

# NOTICE

A Quorum of Board of Education Members  
of  
Diamond Lake School District 76

may be in attendance at the  
Regular Meeting  
At

Virtual Meeting  
26156 N Acorn Lane  
Mundelein, Illinois 60060

on

Tuesday, September 1, 2020 at 7:05 PM

- I. Call to Order / Roll Call
- II. Public Comments (Agenda Items Only)
- III. Presentations
  - A. Facilitated Distance Learning Update
  - B. End of Year 2019-2020 Goals and Priorities
- IV. Business Agenda
  - A. Administrative: Review Omnibus Vote Agenda
  - B. Administrative: Approve PRESS 105 Policies **Action**
  - C. Personnel: Approve Personnel Items **Action**
    1. New Hire(s):  
Will Carr; WOMS, Learning Associate; Effective 9.2.2020
- V. Board Discussion
- VI. Freedom of Information Requests (0)
- VII. Notices and Communications
  - A. Diamond Edge Newsletter
    - English Version
    - Spanish Version
  - B. Grade Level Presentations

Kindergarten Team (English)  
Kindergarten Team (Spanish)  
1st Grade Team (English)  
1st Grade Team (Spanish)  
2nd Grade Team (English)  
2nd Grade Team ( Spanish)  
3rd Grade Team (English & Spanish)  
4th Grade Team (English)  
4th Grade Team (Spanish)  
5th Grade Team (English)  
5th Grade Team (Spanish)  
6th Grade Team  
7th Grade Team  
8th Grade Team  
Encore Team  
Foreign and Dual Language

VIII. Public Comments and Petitions (Non-Agenda Items)

IX. Others

A. First Day Attendance 8.31.2020

B. Fairhaven School Open House - Tuesday, September 15, 6:00  
p.m.

X. Adjournment



**Diamond Lake School District 76**  
**Embrace Empower Excel** Each Child Each Day

# Facilitated Distance Learning Academy

September 1, 2020





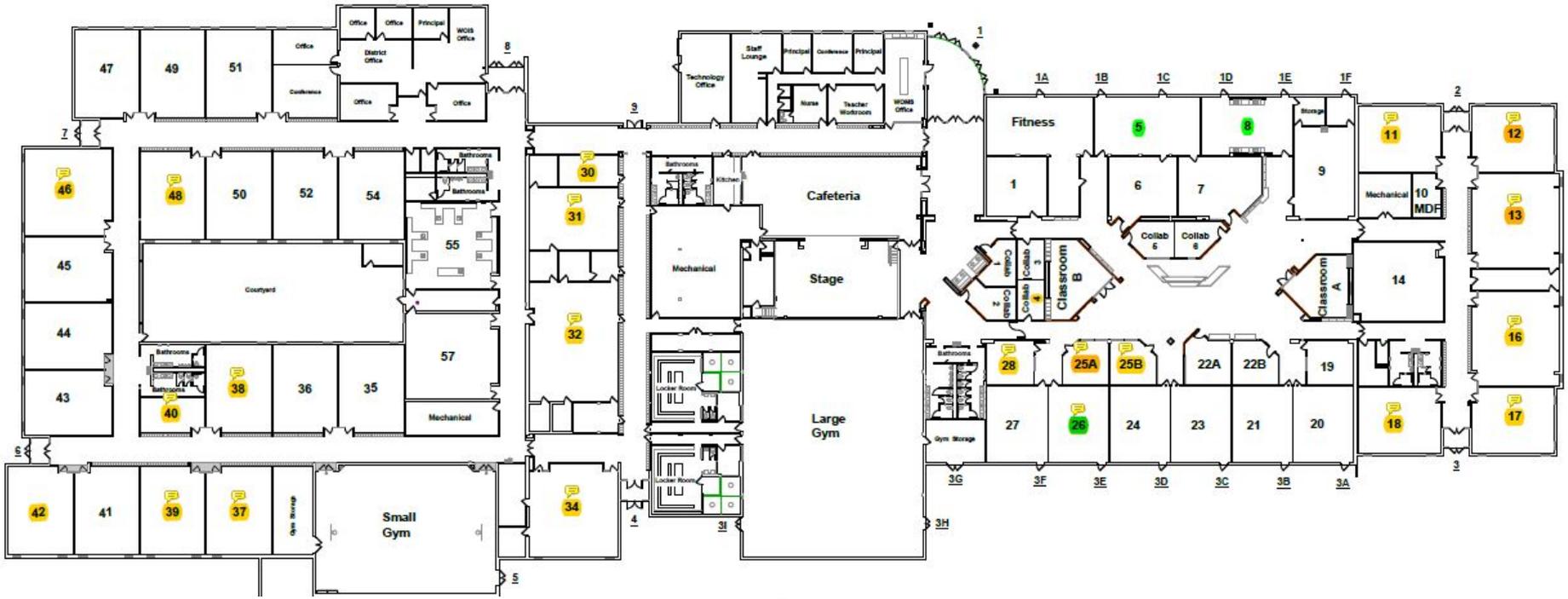
# Program Summary

- **Enrollment:** 32 students (8 w: IEPs)
  - Diamond Lake: 13 (3)
  - West Oak Intermediate: 10
  - West Oak Middle: 9 (5)
- **Staff:** 8 (5 Support)
  - 1 School Nurse
- **Transportation:** 28 students
- **No Cost:** Breakfast/Lunch
- **Mask Breaks:** As needed





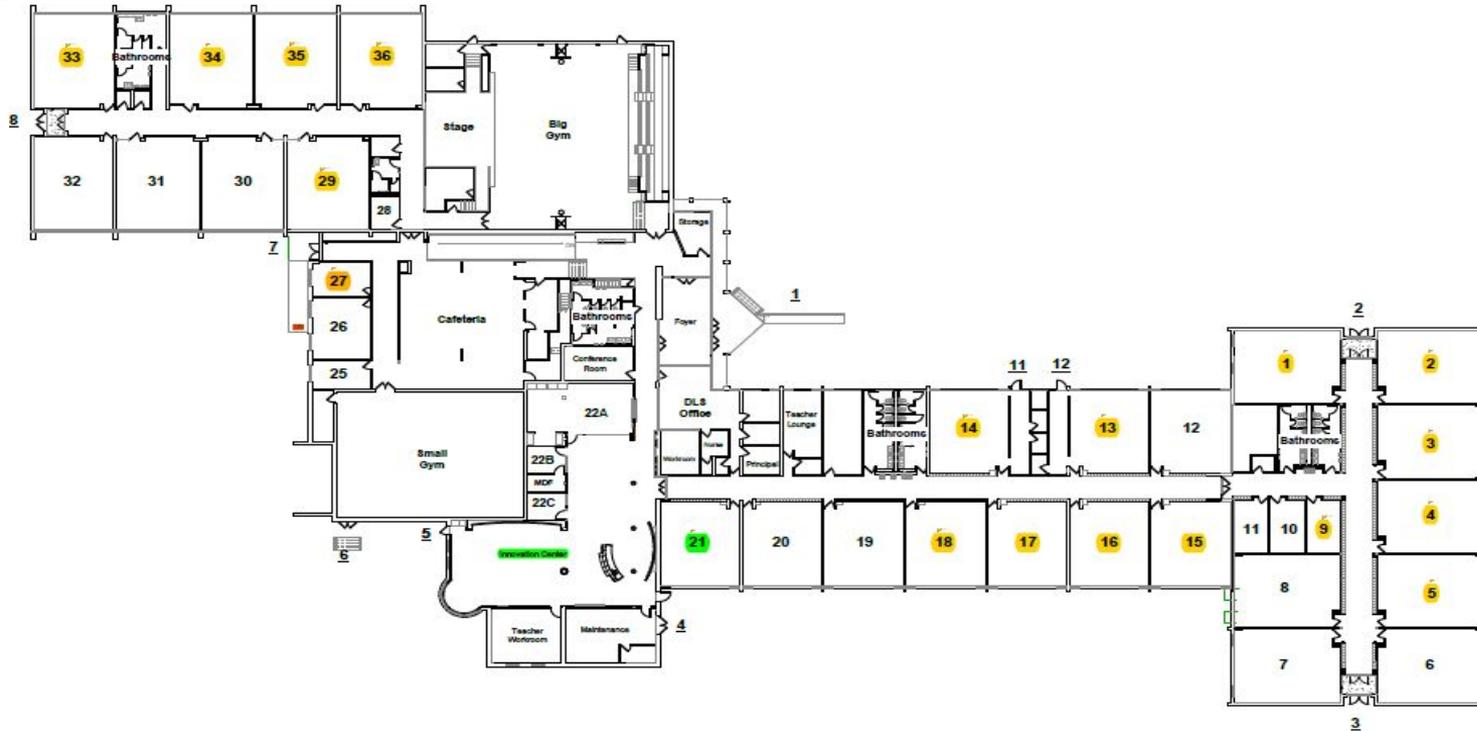
# Building Usage - West Oak



- Yellow = Teacher remote learning in classroom
- Green = Facilitated Distance Learning Academy



