

# School Nursing Practice in the Current Legal Environment

Jessica Gerdes, RN, MSN, NCSN, IL-PEL/School Nurse  
Illinois State Board of Education  
Principal Consultant  
School Nursing, Health Issues  
Physical Education and Health Education



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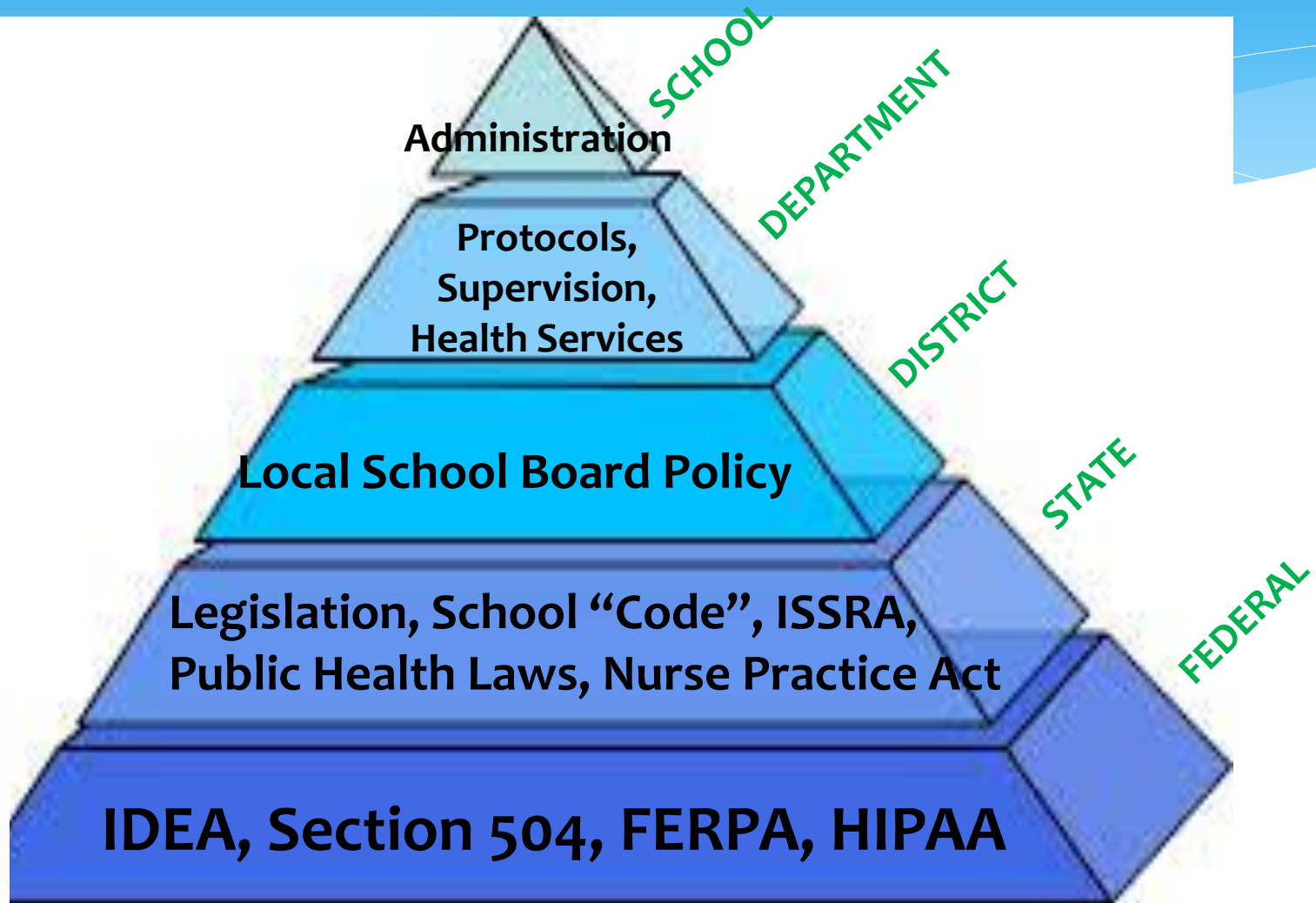
School Nurse  
EMPOWERMENT

*Vision, Visibility and Value*



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- \* This presentation contains information on “current legal environment” insofar as it covers information on existing state and federal laws and state policies and practice. Any guidance on “best practice” is based on resources and is not intended to provide any legal advice.

