedure Should the Board Follow To Go Into Closed Session?

- A motion to go into closed session must cite the OMA exceptions which authorize that particular closed session.
- A roll call vote taken in open session is needed to go into a closed meeting.
- The board may properly convene in closed session during any regular meeting to discuss statutorily permitted topics if it follows the above procedures, even if the agenda for that meeting does not list a closed session.

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What Topics May the Board Discuss in a Closed Meeting?

- The exceptions most commonly relevant for our purposes provide that a board of education hold a closed meeting to discuss the following subjects:
  - Appointment, employment, compensation, discipline, performance, or dismissal of **specific** employee(s) or volunteers of the district, independent contractors in an educational setting or legal counsel for the district.
  - Collective negotiating matters between the district and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees.
  - Selection of a person to fill a public office, as defined in the Open Meetings Act, or to fill a vacancy in a public office whose occupant the district has legal authority to appoint, or the discipline, performance or removal of the occupant of a public office whom the district has legal authority to remove.

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What Topics May the Board Discuss in a Closed Meeting?

- A board may hold a closed meeting to discuss the following subjects:
  - Purchase or lease of real property for the use of the district, including meetings held to discuss whether a particular parcel should be acquired.
  - Setting a price for the sale or lease of property owned by the district.
  - Sale or purchase of securities, investments or investment contracts.
  - Security procedures, school building safety and security, and the use of personnel and equipment to respond to an actual, a threatened, or a reasonably possible danger to the safety of employees, students, staff or public property.

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What Topics May the Board Discuss in a Closed Meeting?

- A board may hold a closed meeting to discuss the following subjects:
  - A student disciplinary case (or cases).
  - Placement of a student(s) in special education programs and other matters relating to individual students.
  - **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 district finds that an action is probable or imminent**, in which case the basis for the finding must be recorded and entered into the minutes of the closed meeting.

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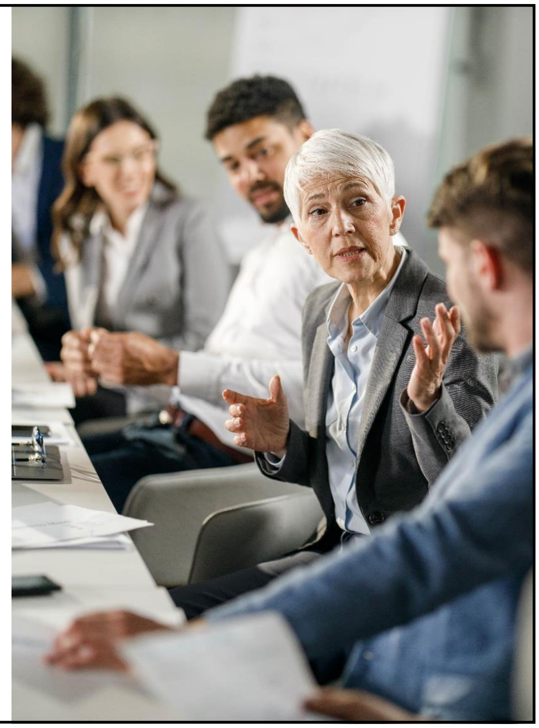

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What Topics May the Board Discuss in a Closed Meeting?

- A board may hold a closed meeting to discuss the following subjects:
  - Self-evaluation, practices and procedures or professional ethics, when the board is meeting with a representative of a statewide association of which the district is a member.
  - Discussion of minutes of meetings lawfully closed under the Open Meetings Act, whether for purpose of approval by the district of the minutes or semi-annual review of the minutes.
  - 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.

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How Detailed Should Open Meeting Minutes Be?

- The Open Meetings Act requires public bodies to keep minutes of all meetings, including at a minimum:
  - The meeting date, place, and time.
  - Board members recorded as present or absent.
  - A “summary of discussion on all matters proposed, deliberated, or decided”, with a record of any votes taken.

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How Detailed Should Closed Meeting Minutes Be?

- Minutes of closed sessions are subject to these same content requirements.
- It is **not** acceptable for your closed session minutes to simply say “the Board discussed the Johnson lawsuit.”
  - The minutes must summarize the discussion about the lawsuit, as by indicating who brought the matter up and what they asked the board to consider.

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How Should We Review and Release Closed Meeting Minutes and Tapes?

The board must review closed session minutes and tape recordings every 6 months and release closed meeting minutes which no longer need to be kept confidential.

If closed meeting minutes are not released, the board must make a specific finding in the record that the need for confidentiality still exists.

Tape/audio recordings may be destroyed after 18 months provided the minutes have been approved and that there is no pending litigation about a subject discussed on that particular recording.

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Does a school board need permission from the State to destroy a verbatim recording?

The verbatim record of a closed session may be destroyed without notification to or approval of a records commission or the State Archivist under the Local Records Act or State Records Act no less than 18 months after completion of the meeting, but only after (a) the public body approves the destruction of a particular recording; and (b) the public body approves the minutes of the closed session that meet the requirements of the OMA.

5 ILCS 120/2.06(c).

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What Does the OMA Say About Recording Meetings?

- The OMA allows anyone to tape record or photograph **open** meetings.
- The public body may make "reasonable regulations" governing these activities but may not selectively prohibit recording at certain times.
- The OMA requires public bodies to make and maintain audio or video recordings of their closed meetings.

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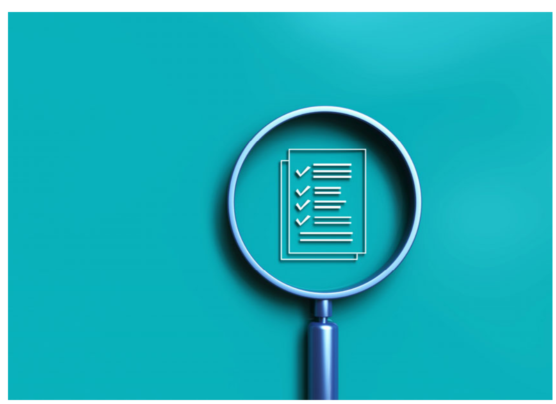
What is the Interplay Between Collective Bargaining and the OMA?

While collective bargaining negotiations have been exempted from compliance with the OMA for many years, an amendment to the Illinois Educational Labor Relations Act ("IELRA") makes clear that collective bargaining strategy sessions are also exempt from the requirements of the OMA. 115 ILCS 5/18 (eff. 1/1/19).



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What Training is Required for Elected and Appointed Members of a Public Body under the OMA?

- Each public body must designate employees, officers and/or members to receive OMA electronic training provided by the Public Access Counselor (OMA Designees). *Annual training obligation if an OMA Designee).*
- Public Act 97-504 (effective January 1, 2012) extended this training requirement to each elected or appointed member of a public body subject to the OMA.
- Newly elected or appointed members of public bodies must complete the training no later than the 90th day after the date they take any required oath of office (or assume their responsibilities as a member of the governmental body, if no oath is required), and must file a certificate of completion issued by the PAC with the public body. *One-time training during term of office, unless an OMA Designee.*
- The annual on-line training provided by Public Access Counselor can be found at https://foiapac.ilga.gov.

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What Happens if You Violate the OMA?

- Private citizens can enforce the OMA by suing for a court order to enjoin a public body from violating the Act, or to void actions taken in a manner which violated the Act.
  - In such cases, a prevailing plaintiff can have his attorney's fees paid by the public body.
- Private citizens can also file a Request for Review with the Illinois Attorney General's Public Access Counselor.
- The State's Attorney can pursue civil remedies or criminal sanctions.

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Next Session (6:30 p.m. – 7:00 p.m.)

The Freedom of Information Act

Presented by: Catherine R. Locallo

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The Freedom of Information Act

Presented by: Catherine R. Locallo

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Introduction

Catherine R. Locallo
Partner

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Overview of FOIA

- A public record is defined as:
  - **"[a]ll records**, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, records, electronic data processing records, electronic communications, recorded information and all other documentary materials **pertaining to the transaction of public business**, regardless of physical form or characteristics, having been **prepared by or for**, or **having been used or being used by, received by, in the possession of**, or **under the control of any public body**." ILCS 140/2(c).

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Overview of FOIA

- All **records of funds** of the State, units of local government, and school districts are public records subject to inspection and copying by the public. 5 ILCS 140/2.5.
- **Certified payroll records** submitted to a public body under Section 5(a)(2) of the Prevailing Wage Act are public records subject to inspection and copying by the public, except that contractors' employees' addresses, telephone numbers, and social security numbers must be redacted by the public body prior to disclosure. 5 ILCS 140/2.10.
- All **settlement and severance agreements** entered into by or on behalf of a public body are public records subject to inspection and copying by the public, subject to applicable redactions. 5 ILCS 140/2.20.

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Overview of FOIA

FOIA only provides access to documents; it does not require creation of a new record. *Kenyon v. Garrels*, 184 Ill. App. 3d 28, 32 (4th Dist. 1989).

FOIA does not require a public body to answer questions, nor does it require a public body to interpret or advise requesters as to the meaning or significance of public records. See 5 ILCS 140/3.3

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Overview of FOIA

- A public body can require that a request for records be in writing.
- A public body may not require that a requester use a particular form to submit a FOIA request.
- A public body may, but is not required to, respond to oral requests for records. 5 ILCS 3(c).
  - A request can be made anonymously.
  - A public body cannot ask a requester why they want the records, except to clarify whether the request is being made for a commercial purpose.

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Overview of FOIA

- Each public body shall designate one or more officials or employees to act as its FOIA Officer.
- A FOIA Officer is responsible for receiving requests, ensuring that the public body timely responds, and issuing the responses.
- FOIA Officers are required to successfully complete the electronic training curriculum established by the PAC within 30 days after assuming the position, and on an annual basis thereafter. Successful completion of the required training curriculum within the periods provided shall be a prerequisite to continue serving as a Freedom of Information Officer. The electronic training is available at https://foiapac.ilga.gov.

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Overview of FOIA

A public body must provide a record in electronic format requested by the requester if it is feasible to do so.

If it is not feasible to so, then the public body shall furnish it in the format in which it is maintained by the public body, or in paper format at the option of the requester.

A public body may charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium.

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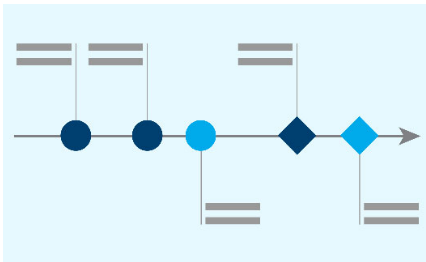
Timelines for Response



- Generally, a public body has **5 business days** after receipt of a FOIA request to respond to that FOIA request.
- Business days are Monday through Friday, and do not include Saturday or Sunday or legal holidays in Illinois (provided the public body is closed for the holiday). *See 205 ILCS 630/17 for the holidays applicable to FOIA timelines.*

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Timelines for Response

- The time for response may be extended by up to 5 additional business days from the original due date for any of the reasons specified in FOIA Section 3(e). Most often cited for extension:
  - The request requires the collection of a substantial number of specified records;
  - The request is couched in categorical terms and requires an extensive search for the records responsive to it;
  - The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure (in whole or in part);
  - The request for records cannot be complied with by the public body within the time limits…without unduly burdening or interfering with the operations of the public body.

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Timelines for Response

- The requester may voluntarily agree to a longer timeframe for response.
- Failure to timely respond is considered a denial, and the public body **waives the right to assert that the request would be unduly burdensome to comply with** or to charge copy fees.

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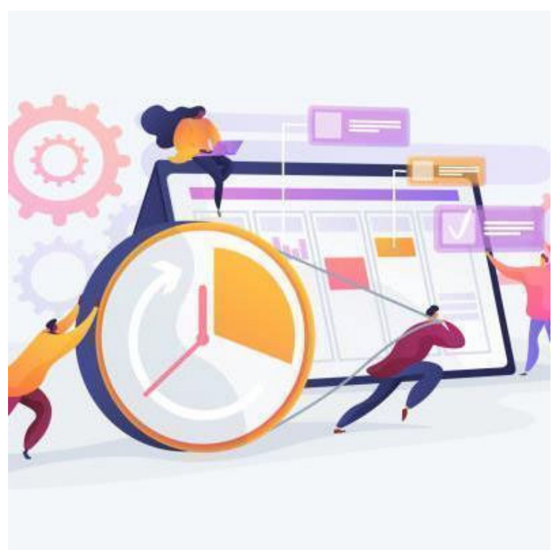
Timelines for Response – Unduly Burdensome Designation

- If a **categorical request** for records would be **unduly burdensome** for the public body to comply with, the public body must notify the requester in writing of this and provide the requester with an opportunity to narrow within the first 5 business days after receipt of the request or the extended 5 business days, if applicable and an extension letter was sent.



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Timelines for Response – Commercial Purpose Request

- A public body shall respond to a request for records to be used for a **commercial purpose** within 21 business days after receipt. 5 ILCS 140/3.1.
  - "Commercial purpose" means the 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.
  - Requests from news media, not-for-profits, scientific or academic organizations are not for a "commercial purpose." 5 ILCS 140/2(c-10).
  - If applicable, a public body may charge for search and retrieval efforts in connection with a commercial purpose request. See 5 ILCS 140/6(f).

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Timelines for Response – Recurrent Requester

- A public body shall respond to a request from a **recurrent requester** within 21 business days after receipt.
  - "Recurrent requester" means 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 requests for records within a 7-day period.
  - This designation does not apply to news media, not-for-profits, scientific or academic organization. 5 ILCS 140/2(g).

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Timelines for Response – Voluminous Request

- A public body shall respond to a **voluminous request** within 5 business days after receipt. "Voluminous request" means a request that:
  - (i) includes more than 5 individual requests for more than 5 different categories of records or a combination of individual requests that total requests for more than 5 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. Generally, this designation does not apply to news media, not-for-profits, scientific or academic organizations. 5 ILCS 140/2(h).

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Timelines for Response – Voluminous Request

- Triggers Specific and Timely Notice Obligations to the Requester.
- If the request is not amended such that it is no longer a "voluminous request", the public body is afforded additional time for response and can charge for providing electronic copies.

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Denials for Exempt Content or Records

- The presumption under FOIA is that all records in the custody or possession of a public body are presumed to be open to inspection and copying.
- Any public body that asserts that a record is exempt from disclosure has the burden of proving by **clear and convincing evidence** that it is exempt. 5 ILCS 1.2.

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Denials for Exempt Content or Records

Any public body that denies a FOIA request must notify the requester in writing of the decision to deny the request.

Written denial must include the reasons for the denial, including a detailed factual basis and supporting legal authority for any exemption claims under FOIA Section 7, and the right to seek review of the denial by the Illinois Attorney General's Public Access Counselor (PAC) or in a court of law.

The non-existence of a responsive record is not a denial. Rather, the public body should respond, "[t]here are no records responsive to your request."

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Review of Denials for Exempt Content or Records

- A requester has 60 calendar days from the public body's final response (or the date the response was due) to file a Request for Review with the PAC regarding the denial of a FOIA request.
- The PAC may:
  - Work to resolve the dispute between the requester and the public body;
  - Issue a non-binding decision finding that the public body did or did not violate FOIA and, if warranted, direct disclosure of records to the requester; or
  - Issue a binding decision finding that the public body did or did not violate FOIA, which is published on the PAC's website.