# Building Usage - Diamond Lake



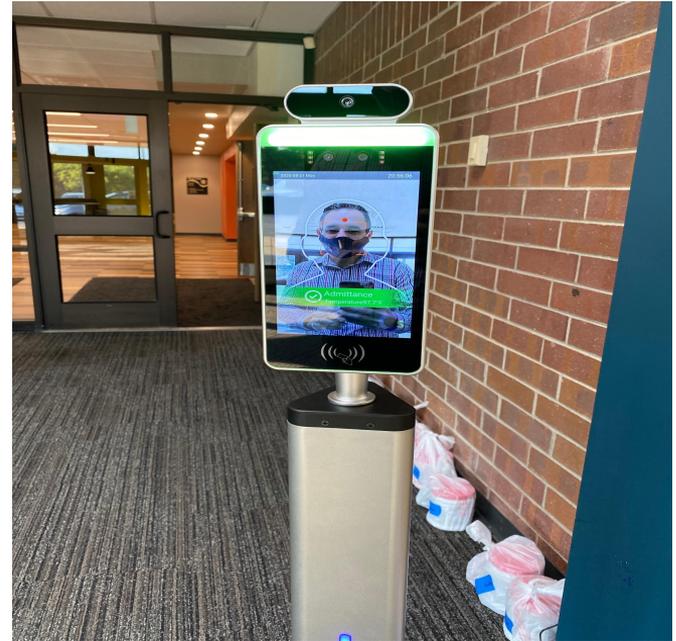
- Yellow = Teacher remote learning in classroom
- Green = Facilitated Distance Learning Academy



# School Entrance Procedures



**Self Check:  
Temperature Station**





# Teaching & Learning Environment

- 4- Adult
- 10- Student
- 4- Face Shield
- 7 pack - wipes
- 1 bottle - Sanitizer



# Food Services



Q&A

Future Considerations



# Facilitated Distance Learning Academy Guidelines

2020-2021 Academic Year

The Facilitated Distance Learning Academy will provide a supervised distance learning environment in one of the D76 schools. The program is intended to support students in hardship, who may require specific support and/or resources and/or families who have childcare needs.

Students who attend the Facilitated Distance Learning Academy will adhere to the following guidelines.

**Schedule**

1. Students will participate in the Facilitated Distance Learning Academy 5-days per week following the traditional school day.

School	Student Day
Diamond Lake Elementary School	7:40 - 2:25
West Oak Intermediate School	8:00 - 2:55
West Oak Middle School	8:25 - 3:25

**Classrooms**

1. Desks/tables will be organized to allow 3-6 feet distance between students.
2. Students will stay in classrooms as much as possible. Students will be supervised by a D76 faculty member while participating remotely in the Distance Learning Academy.
3. Classrooms will be cleared of non-essential furniture.
4. Areas such as gyms, common areas, and specials rooms may be utilized as classrooms to reduce the number of people in each classroom.
5. Classes may occur outside when weather permits.

**Food Service**

1. Breakfast/lunch will be eaten in classrooms/lunchroom depending on each school's structure/schedule. Food will be available through our food service provider Quest.
2. Meals will be prepared daily and served in sealed containers.
3. Areas of the classrooms will be designated for students with food allergies.

**Recess**

1. Students in grades EC-5 will have outside recess everyday when weather permits.
2. Students in grades 6-8 will take breaks outside everyday when weather permits.
3. Students will remove their masks during recess while remaining physically distant.

**Parent Certification for Sending Children to School:**

1. Parents will be required to take a temperature reading and check for COVID-19 symptoms each morning your child will be present in our buildings. Parents will need to report results daily via school messenger.

2. Students with a fever or any of the symptoms below should stay home and seek medical advice. By sending your child to school, you are certifying the following:
  1. That your child does not have a fever over 100.4 degrees.
  2. That your child does not have any of the following conditions related to COVID-19:
    - a. Cough
    - b. Shortness of breath or difficulty breathing
    - c. Fatigue
    - d. Muscle or body aches
    - e. Headache
    - f. New loss of taste or smell
    - g. Sore throat
    - h. Congestion or runny nose
    - i. Nausea or vomiting
    - j. Diarrhea

### **Medical**

1. Temperature checks for staff and students will be taken daily by staff members.
2. Visitors and volunteers will not be permitted in the building until Phase 5 of the Restore Illinois Plan.
3. If the temperature is 100.4° or greater, a nurse will conduct a second temperature check.
4. Anyone with a temperature of 100.4° degrees or greater or showing other COVID-19 as listed above will be isolated, parents/care providers will be called, and the student will leave school immediately.
5. Parents of students in the classroom, grade level or school will be notified if a member of the class, grade level or school has been diagnosed with COVID-19. Specific names of the individuals with COVID-19 will not be shared due to medical privacy laws.
6. Individuals with a temperature over 100.4° degrees or other COVID-19 related symptoms will be required to be fever-free for 72 hours without fever-reducing medication before an individual may return to school. It is highly recommended that the individual receives a COVID-19 test prior to returning to school.

### **Hygiene and Sanitation**

1. As mandated by the Illinois State Board of Education, students and staff will wear face masks while in the building unless there is a medical reason not to wear a face mask.
2. Students and staff will be provided a washable cloth face mask. Masks are to be worn each day and are to be washed and changed as needed. Students and staff may bring their own face covering as needed.
3. Students will be able to take “mask breaks” throughout the day in a safe manner.
4. Face shields are not acceptable as stand-alone face coverings.
5. Students will be required to wash their hands and utilize hand sanitizer throughout the day. Hand sanitizer will be available in every classroom and hallway.

6. Students will bring water bottles to school and fill them at bottle filling stations. Drinking fountains without water bottle filling capabilities will be turned off.
7. Bathrooms will be cleaned and sanitized throughout the day.
8. Buildings will be sanitized daily.

### **Transportation**

1. Buses will have a reduced capacity of no more than 50 individuals per bus (including the driver).
2. Parents are strongly encouraged to drive students to school to help control the number of students on each bus.
3. Carpooling with one other consistent family with students in the same class is encouraged to reduce traffic congestion.
4. Buses will be sanitized after each route.
5. Masks will be worn at all times while riding the bus.

### **Extracurricular Activities**

1. All extracurricular activities are canceled until Phase 5 of the Restore Illinois Plan.

### **Students with Specific Learning Needs (IEP, 504 & ELL)**

1. The District will work with students and families to ensure appropriate learning opportunities for students with specific learning needs (e.g. students with IEPs or English language learners).

### **Technology**

1. D76 students in grades K-8 will have their own Chromebook (1-8) iPad (K).
2. Students are expected daily to bring their charged device to school along with their Chromebook bag, charger, and headphones.
3. To maintain health safety precautions in school device loaners will not be available.
4. If a student needs technology assistance: the parent or student should email [studenthelpdesk@dist76.org](mailto:studenthelpdesk@dist76.org) for remote assistance or schedule an appointment.
5. For students in grades K-8 that do not currently have a Chromebook or iPad, a communication will be coming in August regarding a plan for pickup.