# Hierarchy of Legal Environment



# IDEA, Section 504

## IDEA (Individuals with Disabilities in Education Act)

Many rules related to rights of parents and students, timelines, appeals

Involvement of nurse:

- In the initial health evaluation and re-evaluations

- In the present level of functioning

- In the treatment plan

- In the educational plan

- In the transition plan (for ages 14 ½ and older)

- Who decides

Consider first evaluating and reporting on health strengths

Assess health impairments compared to adequate function

Section 504

Few specific rules compared to IDEA

Legal environment most directly related to opinions, findings, lawsuits

ISBE does not directly monitor nor enforce

# FERPA, HIPAA

## \* FERPA

- \* Exceptions for serious and imminent threats to health and safety
- \* Education agency holds the cards
- \* Written parental permission required for most release of information outside the school / education agency

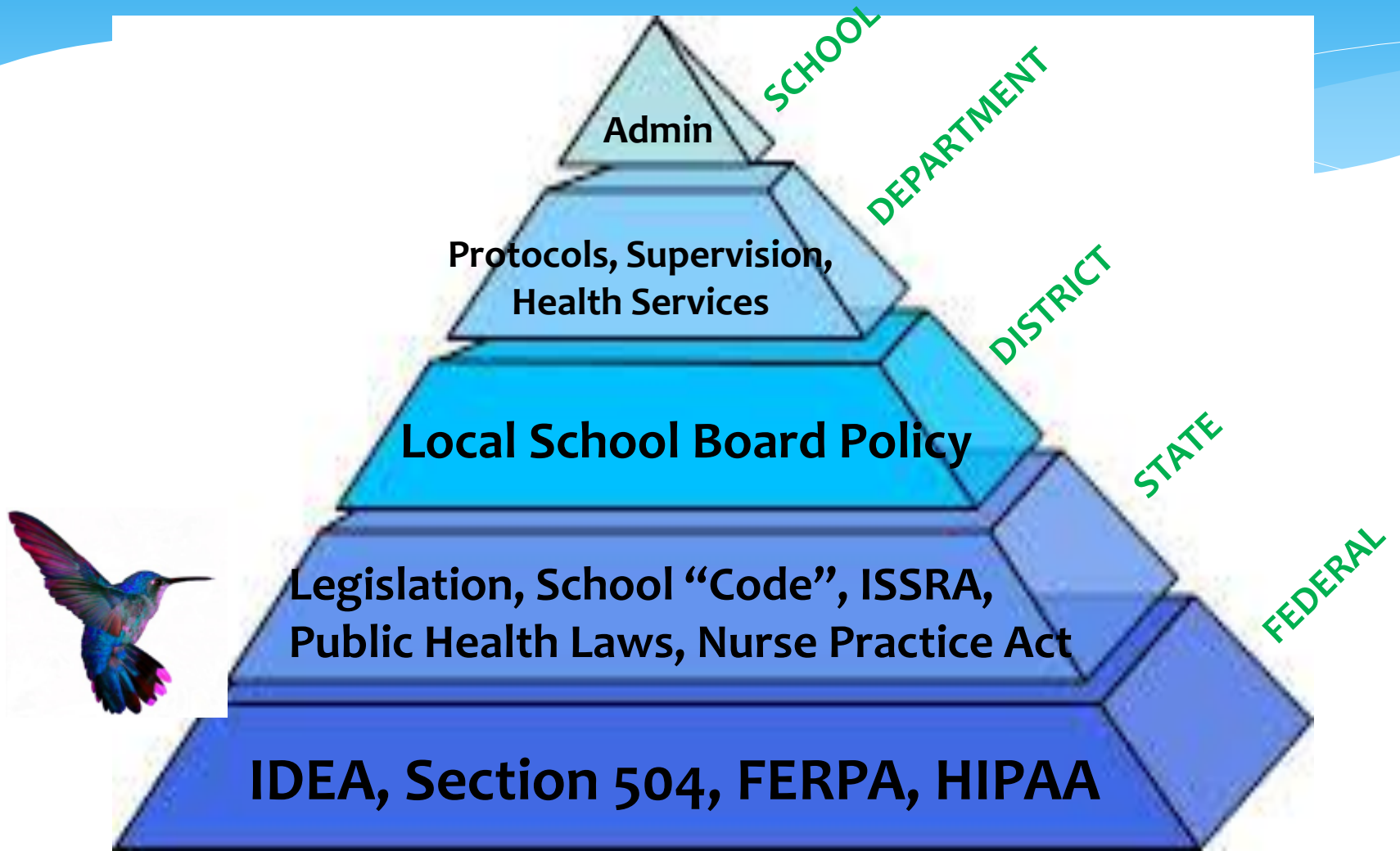
## HIPAA

- \* Definition of HIPAA covered entity does not include schools
- \* Different rules related to release of information outside the covered entity