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Review of Denials for Exempt Content or Records

Alternatively, a requester may file a civil action in circuit court for injunctive or declaratory relief within 2 years after the alleged violation took place.

If a requester prevails in the litigation, the court will award the requester reasonable attorney's fees.

In addition, if the court determines that a public body willfully and intentionally failed to comply with FOIA or otherwise acted in bad faith, the Court can award a civil penalty of not less than $2,500 nor more than $5,000 for each occurrence.

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FOIA Exemptions of Particular Interest to School Districts

- **Private information:**
  - Unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, home address, personal license plates and personal e-mail addresses, unless disclosure is required by another provision of FOIA, a State or federal law or a court order. 5 ILCS 7(1)(b).

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FOIA Exemptions of Particular Interest to School Districts

- **Personal information** contained within public records, the disclosure of which would constitute **a clearly unwarranted invasion of personal privacy**, unless the disclosure is consented to in writing by the individual subjects of the information.
  - "Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information.
  - The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of privacy. 5 ILCS 7(1)(c).

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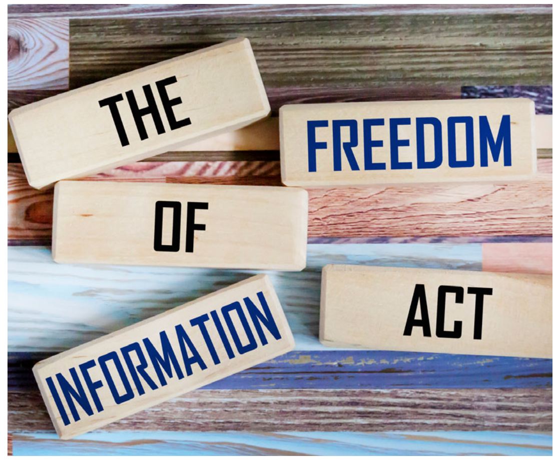
FOIA Exemptions of Particular Interest to School Districts

- Examples of information upheld by the PAC as exempt from disclosure pursuant to FOIA Section 7(1)(c) include:
  - Names of individuals who submit FOIA requests (if they request anonymity) (upheld on many occasions in pre-authorization decisions issued by the PAC).
  - Dates of birth (upheld on many occasions in pre-authorization decisions issued by the PAC), but not age.
  - Race/ethnicity (2010 PAC 5602).
  - Names, application and application-related information of unsuccessful applicants for employment (2010 PAC 5196; 2010 PAC 5602; 2010 PAC 5653; 2010 PAC 9187; and 2010 PAC 7800).



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FOIA Exemptions of Particular Interest to School Districts

- Examples of information upheld by the PAC as exempt from disclosure pursuant to FOIA Section 7(1)(c) include:
  - Educational transcript (2010 PAC 6398, has no bearing on job performance).
  - Employer-issued cell phone numbers (2010 PAC 8685, disclosure could subject staff to excessive calls from the public at all times of the day; could also impair the ability for employees to be contacted for work related reasons).
  - An employee’s or board member’s personal expenses for meals and entertainment which were not submitted for reimbursement to the public body (2010 PAC 7316, had no bearing on public duties of public employees and is not use of public funds).

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FOIA Exemptions of Particular Interest to School Districts

- Examples of information upheld by the PAC as exempt from disclosure pursuant to FOIA Section 7(1)(c) include:
  - An employee's or board member's personal appointments (2010 PAC 7187 and 2010 PAC 9371).
  - Names and other identifying information for persons who express opinions, concerns or complaints to a public body (2010 PAC 8559, citizens have a privacy right in the opinions they express).
  - Medical information (upheld on many occasions in pre-authorization decisions issued by the PAC).

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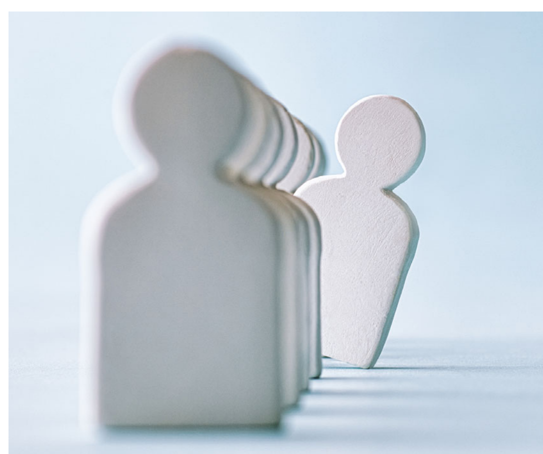
FOIA Exemptions of Particular Interest to School Districts

- Examples of information upheld by the PAC as exempt from disclosure pursuant to FOIA Section 7(1)(c) include:
  - Names of pension fund beneficiaries (2010 PAC 11125, not public employees, so they have a reasonable expectation of privacy).
  - Certain payroll deduction information (i.e., amounts withheld for state and federal taxes; discretionary withholdings and contributions) (2011 PAC 13034, highly personal and does not relate to the obligation, receipt and use of public funds).
  - Employee's law enforcement background check (2010 PAC 9678).



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FOIA Exemptions of Particular Interest to School Districts

- Examples of information **not** exempt from disclosure pursuant to FOIA Section 7(1)(c) include:
  - Names, titles, salary and hire date of current or former employees.
  - Employment application and resume of current or former employees.
  - Generally, personnel files.
  - Employee discipline records.
  - Timesheets.
  - Records which reflect a current or former employee's vacation time, sick time, compensatory time, personal time, etc.

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FOIA Exemptions of Particular Interest to School Districts

- Examples of information **not** exempt from disclosure pursuant to FOIA Section 7(1)(c) include:
  - Employee photographs.
  - Resignation letter.
  - Employer's "Do Not Hire" list.
  - Resumes and curricula vitae of candidates for public office.

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FOIA Exemptions of Particular Interest to School Districts

- Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body… 5 ILCS 7(1)(f).

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FOIA Exemptions of Particular Interest to School Districts

- Examples of information upheld by the PAC as exempt from disclosure pursuant to FOIA Section 7(1)(f) include:
  - Records in "draft" form (per se exempt from disclosure).
  - Memoranda containing recommendations of officials and/or employees of a public body about an individual's continued employment (2010 PAC 6032).
  - E-mails expressing an opinion about a job candidate (2010 PAC 7800).
  - Internal e-mails in which strategy was discussed and deliberated and courses of action were formulated (i.e., new administrator search; policy matters; steps for investigating a complaint).

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FOIA Exemptions of Particular Interest to School Districts

- Examples of information upheld by the PAC as exempt from disclosure pursuant to FOIA Section 7(1)(f) include:
  - Pre-decisional notes and other communications used as part of a public body's deliberative process in determining how to proceed with a specific matter (i.e., notes taken by administrators during an investigation).
  - Candidate interview questions (2010 PAC 7800).
  - Candidate rating sheets (2010 PAC 7800).
  - Chart listing candidate's strength and weaknesses (2010 PAC 7800).

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FOIA Exemptions of Particular Interest to School Districts

- Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made. 5 ILCS 140/7(1)(h).
- Closed session meeting minutes. See 5 ILCS 140/7(1)(l).
- Attorney-client privileged communications. See 5 ILCS 140/7(1)(m).
- Records relating to collective negotiating matters between public bodies and their employees or representatives, except that any final contract or agreement shall be subject to inspection and copying. See 5 ILCS 140/7(1)(p).
- Test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment. See 5 ILCS 140/7(1)(q).

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FOIA Exemptions of Particular Interest to School Districts

- Information prohibited from being disclosed by the Personnel Records Review Act (PRRA). 5 ILCS 140/7.5(q).
  - The PRRA prohibits the disclosure of performance evaluations in response to a FOIA request. See 820 ILCS 40/11.
  - An employer shall review a personnel record before releasing information to a third party (except when the release is ordered to a party in a legal action or arbitration) and delete disciplinary reports, letters of reprimand or other disciplinary records which are more than 4 years old. See 820 ILCS 40/8.
    - The above limitation on disclosure does not apply to a school district or its authorized employee or agent who is sharing information related to an incident or an attempted incident of sexual abuse, severe physical abuse, or sexual misconduct.
  - With respect to FOIA requests for discipline documents, written notice must be sent to an employee by first-class mail to the employee's last known address on or before the day the information is divulged. See 820 ILCS 40/7.

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Electronic Communications and FOIA – Public Officials

- Electronic records relating to the transaction of public business are "public records" subject to disclosure under FOIA even if generated on a public official's private equipment and/or maintained on personal electronic accounts. 2011-006.
  - The public body subject to this binding decision filed for administrative review. Ultimately, the Appellate Court held that communications via text message and e-mail between board members during a board meeting are subject to FOIA. *City of Champaign v. Madigan*, 2013 Il. App. (4th) 120662.
  - Once board members convene a public meeting, they collectively become a public body. Any communication that pertains to public business and sent or received by board members when the public meeting is in session is a public record subject to FOIA.

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Electronic Communications and FOIA – Public Officials

- When Electronic Communications of Public Officials are Subject to Disclosure Under FOIA
  - Sent/received via a public body email address (i.e., boardmember1@sd1.org).
  - To/from an employee of the public body (even if via the employee's private email or device).
  - Via a private email/device and convened for a meeting under the Open Meetings Act (regular, special, emergency, committee meeting).
  - Via a private email/device and 3 or more board members are on the communication.
    - *Note*: Can be fewer than 3 board members if the communication is between members of a committee and about committee business.

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Electronic Communications and FOIA – Public Employees

- On January 28, 2016, CNN submitted a FOIA request to the Chicago Police Department ("CPD") seeking "all emails related to Laquan McDonald from Police Department email accounts and personal email accounts where business was discussed" for 12 named CPD officers for specified date ranges. CNN sought review of the scope of the CPD's search for responsive records.
- The PAC determined that the CPD violated FOIA by failing to conduct an adequate search for all emails responsive to the request.
- Among other things, the PAC concluded that CPD had a duty to search for responsive records contained in the personal email accounts of the named officers since "communications pertaining to the transaction of public business that were sent or received on the CPD employees' personal e-mail accounts are 'public records' under the definition of that term in section 2(c) of FOIA."
- The PAC directed CPD to search the personal email accounts of the 12 named officers for responsive documents but noted that CPD may initially conduct this search by asking the named officers whether they maintain any records responsive to the request, and, if so, by requiring the officers to provide copies of the records to CPD's FOIA officer.

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Electronic Communications and FOIA – Public Employees

The PAC's decision was upheld by the Court on administrative review. The Court recognized that in order to qualify as a public record, a communication must both (1) pertain to the transaction of public business and also either have been (2) prepared by, (3) prepared for, (4) used by, (5) received by, (6) possessed by, or (7) controlled by a public body.

Here, because police officers can act on behalf of the City individually vis-à-vis their employment, they act for the public body whenever their actions pertain to City business. Individual police officers act for the public body whenever they individually do some kind of "public business" (a term that the Court did not define). Thus, any such records on their personal devices are public records of the City.

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Electronic Communications and FOIA – Public Employees

- The Court differentiated between city council members (elected officials) and police officers (employees) by explaining that, while a public body can act through its employees, agents, and elected officials, some of them (like city council members) can only act collectively while others (like police officers) act for a public body individually, without meetings or quorums.
- Thus, the holding in *City of Champaign v. Madigan*, 2013 IL App (4th) 120662, that communications from elected officials' personal electronic devices/accounts are public records only when such communications happen during a meeting at which a quorum is present, remains intact.

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Next Session (7:00 p.m. – 7:30 p.m.)

Ethics, Gift Ban and Fiduciary Duties

Presented by: Matthew J. Gardner

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Ethics, Gift Ban, and Fiduciary Duties

Presented by: Matthew J. Gardner

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Introduction

Matthew J. Gardner
Partner

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Introduction

- Public officers are expected to adhere to the highest standards of ethical conduct.
- When private interests compete with the performance of duty, a conflict of interest arises.
- Conflicts of interest are prohibited by common law and statute.

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Prohibited Interests in Contracts

Public officers may not have an interest in contracts with the governmental body they serve, subject to a few, limited exceptions.

Public Officer Prohibited Activities Act, 50 ILCS 105/3(a).

Contracts made in violation of the Illinois conflict of interest statutes are void.

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Exceptions Allowing Interests in Contracts

- Interested members may contract with an entity in which the interested member has less than a 7 ½ % share in the ownership.
- Interested members may contract when the amount of the contract does not exceed $2,000 and the total amount of all contracts is not over $4,000.
- Any contract where interested member has less than a 1 % share in the ownership.
- Public utility service contracts.

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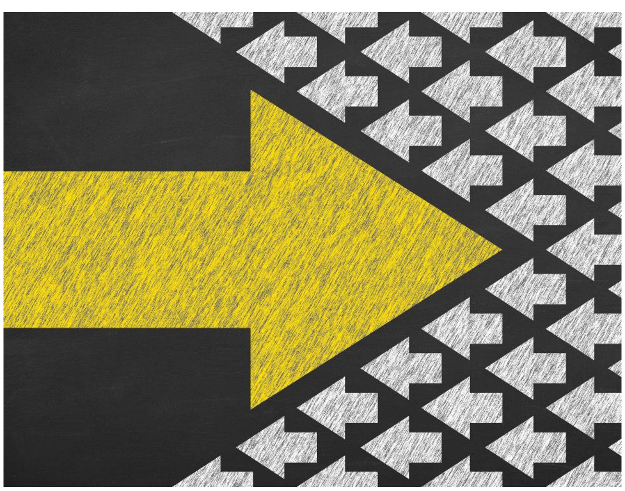
Common Law Conflicts of Interest



- Faithful performance of official duties is best secured if governmental officers are not called upon to make decisions that could result in a personal advantage or disadvantage to their individual interests.
- Common law conflicts of interest may exist even in circumstances that do not violate the Illinois conflict of law statutes.

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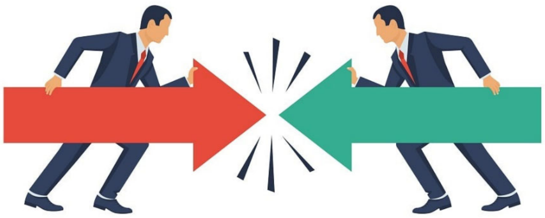
Common Law Conflicts of Interest

- Direct conflict of interest cases:
  - Public officers may not have an interest directly in their own names in any contract work, or business of the public body, with a few limited exceptions.
- Conflicts of interest:
  - The existence of an actual executed contract is not always necessary to find a conflict of interest violation.



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Common Law Conflicts of Interest

- Indirect Conflicts of Interest:
  - Public officers may not be interested **indirectly** in the name of any other person, association, trust, or corporation in any contract, work, or business of the public body, or in the sale of any article.

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The State Officials and Employees Ethics Act

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Introduction

- The affirmative requirements of the State Official and Employees Ethics Act are more limited as applied to municipalities and local governments.