### **Curriculum and Instruction**

1. Individuals who attend the Facilitated Distance Learning Academy will follow the [Distance Learning Academy Roadmap](#).

### **Application: Deadline August 14th**

- [D76 Facilitated Distance Learning Application](#)



# Diamond Lake School District 76

**Embrace Empower Excel** Each Child Each Day

## District Goals and Priorities Update

September 1, 2020





# Key

- ❖ **DLT:** District Leadership Team
- ❖ **BLT:** Building Leadership Team
- ❖ **ILT:** Instructional Leadership Team
- ❖ **NBC:** New Beginnings Committee
- ❖ **PAC:** Professional Advisory Council
- ❖ **PLT:** Professional Learning Team(s)
- ❖ **SBRC:** Standards Based Report Card
- ❖ **SLA:** Spanish Language Arts
- ❖ **SLO:** Student Learning Objective
- ❖ **Ongoing**
- ❖ **Completed**



# Goal 1: Academic Excellence- Optimizing learning experiences for all District 76 students.

<b><u>TARGET</u></b>	<b><u>EOY STATUS</u></b>
1. Ensure a guaranteed and viable curriculum	<ul style="list-style-type: none"><li>❖ <a href="#">K-2: SLA Learning Frameworks Summer 2020</a></li><li>❖ <a href="#">K-5: Math SBRC Implementation 20-21 SY</a></li><li>❖ <a href="#">Grade 6: Communication Arts Curriculum Summer 2020</a></li><li>❖ <a href="#">Student Growth Data</a></li></ul>
2. Implement the Students Learning Objectives (SLO's) process for each unit of study	<ul style="list-style-type: none"><li>❖ <a href="#">Each grade level writes, implements and reviews SLOs for each subject area</a></li><li>❖ <a href="#">Building PLT framework to support use of current SLOs</a></li><li>❖ <a href="#">Revising current and developing new SLOs</a></li></ul>
3. Review and refine the Portrait of a Graduate skills and characteristics	<ul style="list-style-type: none"><li>❖ <a href="#">Portrait of D76 Diamond Graduate</a></li></ul>



# Goal 2: Professional Excellence- Optimizing professional experiences for all District 76 staff.

<u>TARGET</u>	<u>EOY STATUS</u>
1. Foster and strengthen a positive and responsive professional working environment	Support Shared Purpose, collaboration, teamwork and action planning through grade level and content area PLTs. <ul style="list-style-type: none"><li>❖ Utilization of professional meeting norms and roles</li><li>❖ Staff involvement in planning and implementation of PLTs</li><li>❖ Staff leadership and ownership in building operations</li><li>❖ Professional development opportunities for Learning Associates</li><li>❖ <a href="#">19-20 Staff Culture and Climate Survey</a></li><li>❖ <a href="#">Staff Interest and Opportunity Survey</a></li></ul>
2. Align District-wide procedures for the special education programs and continuum of services	<ul style="list-style-type: none"><li>❖ August Retreat: Review of all procedures and processes</li><li>❖ <a href="#">SPED Audit completed 12.19</a></li><li>❖ District and SPED staff participated in PD trainings: legal updates, processes, procedures and goal writing</li><li>❖ <a href="#">Reorganization of SPED Department with Special Services Coordinator</a></li></ul>
3. Review and refine the Portrait of a Professional skills and characteristics	<ul style="list-style-type: none"><li>❖ <sup>18</sup> <a href="#">Portrait of a Diamond Professional</a></li></ul>



## Goal 3: Operational Excellence- Establishing collaborative and efficient practices for long-term District success.

### TARGET

### EOY STATUS

1. Utilize common professional learning time for all staff in a collaborative, productive and efficient manner.

- ❖ PK-8: Agenda Driven Professional Learning Team Meetings: Late Start, Staff Meeting, Grade Level Teams, and Content Teams
- ❖ K-5: Consistent time, structures, and protocols are in place
- ❖ 6-8: Establishing PLT professional development days embedded into schedule with instructional coaching around building goals

2. Develop a process to create a 5-year District Strategic Plan.

- ❖ BOE participated in a leadership retreat to establish focus, vision and goals.
- ❖ DLT Evaluate and establish a 100 day progress monitoring schedule to review goals and priorities

3. Support all stakeholders with the District transition

- ❖ [2019 Staff Support and Success Survey](#)



## Goal 4: Financial Excellence- Maintaining fiscally responsible and efficient processes for long-term District success.

<u>TARGET</u>	<u>EOY STATUS</u>
1. Plan and budget for the 5-year facility projects.	❖ <u>5-year facility plan established</u> ; evolving as new projects are identified.
2. Support and implement the new D76 lunch program	❖ <u>Quest partnership established</u> , additional milestones still need to be accomplished (fruit/salad bar, additional food choices). Food service during school closure will continue.
3. Modernize the financial and human resources platform	❖ <u>Timeline established with Skyward to migrate to new QMLATIV platform.</u>
4. Ensure a smooth transition for the Buildings and Grounds department.	❖ <u>Building and Grounds Department transition schedule established</u> with seasonal responsibilities.



# Goal 5 Excellence in Communications- Communicating to all stakeholders in a purposeful and meaningful manner.

<u>TARGET</u>	<u>EOY STATUS</u>
1. Empower student voice and increase ownership in their learning.	<ul style="list-style-type: none"><li>❖ Postponed: Students presenting yearly during student led conferences</li><li>❖ Digital student target portfolios</li><li>❖ Student leadership working in tandem with school stakeholders for event planning and communication</li></ul>
2. Encourage and support our professional online presence.	<ul style="list-style-type: none"><li>❖ Continuous communication of events, experiences via publications, web presence, social media and organizations.</li><li>❖ <a href="#"><u>D76 Family Communications Survey</u></a></li></ul>
3. Increase parental involvement and partnership in the special education process.	21 <ul style="list-style-type: none"><li>❖ Parents complete a brief survey at the end of each IEP meeting (district-wide). <a href="#"><u>IEP Feedback Form</u></a></li><li>❖ <a href="#"><u>Parent Engagement Survey</u></a></li></ul>



# Looking Ahead

## **Continued focus and priorities for the “Return to School”:**

- Healthy (physically and emotionally) culture and climate for students and staff
- Relevant and current teaching and learning standards
- Rigorous instructional practices
- Robust programs and accountability
- Effective and ongoing professional development
- Strong social and emotional supports and connections
- Ongoing and consistent communication
- Family/Parent education and resources
- Safe and sanitized facilities
- Data based decision making processes
- Fiscally responsible practices
- Community support and outreach

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## ❖ **Questions/Comments**



**Diamond Lake School District 76**  
**Embrace Empower Excel** Each Child Each Day

# Actualización de Prioridades y Metas del Distrito

1 de septiembre 2020





# Clave

- ❖ **DLT:** Equipo de Liderazgo del Distrito
- ❖ **BLT:** Equipo de Liderazgo del Edificio
- ❖ **ILT:** Equipo de Liderazgo Instruccional
- ❖ **NBC:** Comité de Nuevos Comienzos
- ❖ **PAC:** Consejo Asesor Profesional
- ❖ **PLT:** Equipo(s) de Aprendizaje Profesional
- ❖ **SBRC:** Boleta de Calificaciones Basada en Estándares
- ❖ **SLA:** Artes del Idioma Español
- ❖ **SLO:** Objetivo de Aprendizaje del Estudiante
- ❖ **En Curso**
- ❖ **Completada**



