

2022 SURVEY OF ILLINOIS LAW: SELECTED ELEMENTARY AND SECONDARY EDUCATION LEGISLATIVE CHANGES

Phil Milsk¹

I. INTRODUCTION

This survey outlines important changes in Illinois Education Law implemented in 2022. It covers significant legislation impacting students, school staff, local school boards, administrators, and the Illinois State Board of Education.

II. SELECTED LEGISLATIVE CHANGES

A. Legislation Addressing Health and Safety

1. *Public Act 102-0791: School Safety Threat Assessment Procedures*

Public Act 102-0791 was enacted to address legislators' concerns that specific requirements of the Illinois School Safety Drill Act were not being consistently implemented in Illinois.² The legislation specifically addresses the Act's provisions governing the establishment of threat assessment teams and implementation of threat assessment procedures.³ Public Act 102-0791 amended section 45 of the Act to require each local school board to file its threat assessment procedure with its regional office of education and local law enforcement agency.⁴ It further requires each board to file a list of assessment team members in which the school district participates.⁵

For example, Chicago Public Schools must file its procedures and list of team members with the Illinois State Board of Education.⁶ This must be filed before the start of each school year.⁷ Public Act 102-0791 also made a corresponding change to the Illinois Freedom of Information Act that

¹ Phil Milsk is an Illinois attorney whose practice includes education law and public policy and legislative advocacy. He is a member of the Illinois State Bar Association's Education Law Section Council and Standing Committee on Disability Law.

² 105 ILL. COMP. STAT. 128/10 (2005).

³ *Id.* § 128/45 (2023).

⁴ *Id.*

⁵ *Id.* § 128/45(b).

⁶ *See id.*

⁷ *Id.*

exempts a threat assessment procedure and any information contained within from disclosure.⁸ Public Act 102-0791 went into effect on May 13, 2022.⁹

2. *Public Act 102-0971: Safety Education-Safe Gun Storage*

Section 27-17 of the Illinois School Code allows, but does not require, public school boards and those overseeing educational institutions that receive full or partial support from the State to provide safety education in all grades.¹⁰ Public Act 102-0971 amended the Code to add safe gun storage to the instructions on safety within the home.¹¹ This amendment went into effect on January 1, 2023.¹²

3. *Public Act 102-1095: Bans Use of Latex Gloves in Food Service Establishments*

Public Act 102-1095 created the Latex Glove Ban Act to address latex allergies in food service establishments.¹³ The Act banned the use of latex by employees of food service establishments, including schools, while preparing or handling food.¹⁴ The Act does provide an exception for instances where latex gloves must be used due to a crisis interrupting a food service establishment's ability to source non-latex gloves.¹⁵ If such circumstances exist, the establishment must prominently place a sign at the point of order or purchase providing notification of the temporary use of latex.¹⁶ The effective date of Public Act 102-1095 was January 1, 2023.¹⁷

4. *Public Act 102-1037: Wellness Checks in Schools Program Act*

Public Act 102-1037, as part of the 2022 omnibus Medicaid legislation, created the Wellness Checks in Schools Program Act.¹⁸ This Act allows districts to “implement wellness checks to identify students in grades 7 through 12 who are at risk of mental health conditions, including depression and other mental health issues.”¹⁹ The Illinois Department of Healthcare and Family Services (DHFS) is required to collaborate with “school districts that

⁸ 5 ILL. COMP. STAT. 140/7(1)(II) (2024).

⁹ See *id.*; 105 ILL. COMP. STAT. 128/45 (2023).

¹⁰ 105 ILL. COMP. STAT. 5/27-17 (2023).

¹¹ *Id.*

¹² *Id.*

¹³ 410 ILL. COMP. STAT. 180/1 (2023).

¹⁴ *Id.* § 180/10.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ 105 ILL. COMP. STAT. 155/1-1 (2022).