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Introduction

- An ethics ordinance or resolution adopted by a governmental entity in accordance with Section 70-5 will prohibit:
  - Employees from intentionally performing any prohibited political activity during any compensated time
  - Employees from intentionally misappropriating any government property
  - Elected officials, department heads, supervisors or employees from intentionally misappropriating the services of any government employee by requiring the employee to perform any prohibited political activity
  - Employees from being required at any time to participate in any prohibited political activity in consideration for being awarded any additional compensation or employee benefit
  - Employees from being awarded any additional compensation or employee benefit in consideration for the employee's participation in any prohibited political activity

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Prohibited Political Activity

- Employees are prohibited from intentionally performing prohibited political activity during any compensated time, including lunch time.
- Compensated time does not include vacation, personal, or compensated time off.

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Prohibited Political Activity

- Prohibited political activities include:
  - Preparing for, organizing, or participating in any political meeting, political rally, political demonstration or other political event.
  - Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.
  - Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution.
  - Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
  - Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.

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Prohibited Political Activity

- Prohibited political activities include:
  - Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question.
  - Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.
  - Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.
  - Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.
  - Preparing or reviewing responses to candidate questionnaires in connection with a campaign for elective office or on behalf of a political organization for political purposes.
  - Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.

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Prohibited Political Activity

- Prohibited political activities include:
  - Campaigning for any elective office or for or against any referendum question.
  - Managing or working on a campaign for elective office or for or against any referendum question.
  - Serving as a delegate, alternate, or proxy to a political party convention.
  - Participating in any recount or challenge to the outcome of any election, except to the extent that under subsection (d) of Section 6 of Article IV of the Illinois Constitution each house of the General Assembly shall judge the elections, returns, and qualifications of its members.

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Prohibited Political Activity

- Campaign contributions may not be solicited, accepted, offered or made on State property by officials, employees, candidates or lobbyists. 5 ILCS 430/5-35.
- "State property" means any building or portion thereof owned or exclusively leased by the State or any State agency at the time the contribution is solicited, offered, accepted, or made." 5 ILCS 430/5-35.

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Gift Ban

- Employees, their spouses and family members living at home may not intentionally solicit or accept gifts from prohibited sources. 5 ILCS 430/10-30.
- A "gift" is defined as "any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value."

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Gift Ban

- A "prohibited source" includes any person or entity:
  - Who is seeking official action by the officer or employee or an officer, State agency or other employee who is directing the employee;
  - Who does business or seeks to do business with an officer or employee or an officer, State agency or other employee who is directing the employee;
  - Who conducts activities regulated by an officer or employee or an officer, State agency or other employee who is directing the employee;
  - Who has interests that may be substantially affected by the performance or non-performance of the official duties of the officer or employee;
  - Who is registered or required to be registered under the Lobbyist Registration Act; or
  - Who is an agent of, a spouse of, or an immediate family member who is living with a "prohibited source."

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Gift Ban

Exceptions to the Gift Ban include:

- Gifts available on the same conditions to the general public;
- Anything for which market value is paid;
- Lawfully made campaign contributions;
- Educational material or missions;
- Travel expenses for a meeting to discuss business;
- Gifts from a relative;
- Gifts given on the basis of personal friendship'
- Food or refreshments not exceeding $75 per person in value on a single calendar day;
- Intra-governmental and inter-governmental gifts;
- Bequests, inheritances, and other transferences at death; and
- Any item or items from any one prohibited source during any calendar year having a cumulative total of less than $100.00.

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Gift Ban

- How to determine the "value" of a gift":
  - One of the exceptions to the gift ban is anything for which the official or employee pays the market value.
  - This suggests that the proper value of a gift is not what the gift costs the giver, nor the subjective value that the employee places on the gift, but rather what the "market" would pay for the gift.
  - Sec. 10-30. A board member or employee does not violate this Act if 1) the board member or employee promptly takes reasonable action to return the prohibited gift to its source or 2) gives the gift or an amount equal to its value to an appropriate tax exempt charity.

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Criminal Offenses

- Official Misconduct - 720 ILCS 5/33-3
  - A public officer or employee commits misconduct when, in his official capacity he commits any of the following acts:
    - Intentionally or recklessly fails to perform any mandatory duty as required by law; or
    - Knowingly performs an act which he knows he is forbidden by law to perform; or
    - With intent to obtain a personal advantage for himself or another, he performs an act in excess of his lawful authority; or
    - Solicits or knowingly accepts for the performance of any act a fee or reward which he knows is not authorized by law.

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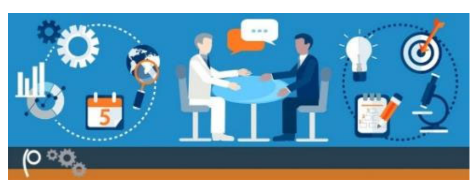
Public Contracts (Bid Rigging)

- The statute prohibits public officials from:
  - Knowingly disclosing to any interested person any information related to the terms of a sealed bid
  - Knowingly conveying to any person any information concerning the specifications for such contract or the identity of any particular potential subcontractors
  - Either directly or indirectly, knowingly informing a bidder or offeror that the bid or offer will be accepted or executed only if specified individuals are included as subcontractors
  - Knowingly awarding a contract based on criteria which were not publicly disseminated via the invitation to bid



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Public Contracts (Bid Rigging)

- The statute prohibits public officials from:
  - Knowingly either:
    - providing, attempting to provide or offering to provide any kickback;
    - soliciting, accepting or attempting to accept any kickback; or
    - including, directly or indirectly, the amount of any kickback prohibited by paragraphs (1) or (2) of this subsection (a) in the contract price charged by a subcontractor to a prime contractor or a higher tier subcontractor or in the contract price charged by a prime contractor to any unit of State or local government for a public contract.
  - Receiving an offer of a kickback, or has been solicited to make a kickback, and failing to report it to law enforcement officials
  - Participating, sharing in, or receiving directly or indirectly any money, profit, property, or benefit through any contract with the municipality, with the intent to defraud the municipality.

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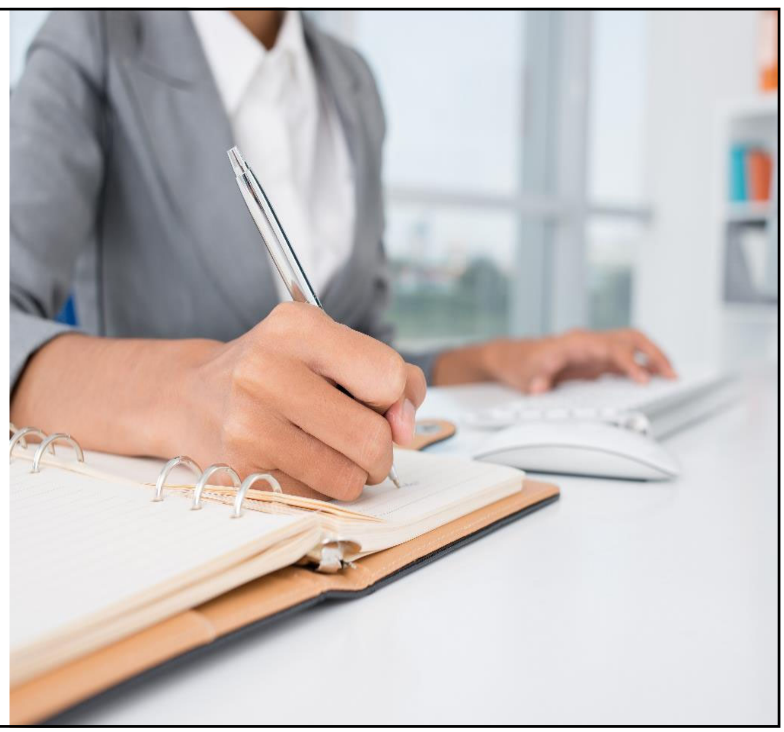
Fiduciary Duties



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Role of Individual Board Members: Fiduciary Duties

- Duty of Care
  - Well-informed.
  - Ask questions necessary to exercise independent judgment.
  - Prudent person with reasonable care, skill, and caution.
    - What would an “ordinarily prudent person” do in a similar position under similar circumstances?
  - Reliance on expert knowledge.

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Role of Individual Board Members: Fiduciary Duties

- Duty of Loyalty.
  - Interests of the District ahead of individual goals.
  - Prohibition on acting out of self-interest.
  - Focus on the future of the District’s reputation, mission, core values, and financial strength.
  - Commitment to institution’s long-term success.
  - Confidentiality of Board business.

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Role of Individual Board Members: Fiduciary Duties

- Duty of Obedience
  - True to advancing the District's mission.
  - Act consistently with that mission to ensure that limited District resources are not utilized contrary to that mission.

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QUESTION & ANSWER

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Next Session (7:30 p.m. – 8:00 p.m.)

Parliamentary Procedures Made Easy

Presented by: Matthew J. Gardner

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Parliamentary Procedures Made Easy

Presented by: Matthew J. Gardner

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Introduction

Matthew J Gardner
Partner

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What is Parliamentary Authority?

Parliamentary authority is the written rules governing the presentation, discussion and voting on business before a body of persons that meet to deliberate and determine matters as a group.

How meetings are conducted is largely left for the board to decide for itself.

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What is Parliamentary Authority?

- For school boards, parliamentary authority comes from the following sources:
  - Illinois law (requirements that are imposed by state law and that must be obeyed)
    - The Open Meetings Act (5 ILCS 120/1)
  - Specific board policies (policies that a board adopts to govern itself)
  - Published parliamentary authorities adopted by boards such as Robert's Rules of Order (these are usually adopted as part of a board's specific policies or to govern residual issues that the specific board policies do not adopt)

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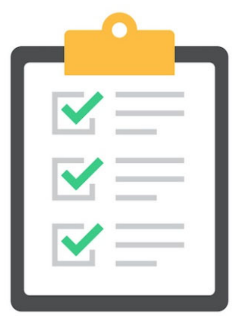
Order of Business

- The first order of business at each meeting of the board of education shall be the calli to order by the president.
- Thereafter, the order of the agenda may generally be as follows:
  - Roll call
  - Pledge of Allegiance
  - Petitions and communications
  - Public Comment
  - Awards and recognitions
  - Public hearings
  - Consent Agenda



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Order of Business

- Thereafter, the order of the agenda may generally be as follows (continued):
  - Reports and recommendations
  - Closed session
  - Old business
  - Award of bids and other items of expenditure
  - Ordinances and resolutions
  - New business
  - Adjourn

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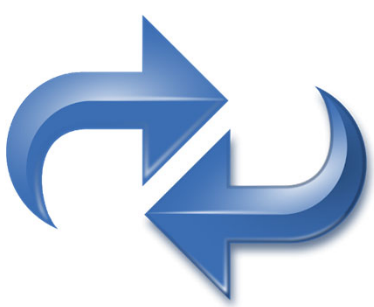
Order of Business



- Change of Agenda Item Order: The president may, at their discretion, or at the request of a board member, change the order of an item or items on the agenda with the consent of the board of education.

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Order of Business

- Item(s) Not on Agenda: The failure to specifically list a matter on the agenda shall not preclude discussion of any matter that is germane to a general topic listed on an agenda or meeting notice.
- Final action shall <u>not</u> be taken on an item not on the agenda.
  - If final action is taken on an item not on the agenda, the item should be placed on the agenda for ratification at the next regularly scheduled meeting of the board of education.

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Robert's Rules of Order

- About a hundred years ago, Col. Henry Robert wrote the first edition of his Rules of Order, a guide for management of assemblies, conventions and meetings.
  - *Robert's Rules of Order* is considered the "Bible" for professional parliamentarians and those charged with running meetings.
  - However, they are like the Bible in another way: there are as many editions of Robert's Rules as there are authors willing to make a buck "translating" and "revising" Col. Robert's original work.
  - There are also competitor parliamentary authorities written by Sturgis and Demeter.

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Robert's Rules of Order

- Most board procedures, such as those governing the calling of meetings and content of minutes, are governed by Illinois law rather than by Robert's Rules.
  - Additionally, any specific board policies would supersede conflicting provisions in Robert's Rules.
- The excruciating detail of Robert's Rules is really designed to govern meetings of large assemblies, such as national conventions of professional organizations.
  - When applied to a group of seven board members, most of Robert's Rules becomes superfluous or inapplicable.
  - Robert's Rules itself recognizes that small groups can act somewhat informally and that meticulous compliance with the rules may not always be possible or desirable.
  - Sometimes, however, Robert's Rules saves the day by providing a neat, if sometimes unexpected, resolution of a touchy issue such as how to handle a tie vote.

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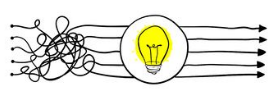
Simplified Rules of Parliamentary Procedure

- Open the Meeting and Sticking to the Agenda:
  - The president calls the meeting to order
  - The president presides over the meeting
  - No surprises – add new matter under "New Business"
  - Use detailed agenda to cover possible issues – including recurring matters
  - No legal requirement to approve agenda (though many boards do) or to add or subtract items, unless the item added will be the subject of final action or the meeting is noticed as a special meeting



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Simplified Rules of Parliamentary Procedure

- Obtaining the Floor:
  - When a member wishes to speak, the member addresses the president and asks for recognition. The president recognizes the member by announcing their name.
- How a Motion is Made and Handled
- Ending Debate on a Motion aka "Calling the Question"
  - This is a motion to stop debate and vote immediately
  - This is a motion that should be used sparingly as discussion should be encouraged

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Simplified Rules of Parliamentary Procedure

- Ranking Motions
  - There are certain motions that are privileged in that, while having no relation to a pending question/motion, are of such urgency or importance that they are entitled to immediate consideration.
  - These motions relate to members and meeting organization rather than to particular items of substantive business.

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Simplified Rules of Parliamentary Procedure

- Common Ranking Motions:
  - To take recess
  - To reconsider
  - To lay on the table
  - To call the question
  - To postpone
  - To amend
  - To adjourn

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Simplified Rules of Parliamentary Procedure

- Using a Consent Agenda
  - The "consent" portion of an agenda is usually part of an overall board meeting agenda. It is the part of an agenda where several matters will be voted on simultaneously.
  - For school boards, a unanimous vote is required to establish a consent agenda. This means that any member can remove an item from the consent agenda for a separate vote prior to the consent agenda being established.
  - Then a vote is taken on all items together
  - Obviously, a consent agenda is a great way to streamline meetings. If any item will require discussion, it should not be on the consent agenda, but should be a separate item. If it becomes apparent during a meeting that an item requires revision, action should be postponed to a subsequent meeting.

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Simplified Rules of Parliamentary Procedure

- New Business
  - Any new topics or matters that board members wish to raise that do not require a vote, including the raising of a matter that was brought to the attention of the Board by a member of the public, should be under the agenda item "New Business."