# Monitoring Disease while Preserving FERPA and ISSRA

- \* Monitoring of ILI (Influenza-like Illness)
- \* Charts with initials should not be used outside of temporary school need
- \* No initials or other identification may be released outside of school
- \* Mandate to Report “Reportable Diseases”
- \* “Immediate” (i.e. “within three hours”) reports
- \* Within 24 hours reports
- \* Justifiable without parental permission

# State



# State Law

## ❖ ISSRA

- ❖ Maintenance – length, destruction
- ❖ Permanent, temporary, personal notes/logs/drafts

## \* **State Nurse Practice Act**

- \* Scope of practice: RN, LPN
- \* Delegation
- \* Differ from state to state

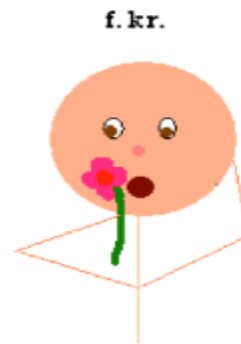
## \* **State Legislation**

- \* minor's rights to health care
- \* school attendance requirements
- \* medication laws (state policy, self-carry policies, emergency meds, diabetic care)



# Public Act 99.0249

- \* Also known as Senate Bill 4510
- \* Revised Child Health Examination Requirements on Religious Objections
- \* Form is required for religious objection requests received beginning October 16, 2015
- \* Form is also required with new physical exams
- \* Rules promulgated by IDPH



# Other recently enacted laws

- \* Implementation of vaccine against meningitis
- \* Teach students about dangers of powdered caffeine
- \* Establish concussion policy, protocols and procedures
- \* Require ISBE to develop state suicide prevention policy
- \* Require training for selected school staff on suicide and mental health
  - \* Resources at ISBE and elsewhere
  - \* IDPH Suicide Prevention Program
  - \* IL-AWARE program

# Health Education – include special education

- \* State laws require these selected topics:
  - \* Sexual assault awareness – age appropriate, developmentally appropriate, culturally appropriate
  - \* Daily physical education – student with adapted sports activity outside of school can petition for waiver from daily PE
  - \* Teen dating violence policy
  - \* Sex education: if taught, follow law on content
  - \* CPR: can waive participation in this class; consider cognition as well as physical skills

# Physical Fitness Assessment in Schools

- \* Public Act 98-0859 requires fitness testing of students
- \* Indicators to be reported to ISBE on aerobic capacity (grades 4 - 12), body composition, muscular strength, endurance and flexibility and other data including demographic information (grade, gender)
- \* Development of protocols to protect students' confidentiality and individual identifiers
- \* Established Task Force; Report and Recommendations available at: <http://www.isbe.net/EPE/pdf/setfpe-report-040115.pdf>
- \* Current state law: all students in K - 12 public schools to be offered daily, high-quality physical education in order to promote academic achievement and realize the lifetime benefits of fitness

# Epinephrine – P.A. 98-0795

- \* Guidance document available at <http://www.isbe.net/spec-ed/pdfs/guidance-15-02-self-admin-epi.pdf>
- \* Rule pending board approval August 19
- \* Authorizes *but does not require* undesignated epinephrine to be available in Illinois schools
- \* Allows administration of undesignated epinephrine to any person not previously known to have severe allergy and/or not previously given a prescription for epinephrine
- \* Requires a report to ISBE within three days of the administration of undesignated epinephrine to one not previously known or not with a previous medical order
- \* Required reporting form at <http://www.isbe.net/spec-ed/pdfs/34-20-undesignated-epinephrine-rptg.pdf>
- \* Summary of reports 2014-15 school year coming October

# Comprehensive Sexual Health Education

- \* Public Act 98-0441, effective January 1, 2014, requires schools that teach sex education in any of grades 6 - 12 to include instruction in both abstinence and contraception, and to teach with materials that are evidence-based and medically accurate.
- \* CDC Award to ISBE to carry out exemplary sexual health education and improve policy and practice statewide.
- \* Contact Dr. Reginald Patterson, Ed.D, for more information and resources