¹⁹ *Id.* § 155/1-10(a).

have a high percentage of students enrolled in Medicaid and a high number of referrals to the State’s Crisis and Referral Entry Services (CARES) hotline.”²⁰ Further, DHFS was charged with establishing the Wellness Checks in Schools Collaborative (the “Collaborative”) to identify research-based tools and the staff who will use them to screen students.²¹ The Collaborative was also tasked with assisting participating school districts in establishing a referral process for immediate student intervention as required.²² The establishment of the Collaborative is subject to the appropriation of funds by the General Assembly.²³ The effective date of Public Act 102-1037 was June 2, 2022.²⁴

5. Public Act 102-0761: Plant-Based School Lunch Option

Public Act 102-0761 amended the School Breakfast and Lunch Program Act to require school districts to provide a plant-based school lunch option to students who submit a request.²⁵ This plant-based option must comply with federal nutritional mandates.²⁶ Public Act 102-0761 was enacted on August 1, 2023.²⁷

B. Legislation Affecting Students in General

1. Public Act 102-0727: Unpaid fees-Withholding diploma, grades or transcripts

Public Act 102-0727 amended Section 10-20.9a of the Illinois School Code to prevent public high schools from “withhold[ing] a student’s grades, transcripts, or diplomas because of an unpaid balance on the student’s school account.”²⁸ Further, each school district must catalog and report the remaining balance of students’ school accounts to the Illinois State Board of Education.²⁹ However, the cataloging and reporting requirements will be inoperative three years after the Act’s effective date, May 6, 2022.³⁰

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ 105 ILL. COMP. STAT. 155/1-10 (2022).

²⁵ *Id.* § 125/5.5 (2023).

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* § 5/10-20.9a (2022).

²⁹ *Id.*

³⁰ *Id.*

2. *Public Act 102-0805: School Fee Waivers-Homeless Students*

Public Act 102-0805 amended sections 1-3, 10-20.13, 27A-5, 28-19.2, and 34-21.6 of the Illinois School Code.³¹ Section 1-3 was amended to define “school fees” or “fees” as:

any monetary charge collected by a public school, public school district, or charter school from a student or the parents or guardian of a student as a prerequisite for the student’s participation in any curricular or extracurricular program of the school or school district as defined under paragraphs (1) and (2) of subsection (a) of Section 1.245 of Title 23 of the Illinois Administrative Code.³²

In section 10-20.13, the Act added fines for the loss of school property to the costs that must be waived for students eligible for waivers, makes homeless children and youth as defined under the federal McKinney-Vento Homeless Assistance Act eligible for fee waivers, and requires school boards to provide a notice of waiver availability to parents and guardians with every bill issued for fees and fines.³³ The change to section 27A-5 makes the bill’s provisions applicable to charter schools.³⁴ The change to section 34-21.6 makes the bill applicable to the Chicago Public Schools.³⁵ The effective date of Public Act 102-0805 was January 1, 2023.³⁶

3. *Public Act 102-1032: School Fee Waivers-Children of Veterans and Active-Duty Military Personnel*

Public Act 102-1032 amended section 10-20.13 of the Illinois School Code to make “students whose parents are veterans or active-duty military personnel with income at or below 200% of the federal poverty line” eligible for school fee waivers.³⁷ The Act also amended section 34-21.6 of the School Code to make the provisions of the Act applicable to the Chicago Public Schools³⁸ and the Act took effect on May 27, 2022.³⁹

³¹ *Id.* at 5/1-3, 5/10-20.13, 5/27A-5, 5/28-19.2, 5/34-21.6.

³² *Id.* at 5/1-3 (2023).

³³ *Id.* at 5/10-20.13.

³⁴ *Id.* at 5/27A-5(g) (2024).

³⁵ *Id.* at 5/34-21.6 (2023).

³⁶ Act of May 13, 2024, Pub. Act No. 102-805, 2022 Ill. Legis. Serv. 102-805 (West).

³⁷ 105 ILL. COMP. STAT. 5/10-20.13(b)(1) (2023).

³⁸ *Id.* § 5/34-21.6.

³⁹ *Id.* § 5/34.

4. *Public Act 102-1077: Dual Credit Courses*

Public Act 102-1077 made various statutory changes concerning dual credit courses.⁴⁰ It amended the Dual Credit Quality Act to require partnership agreements entered into, amended, renewed, or extended after the effective date of Public Act 102-1077 between high schools and community colleges to “allow a high school student who does not otherwise meet the community college district’s academic eligibility requirements to enroll in a dual credit course taught at the high school” for high school credit only.⁴¹ It allows instructors, in coordination with their higher education learning partner, to differentiate instruction by credit section.⁴² It further requires high schools to “establish procedures, prior to the first day of class,” whereby “students enrolled in a mixed enrollment dual credit course that includes students who have and have not met the criteria for dual credit coursework,” to notify the enrolled students whether they are or are not “eligible to earn college credit for the course.”⁴³ The legislation also added a “requirement that the school district and community college annually assess disaggregated data pertaining to dual credit course enrollments, completions, and subsequent postsecondary enrollment and performance to the extent feasible.”⁴⁴ The assessment shall include, if applicable, student characteristics by credit section including gender, race and ethnicity, and low-income status.⁴⁵ This legislation also includes provisions governing the standards for dual credit course instructors and took effect on January 1, 2023.⁴⁶