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Simplified Rules of Parliamentary Procedure

- When is a roll call vote required?
  - If state statute requires
  - A roll call vote is required when voting on: all resolutions and motions **creating liability against the public body or authorizing expenditures**, and **to go into closed session** pursuant to the Open Meetings Act
  - When requested by any board member a roll call vote must be taken on a motion and recorded in the minutes
  - When in doubt it is best to err on the side of taking a roll call vote

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Simplified Rules of Parliamentary Procedure

- Motions to Reconsider
  - Must be made by member who voted with the prevailing side;
  - Any member may second it;
  - The purpose behind allowing motions to reconsider is to permit correction of hasty, ill-advised or erroneous action or to take into account additional information or a changed situation;
  - Motion to reconsider may be made at the same meeting that the vote to be reconsidered was taken and at the next meeting;
  - Any motion for reconsideration at a subsequent meeting should specifically be on the agenda;
  - Motion for reconsideration may not be made at a special meeting;
  - If not made within these timeframes the question dies, but can always be introduced later as a new question.

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Simplified Rules of Parliamentary Procedure

- Motions to Table
  - A motion to table is really just a motion to postpone a vote, usually to obtain additional information or determine necessity.
    - The vote is postponed indefinitely if the motion to table was not specific as to what meeting the agenda item is to be brought from the table;
    - The agenda item that was tabled should be on the agenda of the meeting to which it was tabled.

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ISBE Approved Professional Leadership Development Training

Part 2

May 7, 2025

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ISBE Approved Professional Leadership Development Training

Part 2: May 7, 2025

Although the information contained herein is considered accurate, it is not, nor should it be construed to be legal advice. If you have an individual problem or incident that involves a topic covered in this document, please seek a legal opinion that is based upon the facts of your particular case.

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REMINDER

You have registered for **Part 2** of the **ISBE Approved Professional Leadership Development Training Series**, required by the Illinois State Board of Education. Upon completion of this session, you will have fulfilled the state's requirement for all elected or appointed school board members to complete a minimum of four hours of professional leadership development training.

*Note: Attendance at **both parts** of the training is required in order to receive a Certificate of Completion and to satisfy ISBE's training requirements.*

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Construction Project Oversight

Presented by: Matthew J. Gardner

3

Introduction

Matthew J. Gardner
Partner

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Potential Team Members

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Program Manager – Owner's Representative

An entity selected by the owner to help plan the project(s) from both a functional and financial standpoint.

Engaged for large improvement programs where the construction owner needs to hire a single entity to assist with managing interdependent projects that lead to the completion of the overall program.

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Program Manager – Owner’s Representative

Concerned with multiple projects as part of an overall improvement program.

Can assist the project owner with planning and scheduling individual projects with regard to considerations of funding and cash flow, site utilization, and prioritization.

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Designer - Architect

- Engaged by the construction owner to design the project.
- Duties can possibly include one or more of the other team member’s duties, except those of the Contractor(s) or Commissioning Agent.

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Consultants

- Some standardized design contracts require an Owner to hire geotechnical engineers and/or surveyors directly.
- If the owner does engage the Consultant directly, the scope of the Consultant's services should be closely coordinated with the Designer so that no aspects of the design are left out of the final construction documents.

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Construction Manager

- Typically provides consulting during the design phase and administration of the construction contracts during the construction phase.

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Construction Manager Duties

- Project Management Planning:
  - Coordinates project planning meetings between team members
  - Advises on interaction of multiple projects:
    - Cost Management
    - Time Management
    - Quality Management
    - Contract Administration
    - Safety Management
    - CM Professional Practice

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Contractor(s)

- Build the project (ideally) pursuant to the drawings and specifications prepared by the Designer.
- Responsible for all of the means and methods in implementing the requirements of the construction contract.

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Contactor(s)

- Depending on many issues, such as size of the project and availability of qualified general contractors, the owner can choose between using a single prime contractor which then subcontracts with other specialty trade contractors, or multiple prime contractors, in which case the owner contracts directly with many of the specialty trade contractors.
- If using a multiple prime contractor agreement, the owner must provide a mechanism for coordinating work among the individual prime contractors.

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Commissioning Agent

- Assists the other team members in verifying that the facility systems meet the functional and operational needs of the owner.
- Usually involves the mechanical and electrical systems of the building.
- Helps to assure that the building automated controls are working properly so that the HVAC and electrical systems are functioning properly.

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Engaging the Team Members

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Anatomy of an RFP

- A Request for Proposal (RFP) is an invitation seeking proposals for services to be furnished under contract to an owner.
- An RFP defines the owner’s contractual objectives and expectations and provides the criteria upon which the owner will select the team members best suited to achieve its objectives and meet its expectations.

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Anatomy of an RFP

- How does an RFP define the owner's objectives and expectations?
  - Introduce the project.
  - Define the scope of the proposed contract.
  - Provide instructions for submitting a proposal:
    - When are the proposals due?
    - To whom must they be submitted?
    - To whom can questions be directed?

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Anatomy of an RFP

- An RFP should be structured to elicit the following response:
  - A clear commitment from the responding company to provide the services specified in the RFP.
  - An executive summary from the responding company explaining in broad terms its core competencies, areas of expertise, and business philosophy.
  - A summary of qualifications that explains the responding company's experience, qualifications, and capabilities to meet the owner's expectations and achieve the objectives.
  - Several independent references for projects previously completed by the responding company.

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The Local Government Professional Services Selection Act

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Purpose of the Act

- "It shall be the policy of the political subdivisions of the State of Illinois to negotiate and enter into contracts for architectural, engineering and land surveying services on the basis of demonstrated competence and qualifications for the type of services required and at fair and reasonable compensation." 50 ILCS 510/1

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Applicability of the Act

- The Act applies to all "political subdivisions," which means "any school district and any unit of local government of fewer than 3,000,000 inhabitants, except home rule units." 50 ILCS 510/3(5).

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General Requirements of the Act

- Permit architects, engineers, and land surveyors to "annually file a statement of qualifications and performance data with the political subdivision." 50 ILCS 510/4.

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General Requirements of the Act

- "Whenever a project requiring architectural, engineering or land surveying services is proposed for a political subdivision,"
  - Mail or e-mail a notice requesting statements of interest from all firms that have current statements of qualifications and performance data on file; or
  - Place an advertisement "in a secular English language daily newspaper of general circulation throughout such political subdivision," requesting "a statement of interest in the specific project and further requesting statements of qualifications and performance data from those firms which do not have a statement on file with the political subdivision"; or
  - Place an advertisement for professional services on the political subdivision's website requesting a statement of interest in the specific project. The professional services advertisement shall include a description of each project and state the time and place for interested firms to submit its letter of interest, statement of qualifications, and performance.

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General Requirements of the Act

- Evaluate the firms submitting letters of interest, taking into account:
  - Qualifications
  - Ability of professional personnel
  - Past record and experience
  - Performance data on file
  - Willingness to meet time requirements
  - Location
  - Workload of firm
  - Other qualification-based factors as the political subdivision may determine in writing are applicable.

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General Requirements of the Act

- DO NOT, prior to selecting a firm for negotiation, "seek formal or informal submission of verbal or written estimates of costs or proposals in terms of dollars, hours required, percentage of construction cost, or any other measure of compensation."
- Select and rank no less than the three "most qualified" firms.
- Contact "the firm ranked the most preferred and attempt to negotiate a contract at a fair and reasonable compensation, taking into account the estimated value, scope, complexity, and professional nature of the services to be rendered."

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General Requirements of the Act

- "[N]egotiate a contract with the highest qualified firm at compensation that the political subdivision determines in writing to be fair and reasonable" taking into account "the estimated value, scope, complexity, and professional nature of the services to be rendered."
- If negotiations fail, terminate those negotiations and negotiate "with the firm which is next preferred."
- If the political subdivision is unable to negotiate "a satisfactory contract with any of the selected firms," then "re-evaluate the architectural, engineering or land surveying services requested, including the estimated value, scope, complexity and fee requirements."

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General Exception

- A political subdivision is excused from the selection procedure mandated by the Act when "it has a satisfactory relationship for services with one or more firms."
- A political subdivision may waive the requirements of the Act "if it determines, by resolution, that an emergency situation exists and a firm must be selected in an expeditious manner," or if "the cost of architectural, engineering, and land surveying services for the project is expected to be less than $40,000."

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Next Session (6:25 p.m. – 6:45 p.m.)

Tort Immunity Act and Immunities for Elected Officials

Presented by: Matthew J. Gardner

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Tort Immunity Act and Immunities for Elected Officials

Presented by: Matthew J. Gardner

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Introduction

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Partner

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History, Background, and Purpose

- The Act protects all local governments including school districts, Board members and public employees from liability arising from the operation of the government and to prevent and/or limit awards of public funds to plaintiffs for damages in personal injury commonly called tort cases.
- A public entity is liable in tort to the same extent as a private party unless an immunity provision applies. *Trtanj v. City of Granite City*, 379 Ill. App.3d 795 (5th Dist. 2008).

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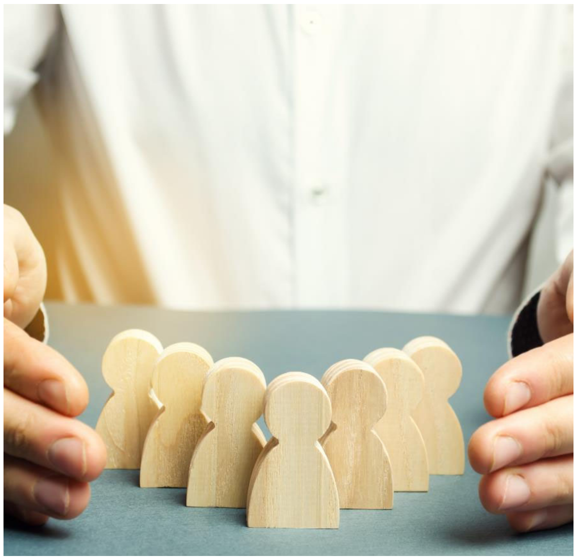
General Matters

- Punitive Damages
  - Section 2-102 of the Act prohibits a school district from being liable for punitive or exemplary damages in any action brought against it.
  - School Board members are also immune from punitive damages under Section 2-102 so long as the action at issue arose out of or took place during the school board members' capacity as a public official.



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General Matters

- *Illinois School Code* Protection (105 ILCS 5/24-24)
  - Section 24-24 of the School Code states that teachers, other certified educational employees, and any other person providing related services for students, regardless of whether they are a certified employee, are responsible for maintaining discipline in the schools.
  - This mandate extends beyond the physical building and includes school grounds which are owned or leased by a board of education and used for school purposes and activities.
  - The School Code further states in all matters related to student discipline, those individuals stand in relation of parents and guardians to the students.
  - A parent can only be liable in tort for willful and wanton conduct towards their child. Accordingly, a school employee providing services for a child can only be liable in tort for willful and wanton conduct, and is immune from allegations of negligence.
  - Legislature's intent: (1) shield public officials from damages for decisions that, in hindsight, turned out to be wrong, and (2) to prevent the diversion of public funds from their intended purpose of supporting schools.

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General Matters

- Statute of Limitations
  - Section 8-101(a) of the Act states that the statute of limitations for a lawsuit against a local public entity, its board members or employees must be commenced within a year from the date of the injury. Note the supremacy clause for federal claims impacts the Statute of Limitations.

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Common Categories of Immunity

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Discretionary Immunity

- Section 2-201 states:
  - "Except as otherwise provided by statute, a public employee serving in a position involving the determination of policy or exercise of discretion is not liable for an injury resulting from his act or omission in determining policy when acting within the exercise of such discretion even though abused."

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Discretionary Immunity

- Determination of policy and exercise of discretion
  - To seek immunity under Section 2-201, a public employee's action must be both a determination of policy <u>and</u> exercise of discretion.
  - Just about every public official has some discretion in the way they perform their job duties "even if it involves only the driving of a nail."
  - The key question becomes whether the determination made by the employee was a policy determination which is unique to their particular public office.
  - Discretionary Act
    - Are those which are unique to a particular public office.
    - Differ from "ministerial acts" which are actions that a person performs on a given state of facts in a prescribed manner, in obedience to the mandate of legal authority, and without reference to the official's discretion as to the propriety of the act.

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Discretionary Immunity

Discretionary Acts	Ministerial Acts
• When a fire marshal plans a fire drill, he bears the sole and final responsibility for planning and executing the fire drill and is not acting under a legal mandate to perform his duties in a prescribed manner. Therefore, he is acting within his discretion in determining how, when, and where to hold fire drills and is entitled to immunity if an individual is injured during one of them. *See Harinek*, 181 Ill.2d 335 (1998). • The determination of whether school bullying has occurred and what the appropriate actions are to address that bullying are decisions within the discretion of school administrators. *See Hascall v. Williams,* 2013 IL App (4th) 131131 (4th Dist. 2013).	• A Board of Education no longer has discretion when they are informed that an employee is sexually abusing a student because they are mandated to report that conduct under the Abused and Neglected Child Reporting Act. *See Doe v. Dimovski*, 336 Ill.App.3d 292 (2nd Dist. 2003) • The act of repairing the roadway is considered a ministerial duty because it was done "in a proscribed manner, in obedience to the mandate of legal authority" as opposed to the decision over whether to undertake public improvement projects, which are discretionary in nature.

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Discretionary Immunity

- Determination of Policy
  - An employee is making policy decisions when those decisions require the employee or school district to balance competing interests and to make a judgment call as to what the best solution is to best serve each of those interests.

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Discretionary Immunity

- Section 2-201 offers absolute immunity, and there is no exception for willful and wanton conduct.
- Section 2-109 of the Act states:
  - "A local public entity is not liable for an injury resulting from an act or omission of its employee where the employee is not liable."
- School districts can seek immunity by use of the immunity of its employees.

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Supervision Immunities

- Section 3-108 states:
  - Except as otherwise provided by this Act, neither a local public entity nor a public employee who undertakes to supervise an activity on or the use of any public property is liable for an injury unless the local public entity or public employee is guilty of willful and wanton conduct in its supervision proximately causing such injury.
  - Except as otherwise provided in this Act, neither a local public entity nor a public employee is liable for an injury caused by a failure to supervise an activity on or the use of any public property unless the employee or the local public entity has a duty to provide supervision imposed by common law, statute, ordinance, code, or regulation, and the local public entity or public employee is guilty of willful and wanton conduct in its failure to provide supervision proximately causing such injury.

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Supervision Immunities

- The theory behind this Section of the Act is that governments cannot employ sufficient staff to provide an error-proof level of supervision.
- Section 3-108(a) will immunize an employee who is negligent while undertaking to supervise an activity on public property.
- Section 3-108(b) will immunize an employee who does not attempt to supervise an activity on public property unless:
  - The employee has a duty to provide supervision imposed by law and
  - The employee acts willfully and wantonly in failing to supervise.

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Supervision Immunities

- There is no distinction between discretionary and ministerial duties with regard to supervisory immunity.
- The term "public property" under Section 3-108 is not restricted solely to public property owned by that specific defendant. The term public property will extend to any public property where supervision is provided.
- The term "supervision" in Section 3-108 is construed broadly, and includes direction and teaching.
- Examples of duties imposed by common law, statute, ordinance, code or regulations.
- The term "willful and wanton"

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Defamation and Libel Immunity

- Section 2-106 states:
  - "A local public entity is not liable for an injury caused by an oral promise or misrepresentation of its employee, whether or not such promise or misrepresentation is negligent or intentional."
    - Section 2-106 pertains only to public entities and only addresses oral, not written misrepresentations.

