

# EFFECTIVE (INTER)GOVERNMENTAL AGREEMENTS

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# Introductions

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# Roadmap

- Big Picture - Contracts
- Sources of Authority
- School-School Contracts
  - Joint Agreements
  - Access to SpEd Services
  - Student Record Sharing
- Purchasing Coops
- School-Other Gov't Entity Contracts
  - Security-related
  - TIF agreements
  - Facilities sharing
  - Real estate-related
- Q & A

# BIG PICTURE

# Big Picture – Contracts

- Do you have a copy of the whole contract?
- Is the contract understandable and clear?
- Do you have all the pieces to the puzzle?
- Who prepared it? Who reviewed it?
- Does the math work?

# Big Picture – Contracts

## Key Terms

- Scope of work
- Project timelines
- Duration/term
- Billing and payment
- Authority of reps
- Data privacy
- Right to terminate/ effect of termination
- Indemnification & insurance

# Primary Source of Authority for Intergovernmental Agreements

- Article VII, Section 10 of IL Constitution
  - “Units of local government and school districts may contract or otherwise associate among themselves . . . to obtain or share services and to exercise, combine, or transfer any power or function, in any manner not prohibited by law or by ordinance.”
- *Intergovernmental Cooperation Act*, 5 ILCS 220/1 et seq.
  - “Any power or powers, privileges, functions, or authority exercised or which may be exercised by a public agency [] may be exercised, combined, transferred, and enjoyed jointly with any other public agency . . . except where specifically and expressly prohibited by law.”

# Intergovernmental Contracts

## 5 ILCS 220/5

“Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity or undertaking or to combine, transfer, or exercise any powers, functions, privileges, or authority which any of the public agencies entering into the contract is authorized by law to perform, provided that such contract **[1] shall be approved by the governing bodies of each party to the contract** and except where specifically and expressly prohibited by law. Such contract **[2] shall set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties.**”



# Many Other Sources of Authority for School-Related IGAs

- *School Code* § 10-22.31 – SpEd cooperatives
- S.C. § 10-22.31a – Joint educ. programs
- S.C. § 10-22.31b – Joint building programs
- S.C. § 10-22.20a – Vocational educ. coops
- S.C. § 10-22.22c – Cooperative high school
- S.C. § 10-22.22e – Science/Math school
- 30 ILCS 525/ - Gov'tl Jt Purchasing Act
- 65 ILCS 5/11-74.4-1 TIF Act

# SCHOOL-TO-SCHOOL CONTRACTS

# Joint Agreements / Coops

- Special Education Coops
- At-Risk Preschool Programs
- Cooperative High School
- Cooperative Extracurricular Teams
- Risk Mgmt/Insurance Associations or Pools

# SpEd Joint Agreements

- Administration
- Staff
- Programs
- Financing
- Housing
- Transportation
- Advisory body
- Methods for disposing of property upon withdrawal of a SD or dissolution
- Withdrawal procedures

# SpEd Joint Agreements

- Problem areas:
  - Allocation of authority within governing board/body
  - Allocating assets upon withdrawal
  - Dissolution/winding down the Coop entity
  - Dealing with Coop employees after withd./dissol.
  - Providing services after withdrawal or dissolution

# SpEd Joint Agreements

- Ensure there's an actual joint agreement doc
- Do the formulas work?
- If withdrawing or dissolving:
  - How are you going to provide services?
  - What will it cost you to withdraw or dissolve?
  - Develop and approve detailed plan for dissolution
  - Employee transfer agreements

# IGA for Access to Special Ed Services of Another District

- Like a private placement, but at another public school district's program, instead
- Common:
  - When a particular SpEd program at another SD is exceptional (or one of only options)
  - After withdrawal or dissolution, and individual district(s) not able to provide full range of SpEd services immediately

# IGA for Access to Special Ed Services of Another District

- Tuition for non-resident (ISBE Regs, Part 130)
- Ultimate responsibility for FAPE
- Sharing of student records
- Role of serving district's employees in:
  - Discipline
  - SpEd process
- Allocation of liability