5. *Public Act 102-0981: Student Absence for Civic Event*

Public Act 102-0981 amended Article 26 of the Illinois School Code concerning compulsory attendance and truancy.⁴⁷ It amended section 26-1 to allow any child from a public middle school or high school to be permitted one school day of excused absence per school year for the child to engage in a civic event, subject to guidelines established by the Illinois State Board of Education.⁴⁸ A “school board may require ... the student [to] provide reasonable advance notice of the intended absence” and “require ... the student [to] provide documentation of participation in the civic event” to an

⁴⁰ 110 ILL. COMP. STAT. 27/16 (2023).

⁴¹ *Id.* § 27/16.5(a) (2023).

⁴² *Id.*

⁴³ *Id.* § 27/16.5(c).

⁴⁴ *Id.* § 27/16(11).

⁴⁵ *Id.*

⁴⁶ *Id.* § 27/20.

⁴⁷ 105 ILL. COMP. STAT. 5/26-2a (2023).

⁴⁸ *Id.* § 5/26-1(8).

appropriate school administrator.⁴⁹ The Act also amended section 26-2a, which defines “truant,” to make attendance at a civic event a valid cause for absence and to define “civic event” as “an event sponsored by a non-profit organization or governmental entity that is open to the public” that includes an artistic or cultural performance or educational gathering that supports the mission of the sponsoring non-profit organization.⁵⁰ The legislation authorizes the State Board of Education to adopt rules to further define “civic event.”⁵¹ Public Act 102-0981 went into effect on January 1, 2023.⁵²

C. Legislation Affecting Students with Disabilities

1. *Public Act 102-1072: Interpreters at Meetings, Hearings and Mediations*

Public Act 102-1072 went into effect on June 10, 2022, which changed sections 14-6.01, 14-8.02, and 14-8.02(a) of the Illinois School Code regarding the entitlement to an interpreter for “[a]ny parent who is deaf or who does not typically communicate using spoken English.”⁵³ The amendment to section 14-6.01 added a requirement that the notification to families about the availability of services and accommodations under Section 504 of the federal Rehabilitation Act of 1973 must include a statement “that any parent who is deaf or does not typically communicate using spoken English and who participates in a section 504 meeting” with a school representative “shall be entitled to” interpreter services.⁵⁴ Section 14-8.02 subsection (g) was amended to clarify that the entitlement to interpreter services applies to a parent who attends a multidisciplinary conference convened for their child.⁵⁵ Section 14-8.02(a), which governs impartial due process hearings and mediations, was amended by changing subsection (k)(1) to require that, in addition to providing an interpreter for a parent at all stages of a due process hearing, an interpreter must also be provided by the school district for a parent at a special education mediation.⁵⁶ Further, an interpreter for a deaf parent at a hearing or mediation must be licensed under the Interpreter for the Deaf Licensure Act of 2007.⁵⁷ Note that since the enactment of Public Act 102-1072, the Illinois State Board of Education has

⁴⁹ *Id.*

⁵⁰ *Id.* § 5/26-2a.

⁵¹ *Id.*

⁵² *See id.*

⁵³ *Student Services*, HOMEWOOD SCH. DIST. 153, https://www.hsd153.org/apps/pages/index.jsp?uREC_ID=1135443&type=d&pREC_ID=1402549 (last visited May 13, 2024); 105 ILL. COMP. STAT. 5/14-6.01, 5/14-8.02, 5/14-8.02a (2022).

⁵⁴ *Id.* § 5/14-6.01 (2023).

⁵⁵ *Id.* § 5/14-8.02 (g) (2024).

⁵⁶ *Id.* § 5/14-8.02a (k)(1) (2022).