# Meta 1: Excelencia Académica: Optimizar las experiencias de aprendizaje para todos los estudiantes del Distrito 76.

<b><u>OBJETIVO</u></b>	<b><u>ESTADO AL ULTIMO DEL AÑO</u></b>
1. Asegurar un plan de estudios garantizado y viable	<ul style="list-style-type: none"><li>❖ <a href="#">K-2: Marcos de aprendizaje SLA Verano 2020</a></li><li>❖ <a href="#">K-5: Implementación de SBRC de Matemáticas año escolar 20-21</a></li><li>❖ <a href="#">Grado 6: Currículo de Artes de Comunicación Verano 2020</a></li><li>❖ <a href="#">Datos de Crecimiento Estudiantil</a></li></ul>
2. Implementar el proceso de Objetivos de Aprendizaje de los estudiantes (SLO) para cada unidad de estudio	<ul style="list-style-type: none"><li>❖ <a href="#">Cada nivel de grado escribe, implementa y revisa los SLO para cada área de contenido</a></li><li>❖ <a href="#">Construyendo un marco PLT para apoyar el uso de los SLO</a></li><li>❖ <a href="#">Revisando los actuales y desarrollando nuevos SLO</a></li></ul>
3. Revisar y refinar las habilidades de la Descripción de un Estudiante Graduado y características	<ul style="list-style-type: none"><li>❖ <a href="#">Descripción de un Diamante Graduado</a></li></ul>



# Meta 2: Excelencia Profesional: Optimizar las experiencias profesionales para todo el personal del Distrito 76.

<b><u>OBJETIVO</u></b>	<b><u>ESTADO AL ULTIMO DEL AÑO</u></b>
1. Fomentar y fortalecer un ambiente positivo y receptivo de trabajo profesional	<p>Apoyar el Propósito Compartido, la colaboración, el trabajo en equipo y la planificación de acciones a través de PLT de nivel de grado y área de contenido.</p> <ul style="list-style-type: none"><li>❖ Utilización de normas y roles de reuniones profesionales</li><li>❖ Participación del personal en la planificación e implementación de PLT</li><li>❖ Liderazgo y responsabilidad del personal en las operaciones del edificio</li><li>❖ Oportunidades de desarrollo profesional para los Asistentes de Maestros</li><li>❖ <a href="#">19-20 Encuesta de Clima y Cultura del Personal</a></li><li>❖ <a href="#">Encuesta de Intereses y Oportunidades del Personal</a></li></ul>
2. Alinear los procedimientos de todo el distrito para los programas de educación especial y la continuidad de los servicios	<ul style="list-style-type: none"><li>❖ Retiro de agosto: Revisión de todos los procedimientos y procesos</li><li>❖ Auditoría del Departamento de Educación Especial completada el 19 de diciembre</li><li>❖ El personal del distrito y de Departamento de Educación Especial participó en entrenamientos de desarrollo profesional: actualizaciones legales, procesos, procedimientos y redacción de metas</li><li>❖ <a href="#">Reorganización del Departamento de Educación Especial con el Coordinador de Servicios Especiales</a></li></ul>
3. Revisar y refinar las habilidades y características de la Descripción de un Diamante Profesional	<ul style="list-style-type: none"><li>❖ <a href="#">Descripción de un Diamante Profesional</a></li></ul>



## Meta 3: Excelencia Operativa- Establecer prácticas colaborativas y eficientes para el éxito del Distrito a largo plazo.

<u>OBJETIVO</u>	<u>ESTADO AL ULTIMO DEL AÑO</u>
1. Utilizar el tiempo de aprendizaje profesional común para todo el personal de una manera colaborativa, productiva y eficiente.	<ul style="list-style-type: none"><li>❖ PK-8: Reuniones del equipo de aprendizaje profesional impulsadas por la agenda: Inicio tardío, reunión del personal, equipos de nivel de grado y equipos de contenido</li><li>❖ K-5: Tiempo, estructuras y protocolos consistentes</li><li>❖ 6-8: Establecimiento de días de desarrollo profesional PLT integrados en el horario con entrenamiento instructivo en torno a la construcción de metas.</li></ul>
2. Desarrollar un proceso para crear un Plan Estratégico del Distrito de 5 años.	<ul style="list-style-type: none"><li>❖ La Junta Educativa participó en un retiro de liderazgo para establecer el enfoque, la visión y metas.</li><li>❖ DLT Evaluar y establecer un plan de monitoreo de progreso de 100 días para revisar las metas y prioridades</li></ul>
3. Apoyar a todas las partes interesadas con la transición del Distrito	<ul style="list-style-type: none"><li>❖ <u><a href="#">Encuesta de Éxito y Apoyo del Personal 2019</a></u></li></ul>



## Meta 4: Excelencia Financiera: Mantener procesos fiscalmente responsables y eficientes para el éxito a largo plazo del Distrito.

<u>OBJETIVO</u>	<u>ESTADO AL ULTIMO DEL AÑO</u>
1. Planificar y presupuestar los proyectos de instalaciones de 5 años.	❖ <u>Plan de Instalaciones de 5 años Establecido</u> ; evolucionando a medida que se identifican nuevos proyectos.
2. Apoyar e implementar el nuevo programa de almuerzos D76	❖ <u>Asociación con Quest establecida</u> , metas adicionales todavía necesitan ser logradas (barra de frutas/ensaladas, opciones de alimentos adicionales). El servicio de alimentos durante el cierre de las escuelas continuará.
3. Modernizar la plataforma de recursos humanos y financieros	❖ Cronología establecida con Skyward para migrar a la nueva plataforma QMLATIV.
4. Asegurar una transición sin problemas para el departamento de Edificios y Terrenos.	❖ Se estableció el horario de transición del Departamento de Edificios y Mantenimiento con responsabilidades de 28 temporada.



## Objetivo 5: Excelencia en Comunicaciones: Comunicar con todas las partes interesadas de manera significativa y con un propósito.

<u>OBJETIVO</u>	<u>ESTADO AL ULTIMO DEL AÑO</u>
1. Empoderar la voz de los estudiantes y aumentar la responsabilidad en su aprendizaje.	<ul style="list-style-type: none"><li>❖ Reprogramado: Estudiantes que se presentan conferencias dirigidas por estudiantes.</li><li>❖ Portfolios digitales de objetivos para estudiantes.L</li><li>❖ Liderazgo estudiantil que trabaja en conjunto con las partes interesadas de la escuela para la planificación y comunicación de eventos.</li></ul>
2. Fomentar y apoyar nuestra presencia profesional en línea.	<ul style="list-style-type: none"><li>❖ Comunicación continua de eventos, experiencias a través de publicaciones, presencia web, redes sociales y organizaciones.</li><li>❖ <a href="#">Encuesta de Comunicación Familiar D76</a></li></ul>
3. Aumentar la participación y la colaboración de los padres en el proceso de educación especial.	<ul style="list-style-type: none"><li>❖ Los padres completan una breve encuesta al final de cada reunión del IEP (en todo el distrito). <a href="#">Formulario de comentarios del IEP</a></li></ul>



# Mirando Hacia Adelante...

## Continuo **Enfoque y prioridades para el regreso a la escuela:**

- Cultura y clima saludables (física y emocionalmente) para los estudiantes y el personal
- Estándares de enseñanza y aprendizaje relevantes y actuales
- Prácticas de instrucción rigurosas
- Programas robustos y de responsabilidad
- Desarrollo profesional efectivo y continuo
- Apoyos y conexiones sociales y emocionales fuertes
- Comunicación continua y constante
- Educación y recursos para la familia y los padres
- Seguro e instalaciones higienizadas
- Procesos de toma de decisiones basados en datos
- Prácticas fiscalmente responsables

Preguntas / Comentarios



# Diamond Lake School District 76

Embrace Empower Excel Each Child Each Day

BOARD OF EDUCATION  
COMMITTEE OF THE WHOLE MEETING  
Tuesday, September 1, 2020

The resolution is being submitted for approval at the Business Meeting on September 15, 2020.

## AGENDA ITEM V-A

### Administrative: Review Omnibus Vote Agenda

Items under the Omnibus Vote Agenda are considered routine and/or non controversial and will be approved by one motion. If any one Board member, staff, administrator, or citizen wishes to have a separate vote on any item or items, that item or items will be pulled from the Omnibus Vote Agenda and voted on separately.