# Nurse Practice Act

Scope of Practice: RN

Scope of Practice: LPN

Scope of Practice: CNA

Certified by IDPH to carry out some nursing tasks under supervision;  
tasks are limited to the so-called “21 Tasks of the CNA” including such personal care tasks as:

Obtain vital signs

Meal reparation

Meal set-up

Oral feeding

Oral care

Nail care

Basic hygiene

Bathing

Dressing

Toileting

Ambulation assistance

Catheter: changing of bags and charting amounts

Ostomy care: empty, clean, change appliance

Turn and position

Changing bed clothes

Charting requested information

Recreation activities

# Nurse Extenders



What constitutes a “nursing activity”  
vs a “nursing task”

(Illinois Nurse Practice Act)

- \* The duty to provide registered professional nursing practices, as defined in Section 50-10 of the Nurse Practice Act, shall not be included among the functions assigned to any school district personnel not covered by the job description required for school nurses (ISBE 23 ILLINOIS ADMINISTRATIVE CODE 1.760 SUBTITLE A SUBCHAPTER Section 1.760 **Standards for School Support Personnel Services**; Amended at 38 Ill. Reg. 6127, effective February 27, 2014)

# Public Health Rules, ISBE Rules

- \* Public Health Rules on Child Health Exams and Immunizations:
  - \* Medical Schedule
  - \* Medical Contraindications
  - \* Physician Statement of Immunity
- \* ISBE Rule:
  - \* Monitoring for compliance
  - \* Enforcement measures
  - \* Reporting to state education agency

# Home and Hospital Instruction

- \* Suggested medical certification form developed by ISBE
- \* Does not require a 504 plan
- \* Special Education credentials if IEP
- \* Q&A on ISBE website:

[http://www.isbe.net/funding/pdf/home\\_hospital\\_qa.pdf](http://www.isbe.net/funding/pdf/home_hospital_qa.pdf)



# Immunization Data IWAS Reports 2015

- \* IWAS opened Oct. 16 and continues to accept data through Nov. 16
- \* Worksheet, instructions available at:
  - \* <http://www.isbe.net/research/htmls/immunization.htm?col5=open#CollapsiblePanel5>
- \* By December 1 of each year, schools must make publicly available the immunization data they are required to submit to the Illinois State Board of Education (P.A. 097-0910)
  - \* How are your schools making the data “publicly available”?
  - \* Compliance checks (ISBE audits, ROE audits)

# Health Evaluation for Special Education

- \* IDEA requirement to rule out medical issues (among others) for students determined to have learning disability
- \* Personnel qualified to perform Medical Review
- \* Components of Medical Review
- \* Not “just a health history”
- \* No other personnel qualified to perform

# Medical Review – Evaluation for Special Education

- \* 381 RNs have completed the course
  - \* 80 spring 2014
  - \* 71 summer 2014
  - \* 76 fall 2014
  - \* 74 winter 2015
  - \* 80 spring 2015
- \* 2 RNs have indicated completed test option
- \* Classes scheduled through Spring 2016
- \* Significant of July 1, 2016
- \* Components of medical review
  - \* Qualifications of persons to conduct medical review
  - \* Role of RN on IEP teams
  - \* Form on which to document designation for IEP for non-ISBE school nurses coming soon