⁵⁷ *Id.*

revised its administrative rules governing the provision of interpreter services.⁵⁸

2. Public Act 102-0703: Alternative Placement for a Student with an Individualized Education Program (IEP)

Public Act 102-0703 changed section 14-7.02 of the Illinois School Code, which governs the educational placement of a student when the resident school district's IEP team determines that the district cannot meet the student's needs.⁵⁹ This legislation added an important emergency student-specific approval process through the State Board of Education when the student's IEP team recommends placement in a nonpublic special education facility providing educational services that the State Board of Education has not approved.⁶⁰ Under the emergency approval procedure, the "State Board of Education shall promptly, within 10 days after the request, approve a request for emergency and student-specific approval" for placement if certain conditions have been met, including:

- (1) the facility demonstrates appropriate licensure of teachers for the student population;
- (2) the facility demonstrates age-appropriate curriculum;
- (3) the facility provides enrollment and attendance data;
- (4) the facility demonstrates the ability to implement the student's IEP; and
- (5) the resident school district demonstrates that it made good faith efforts to place the student in an approved facility, but no approved facility has accepted the student or has availability for immediate residential placement of the student.⁶¹

The State Board of Education may not unreasonably withhold emergency approval once the resident school district submits satisfactory proof.⁶² The new Act also provides that if an impartial due process hearing officer orders the placement of a student with a disability in a facility that has not been approved by the State Board of Education, the "facility shall be deemed approved for placement and school district payments and State reimbursements shall be made accordingly."⁶³ The emergency placement

⁵⁸ ILL. ADMIN. CODE tit. 23, § 226.530 (2024).

⁵⁹ 105 ILL. COMP. STAT. 5/14-7.02 (2024).

⁶⁰ *Id.*

⁶¹ *Id.* § 5/14-7.02(e).

⁶² *Id.*

⁶³ *Id.* § 5/14-7.02(f).

may be continued so long as the student's IEP team annually determines that it is "appropriate to meet the student's needs."⁶⁴ At least every three years following the placement, the IEP team will review appropriate placements that are approved by the State Board of Education to determine if there is a placement that can meet the student's needs, will accept the student, and has the availability for placement of the student.⁶⁵ Public Act 102-0703 took effect on April 22, 2022.⁶⁶ The State Board of Education has adopted administrative rules governing placements under Public Act 102-0703.⁶⁷

D. Legislation Impacting School Personnel

1. *Public Act 102-0861: Mandated Reporters of Child Abuse and Neglect*

Public Act 102-0861 amended the Abused and Neglected Child Reporting Act by expanding the list of mandated reporters under the Act to include occupational therapists and assistants, as well as physical therapists and assistants.⁶⁸ The Public Act took effect on January 1, 2023.⁶⁹

2. *Public Act 102-0710: Retired Teachers Returning to Teaching Position*

To address a shortage of teachers, Public Act 102-0710 reduces the fee paid to the State Board of Education to reinstate a lapsed educator license from \$500 to \$50 and waives the registration fee for a retired teacher who returns to a position requiring a professional educator license.⁷⁰ The Public Act took effect on April 27, 2022.⁷¹

3. *Public Act 102-0711: Substitute Teaching Licensure*

Another piece of legislation addressing teacher shortage is Public Act 102-0711, which amended the Educator Licensure Article of the School Code to change the requirements for a Substitute Teaching License.⁷² The Act removes the requirement that an applicant "hold a bachelor's degree or higher from a regionally accredited institution of higher education."⁷³

⁶⁴ *Id.* § 5/14-7.02(g).

⁶⁵ 105 ILL. COMP. STAT. 5/14-7.02(g) (2024).

⁶⁶ *Id.* § 5/14-7.02.

⁶⁷ ILL. ADMIN. CODE tit. 26, § 226.330(g)-(j) (2024).

⁶⁸ 325 ILL. COMP. STAT. 5/4(a)(1) (2024); 2021 Ill. Laws 861.

⁶⁹ 2021 Ill. Laws 861.

⁷⁰ 105 ILL. COMP. STAT. 5/21B-45(b), (e)(6) (2024).

⁷¹ *See id.* § 5/21B-45; *see also* 2021 Ill. Laws 710.

⁷² *See* 105 ILL. COMP. STAT. 5/21B-20(3) (2024).