**BE IT RESOLVED**, that the Diamond Lake 76 Board of Education accepts and approves the Omnibus Vote Agenda, Items A thru E as listed:

A. Approval of Minutes

Business Meeting Minutes	8/25//2020
Committee of the Whole Meeting Minutes	9/1//2020
Special Meeting Minutes	9/1//2020

B. Approve Destruction of Audio Recordings of Executive Session Minutes:

1/5/2019, 1/22/2019

C. Acceptance of Treasurer’s Report 8/2020

D. Approval of Payrolls 8/15/2020, 8/30/2020\*

E. Approval of Current Bills:

Education Fund:	\$
West Oak Activity	\$
Operations/Maintenance Fund:	\$
Debt Service Fund:	\$
<u>IMRF Fund</u>	<u>\$</u>
TOTAL	\$

\*Pre-approval of Payrolls not to exceed \$400,000.00 each.

Diamond Lake School District #76  
Treasurer's Report

for the Month of:

July, 2020

	All Funds	Education	Flex Acct	Building	Transportation	FICA/Medicare	I. M. R. F.	Debt Service	Working Cash	Capital Projects	Tort Fund	Life Safety	Diamond Lake Activity	West Oak Int. Activity	West Oak Activity	Self Insurance Fund
Beginning Cash Balance:	973,435.05	582,164.01	46,736.54	(56,595.22)	87,755.37	(55,088.14)	(58,360.89)	179,413.19	232,446.88	2,068.42	(54,104.07)	(12,237.94)	15,861.52	44,871.11	18,504.26	879,552.66
LA 40-14-3510	0.00															
LA 40-14-3500	0.00															
LA 10-16-3001	0.00															
LA 10-3999	0.00															
Office Collections - Illinois Funds	4,471.40	4,471.40														
Office Collections	78,429.57	50,621.54	2,532.91	25,000.00									115.35		159.77	15,442.25
LA 10-15-4300	0.00															
LA 10-4225	0.00															
LA 10-15-3100	0.00															
LA 10-15-3360	0.00															
LA 10-15-4225	0.00															
LA 10-15-4215	0.00															
LA 10-15-4210	0.00															
LA 10-15-4220 Fed Breakfast	0.00															
LA 10- 3705 Pre-K Grant	0.00															
LA 4991 Adm Outreach "E"	0.00															
LA 10-4992 Fee for Service "C"	0.00															
LA 10-3705	16,615.00	16,615.00														
LA 10-3305	0.00															
LA 10-3999	0.00															
LA 10-4909	0.00															
Replacement Taxes	18,758.04			18,758.04												
Property Tax Receipts	676,863.10	502,131.41		69,553.98	30,432.22	9,781.84	10,691.04	44,708.02	4,347.50		4,347.50	869.59				
Transfer of Interest	0.00															
Interest Spread PMA/IIIT Less Fees	993.63	577.23	1.65	115.80	76.08	30.79	12.33	31.99	131.23	9.10	0.46	0.46	1.04	3.01	2.46	
Bond Proceeds Deposit	0.00															
Total Receipts	796,130.74	574,416.58	2,534.56	113,427.82	30,508.30	9,812.63	10,703.37	44,740.01	4,478.73	9.10	4,347.96	870.05	116.39	3.01	162.23	15,442.25
INVESTMENT ACTIVITY																
Letter of Credit CD	0.00															
Invest in PMA/IIIT Funds	(16,615.00)	(16,615.00)														
Bond Proceeds Deposit	0.00															
Flex Account	0.00															
PMA/ISDLAF Investment Interest	(993.63)	(991.98)	(1.65)													
Funds Invested-Property Taxes	(676,863.10)	(676,863.10)														
Office Collections-Illinois Funds	(4,471.40)	(4,471.40)														
Replacement Taxes	(18,758.04)			(18,758.04)												
Sold PMA/IIIT Funds	1,434,914.60	1,029,914.60		75,000.00		65,000.00	75,000.00	125,000.00			50,000.00	15,000.00	0.00	0.00	0.00	0.00
Plus Total Invest. Activity	717,213.43	330,973.12	(1.65)	56,241.96	0.00	65,000.00	75,000.00	125,000.00	0.00	0.00	50,000.00	15,000.00	0.00	0.00	0.00	0.00
Total + Beg. Bal.	2,486,779.22	1,487,553.71	49,269.45	113,074.56	118,263.67	19,724.49	27,342.48	349,153.20	236,925.61	2,077.52	243.89	3,632.11	15,977.91	44,874.12	18,666.49	894,994.91
DISBURSEMENTS	0.00															
WO Band Trans.	0.00															
Bank Fees	591.65	325.41		177.50	88.75											
Bank Withdrawal	0.00															
Payroll 7-15-2020	380,319.63	354,512.31		9,667.43	532.52	8,092.74	7,514.63									
Payroll 7-30-2020	423,389.07	397,100.35		9,147.43	532.52	8,966.21	7,642.56									
Regular Bills	754,873.52	307,606.33		90,194.78			8,195.00	348,620.24							257.17	
Transfers	0.00															
Audit Adjustment	0.00															
Self Insurance Monthly Payment	0.00															142,880.87
Flex Check Debit - Medi Sett	1,362.68		1,362.68													
Flex Checks 7-13-20	104.17		104.17													
Flex Checks 7-27-20	104.17		104.17													
Total Disbursements	1,560,744.89	1,059,544.40	1,571.02	109,187.14	1,153.79	17,058.95	23,352.19	348,620.24	0.00	0.00	0.00	0.00	0.00	0.00	257.17	142,880.87
Account Balance	926,034.33	428,009.32	47,698.43	3,887.43	117,109.88	2,665.54	3,990.29	532.96	236,925.61	2,077.52	243.89	3,632.11	15,977.91	44,874.12	18,409.32	752,114.04
RECAP																
Checking Acct. Balance	993,050.25	993,050.25														
Deposit in Transit	(2,532.91)	0.00	-2,532.91													
Payroll Account Extra	2,000.00	2,000.00														
US Bank Account	0.00	0.00														
Fifth Third Account	0.00	0.00														
Flex Account-Mundelein Community	52,143.01		52,143.01													
Outstanding Bond Payment																
Sub Total	1,044,660.35	995,050.25	49,610.10													
Less Outstanding Checks	118,626.02	116,714.35	1,911.67													
Balance	926,034.33	878,335.90	47,698.43													
Grand Total	926,034.33	878,335.90	47,698.43													
	(0.00)	(0.00)	0.00													

DIAMOND LAKE SCHOOL DISTRICT # 76  
Treasurer's Report  
July, 2020

Fund	Cash Bal. 06/30/2020	Receipts	Disbursements	Cash Bal. 07/31/2020	Investments at Co 07/31/2020	Fund Totals
Education	\$ 582,164.01	\$ 905,389.70	\$ 1,059,544.40	\$ 428,009.32	8,235,222.50	8,663,231.82
Cafeteria Plan	879,552.66	15,442.25	142,880.87	752,114.04		752,114.04
Total Education Fund	1,461,716.67	920,831.95	1,202,425.27	1,180,123.36	8,235,222.50	9,415,345.86
Building	(56,595.22)	169,669.78	109,187.14	3,887.43	1,876,897.08	1,880,784.51
Transportation	87,755.37	30,508.30	1,153.79	117,109.88	697,398.09	814,507.97
FICA/Medicare	(55,088.14)	74,812.63	17,058.95	2,665.54	71,918.11	74,583.65
I. M. R. F.	(58,360.89)	85,703.37	23,352.19	3,990.29	22,375.84	26,366.13
Debt Service Fund	179,413.19	169,740.01	348,620.24	532.96	258,992.46	259,525.42
Working Cash	232,446.88	4,478.73	0.00	236,925.61	1,496,022.61	1,732,948.22
Capital Projects Fund	2,068.42	9.10	0.00	2,077.52	3,412,584.24	3,414,661.76
Tort Fund	(54,104.07)	54,347.96	0.00	243.89	63,175.50	63,419.39
Life Safety	(12,237.94)	15,870.05	0.00	3,632.11	552,409.79	556,041.90
Diamond Lake Activity	15,861.52	116.39	0.00	15,977.91	0.00	15,977.91
West Oak Intermediate Activity	44,871.11	3.01	0.00	44,874.12	0.00	44,874.12
West Oak Middle Activity	18,504.26	162.23	257.17	18,409.32	0.00	18,409.32
	0.00			0.00	0.00	0.00
Total	\$ 1,806,251.17	1,526,253.51	1,702,054.74	1,630,449.94	16,686,996.22	18,317,446.16
Imprest Fund				2,500.00		2,500.00
Education-Flex Account	46,736.54	2,532.91	1,571.02	47,698.43	7,495.46	55,193.89
Insurance Coop- District Share				126,724.45		126,724.45
Petty Cash				750.00		750.00
Grand Total				1,808,122.82	16,694,491.68	18,502,614.50