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Defamation and Libel Immunity

- Section 2-107 states:
  - "A local public entity is not liable for injury caused by any action of its employees that is libelous or slanderous or for the provision of information either orally, in writing, by computer or any other electronic transmission, or in a book or other form of library material."

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Defamation and Libel Immunity

- Section 2-210 states:
  - “A public employee acting in the scope of his employment is not liable for an injury caused by his negligent misrepresentation or provision of information either orally, in writing, by computer or any other electronic transmission, or in a book or other form of library material.”

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Adopting or Enforcing an Enactment of Law

- Section 2-103 states:
  - “A local public entity is not liable for an injury caused by adopting or failing to adopt an enactment or by failing to enforce any law.”
    - Provides blanket immunity to a public entity for failure to enforce any law, even if the public entity’s conduct was willful and wanton.

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Adopting or Enforcing an Enactment of Law

- Section 2-205 states:
  - "A public employee is not liable for an injury caused by his adoption of, or failure to adopt, an enactment, or by his failure to enforce any law."
    - This immunity applies only to public employees who fail to enforce an enactment or law, not for employees who attempts to enforce an enactment or law but does so poorly.
    - Provides immunity even if the public employee acted willfully and wantonly.

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Adopting or Enforcing an Enactment of Law

- Section 2-202 states:
  - "A public employee is not liable for his act or omission in the execution or enforcement of any law unless such act or omission constitutes willful and wanton conduct."
    - The immunity is limited and not every act or omission by a public employee is immunized.

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Inspection

- Section 2-105 states:
  - "A local public entity is not liable for injury caused by its failure to make an inspection, or by reason of making an inadequate or negligent inspection, of any property, **other than its own**, to determine whether the property complies with or violates any enactment or contains or constitutes a hazard to health or safety."
    - This provision codifies a longstanding common law principal that a public entity generally owes no duty to a particular person to enforce governmental ordinances, permit requirements, or other regulations.
    - This immunity applies even when a public entity acts willfully and wantonly.

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Inspection

- Section 2-207 states:
  - "A public employee is not liable for an injury caused by his failure to make an inspection, or by reason of making an inadequate or negligent inspection, of any property, **other than that of the local public entity employing that person**, for the purpose of determining whether the property complies with or violates any enactment or contains or constitutes a hazard to health or safety."
    - This provision does not immunize a public employee from injuries resulting from an inadequate or negligent inspection of property belonging to the public entity.
    - This immunity applies even when a public entity acts willfully and wantonly.

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Adoption of a Plan

- Section 3-103 states:
  - "A local public entity is not liable under this Article for an injury caused by the adoption of a plan or design of a construction of, or an improvement to public property where the plan or design has been approved in advance of the construction or improvement by the legislative body of such entity or by some other body or employee exercising discretionary authority to give such approval or where such plan or design is prepared in conformity with standards previously so approved. The local public entity is liable, however, if after the execution of such plan or design it appears from its use that it has created a condition that it is not reasonably safe."
  - A public employee is not liable under this Article for an injury caused by the adoption of a plan or design of a construction of, or an improvement to public property.

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Act or Omission of Another

- Section 2-204 states:
  - "Except as otherwise provided by statute, a public employee, as such and acting within the scope of his employment, is not liable for an injury caused by the act or omission of another person."
  - Allegations that governmental employees are personally vicariously liable for another employee's acts are barred by this provision of the Act.
  - There is a special duty exception to 2-204. To invoke the special duty exception, a plaintiff must prove:
    - A unique awareness of a particular danger or risk to which Plaintiff was exposed
    - Specific acts or omissions
    - Specific acts that are affirmative or willful in nature
    - Injury to Plaintiff while under the direct and immediate control of municipal employees or agents.

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Hazardous Recreational Activity

- Section 3-109 states:
  - "Neither a local public entity or a public employee is liable to any person who participates in a hazardous recreational activity, including any person who assists the participant, or to any spectator who knew or reasonably should have known that the hazardous recreational activity created a substantial risk of injury to himself or herself and was voluntarily in the place of risk, or having the ability to do so, failed to leave, for any damage or injury to property or persons arising out of that hazardous recreational activity."

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Hazardous Recreational Activity

- Hazardous Recreational Activity is defined as:
  - "A recreational activity conducted on property of a local public entity which creates a substantial risk of injury to a participant or spectator."
- Section 3-109 does not limit liability if:
  - The public entity or public employee fails to warn or guard against a dangerous condition that it has actual or constructive notice of, but the participant does not have notice of; or
  - Willful and wanton conduct.
- An activity performed during the course of a compulsory class, such as physical education is not a "recreational activity" within the meaning of Section 3-109.

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Injuries from the Use of Public Property

- Section 3-102 states:
  - Except as otherwise provided in this Article, a local public entity has the duty to exercise ordinary care to **maintain its property in a reasonably safe condition** for the use in the exercise of ordinary care of people whom the entity intended and permitted to use the property in the manner in which and at such times as it was reasonably foreseeable that it would be used, and shall not be liable for injuries unless it is proven that it had actual or constructive notice of such a condition that is not reasonably safe in reasonably adequate time, prior to an injury, to have taken measures to remedy or protect against such a condition.

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Injuries from the Use of Public Property

- A public entity does not have constructive notice of a condition of its property that is not reasonably safe within the meaning of Section 3-102(a) if it establishes either:
  - The existence of the condition and its character of not being reasonably safe **would not have been discovered by an inspection system** that was reasonably adequate considering the practicability and cost of inspection weighed against the likelihood and magnitude of the potential danger to which failure to inspect would give rise to inform the public entity whether the property was safe for the use or uses for which the public entity used or intended others to use the public property and for uses that the public entity actually knew others were making of the public property or adjacent property; or
  - The public entity maintained and operated such an inspection system with due care and did not discover the condition.

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Injuries from the Use of Public Property

- Intended and Permitted Users:
  - A governmental entity owes a duty of care only to those persons whom the entity intended and permitted to use the property.
  - If the plaintiff is not an intended and permitted user of the property, the entity does not have a duty and cannot be liable for any injury.
  - Intended and permitted users of public property are determined on a case by case basis and courts look at the property to determine the intended use.
  - A use that is intended would seem to imply that the use is also permitted. But the reverse is not always true -- a permitted use does not automatically mean that the use was also intended. As an example, although bicycles may be permitted to be used in various places -- such as sidewalks -- they are not always intended to be used on the public property where the bicyclist was injured. But, where bicycles are both permitted and intended uses -- such as a designated bike trail -- the local public entity has a duty to maintain that property in a reasonably safe condition for those users.

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Injuries from the Use of Public Property

- Notice of condition:
  - For a public entity to have “actual notice,” they must have **actually known of the condition**, or been advised of the specific unsafe condition.
  - Constructive notice under Section 3-201(a) is established where the condition existed for such a length of time, or was so conspicuous, that authorities exercising reasonable care and diligence might have known of it. This is determined on a case by case basis.
  - A plaintiff must plead specific facts establishing actual or constructive notice. Conclusory allegations will not sustain a claim of either actual or constructive notice.

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Other Provisions to Be Aware Of

- Section 7 pertains to tort liability under agreements between local public entities
  - A local public entity may agree with another entity as to the manner in which liability for a function or service will be allocated or shared.
  - This issue should be included in a resolution, contract, lease, ordinance, or other written form.

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Other Provisions to Be Aware Of

- Section 2-206:
  - Replicates the immunity granted to public entities by Section 2-104 and applies it to public employees.

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Indemnification of Employees and Elected Officials

- Section 2-302:
  - If any claim or action is instituted against an employee (**broadly defined to include elected and appointed officials**) of a local public entity based on an injury allegedly arising out of an act or omission occurring within the scope of his employment as such employee, the entity may elect to do any one or more of the following:
    - Appear and defend against the claim or action;
    - Indemnify the employee or former employee for his court costs or reasonable attorney's fees, or both, incurred in the defense of such claim or action;
    - Pay, or indemnify the employee or former employee for a judgment based on such claim or action; or
    - Pay, or indemnify the employee or former employee for, a compromise or settlement of such a claim or action.
  - It is hereby declared to be the public policy of this State, however, that no local public entity may elect to indemnify an employee for any portion of a judgment representing an award of punitive or exemplary damages.

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Questions?

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Next Session (6:45 p.m. – 7:05 p.m.)

Collective Bargaining

Presented by: Thomas C. Garretson

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Collective Bargaining

Presented by: Thomas C. Garretson

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Introduction

Thomas C. Garretson
Partner

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Collective Bargaining

- Traditional Bargaining
- Interest Based Bargaining
- Economic Proposals
- Teacher RIF/Recall Rights
- Teacher Evaluations
- Contract Reopeners

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Negotiations Strategies and Techniques

- Planning for bargaining using traditional bargaining format:
  - Composition of bargaining teams
  - Review language issues
  - Financial modeling
  - The first proposal
  - Responding to proposals

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Traditional Bargaining

- Responses to Proposals
  - Management, as a first response, may not propose a "take it or leave it" proposal
  - However, Management is <u>not</u> required to accept any proposal made by the Union

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Traditional Bargaining

- The parties will alternate responses until an agreement is reached
  - Agreements reached on particular contract terms are considered "tentative agreements"
  - When all issues have been "TA'd," the parties submit the new draft collective bargaining agreement to the Board for approval and the Union's membership for ratification

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Negotiations Strategies and Techniques

- Strategic considerations:
  - Use the bargaining table solve problems
  - For wage matters, work off the same data points
  - Be careful of regressive bargaining
  - Use "package proposals"
    - Note: Packages tend to be more useful in the later stages of the process
  - Use "supposal" or "what if" scenarios

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Negotiations Strategies and Techniques

- Additional strategic considerations:
  - Use the "sidebar"
  - Focus on diminishing expectations
  - Know your audience
  - Cost each financial proposal
  - Use "supposal" or "what if" scenarios

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Interest Based Bargaining

Interest based bargaining (IBB) goes by a variety of names including "win-win" and "mutual gains bargaining"

IBB dispenses with the use of a chief spokesperson and sequential exchanges of formal written proposals in favor or participation by many individuals and reliance on interest-based problem solving

The process relies: (1) extensive training of larger bargaining teams; (2) commitment of management in training and negotiations; and (3) a willingness to follow the IBB format and rules

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Interest Based Bargaining

- IBB process:
  - The participants identify issues of mutual concern
  - The participants identify the various interests both parties have in the issues, while avoiding taking positions on the issues
  - Participants jointly brainstorm options and solutions – no judging!
  - Participants apply standards or criteria to evaluate solutions or options – now you judge!
  - Often, parties revert back to traditional bargaining for economic proposals

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Interest Based Bargaining

- Advantages to IBB:
  - Open exploration and discussion of issues may promote better understanding and relationships
  - The Union may develop a better appreciation of the Board's limitations and interests
  - The process may help dissipate bitterness built up over previous difficult negotiations
  - The process usually entails an expedited process with a deadline

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Interest Based Bargaining

- Disadvantages to IBB:
  - Unrealistic expectations may cause problems
  - Multiple participants in discussion raise possible contract language problems
  - Bargaining history is more challenging to discern and verify
  - Individuals may be subject to personal attacks if parties do not adhere to the IBB principles
  - The process demands a significant time commitment on all participants

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Economics – Salary

- Key factors in determining the level of annual salary increase:
  - The Board's current and projected financial condition
  - The Board's revenue limitations and constraints
  - Comparable wage data, salary schedules, benefits packages, and contracts
- The problem with salary schedules:
  - The combination of horizontal and vertical schedule movement can yield significant salary increases
  - Calculate the cost of schedule movement and consider eliminate schedules

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Economics – Fringe Benefits

Contract provisions to consider:

- Health insurance
- Retirement – 6% cap issues
- Extra-duty pay
- Summer compensation

Controlling and reducing benefit costs:

- Health insurance plan design changes
- Adjust compensation formula

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Economics – Fringe Benefits

- Methods to reduce or control employee health insurance benefit costs:
  - Seek greater employee percentage contribution
  - Restructure health insurance benefit plan options to include less costly plan options
  - Evaluate the benefits of health savings account (HSA)
  - Consider any viable plan design changes
  - Establish a joint health insurance committee

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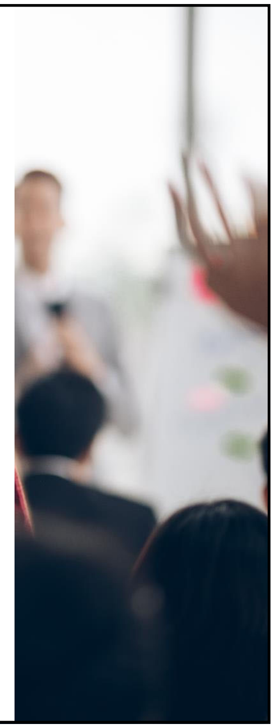
Question & Answer



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Next Session (7:05 p.m. – 7:20 p.m.)

PERA Overview

Presented by: Thomas C. Garretson

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PERA Overview

Presented by: Thomas C. Garretson

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Introduction

Thomas C. Garretson
Partner

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What is PERA?

The Performance Evaluation Reform Act

What does PERA require?

Evaluations of teachers, principals, and assistant principals by trained evaluators, including data and indicators of student growth as a "significant factor"	Evaluations must be rated Excellent, Proficient, Needs Improvement, or Unsatisfactory

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Frequency of Teacher Evaluations

- Non-tenured teachers must be evaluated every school year
- Tenured teachers generally must be evaluated at least once every two or three school years
  - Teachers rated as Excellent or Proficient are evaluated at least once every three school years, with an informal observation at least once in the course of two school years after receipt of the rating.
  - Teachers rated as Needs Improvement or Unsatisfactory must be evaluated in the next school year after receipt of the rating.

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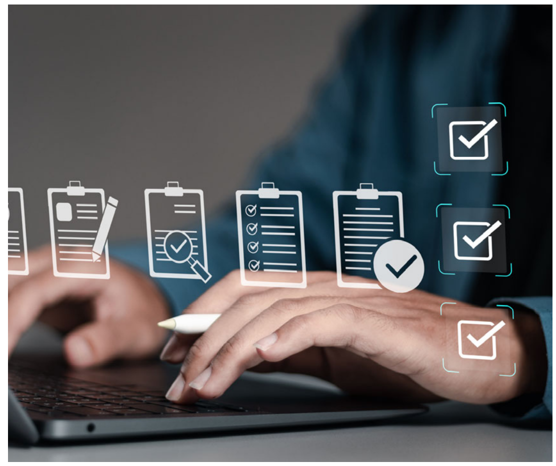
Elements of Teacher Evaluations

- Evidence of a teacher's professional practice must be collected using formal and informal observations of the teacher
  - Evidence is shared with the teacher during post-observation conferences
- Data and indicators of student growth must be at least 30% of the teacher's evaluation rating
  - A school district's PERA Joint Committee developed the plan for incorporating student growth into the teacher evaluation plan



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Tenure Rights

- Teachers acquire tenure rights based upon the outcome of their performance evaluations
- For those teachers employed on or after July 1, 2023, teachers receive tenure if they have completed three consecutive school terms of employment and earned a Proficient rating or better in their second and third school terms
  - Accelerated and portable tenure rights exist under certain circumstances

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Consequences of Evaluations?