# IGA to Share Student Records between ESD and HSD

- Practical problem: USDs can share student data from K-12, but ESDs/HSDs can't
- 4 Options:
  1. \_\_\_\_\_ \*
  2. \_\_\_\_\_
  3. \_\_\_\_\_
  4. \_\_\_\_\_ (must have IGA)

# PURCHASING COOPS

# Purchasing Coops

- Leverage purchasing power of public agencies
- Issues:
  - Bidding
  - Legal structure
  - Fees/assessments
  - Auto-renewals/timelines for notice of withdrawal
  - For “master contracts” -- compliance with Joint Purchasing Act or School Code

# Purchasing Coops

- Direct government-to-government purchases
  - E.g., transportation services
  - Scope, schedule, costs, liability, termination, reimbursements, ownership, etc.
  - Cooperative entity formation?
- Risk management cooperatives
  - CLIC, NIHIP, ICRMA, WCSIT, etc.
  - Detailed bylaws / discretion of board/assessments
  - Resolution/agreement to join
  - Notice/resolution for withdrawal

# Purchasing Coops

- IEC
  - Membership/participation agreement
  - Bylaws - broad discretion of board of directors
  - Resolution/agreement to participate
  - Notice of withdrawal
- ISDLAF
  - Declaration of Trust
  - Resolution/agreement to participate
  - Investment policy/compliance

# Purchasing Coops

- Governmental Joint Purchasing Act Programs
  - State –chief procurement officer designates bid
  - Local –entity designates joint bid
  - With or without detailed agreement
  - Typically some board action required to participate
  - 5 days' newspaper notice, lowest responsible bid
  - Get a copy of the bid docs, bid & master contract
- ISBE Education Purchasing Program

# SCHOOL-TO-OTHER GOV'T ENTITY CONTRACTS

# School-Other Gov't Entity Contracts

- Counties, cities, park districts, library districts, townships, etc.
- Shared employees
- Revenue sharing
- Information sharing
- Security-related
- Facilities sharing
- Real property purchases/leases/easements



# Security-Related

- SRO agreements
  - Police employee in school
  - Do your homework
    - Sample MOU's are available – e.g., IASB 7:190-E3
    - US Dept. of Justice – *Memorandum of Understanding Fact Sheet*
    - ACLU white paper, *Policing in Schools: Developing a Governance Document for School Resource Officers in K-12 Schools*
  - Address selection, compensation (if district wishes to pay a portion), roles, duties and removal of SRO

# Security-Related

- Reciprocal reporting agreements
  - Facilitate record sharing with juvenile authorities
  - Written agreement to keep confidential
  - Provided under 105 ILCS 5/10-20.14 & student records laws
  - Parent-teacher advisory committee involvement
- Emergency video feed agreements
  - Written agreement to keep confidential
  - Ensure it is live; not delayed

# TIF Agreements

- Know your rights and options
  - Can vote no on JRB
  - Can sue if area doesn't qualify or would develop w/out TIF
  - Entitled to costs for new students from new housing
  - Can ask for surplus distribution to all districts
  - Can ask for capital costs
  - Can ask for vocational program costs
- Pay attention/ask questions at JRB meetings
- Identify impact of TIF on future revenues
- Identify what your Board wants

# Other Revenue-Related

- Impact fee/indemnification agreements
  - County/city will impose fees, district will indemnify
- Enterprise zones/abatements
  - Understand schedule of abatements
  - Seek waiver of assessment appeals
- Property tax consortia

# Facilities Sharing

- Facilities rental/use of gyms, athletic fields, playgrounds, etc.
- Describe facilities and attach as exhibit
- Maintenance and cleanup
- Fees and repairs for damage
- Times/schedule of use
- Liability/indemnification/insurance – check with insurer & lawyer

# Facilities Sharing

- Before/after school programs
  - Typically with a park district
  - DCFS licensing/exemption issue
- Libraries
  - Typically with a library district
  - Possible shared librarian/employment issues

# Real Estate

- Joint facility construction
- Real property sale/purchase contracts
- Easements
- Leases – e.g., administrative space
- Legal description needed
- Contact your lawyer

# *Questions and Answers*

*We thank you for your time!*



# Presenters:

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