As of July, 2020 the School's undistributed invested funds were as follows:

	At Cost	Maturity Value	
1	12,703,735.05	12,703,735.05	PMA-Illinois School District Liquid Asset Fund
2	1.68	1.68	PMA-Illinois School District Liquid Asset Fund-Series 2017 Bonds
3	2,215.51	2,215.51	PMA-Illinois School District Liquid Asset Fund-Series 2018 Bonds
4	3,626,565.10	3,626,565.10	PMA-Illinois School District Liquid Asset Fund-Series 2020 Bonds
5	269,489.63	269,489.63	Illinois Institutional Investors Trust (at cost)
6	7,495.46	7,495.46	Illinois Institutional Investors Trust-Flex Account
7	84,989.25	84,989.25	Illinois Funds/NBI Bank

16,694,491.68

Total Investments at cost

  
 Treasurer \_\_\_\_\_



**Diamond Lake School District 76**  
**Embrace Empower Excel** Each Child Each Day

BOARD OF EDUCATION  
BUSINESS MEETING  
Tuesday, September 1, 2020

**AGENDA ITEM V-B**  
**Administrative: Approve PRESS 105 Policies Action**

**WHEREAS** policy creation and updates and changes to adopted policies are provided for District 76 through the subscription to Policy Reference Educational Subscription Service (PRESS) from the Illinois Association of School Boards (IASB); and

**WHEREAS** the Policy Committee reviewed the policies and a First Reading of the policies was held at the August 25, 2020 Board Business Meeting.

**THEREFORE BE IT RESOLVED**, the Diamond Lake School District 76 Board of Education moves to approve the policy changes as presented and reviewed in IASB PRESS Issue 105.

<b>2:150-AP</b>	<b>Superintendent Committees</b>
<b>2:250-E2</b>	<b>Immediately Available District Public Records and Web-Posted Reports and Records</b>
<b>2:260</b>	<b>Uniform Grievance Procedure</b>
<b>2:260-AP1</b>	<b>Guidelines for for Investigating Complaints <u>Filed Under Policy 2:260, Uniform Grievance Procedure, and Allegations of Misconduct</u></b>
<b>2:260-AP2</b>	<b>Nondiscrimination Coordinator and Complaint Manager</b>
<b>2:265</b>	<b>Title IX Sexual Harassment Grievance Procedure</b>
<b>2:265-AP1</b>	<b>Title IX Sexual Harassment Response</b>
<b>2:265-AP2</b>	<b>Formal Title IX Sexual Harassment Complaint Grievance Procedure</b>
<b>2:265-E</b>	<b>Title IX Sexual Harassment Glossary of Terms</b>
<b>4:180-AP1</b>	<b>School Action Steps for Pandemic Influenza <u>or Other Virus/Disease</u></b>
<b>4:180-AP2</b>	<b>Pandemic Influenza Surveillance and Reporting</b>
<b>5:10</b>	<b>Equal Employment Opportunity and Minority Recruitment</b>
<b>5:20</b>	<b>Workplace Harassment Prohibited</b>
<b>5:90-AP</b>	<b>Coordination with Children’s Advocacy Center</b>
<b>5:100</b>	<b>Staff Development Program</b>
<b>5:200</b>	<b>Terms and Conditions of Employment and Dismissal</b>



**Diamond Lake School District 76**  
**Embrace Empower Excel** Each Child Each Day

<b>5:220</b>	<b>Substitute Teachers</b>
<b>5:330</b>	<b>Sick Days, Vacation, Holidays and Leaves</b>
<b>7:10</b>	<b>Equal Educational Opportunities</b>
<b>7:10-AP1</b>	<b>Accommodating Transgender Students or Gender Non-Conforming Students</b>
<b>7:20</b>	<b>Harassment of Students Prohibited</b>
<b>7:20-AP</b>	<b>Harassment of Students Prohibited</b>
<b>7:180</b>	<b>Prevention of and Response to Bullying, Intimidation and Harassment</b>
<b>7:185</b>	<b>Teen Dating Violence Prohibited</b>
<b>7:190-E2</b>	<b>Student Handbook Checklist</b>
<b>7:345-AP</b>	<b>Use of Educational Technologies; Student Data Privacy and Security</b>

# Update Memo

Please distribute to board members and appropriate staff.

# PRESS

## Policy Reference Education Subscription Service

### Contents

**Instructions..... p. 1**

**IASB Statement on Local School Board Equity Policies... p. 1**

**PRESS Issue 105 Topic Bundles ..... p. 2**

**PRESS Terminology ..... p. 2**

**Progress Report ..... p. 5**

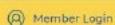
**Revisions to Policies, Administrative Procedures, and Exhibits (numerical table)..... p. 6**

**Next Issue: Remaining Legislative Updates from Education Omnibus Act P.A. 101-643 & Five-Year Reviews**

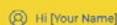
### Online Instructions

Please follow these three easy steps to log in to **PRESS**:

1. Go to [www.iasb.com](http://www.iasb.com) and click on the yellow **Member Login** button.



2. Log in using your email address and password.
  - If you do not know your password, do not create a new account; reset your password using your district email address.
  - If you are still having difficulty logging in, please contact your District’s Superintendent or Administrative Assistant to make sure you are listed as an authorized user on the District Roster.
  - If you continue to have difficulty logging in to [www.iasb.com](http://www.iasb.com), please contact Kat Berger at [kberger@iasb.com](mailto:kberger@iasb.com).
  - Click the yellow “Hi [Your Name],” button.



3. Under **My Account Links**, click on **PRESS Login**.

This publication is designed to provide information only and is not a substitute for legal advice from the Board Attorney. If you have any questions, please contact Kimberly Small, IASB General Counsel and **PRESS** Editor, 630/629-3776, ext. 1226; Maryam Brofine, Assistant General Counsel and Assistant **PRESS** Editor, 630/629-3776, ext. 1219; or Debra Jacobson, Assistant General Counsel and Assistant **PRESS** Editor, 630/629-3776, ext. 1211.

Please share this **PRESS** Update Memo with all board members and appropriate staff.

Two other important components of **PRESS** may be viewed and downloaded from **PRESS Online**: Committee Worksheets and the updated **Policy Reference Manual (PRM)** pages.

The Committee Worksheets, found by selecting a **PRESS Issue** at the top of the **PRESS Online** Table of Contents, show suggested changes to **PRESS** materials by striking out deleted words and underscoring new words.

Updated **PRM** pages can be found in the IASB POLICY REFERENCE MANUAL Table of Contents. For visual instruction about how to download **PRM** pages and use them to update your policy manual, please go to [www.iasb.com/policy/](http://www.iasb.com/policy/) to view the **PRESS** video tutorial located under the header entitled: **PRESS – Policy Reference Education Subscription Service**.

### IASB Statement on Local School Board Equity Policies

In recent months, member school boards have contacted IASB to request that the Association provide the board with an Equity Policy.

While IASB staff can provide a board with sample policies related to diversity, equity, and inclusion, we believe that providing a policy template can actually be an impediment to boards of education conducting thoughtful, deep conversations around issues of race, diversity, equity, and inclusion.

IASB recognizes that everyone benefits when all students have access to the educational resources and rigor they need, in all times and circumstances. The pursuit of equity, opportunity, and excellence for every child starts with a deep conversation that IASB staff can assist with. The IASB workshop, *Equity: An Education Imperative*, is designed to support boards in this work and to pave the way for the development of a shared definition of “equity.” Boards should also engage community stakeholders to inform them of the development of a local equity policy.