# Performance Evaluation of Student Support Personnel

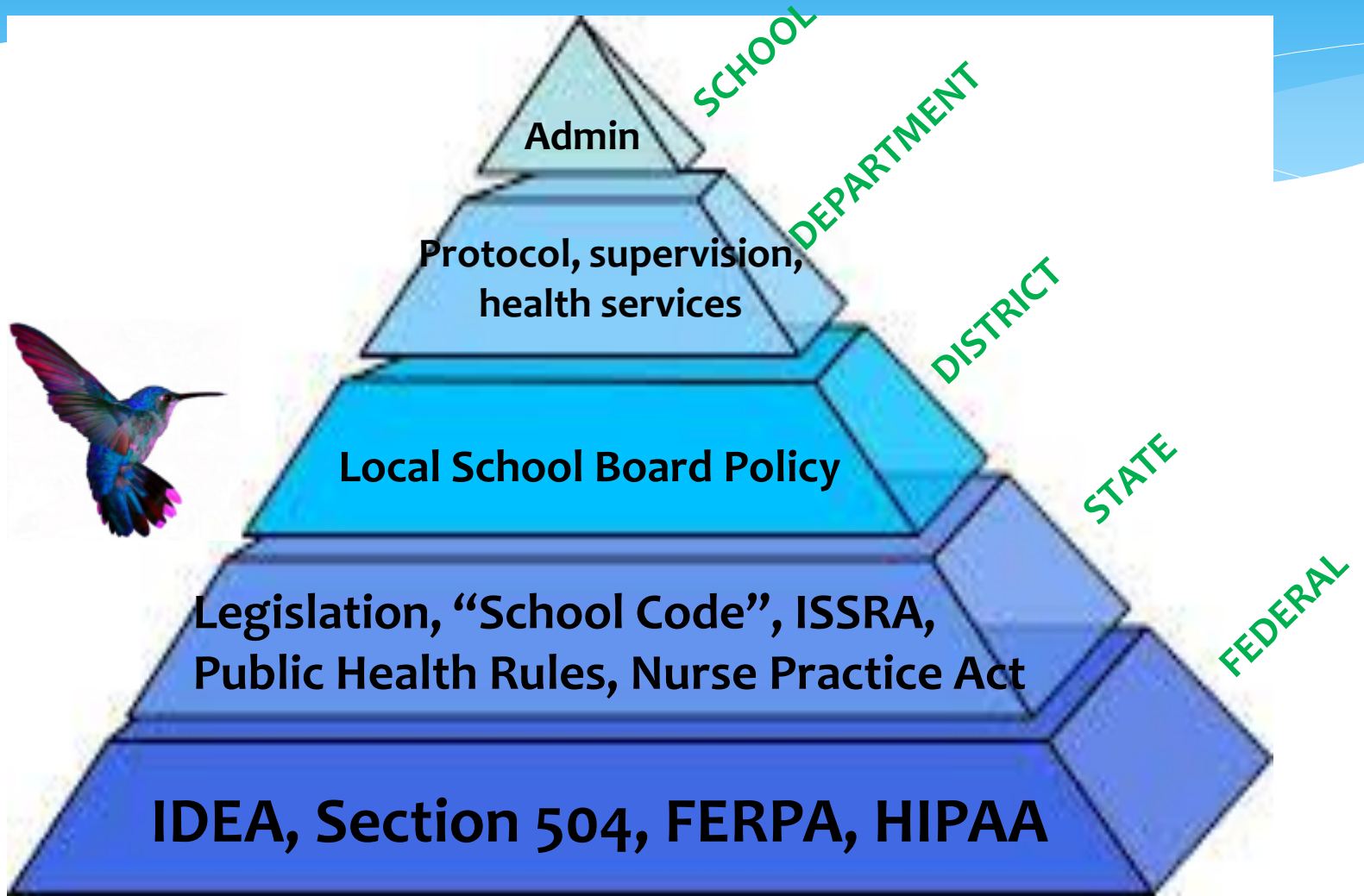
- \* School Code states that “to improve the educational services of the elementary and secondary public schools of Illinois” . . . “all certified school district employees be evaluated on a periodic basis”
- \* "teacher" means any and all school district employees regularly required to be certified under laws relating to the certification of teachers
- \* consideration of student growth is to be considered a significant factor in the rating of the teacher's performance
- \* Student Support Personnel (SSP) in non-teaching roles are not required to show student growth as part of their professional evaluation
- \* ISBE guidance related to professional evaluation of SSP is under development

# Proposed Rules and Amendments

- \* Epinephrine Act (rules similar to guidance)
- \* Employee screening for tuberculosis
- \* Highly qualified teachers of physical education
- \* Qualifications of personnel
- \* <http://www.isbe.net/rules/default.htm>