If a teacher receives a Needs Improvement rating, they must be placed on a professional development plan.

If a teacher receives an Unsatisfactory rating, they must be placed on a remediation plan (and dismissed if the plan is not completed with a rating of proficient or better)

- Note the required development of a local appeals process

A non-tenured teacher must be dismissed if they are not eligible for tenure at the end of the probationary period based upon evaluation ratings

If a required evaluation is not conducted, the rating automatically defaults to Proficient

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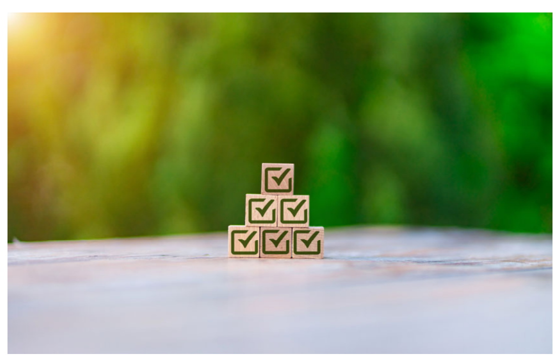
Non-Renewal Requirements

- In order to non-renew the employment of a non-tenured teacher, written notice of non-renewal must be provided on or before April 15th.
- For teachers in their final year of probationary service, specific reasons for non-reemployment must be provided.



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RIFs/Layoffs

- Teachers are placed on a sequence of dismissal list based on their performance evaluation ratings
- Layoffs conducted pursuant to the SOD list (in consultation with the exclusive employee representative)

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Question & Answer

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Next Session (7:20 p.m. – 7:45 p.m.)

School Boards and Student Discipline & Trauma Informed Practices

Presented by: Zaria N. Udeh

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School Boards and Student Discipline & Trauma Informed Practices

Presented by: Zaria N. Udeh

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Introduction

Zaria N. Udeh
Partner

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Agenda

- ❖ Exclusionary Discipline Introduction
- ❖ Legal Standards for Suspension and Expulsion
- ❖ Trauma Overview
- ❖ Trauma Informed Practices

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Introduction

- Nearly 10 years ago, Senate Bill 100, or Public Act 99-456, made significant changes to student suspension and expulsion authority and procedures. The rationale for the overhaul:
- Exclusionary discipline is the “most serious” kind of discipline and affects students the most significantly
- SB100 was intended to limit the number and duration of expulsions and suspensions to the greatest extent practicable
- **PURPOSE:** Ensuring that students are not excluded from school unnecessarily – used only for legitimate educational purposes

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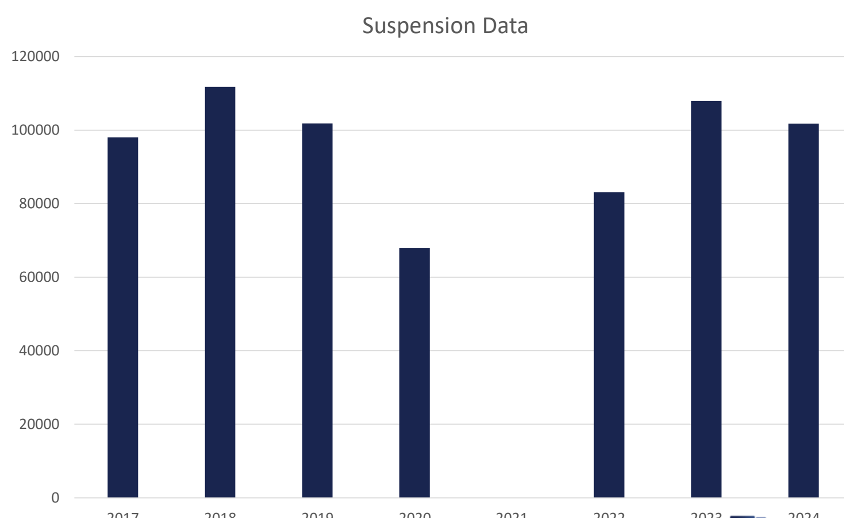
Where Are We Now?



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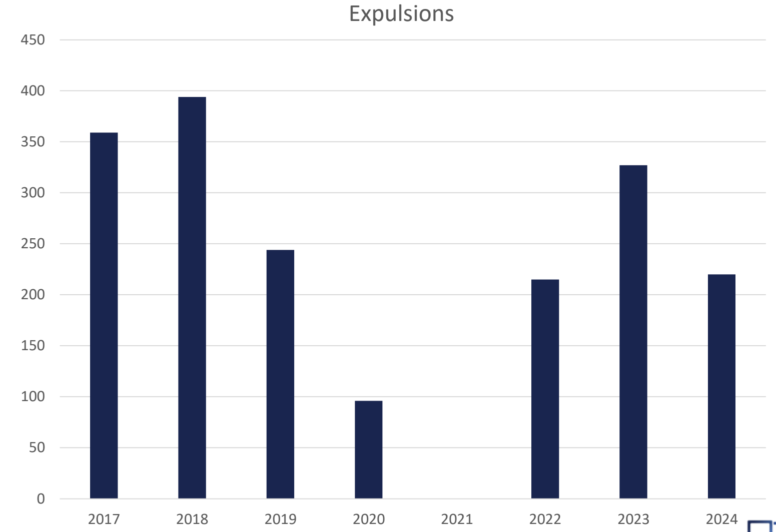
Where Are We Now?



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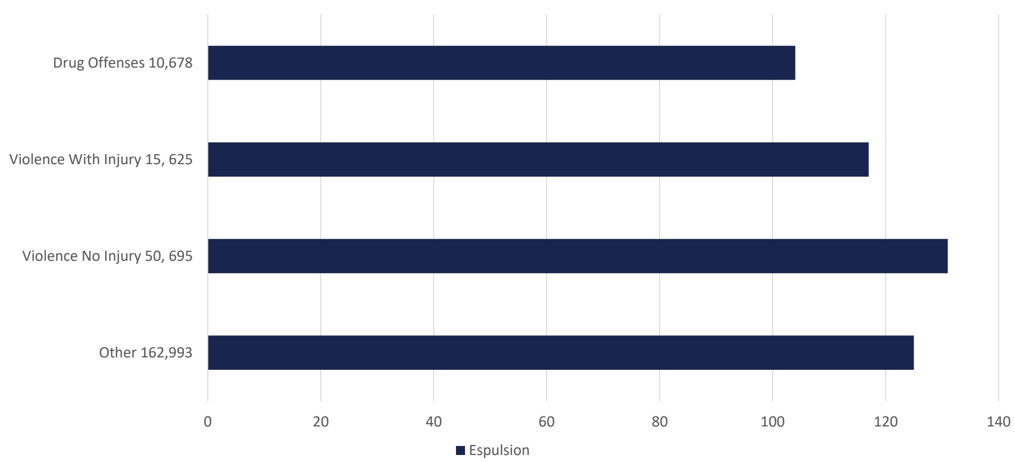
Illinois Report Card Data – 2024 Expulsions



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Standards for Suspension and Expulsion

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Standards for Suspension

- Out of School Suspensions for Three Days or Less
  - May be used only if the student's continuing presence in school would pose:
    - **A threat to school safety; OR**
    - **A disruption to other students' learning opportunities.**
  - Whether a student's continuing presence in school would pose a threat to school safety or a disruption to other student's learning opportunities "shall be determined on a case-by-case basis by the school board or its designee."
  - School officials "shall make all reasonable efforts to resolve such threats, address such disruptions, and minimize the length of suspensions to the greatest extent practicable."

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Standards for Suspension and Expulsion

- Out of School Suspensions for Four or More Days, Expulsions and Disciplinary Removals to Alternative Schools
  - May be used only if:
    - The student's continuing presence in school would either:
      - **Pose a threat to the safety of other students, staff or members of the school community; OR**
      - **Substantially disrupt, impede or interfere with the operation of the school; AND**
      - **Other appropriate and available behavioral and disciplinary interventions have been exhausted.**
  - The determination of whether "appropriate and available behavioral and disciplinary interventions have been exhausted shall be made by school officials."

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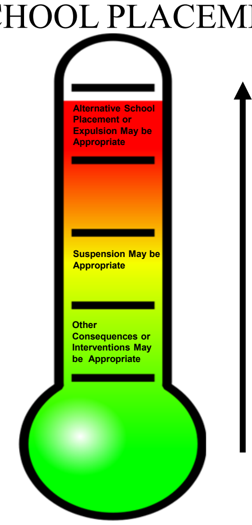
THE HEAT IS ON: SB100 COMPLIANT SUSPENSION, ALTERNATIVE SCHOOL PLACEMENT, EXPULSION OR SOMETHING ELSE?



Possession of Firearm
Violence toward Staff or Students
Bomb Threat
Sale and Distribution of Drugs
Lesser Weapon Offenses
Threats of Violence
Extreme Cyberbullying
Fighting
Gang Activity
Possession or Under the Influence of Drugs
Possession or Under the Influence of Alcohol
Bullying and Harassment
Vandalism, Destruction of Property, Theft
Profanity, Disrespect, Insubordination
Cell Phone Policy Violation
Dress Code Violation

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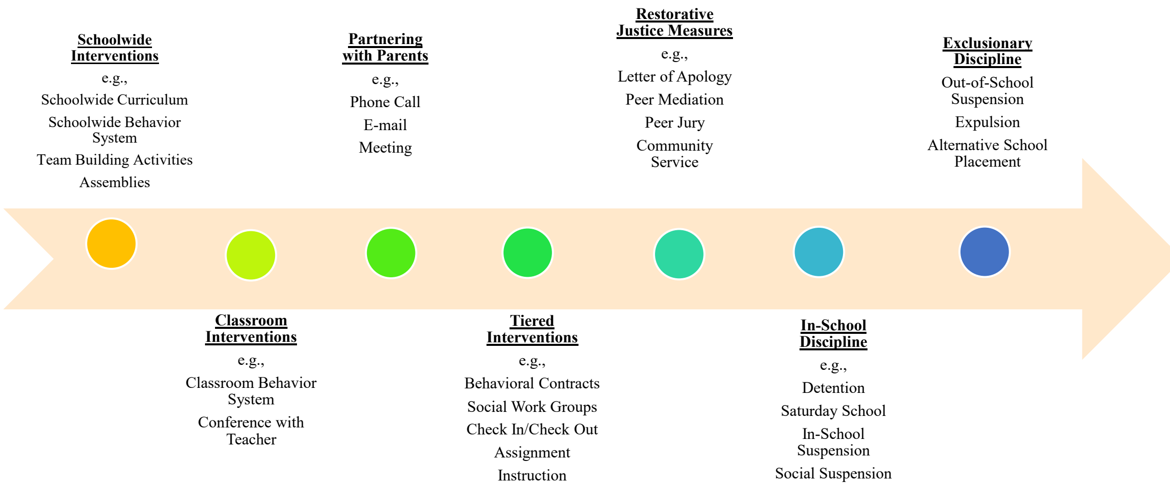
BEHAVIORAL AND DISCIPLINARY INTERVENTIONS SPECTRUM



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Support Services for Suspension and Expulsion

- Support Services for Students Suspended for More than Four School Days and for Expelled Students
  - Students who are suspended out-of-school for longer than four school days must be provided appropriate and available support services during the period of their suspension.
  - A school district may refer students who are expelled to appropriate and available support services.
  - The determination of "appropriate and available support services shall be determined by school authorities."

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Re-engagement Policy for Suspension and Expulsion

- Facilitating the Re-engagement of Students Who Are Suspended, Expelled or Returning from Alternative School
  - Districts must "create a policy to facilitate the re-engagement of students who are suspended out-of-school, expelled, or returning from an alternative school setting."

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Missed Assignments for Suspension and Expulsion

- Requirements Related to Missed Assignments
  - Students who are suspended from school must have the opportunity to make up work for equivalent academic credit.
  - Students who are suspended from the school bus who do not have alternate transportation to school must have the opportunity to make up work for equivalent academic credit. It is the parent's responsibility to notify school officials that a student suspended from the school bus does not have alternate transportation to school.

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Standards for Suspension and Expulsion

- Specific Prohibitions
  - School officials may not advise or encourage students to drop out voluntarily due to behavioral or academic difficulties.
  - A student may not be issued a monetary fine or fee as a disciplinary consequence, though this shall not preclude requiring a student to provide restitution for lost, stolen, or damaged property.
  - School boards may not institute “zero tolerance” discipline policies which require administrators to suspend or expel students for particular behaviors unless specifically required by federal or state law.

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Board Motions/Written Decisions

- Related to Suspension Review Requests – 3 days or less
- If a suspension review hearing is requested for a suspension of three days or less, the Board of Education’s written decision related to the review of the suspension and the school administrator's letter to the parents/guardians confirming the decision of the Board of Education must:
  - Detail the specific act of gross misconduct resulting in the decision to suspend; and
  - Include a rationale as to the specific duration of the suspension.
  - Consider student confidentiality when formulating the Board motion.

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Board Motions/Written Decisions

- Related to Suspension Review Requests – 4 days or more
  - If a suspension review hearing is requested for a suspension of four days or more, the Board of Education's written decision related to the review of the suspension and the school administrator's letter to the parents/guardians confirming the decision of the Board of Education must:
    - Detail the specific act of gross misconduct resulting in the decision to suspend;
    - Include a rationale as to the specific duration of the suspension;
    - Document whether other behavioral and disciplinary interventions were attempted or whether it was determined that there were no other appropriate and available interventions; and
    - For suspensions of more than four days, document whether appropriate and available support services were provided during the period of suspension, or whether it was determined that there are no such appropriate and available services.
    - Consider student confidentiality when formulating the Board motion.

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Board Motions/Written Decision

- Related to Expulsions
  - If a student is expelled, the Board of Education's written decision related to the recommendation for expulsion and the school administrator's letter to the parents/guardians confirming the decision of the Board of Education must:
    - Detail the specific reasons as to why removing the student from the learning environment is in the best interest of the school;
    - Include a rationale as to the specific duration of the expulsion; and
    - Document whether other behavioral and disciplinary interventions were attempted or whether it was determined that there were no other appropriate and available interventions.
    - Consider student confidentiality when formulating the Board motion.

