

# Introductions

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# Outsourcing and Contracting for Hard-to-Fill Positions: Legal Pitfalls



May 1, 2026, Peoria

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# Agenda

Disclaimer & Introduction

Statutory Issues Affecting Outsourcing/Contracting

A. Authority/Licensure

B. Bidding

C. Procedures

D. Contract Provisions/Requirements

Collective Bargaining Requirements

Putting It Together (Non-Instructional Outsourcing)

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# Disclaimer

NOT LEGAL ADVICE

USE YOUR LAW FIRM

THIS PRESENTATION  
WILL HELP YOU FLAG  
THE ISSUES (State Law)



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# Statutes and Related Issues

- A. Authority/Licensure
- B. Bidding
- C. Procedures
- D. Contract Provisions/Requirements

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# Statutes and Related Issues

## 1. Do We Have Statutory Authority to Outsource/Contract for the Position?

105 ILCS 5/10-22.34c (Third party non-instructional services)

105 ILCS 5/29-6.1 (Contracts for transportation)

105 ILCS 5/14-6.04 (Contracting for speech-language path. svcs)

105 ILCS 5/2-3.173 (Substitute teachers; recruiting firms)

105 ILCS 5/21B-20 (Types of licenses)

105 ILCS 5/10-20.21 (Contracts)

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# Statutes and Related Issues

## A. Do We Have Statutory Authority to Outsource/Contract?

ESPs (bus drivers, custodial, aides, etc.)?

- Yes, But Subject to Section 10-22.34c Unless Grandfathered
- Major Hurdles to Outsource/Layoff
- New Hurdles to 90 Day Emergency Contracts/Renewals Too

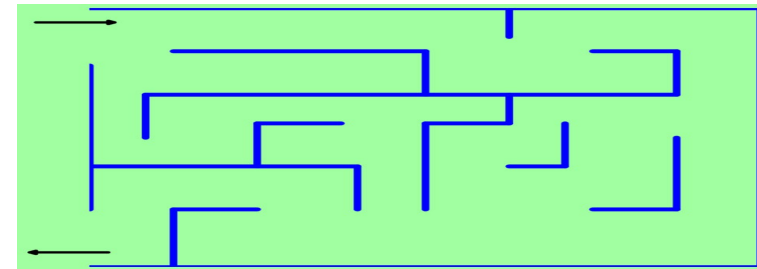




# Statutes and Related Issues

105 ILCS 5/10-22.34c (Third party non-instructional services)

- (cont'd)
  - (b) Contracting to augment in emergency: 3 months duration, new restrictions eff. 7/1/26, threat to safety/health of students/staff, requires bargaining, new requirement to continue posting positions, extra renewal hurdles after 3 months



# Statutes and Related Issues

105 ILCS 5/29-6.1 (Contracts for transportation)

- Authorizes contracts for transportation services
- Duration (with renewals) up to 10 years
- Other School Code provisions?



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# Statutes and Related Issues

## A. Do We Have Statutory Authority to Outsource/Contract?

### Teaching?

- Can't Outsource; Just Contract
- Substitute/Recruiting Firm Analysis
- Temporary



# Statutes and Related Issues

105 ILCS 5/2-3.173 (Substitute teachers; recruiting firms)

- Authorizes substitute teacher recruitment w/ recruiting firms
- Must exhaust other efforts & file form with ISBE
- Prioritize current subs
- May not reduce FTE or use during strike
- Subs paid same wage scale by company



# Statutes and Related Issues

## 105 ILCS 5/21B-20 (Types of licenses)

- Limits subs to teaching in place of teacher under contract
- If no licensed teacher / emergency situation:
  - Can use sub up to 30 calendar days
  - Must notify ROE within 5 business days
  - Can get extension up to 90 days or end of semester



# Statutes and Related Issues

105 ILCS 5/14-6.04 (Contracting for speech-language path. svcs)

- Authorizes contracting for SLP
- Requires reasonable efforts to employ SLP
- Licensure requirements for contracted SLP
- Job postings/listings in news, college/university, IASA