# Your District



# Reimbursement for Nursing Services

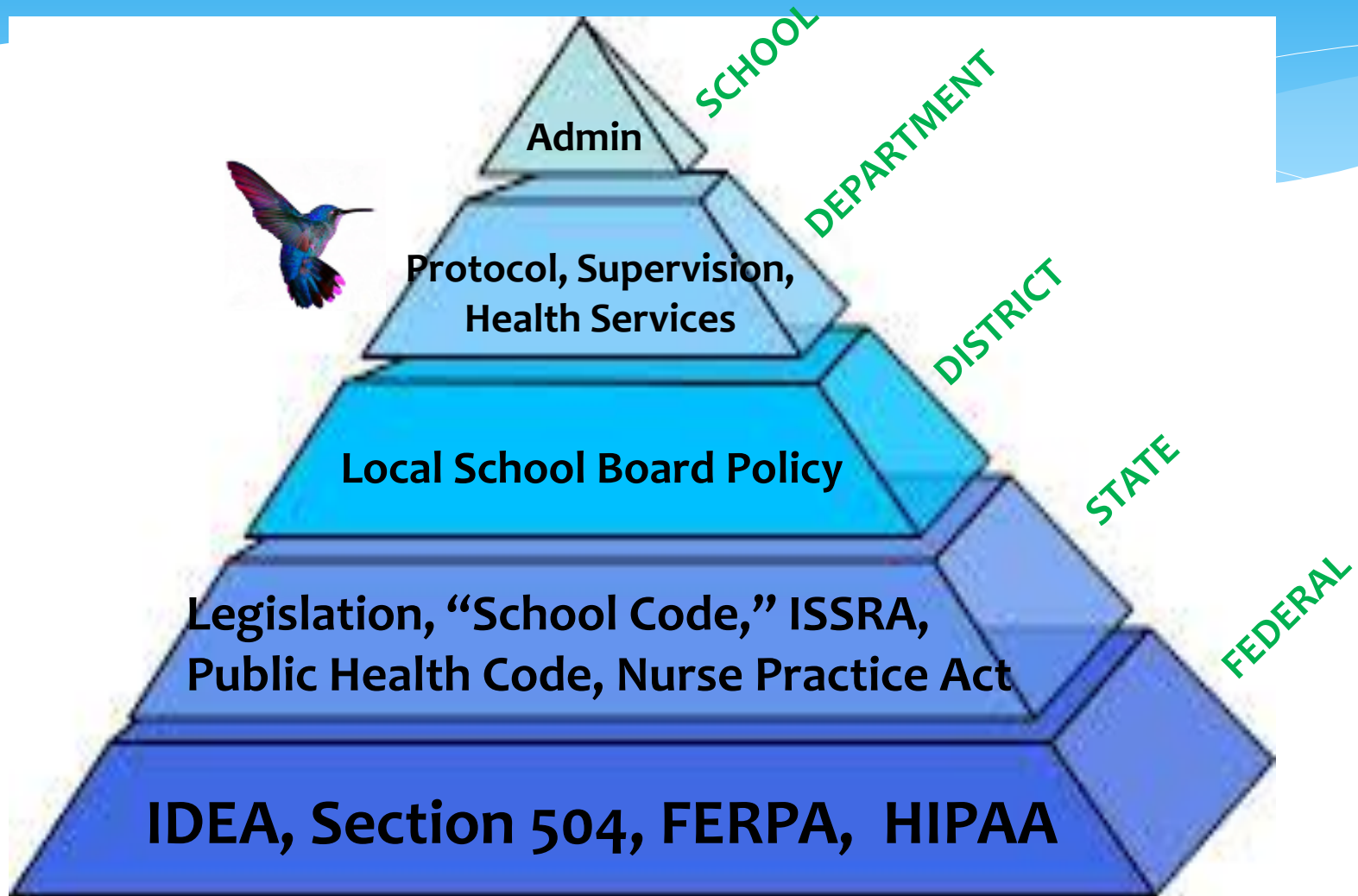
- \* Special education: guidance issued May 20, 2015
  - \* Fully licensed School Nurse
  - \* Noncertified Health Aide
  - \* Individual Student Aide
- \* Medicaid
  - \* “free care rule” letter and follow-up
  - \* HFS website: **Medicare/Medicaid Services**
  - \* The Centers for Medicare and Medicaid (CMS) recently released the ["Medicaid School Based Administrative Claiming Guide"](#) . The Guide offers instructions on submitting claims for school based administrative costs and implementing and managing administrative claiming programs in accordance with statutory and regulatory requirements.
  - \* The Illinois Department of Public Aid is currently reviewing the new Guide in the context of the approved Illinois program and will be notifying school districts of any changes in the program via the School Based Health Services website <http://www.sbhsillinois.com/>, provider notices and training opportunities.
  - \* Further information about the School-Based Health Services program is available by [E-mail](#) or by calling the SBHS office at 217-782-3953