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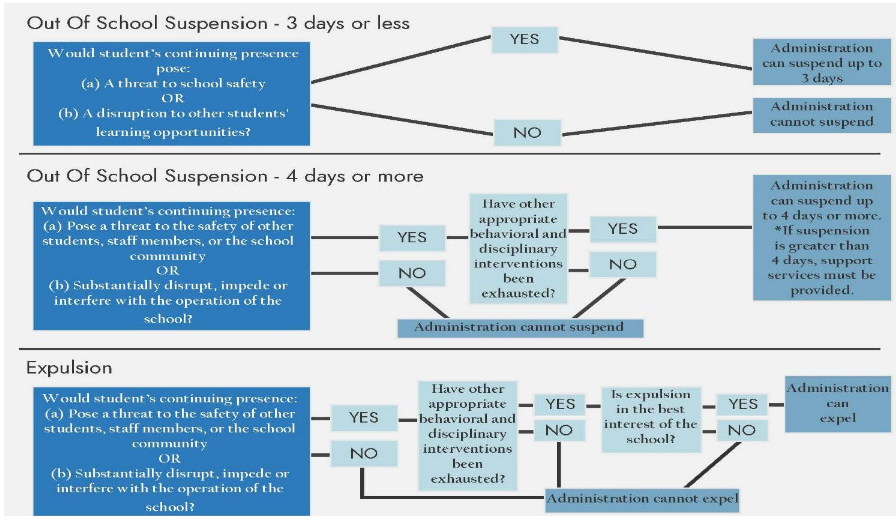
Standards for Suspension and Expulsion



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Professional Development Requirements

- Districts must make reasonable efforts to provide ongoing professional development on the adverse consequences of exclusion and justice system involvement, effective classroom management strategies, culturally responsive discipline and developmentally appropriate disciplinary methods that promote positive and healthy school climates to:
  - Teachers;
  - Administrators;
  - School board members;
  - School resource officers; and
  - Staff.

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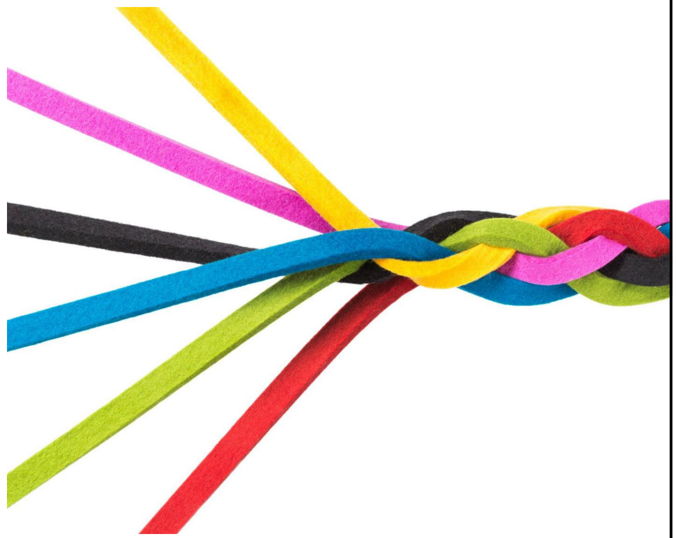
Trauma and Trauma-Informed Practices



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Definition of Trauma

The result of an event, a series of events, or a set of circumstances that is experienced by an individual as physically or emotionally harmful or life threatening and has lasting adverse effects on the individual's functioning and mental, physical, social, emotional or spiritual wellbeing.

Source: U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration

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Trauma Prevalence

Out of every 1,000 people in your community, about 108 are suffering the effects of trauma. So, every day, without ever knowing who, you probably encounter someone dealing with trauma.

According to the National Child Traumatic Stress Network ("NCTSN"), by age sixteen, 2/3 of children in the US have experienced a potentially traumatic event, such as physical or sexual abuse, serious accident or life-threatening illness, or military-family related stress.

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Knowledge of Risk Factors May Inform School Practices

According to the U.S. Department of Justice, factors impacting children's risk to being exposed to violence include:

- **Age**: Older children are exposed to more serious forms of violence and are more likely to be victims of multiple kinds of violence
- **Gender**: Boys are exposed to higher rates of physical assault than girls; Girls are exposed to higher rates of sexual victimization than boys
- **Race and Ethnicity**: Overall lifetime rates of exposure to violence are higher among black and Native American adolescents
- **Family Structure**: Children who do not live with both biological parents

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Risk Factors Continued

- **Intimate Partner Violence**: Children from families where intimate partner violence was present had an increased risk of subsequent child maltreatment victimization
- **Peer Delinquency**: Children who associate with more deviant or delinquent peers in one year are at higher risk for exposure to community violence in the next year
- **Prior Victimization**: Children who experienced one type of victimization in the past year had double or even triple the risk of other types of victimization. These risks held true for lifetime exposure as well

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Impact on Trauma in Schools

- According to National Child Traumatic Stress Network, a recent report examining the impact of "adverse childhood experiences" (ACEs) on academic outcomes found that communities with higher ACE scores had higher rates of suspensions and unexcused absences.
- Additionally, they experience lower rates of graduation from high school and progression to post-secondary school than communities with relative low prevalence of ACEs.

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Trauma Informed Schools – 4 Rs

- Recognizing the widespread impact of trauma and pathways to recovery
- Recognizing traumas signs and symptoms
- Responding by integrating knowledge about trauma into all facets of the system
- Resisting re-traumatization of trauma impacted individuals, by implementing trauma informed policies, procedures and practices.

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Trauma Informed Schools – MTSS Framework

- NCTSN recommends embedding trauma informed practices within the existing Multi-Tiered Systems of Support (MTSS) framework.
  - Tier 1: Creating and Supporting a Trauma Informed School Community
  - Tier 2: Early Intervention/Identifying Students and Staff at Risk
  - Tier 3: Intensive Support

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Trauma Informed Discipline – More "Rs"

CHARACTERISTICS

- Realize the cause of the challenging behavior may be connected to past or current traumatic experiences.
- Recognize signs of traumatic stress in challenging behaviors and responses.
- Respond using the "connect, then redirect" approach: first calm the brain-body reaction, then engage the student in problem-solving.
- Resist Re-traumatizing the student by avoiding use of seclusion and restraint, minimizing trauma triggers and creating psychological as well as physical safety.

- *Partnership for Resilience*

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What are "restorative measures"?

- A continuum of school-based alternatives to exclusionary discipline, such as suspensions and expulsions, that:
  - Are adapted to the particular needs of the school and community,
  - Contribute to maintaining school safety,
  - Protect the integrity of a positive and productive learning climate,
  - Teach students the personal and interpersonal skills they will need to be successful in school and society,
  - Serve to build and restore relationships among students, families, schools, and communities, and
  - Reduce the likelihood of future disruption by balancing accountability with an understanding of students' behavioral health needs in order to keep students in school.

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Trauma Informed Schools – Key Partnerships

- School Community
- Community Mental Health Organizations
- Law Enforcement
- Youth Development Organizations
- Advocacy Groups

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Next Session (7:45 p.m. – 8:00 p.m.)

Improving Student Outcomes

Presented by: Zaria N. Udeh

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Improving Student Outcomes

Presented by: Zaria N. Udeh

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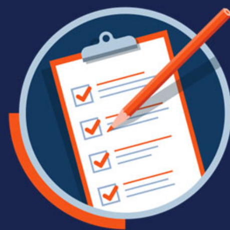

Agenda

- ❖ Review of Relevant Board Policies
- ❖ Illinois School Report Card
- ❖ Student Performance and Academic Improvement Goals for Administrators
- ❖ Attendance at Curriculum Events

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Board Policies Relevant to Student Outcomes

- **Policy 2:80** – Board Member Oath of Office
  - "I shall accept the responsibility for my role in the equitable and quality education of every student in the School District."
  - "I shall foster with the Board extensive participation of the community, formulate goals, define outcomes, and set the course for the school district."
  - "I shall assist in establishing a structure and an environment designed to ensure all students have the opportunity to attain their maximum potential through a sound organizational framework."
  - I shall strive to ensure a continuous assessment of student achievement and all conditions affecting the education of our children, in compliance with State law."

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Board Policies Relevant to Student Outcomes

- **Policy 6:10** – Educational Philosophy and Objectives
  - Understanding Key Objectives for the Educational Program
    - Foster self-discovery, self-awareness and self-discipline
    - Awareness and appreciation for cultural diversity
    - Intellectual curiosity and growth
    - Fundamental career concepts and skills
    - Values and respect for self and others
    - Strive for excellence
    - Lifelong learning
    - Providing Equal Educational Opportunities

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Board Policies Relevant to Student Outcomes

Policy 6:15 – School Accountability (The Board's Role in Quality Assurance)

- The Board should be informed on:
  - An annual assessment of each school's continuous school improvement.
  - Each school's overall performance in terms of both academic success and equity.
  - If necessary, development of a School Improvement Plan.
  - The School Report Card.
  - Results of climate surveys on the instructional environment.

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Board Policies Relevant to Student Outcomes

- **Policy 6:40** – Curriculum Development and **Policy 6:60** – Curriculum Content
  - Understanding the components of a comprehensive curriculum for students
  - The Superintendent's Role
  - The Board's Role
  - Reports to the Board
  - Nimbleness of the Curriculum Plan
    - Adapting to improved teaching methods and materials, social change, technological developments, student needs and community expectations
  - Purpose of a Curriculum Committee, Curriculum Guide and Course Outlines

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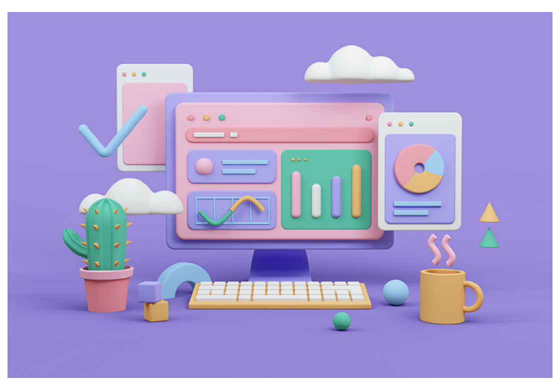
The Illinois School Report Card

- Access here: https://www.illinoisreportcard.com/
- Understanding the Summative Designation
- Measures of Academic Progress (District and State) – Depending on Grade Levels Served
  - IAR
  - DLM-AA
  - Science Assessment
  - Proficiency
  - Growth Percentile (IAR)
  - Participation Rate
  - Achievement Gap
  - Performance Scatterplots
  - Eighth Graders Passing Algebra 1



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The Illinois School Report Card

- Measures of Academic Progress (District and State) – Depending on Grade Levels Served
  - Ninth Grade On Track
  - CTE
  - Graduation Rate
  - Postsecondary Enrollment
  - Postsecondary Remediation
- Accountability

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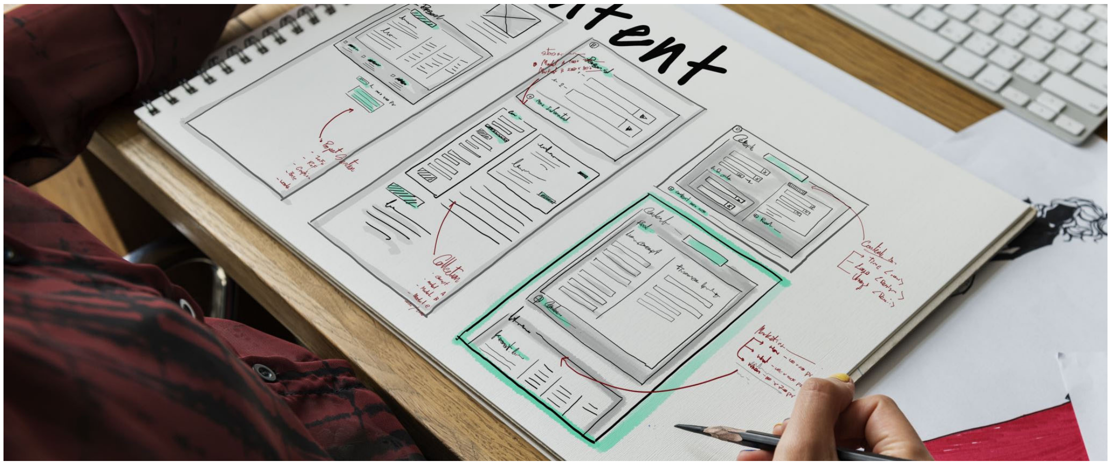
Student Performance & Academic Improvement Goals



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Student Performance & Academic Improvement Goals

- Pursuant to Section 10-23.8 of *The School Code*, a multi-year administrator employment contract must include student performance and academic improvement goals.
- The goals are developed by the Board in consultation with the administrator.
- The goals must be part of the employment contract at the time the contract is approved by the Board.
- Goals may stay the same or be changed (subject to applicable contract language) throughout the contract duration on an annual basis.

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Student Performance & Academic Improvement Goals

- When developing goals consider:
  - Curricular goals
  - Specific percentage of growth vs. general growth in certain state assessments to improve student outcomes
  - Focus areas of professional development aimed at improving student outcomes
  - Analysis of student test scores and comparison to peers
  - Assessment of strengths and weaknesses in student test scores
  - Recommendations for changes to curriculum and instruction in consideration of student test scores
  - Implementation of action plans
  - Intervals of reporting to Board

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Attendance at Curriculum Events

Types of Curriculum-Related Events

- Open Houses
- Curriculum Night
- Activity Nights
- Academic Club Competitions
- Cultural Fairs
- Art Shows

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Attendance at Curriculum Events

- Benefits of Attendance
  - Engagement with teachers, parents and the community
  - Better understanding of curricular and co-curricular activities
  - Understanding the role and perspective of educators
  - Demonstrates support for programmatic initiatives
  - Allows for an assessment of parent engagement and support
  - Fosters Q&A

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Question & Answer

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Contact Us

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ISBE Approved Letter

ILLINOIS STATE BOARD OF EDUCATION

Dr. Tony Sanders, State Superintendent of Education
Dr. Steven Isoye, Chair of the Board

555 W. Monroe Street, Suite 900 • Chicago, IL 60661 • isbe.net

May 28, 2024

Robbins Schwartz
190 South LaSalle St., Suite 2550
Chicago, IL 60603

Dear Joseph J. Perkoski:

We have reviewed your application and determined that your listed trainers meet the requirements to conduct Leadership Training activities for school board members in Illinois *(105 ILCS 5/10 and ISBE 23 Illinois Administrative Code 1.210 Subtitle A, Subchapter A).*

Each presenter in the application is qualified and approved to train school board members from January 1, 2025, to December 31, 2026. The name and represented firm will be listed as a training provider on the Illinois State Board of Education website: https://www.isbe.net/Documents/2023-25-Certified-School-Board-Training-Prov-Presenters.pdf

We will be sending certificates shortly for each approved presenter. A copy of this letter or the certificates must be available at each board member training session where the presenter will be speaking. Below is the listing of the trainers approved:

- Thomas C. Garretson
- Scott L. Ginsburg
- Catherine R. Locallo
- Susan E. Nicholas
- Joseph J. Perkoski
- Laura M. Sinars
- Zaria N. Udeh
- Christopher R. Gorman
- Kenneth M. Florey
- Matthew J. Gardner
- Todd K. Hayden
- Howard A. Metz
- Kevin P. Noll
- Caroline A. Roselli
- M. Neal Smith, Jr.
- Michelle L. Weber

Please remember that you must submit a renewal application during the next application cycle from March 1 through May 1, 2026, if you wish to continue to provide training on January 1, 2027.

Please contact Shawn Walsh in the Department of District and School Leadership at swalsh@isbe.net if you have any questions regarding the certificate or process.