⁷³ *Id.*

Instead, it allows an applicant to be enrolled in an approved educator preparation program in Illinois and have at least 90 credit hours earned.⁷⁴

4. *Public Act 102-0866: Mental Health or Behavioral Health Days*

Public Act 102-0866 amended section 24-6 of the Illinois School Code, which defines “sick leave,” by including mental or behavioral health complications as part of sick leave for school personnel.⁷⁵ The legislation also provides that the school board may require a mental health professional licensed in Illinois to certify providing ongoing care or treatment to the teacher or employee.⁷⁶ The legislation also contains provisions governing mental or behavioral health leave for employees of the Chicago Public Schools, providing that inclusion of mental or behavioral health complications as sick leave is in “addition to any interpretation or definition included in a collective bargaining agreement.”⁷⁷ The legislation further states that the certification of a licensed mental health professional may be required unless contrary to a collective bargaining agreement or board of education or district policy.⁷⁸ Public Act 102-0866 was enacted on May 13, 2022.⁷⁹

5. *Public Act 102-0702: Sexual Misconduct in Schools*

Public Act 102-0702 built on Public Act 102-0676, effective December 3, 2021, although some of its provisions had later effective dates.⁸⁰ Both Acts focus on preventing educator sexual misconduct and are collectively known as Faith’s Law.⁸¹ Public Act 102-0676 requires the State Board of Education to develop a resource guide for students, “parents or guardians, and teachers about sexual abuse response and prevention resources.”⁸² It also added a definition of “sexual misconduct” in the Illinois School Code⁸³ and incorporated it into the School Code by referencing the definition of “grooming” found in section 11-25 of the Criminal Code of 2012.⁸⁴

Public Act 102-0702, effective July 1, 2023, requires reviews of employment history in the process of hiring any applicant to work directly

⁷⁴ *Id.*

⁷⁵ *Id.* § 5/24-6.

⁷⁶ *Id.*

⁷⁷ *Id.* § 5/34-18.79.

⁷⁸ 105 ILL. COMP. STAT. 5/34-18.79 (2024).

⁷⁹ *Id.* § 5/24-6.

⁸⁰ *Id.* § 5/22-94 (2024); *id.* at 5/2-3.188 (2021).

⁸¹ *Id.*

⁸² 105 ILL. COMP. STAT. 5/2-3.188 (2021).

⁸³ *Id.* § 5/22-85.5.

⁸⁴ 720 ILL. COMP. STAT. 5/11-25 (2021).

with children or students and describes the vetting process for hiring.⁸⁵ Further, it provides that if a school district superintendent has reasonable cause to believe that an educator license holder has committed an act of sexual misconduct, the district superintendent must report this to the State Superintendent of Education and the regional superintendent of schools.⁸⁶ It authorizes the State Superintendent to initiate license or endorsement revocation or suspension for sexual misconduct.⁸⁷ It requires:

The governing body of each school district, charter school, or nonpublic school to implement a procedure under which notice is provided to the parents or guardians of an enrolled student, unless the student is at least 18 years of age or emancipated, with whom an employee, agent of the school, or a contractor of the school is alleged to have engaged in sexual misconduct.⁸⁸

The notice “must be first provided to the student in a developmentally appropriate manner and include” certain elements set forth in the Act.⁸⁹ The notice may not conflict with the student’s IEP, 504 plan, or requirements under State or federal law.⁹⁰ Information and resources on Faith’s Law are available on the State Board of Education’s website.⁹¹

III. CONCLUSION

The 2022 Spring session of the General Assembly produced several significant new laws governing elementary and secondary education in Illinois.⁹² Of the new Public Acts summarized in this survey, the changes to Faith’s Law⁹³ and the establishment of an emergency student-specific placement procedure for students with disabilities whose needs require placement in a non-approved special education facility stand out as measures that address serious public policy issues impacting students, families, and schools.⁹⁴

⁸⁵ 105 ILL. COMP. STAT. 5/22-94 (2024).

⁸⁶ *Id.*

⁸⁷ *Id.* § 5/21B-75.

⁸⁸ *Id.* § 5/22-85.10(a).

⁸⁹ *Id.* § 5/22-85.10(a)(2).

⁹⁰ *Id.*

⁹¹ *Faith’s Law*, ISBE, <https://www.isbe.net/faithslaw> (last visited Apr. 3, 2024).

⁹² See IASB, DIGEST OF BILLS: 2022 SPRING SESSION OF THE ILLINOIS GENERAL ASSEMBLY (2022).

⁹³ See ISBE, FAITH’S LAW GUIDANCE & FAQ (2023).

⁹⁴ 105 ILL. COMP. STAT. 5/14-7.02 (2024).