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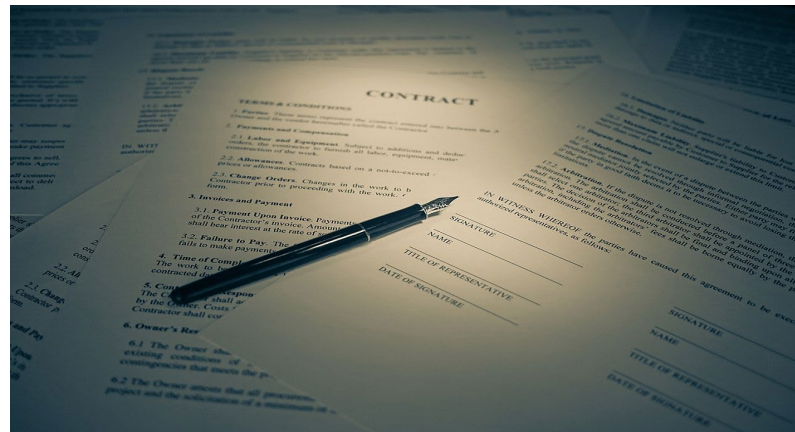
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# Statutes and Related Issues

## 105 ILCS 5/10-20.21 (Contracts)

- Authorizes contracts for services/goods
- Requires bidding, subject to exceptions
- Applies to all positions



# Statutes and Related Issues

A. Do We Have Statutory Authority to Outsource/Contract?

Nurses?



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# Statutes and Related Issues

## A. Do We Have Statutory Authority to Outsource/Contract?

### Nurses?

- Depends on Type (Licensure)
- Does Section 10-22.34c apply?
  - H.J.R. 78, adopted 5-31-08: 10-22.34c is not intended to apply to professional/ managerial employees

# Statutes and Related Issues

A. Do We Have Statutory Authority to Outsource/Contract?

Tech services?



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# Statutes and Related Issues

## A. Do We Have Statutory Authority to Outsource/Contract?

Tech services?

- Similar Analysis to Nurses Under Section 10-22.34c
- H.J.R. 78 (5-31-08) (professional/managerial)

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# Statutes and Related Issues

## B. Do We Have to Bid?

See 105 ILCS 5/10-20.21 (Contracts) Exceptions For:

- Services Requiring Professional Skill
- Emergency Contracts (Resolution?)
- Partial/Complex Exceptions for Transportation/Food Svc  
W/Sealed Solicitation/RFP Process

# Statutes and Related Issues

B. Do We Have to Bid? (Check with Lawyer)

Tech services?

Nurse services?

Teaching?

Custodial? Food services? Transportation?

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# Statutes and Related Issues

## C. What Procedures Must Be Followed? Depends on Type

- ESP outsourcing – See Section 10-22.34c(a)
- ESP emergency contract – See 10-22.34c(b)
- Teaching – Notice to ISBE/ROE for Sub/Recruiting Firm  
-- See Sections 21B-20 & 2-3.173
- SLP – See Section 14-6.04

# Statutes and Related Issues

## D. Contract Provisions/Requirements

- 105 ILCS 5/10-21.9 (Criminal history records checks and checks of Statewide Sex Offender/Murderer Databases)
- 105 ILCS 5/22-94 (Employment history review)
- 105 ILCS 5/24-5 (Physical fitness and professional growth)
- Onboarding/training, e.g. ANCRA, blood borne pathogens

# Statutes and Related Issues

## D. Contract Provisions/Requirements

- Student Records Laws/Data Breach
- Pension issues
- Noncompete provisions
- WC Waiver / Indemnification / Insurance

# Statutes and Related Issues

## D. Contract Provisions/Requirements

- 820 ILCS 175 (Day and Temporary Labor Services Act)
- 820 ILCS 90 (Illinois Freedom to Work Act)
- 225 ILCS 510/ (Nurse Agency Licensing Act)
- Required certifications

# Collective Bargaining Requirements



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# Collective Bargaining Requirements

Subcontracting affects wages, hours, terms/conditions

Can't outsource during the term of CBA

Even augmenting workforce with outsourced workers can require bargaining

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# Collective Bargaining Requirements

Community Unit School District No. 5 v. IELRB: union gets written notice of the consideration of a subcontract before it is finalized; meetings with the union to provide an opportunity to discuss and explain the decision; providing information to the union; and giving consideration to any counterproposals

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# Putting It Together (Union/Bid/ESP Outsourcing)

1. Notice to Union – Good Faith Bargaining (Timing/CBA)
2. Notice to Affected Employees (90 Days Before Layoffs)
3. Notice of Public Hearing (On or Before Date Bids Solicited)
4. Bid Due Advertisement (At Least 10 Days Before Bid Open)

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# Putting It Together (Union/Bid/ESP Outsourcing)

5. Public Hearing (Prior to Regularly-Scheduled Board Mtg)
6. Provide Cost Comparison to Board (During Open Session)
7. Award Contract (30 Days After Public Hearing Notice)
8. Adopt Formal RIF Notices (90 Days Before End of Employment)

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# Questions and Answers

*We thank you for your time!*

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# Presenters:

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