Sincerely,

Shawn Walsh

Shawn Walsh, Ed.D.
Director of District and School Leadership
Illinois State Board of Education

Biographies

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CATHERINE R. LOCALLO

Partner, Chicago
312.332.7760
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PRACTICE AREAS

Board Governance
Education
Labor & Employment

EDUCATION

J.D., *cum laude*, The John Marshall Law School, Order of John Marshall

B.S., Southern Illinois University

ADMITTED TO PRACTICE

Supreme Court of Illinois

U.S. Court of Appeals for the Seventh Circuit

U.S. District Court for the Central District of Illinois

U.S. District Court for the Northern District of Illinois

Catherine R. Locallo, a distinguished legal professional, has devoted her career to the realms of labor and employment law, focusing on education and board governance matters. Her commitment is exemplified by her role as a counselor to employers, offering comprehensive guidance on employment law intricacies, collective bargaining, labor relations, and compliance with various acts, including the Freedom of Information Act and Open Meetings Act.

Catherine's strengths lie in her client-focused approach, problem-solving skills, and the ability to build strong relationships. Her enjoyment stems from problem-solving and the opportunity to foster improved relations between management and labor.

Catherine's journey into law began with a significant role as a paralegal before transitioning to become an attorney. Her early career as a paralegal influenced her decision to pursue law, a path that led her to join Robbins Schwartz in 2004. She worked diligently while attending law school at night and was admitted to the bar in 2009. Catherine's dedication to education law led her to become a partner at Robbins Schwartz in 2017.

Catherine's upbringing, with her father as an attorney, has instilled a strong work ethic that influences her approach to the law. Beyond her legal endeavors, she is a hockey mom, team manager, and a Peloton enthusiast. A lesser-known fact about Catherine is her passion for running marathons, a tribute to her best friend Farrah, who passed away from Leukemia when she was seven years old.

Awards

Honorable Gerald L. Sbarbaro Mentoring Award (2023)

Illinois "Rising Star," Employment & Labor Law (2015-2018)

Recent Publications

"Substantive Amendments to Whistleblower Act Signed into Law," *Employment & Labor Law*, IICLE (2024)

Contributing author, "Labor Relations: Contract Administration Including Unfair Labor Practices," *Illinois School Law*, IICLE (2024)

ORGANIZATIONS

Chicago Bar Association

Illinois Council of School Attorneys

Illinois State Bar Association

National Council of School Attorneys

Second Vice President, Justinian Society of Lawyers

Co-Chair, Justinian Society of Lawyers Endowment Fund Scholarship Committee

Member, Oakton Community College Paralegal Advisory Committee

Member, Triton College School of Business Advisory Legal Committee

President, Board of Directors, Glenview Stars Hockey Association

UNICO National

"U.S. Supreme Court Resolves Circuit Split for Title VII Claim Related to Job Transfer," *Employment & Labor Law*, IICLE (2024)

"EEOC Releases Proposed Regulations for Pregnant Workers Fairness Act," *Employment and Labor Law Flashpoints*, IICLE (2023)

Co-Author, "Seventh Circuit Addresses Employer Liability for Coworker and Supervisor Harassment and Challenges in Establishing Claims For Retaliation, Defamation, and IIED," *Employment and Labor Law Flashpoints*, IICLE (2023)

Co-Author, "Seventh Circuit Addresses Employer Liability for Coworker and Supervisor Harassment and Challenges in Establishing Claims For Retaliation, Defamation, and IIED," *Employment and Labor Law Flashpoints*, IICLE (2023)

"Each Discrete Statutory Violation of Biometric Information Privacy Act Is Actionable by Employees," *Employment and Labor Law Flashpoints*, IICLE (2023)

"Illinois Employers Ring in New Year with Five New Laws," *Employment and Labor Law Flashpoints*, IICLE (2022)

"Recent Seventh Circuit Case Addresses Declaratory Judgment, Equivalent Job, and Attorney's Fee Awards Under FMLA," *Employment and Labor Law Flashpoints*, IICLE (2022)

"Employee's Loss of Ability to Maintain Privacy Rights Is Not Injury Compensable Under Workers' Compensation Act," *Employment and Labor Law Flashpoints*, IICLE (2022)

"OSHA Pauses Vaccination and Testing ETS Following Legal Challenges," *Employment and Labor Law Flashpoints*, IICLE (2021)

"Chicago Teachers Union Claim Doesn't Survive Summary Judgment on Race Discrimination Claim," *Employment and Labor Law Flashpoints*, IICLE (2021)

"Effective January 1, 2022: Vast Expansion of VESSA," *Employment and Labor Law Flashpoints*, IICLE (2021)

"Illinois Committed to Restrictive Covenant Reform Through Passage of Senate Bill 672," *Employment and Labor Law Flashpoints*, IICLE (2021)

"Plaintiff's Cat's Paw Theory of Liability Failed To Scratch Surface," *Employment and Labor Law Flashpoints*, IICLE (2021)

Recent Presentations

Legal, Legislative and Ethics Update, ICCTA Illinois Council of Community College Presidents Meeting (November 2022)

You're On the Board, Now Elevate Your Game, ICCTA Annual Conference (November 2021)

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MATTHEW J. GARDNER

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PRACTICE AREAS

Commercial Transactions
Construction
Public Finance & Taxation
Real Estate Development

EDUCATION

J.D., University of Wisconsin Law School

B.A., University of Utah

ADMITTED TO PRACTICE

U.S. District Court for the Northern District of Illinois

Supreme Court of Illinois

Supreme Court of Utah

Supreme Court of Wisconsin

Matthew J. Gardner, a distinguished partner at Robbins Schwartz, boasts a multifaceted legal career spanning various practice areas. With expertise in construction, commercial transactions, real estate, and public finance, Matthew has emerged as a trusted advisor to both private and public project owners.

Matthew's practice revolves around guiding clients through the intricacies of construction and real estate projects. From property acquisition to contract negotiation, bidding, project management, and litigation, his comprehensive approach ensures that his clients navigate each phase of their projects seamlessly. Matthew also offers representation to contractors, subcontractors, and material suppliers, addressing payment claims, lien rights preservation, and defending against defect claims.

In addition to his construction and real estate practice, Matthew extends his legal acumen to the realm of education law and data privacy. Representing school districts, colleges, and educational technology companies, he drafts and negotiates data privacy agreements, software license agreements, and service agreements. He has contributed significantly to evolving legal frameworks in education privacy matters and is renowned for his adeptness in addressing risks associated with data breaches or ransomware attacks.

Beyond his legal practice, Matthew is deeply involved in the legal community. He has served as the past Chair of the Chicago Bar Association Construction Law and Mechanics Lien Subcommittee and is an active member of various legal associations, including the Illinois State Bar Association and Chicago Bar Association Judicial Evaluation Committee. Matt also dedicates his time to pro bono services, reflecting his commitment to serving the community.

What sets Matthew apart is his genuine passion for collaborating with colleagues to find innovative solutions to clients' challenges. His dedication to excellence and unwavering commitment to his clients have established him as a leading figure in the legal community.

Awards

Illinois “Rising Star”, by Super Lawyers Magazine, in the area of Construction Litigation (2021-2022)

ORGANIZATIONS

Chicago Bar Association

Illinois Association of School Business Officials

Illinois State Bar Association

Illinois Council of School Attorneys

Recent Publications

Contributing author, "Environmental Issues" *Construction Law: Transactional Considerations*, IICLE (2021)

Contributing author, "School Property and Environmental Issues" *School Law: Organization, Finance, and Property*, IICLE (2017, 2021)

Contributing author, "Turner on Illinois Mechanics Liens," *Chapter III – Making a Lien Against Private Property Enforceable* (2019)

Co-author, "School Construction from Start to Finish: A Project Checklist," *School Business Affairs Magazine*, ASBO (2018)

Contributing author, "Top 11 Public Bidding Questions," *UPDATE Magazine*, Illinois ASBO (2018)

Contributing author, "Meditation a Win-Win for Clients and their Attorneys in Construction Litigation," *Chicago Daily Law Bulletin* (2018)

Recent Presentations

Sustainable Design: Procurement and Other Considerations for a Successful Project, Illinois ASBO Annual Conference (April 2024)

Data Breaches and Ransomware Attacks: Strategies for Preventing and Responding to Cybersecurity Incident, Large Unit District Association (March 2024)

Bidding and Managing a Successful Construction Project, 2024 IADP/IPRA Soaring to New Heights Conference (January 2024)

Best Practices When Responding to a Data Breach or Cyber Incident, Secured Schools: K-12 Data Privacy and Cybersecurity Conference (January 2024)

Legal Requirements Schools Must Consider for Data Privacy and an Update on the Evolution of Lawsuits Against Schools Arising From Data Breaches, Secured Schools: K-12 Data Privacy and Cybersecurity Conference (January 2024)

Legal Update for Illinois Community College Chief Financial Officers, Illinois Community College Chief Financial Officers Spring Conference (April 2023)

Best Practices for Safeguarding Data in an Increasingly Digital World, SecurED Schools: K-12 Data Privacy and Cybersecurity Conference (January 2023)

Bidding 101, IASBO Emerging SBO Summit (July 2022)

Legal Considerations Related to Renewable Energy, Illinois ASBO Administrator Academy: Sustainability for PK-12 Schools (May 2022)

School Bidding, Procurement, and Prevailing Wages: From the Basics to the Advanced, IASA Spring Legal Seminar (March 2022)

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THOMAS C. GARRETSON

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PRACTICE AREAS

Employee Benefits
Labor & Employment
Municipal

EDUCATION

J.D., Chicago-Kent College of Law

B.A., *with honors*, Michigan State University

ADMITTED TO PRACTICE

U.S. District Court for the Northern District of Illinois

Supreme Court of Illinois

ORGANIZATIONS

Chicago Bar Association

Tom advises and counsels employers in the public and private sectors in all areas of labor and employment law, including workplace investigations, disciplinary action, leaves and accommodation requests, contract disputes, wage and hour issues, and general human resources compliance. Tom has significant experience working closely with management in traditional labor matters, including union organizing, collective bargaining and contract negotiations, grievances, and unfair labor practices. Tom also defends employers in state/federal court and before administrative agencies involving claims of discrimination, harassment, retaliation, and breach of contract.

Prior to joining Robbins Schwartz, Tom worked as a labor relations attorney for the Cook County Health System. Tom also worked with the U.S. Equal Employment Opportunity Commission's Enforcement Unit while in law school.

Outside of Robbins Schwartz, Tom is a die-hard sports fan and, despite living in Chicago for over a decade, his heart still belongs to his hometown Detroit teams as well as the Michigan State Spartans.

Recent Publications

"New Supervisors, Take Caution: Seventh Circuit Concludes Sudden Changes from New Management Could Constitute Age Discrimination," *Employment & Labor Law Flashpoints*, IICLE (2024)

"Illinois Employers Take Note: Expanded Bereavement Leave Requirements Now in Effect," *Employment & Labor Law Flashpoints*, IICLE (2024)

"IDOL Publishes Proposed Rules for the Illinois Paid Leave for All Workers Act," *Employment & Labor Law Flashpoints*, IICLE (2023)

"Illinois Employers Required to Provide Transportation Benefits Starting in 2024," *Employment & Labor Law Flashpoints*, IICLE (2023)

"Mandatory Paid Leave for Employees Coming to Illinois in 2024," *Employment & Labor Law Flashpoints*, IICLE (2023)

"Illinois Supreme Court – Federal Labor Law Preempts BIPA Claims Brought by Union Employees," *Employment & Labor Law Flashpoints*, IICLE (2023)

"Illinois Imposes New Pay Transparency Requirements on Employers," *Employment & Labor Law Flashpoints*, IICLE (2023)

"Illinois Department of Labor Adopts New Expense Reimbursement Rules for Employers," *Employment & Labor Law Flashpoints*, IICLE (2023)

"Seventh Circuit: Illinois Whistleblower Act Does Not Protect Those Asserting Violation of Another State's Laws," *Employment & Labor Law Flashpoints*, IICLE (2022)

"Amendments to ODRISA Impose New Requirements on Illinois Employers," *Employment & Labor Law Flashpoints*, IICLE (2022)

"First District Appellate Court Concludes Personnel Record Review Act Does Not Require Employers To Provide Copies of Records to Employee's Legal Representative," *Employment & Labor Law Flashpoints*, IICLE (2022)

Recent Presentations

Navigating Payroll Laws, Illinois Association of School Business Officials Bookkeepers Conference 2024 (March 2024)

Collective Bargaining Overview and Tips for Negotiations, Community College Trustee Professional Development Training, Illinois Community College Trustee Association Annual Conference (June 2023)

Navigating Payroll Laws – Wages and Recordkeeping Requirements, IASBO Bookkeepers Conference (March 2023)

Best Practices for Responding to Harassment and Discrimination Complaints, IAPD/IPRA Soaring to New Heights Conference (January 2023)

Nuts & Bolts of Arbitration, Chicago-Kent Public Sector Labor Law Conference (December 2022)

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PRACTICE AREAS

Education
Special Education
Student Rights

EDUCATION

J.D., DePaul University College of Law

B.A., Yale University

ADMITTED TO PRACTICE

U.S. District Court for the Northern District of Illinois

Supreme Court of Illinois

Supreme Court of the Commonwealth of Massachusetts

Zaria N. Udeh is a dedicated attorney who focuses her practice on education law, specifically in the intricacies of special education and student issues. Zaria is a trusted counselor for school districts, providing guidance on a broad spectrum of matters, from Individual Education Program (IEP) meetings and 504 accommodations to Office for Civil Rights, Illinois State Board of Education, and Illinois Department of Human Rights complaints. She adeptly navigates due process hearings, residency disputes, student discipline matters, and provides expertise in advising on policy and handbook review, first amendment issues, and student privacy and school records matters. Her expertise even extends to Diversity, Equity & Inclusion compliance.

In her role, Zaria finds joy in the dynamic nature of the work. She thrives on the challenges presented, helping educators and administrators to comply with the law and providing them with the legal tools they need to offer the highest quality educational experiences to students. Her strength as an attorney lies in her exceptional listening skills, problem-solving abilities, and her talent for presenting reasonable options to clients. Zaria's devotion to education and the legal aspects surrounding it has been the driving force behind her career choice. For her, there is immense satisfaction in supporting educational entities in fulfilling their missions. Her commitment to this sector has brought her into the dynamic field of education law.

Prior to joining Robbins Schwartz, Zaria's journey into the field of education law was paved by her role at Chicago Public Schools. There, she represented the district as a special education attorney, where she honed her skills in due process matters and special education disputes.

Zaria's roots in New England and her multicultural background have instilled in her the value of educational opportunities. She diligently works to support clients in extending these same opportunities to the students and families they serve.

Recent Publications

"Medical Cannabis at School Wins Legislative OK," Chicago Daily Law Bulletin (2018)

ORGANIZATIONS

Chicago Bar Association

Illinois Council of School Attorneys

National Council of School Attorneys

Recent Presentations

Unpacking the 2024 Title IX Regulations, Superintendents' Commission for the Study of Demographics and Diversity Summer Leadership Conference (June 2024)

How to Get Specific: Defensible SLD Eligibility, Goal Drafting & Instruction, Illinois Alliance of Administrators of Special Education 2024 Winter Conference (February 2024)