#### Have feedback on **PRESS** materials?

Click on the **PRESS** Feedback Button, located on the header bar of **PRESS Online**. For answers to more immediate questions about **PRESS** content, please contact a **PRESS** editor directly.



School board members share a collective responsibility for determining the strategic priorities of the district that should also reflect a commitment to lead on issues of diversity, equity, and inclusion and for monitoring whether priorities are met.

IASB stands ready to assist school boards along the journey towards equity. Please reach out to your Field Services Director at any time, and also utilize resources on the [equity section of the IASB website](#).

## PRESS Bundles

Each bundle summarizes the global reasons for changes to all materials that are listed.

Specific details about how each piece of material changed, e.g., legislation, administrative rules, **PRESS** Advisory Board feedback, quality assurance, five-year review items, etc., are explained in numerical order in the [Revisions to Policies, Administrative Procedures, and Exhibits](#) table beginning on p. 6.

Please spend time reviewing the **PRESS** online Committee Worksheets for these materials, which will provide further, more on-the-spot detailed explanations in the footnotes, along with added comment boxes by the **PRESS** Editors when necessary.

## Title IX Regulation Updates

In May the U.S. Dept. of Education (DOE) released final Title IX regulations at 34 C.F.R. Part 106. They define sexual harassment, require prompt responses to reports of sexual harassment in a district's education program or activity (regardless of whether the complainant files a *formal complaint*), and require districts to implement a detailed grievance process for *formal complaints* of Title IX sexual harassment.

Because Title IX sexual harassment can involve *any* person in the district's education programs or activities – including students, parents/guardians, employees, applicants for employment, and third parties – we created a **NEW** policy in Section 2 of the **PRM**, 2:265, *Title IX Sexual Harassment Grievance Procedure*. It has two administrative procedures and one exhibit.

Related changes are made to existing **PRM** materials, including policy 2:260, *Uniform Grievance Procedure*. It now explicitly directs any sexual harassment complaints involving Title IX to the **NEW** policy 2:265, *Title IX Sexual Harassment Grievance Procedure*. To ensure that districts funnel all potential Title IX sexual harassment reports to the **NEW** policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, the policies in Sections 5 and 7 of the **PRM** involving sexual harassment are similarly updated.

## PRESS Terminology

What are the meanings of the “AP” and “E” after certain policy numbers?

The **PRESS Policy Reference Manual (PRM)** is an encyclopedia of sample board policies, administrative procedures, and exhibits. They are all in numerical order for easy reference. **PRESS** recommends that local school districts maintain separate board policy and administrative procedure manuals to help distinguish for the board, staff, students, parents, and community members, the distinction between board documents and staff documents, board work, and staff work.

**Policy.** The board develops policies with input from various sources like district administrators, the board attorney, and **PRESS** materials. The board then formally adopts the policies, often after more than one consideration.

**After adoption by the board, each policy should have an adoption date.**

**Administrative Procedures.** Administrative procedures are developed by the superintendent, administrators, and/or other district staff members. The staff develops the procedures that guide implementation of the policies. Administrative procedures are not adopted by the board, which allows the superintendent and staff the flexibility they need to keep the procedures current. **PRESS** sample procedures are numbered to correspond with the policies that they implement for easy reference. For example, policy 6:190's related administrative procedure is 6:190-AP.

**It is important to remember that administrative procedures do not require formal board adoption and are not included in a board policy manual.**

**Exhibits.** Both board policies and administrative procedures may have related exhibits. Exhibits provide information and forms intended to be helpful to the understanding or implementation of either a board policy or administrative procedure, and they do not require formal board adoption. **PRESS** sample exhibits are numbered to correspond to the related board policy or administrative procedure. For example, board policy 2:70 has a related exhibit numbered 2:70-E. Administrative procedure 7:340-AP1 has a related exhibit numbered 7:340-AP1, E.

**Exhibits labeled with an “E” may provide guidance for board work or staff work. Those providing guidance for board work should be dated for implementation by the board. Those providing guidance for the staff should be dated for implementation by the administrative staff.**

**Administrative procedures exhibits, always labeled with the “AP, E” format should be dated for implementation by the administrative staff.**

We created this new policy suite and updated various **PRM** materials to incorporate additional Title IX regulation requirements that require districts to:

1. Designate at least one employee as the “Title IX Coordinator;”
2. Notify all applicants for employment, students, parents/guardians, employees, and collective bargaining units of the district’s Title IX policy and contact information for the Title IX Coordinator, via the district’s website and its handbooks;
3. Train individuals designated as Title IX Coordinator(s), investigators, decision-makers, and informal resolution facilitators on the definition of sexual harassment, the scope of the district’s education program or activity, how to conduct an investigation and grievance process, and how to serve impartially;
4. Train individuals designated as investigators on issues of relevance so they can create an investigative report that fairly summarizes relevant evidence;
5. Train individuals designated as decision-makers on issues of relevance of questions and evidence, including when questions/evidence about sexual predisposition or prior sexual behavior are not relevant; and
6. Post, on the district’s website, training materials for any individuals designated as Title IX Coordinator(s), investigators, decision-makers, and informal resolution facilitators.

The final Title IX regulations are eff. 8-14-20; however their complexity and scope means that districts are unlikely to finalize policies until after the effective date. It is important for school officials to discuss Title IX requirements with their board attorneys, to ensure full implementation and to reduce risks based on Title IX’s intersection with local and State laws and regulations.

The following **PRESS** materials are created or updated for this important bundle:

The **PRESS** editors extend their gratitude to the following attorneys for their expert feedback on many pieces of **PRESS** material on Title IX regulation updates:

**Emily P. Bothfeld**, Robbins Schwartz; **Amy K. Dickerson**, Franczek, P.C.; **Maureen Anichini Lemon**, Ottosen DiNolfo Hasenbalg & Castaldo, Ltd.; **Jennifer Mueller Rosenberg**, Hodges, Loizzi, Eisenhammer, Rodick & Kohn, LLP; and **Jacqueline Gharapour Wernz**, Franczek, P.C.

- 2:150-AP, Superintendent Committees
- 2:250-E2, Immediately Available District Public Records and Web-Posted Reports and Records
- 2:260, Uniform Grievance Procedure
- 2:260-AP2, Nondiscrimination Coordinator and Complaint Manager
- 2:265, Title IX Sexual Harassment Grievance Procedure - **NEW**
- 2:265-AP1, Title IX Sexual Harassment Response - **NEW**
- 2:265-AP2, Formal Title IX Sexual Harassment Complaint Grievance Process - **NEW**
- 2:265-E, Title IX Sexual Harassment Glossary of Terms - **NEW**
- 5:10, Equal Employment Opportunity and Minority Recruitment
- 5:20, Workplace Harassment Prohibited
- 5:90-AP, Coordination with Children’s Advocacy Center
- 5:100, Staff Development Program
- 7:10, Equal Educational Opportunities
- 7:10-AP1, Accommodating Transgender Students or Gender Non-Conforming Students
- 7:20, Harassment of Students Prohibited
- 7:20-AP, Harassment of Students Prohibited
- 7:180, Prevention of and Response to Bullying, Intimidation, and Harassment
- 7:185, Teen Dating Violence Prohibited
- 7:190-E2, Student Handbook Checklist

## Legislative Updates

During the 101st General Assembly, P.A. 101-643 codified many of the provisions previously contained in Executive Orders issued by Governor Pritzker along with several provisions in guidance documents and emergency rules that were promulgated by the Ill. State Board of Education (ISBE) during Illinois’ response to the 2020 COVID-19 pandemic. In addition, P.A. 101-642 made numerous changes in the Election Code including designating Nov. 3, 2020 as *2020 Election Day* and requiring schools to close.