# Reimbursement for School Nursing Services:

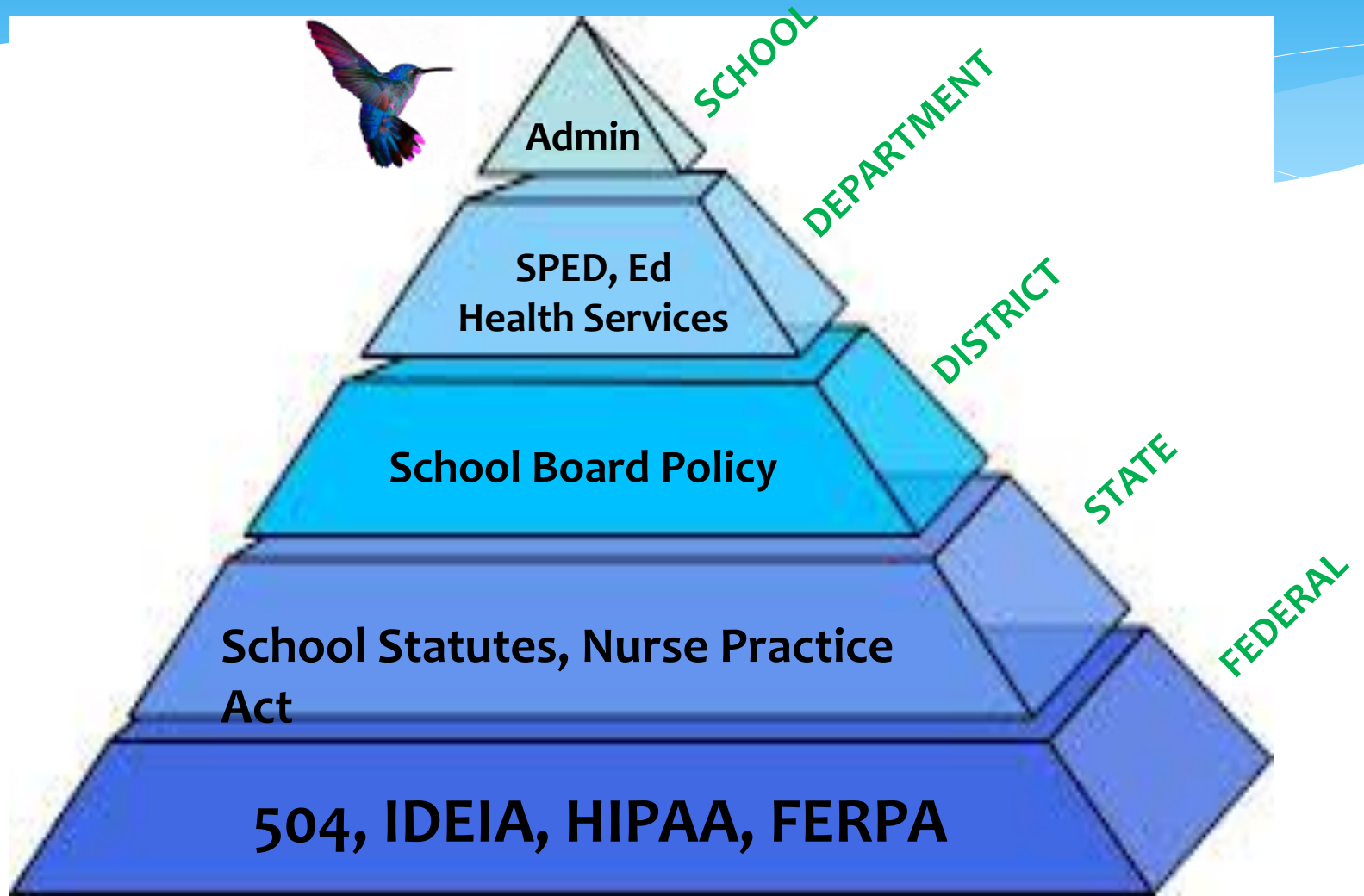
*How? Really!*



# Your Department



# Your School



# The “no nit” police



# Head lice: Treatment, not Isolation



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**“Yes, I am the school nurse, but I can’t  
heal an ailing public education system.”**



**Illinois  
State Board  
of Education**

# Contact Information

Jessica Gerdes

DIVISION OF SPECIAL EDUCATION SERVICES

[Jgerdes@isbe.net](mailto:Jgerdes@isbe.net)

312-814-5560