The following **PRESS** materials are amended:

- 5:200, Terms and Conditions of Employment and Dismissal
- 5:220, Substitute Teachers
- 5:330, Sick Days, Vacation, Holidays, and Leaves

## Support and Inclusion of Transgender Students Guidance

In 2019, the Governor issued Executive Order 2019-11, which established the Affirming and Inclusive School Task Force (Task Force) to identify strategies and best practices for transgender, non-binary, and gender non-conforming students. In March 2020, following the Task Force's delivery of its report to the Governor, ISBE released non-regulatory guidance and a sample policy and procedures document that reflect the recommendations of the Task Force.

The following **PRESS** materials are amended:

- 7:10, Equal Educational Opportunities
- 7:10-AP1, Accommodating Transgender Students or Gender Non-Conforming Students
- 7:20, Harassment of Students Prohibited

## Miscellaneous

The following **PRESS** material is updated due to a typographical error regarding a compliance timeline under the Student Online Personal Protection Act, 105 ILCS 85/, amended by P.A. 101-516, eff. 7-1-21:

- 7:345-AP, Use of Educational Technologies; Student Data Privacy and Security

## Five-Year Review Updates

**PRESS** Editors have a quality assurance goal to ensure that each piece of the 1000+ page IASB **PRESS PRM** is reviewed at least every five years. The **PRM** contains approximately 175 policies and procedures. These are also detailed in the [Revisions to Policies, Administrative Procedures, and Exhibits Table](#) in numerical order beginning on p. 6.

The following **PRESS** materials are updated in response to five-year reviews:

- 2:260-AP1, Guidelines for Investigating Complaints [Filed Under Policy 2:260, Uniform Grievance Procedure](#), and Allegations of Misconduct - **RENAMED**

- 4:180-AP1, School Action Steps for Pandemic Influenza or Other Virus/Disease - **RENAMED**
- 4:180-AP2, Pandemic Influenza Surveillance and Reporting

Please also spend time reviewing the **PRESS** Online Committee Worksheets for these materials, which will provide further, more on-the-spot detailed explanations in the footnotes, along with added comment boxes by the **PRESS** Editors when necessary.

## PRESS Issue 105 Trivia

165 PRM pages • 266 footnotes • 41,184 words • 28 PRM materials

## PRESS and ISBE/IDPH Reopening Guidance Update

Following the release of the Ill. State Board of Education (ISBE) and Ill. Dept. of Public Health’s joint guidance for [Starting the 2020-21 School Year](#) on June 23, 2020, a number of **PRESS** subscribers and Ill. Council of School Attorney members have inquired if updates to existing **Policy Reference Manual (PRM)** materials will be made to address instances in the guidance that refer to board policies or administrative procedures, with particular focus on a face mask policy. Those inquiries were largely prompted by language in the joint guidance which states “It is recommended that schools and districts update policies to require the wearing [of] a face covering while on school grounds and handle violations in the same manner as other policy violations.” Subsequently, ISBE released an [FAQ](#) clarifying this language, stating that when it comes to handling individuals who refuse to wear face coverings, “It is recommended that schools and districts examine and communicate which policies apply to the requirement of wearing a face covering while in school buildings and handle violations in the same manner as other similar policy violations.”

Based on the fluidity of the COVID-19 crisis and frequent changes that have been made to State guidance, as well as the fact that existing **PRM** materials already broadly address expectations for students, staff, visitors, and district operations, the **PRESS** Editors determined that no updates to the **PRM** are required at this time. To assist boards as they examine the application of their adopted policies to the joint guidance, IASB has created a reference chart that reviews certain guidance topics, relevant **PRM** materials, and local implementation considerations. The chart can be accessed through **PRESS** Online or at [www.iasb.com/IASB/media/Documents/PRESS\\_Reopening-Guidelines.pdf](http://www.iasb.com/IASB/media/Documents/PRESS_Reopening-Guidelines.pdf).

The **PRESS** Editors fully recognize that some board attorneys may advise a different course of action, and that boards may have additional concerns related to insurance coverage (or lack thereof) for COVID-19 related claims. **The PRESS Editors encourage boards to work with their attorneys to determine how the new safety protocols will be communicated and managed locally, such as through resolution, policy, procedures, handbooks, and/ or other written materials.** The **PRESS** Editors will continue to monitor developments related to COVID-19 and welcome questions or suggestions from subscribers. **PRESS** Editor contact information is found on the last page of this Update Memo.

## Progress Report – The contents of this table frequently change.

Topics	Our Response
<p><b>Property Tax Code Amendment</b></p> <p>Public Act 101-635 amended the Property Tax Code to allow the chief county assessment officers to approve certain homestead exemptions without application for the 2020 tax year with certain criteria. It also allows county boards, except Cook, to waive penalties and interest on delinquent property tax payments and extends deadlines for scavenger sales and tax sales during 2020.</p>	<p>No <b>PRESS</b> materials are affected.</p>
<p><b>Education Omnibus Bill – Remaining Changes Not Yet Addressed</b></p> <p>Additional legislative updates contained in P.A. 101-643, including provisions addressing criminal background check notification, special education related service logs, and other “odds and ends” related to COVID-19 that did not need to be more urgently addressed in Issues 104 and 105, will be included in <b>PRESS</b> Issue 106 to be released this Fall.</p>	<p>Remaining <b>PRESS</b> materials impacted by P.A. 101-643 will be updated in Issue 106.</p>
<p><b>Temperature Checks and Biometric Student Information</b></p> <p>Some districts may be considering using facial recognition technology that can also scan students from a distance as they enter a school building to detect body temperatures. As a reminder, districts that maintain a biometric screening program must comply with all School Code requirements, including obtaining written parent/guardian consent, and should include in policy 7:340, <i>Student Records</i>, the alternative language noted in footnote 15.</p> <p style="text-align: right;">40</p>	<p>No <b>PRESS</b> materials are affected.</p>

## Revisions to Policies, Administrative Procedures, and Exhibits

Number and Title	Revision Descriptions	<input checked="" type="checkbox"/>
2:150-AP, Superintendent Committees	The <b>Sex Equity Committee</b> subhead of this procedure is updated to reference all relevant <b>PRM</b> policies, including <b>NEW</b> policy 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i> . Footnote 11 is updated for continuous improvement.	<input type="checkbox"/>
2:250-E2, Immediately Available District Public Records and Web-Posted Reports and Records	The exhibit is updated in response to: <ol style="list-style-type: none"> <li>1. 105 ILCS 85/, amended by P.A. 101-516, eff. 7-1-21, requiring districts to post certain information about educational technology vendors, student covered information, and data breaches on their websites.</li> <li>2. 105 ILCS 5/10-30(6), added by P.A. 101-643, requiring districts to post their remote and blended remote learning day plans on their websites.</li> <li>3. 34 C.F.R. §106.8 and 34 C.F.R. §106.45(b)(10)(i)(D), requiring districts to post Title IX Coordinator contact information and training materials on their websites.</li> </ol>	<input type="checkbox"/>
2:260, Uniform Grievance Procedure	The policy, Legal References, Cross References, and footnotes are updated in response to Title IX regulations and to explicitly direct any sexual harassment complaints involving Title IX to <b>NEW</b> policy 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i> . Other continuous improvement updates are also made to the policy and footnotes.	<input type="checkbox"/>
2:260-AP1, Guidelines for Investigating Complaints Filed Under Policy 2:260, Uniform Grievance Procedure, and Allegations of Misconduct	<b>RENAMED.</b> The procedure is updated in response to a five-year review.	<input type="checkbox"/>
2:260-AP2, Nondiscrimination Coordinator and Complaint Manager	The procedure is updated to reference all relevant <b>PRM</b> policies, including <b>NEW</b> policy 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i> . The procedure and its footnote are updated for continuous improvement.	<input type="checkbox"/>
2:265, Title IX Sexual Harassment Grievance Procedure	<b>NEW.</b> The policy is created to facilitate implementation of Title IX regulations, which require districts to take a number of actions to respond to reports of sexual harassment in its education program or activity.	<input type="checkbox"/>
2:265-AP1, Title IX Sexual Harassment Response	<b>NEW.</b> The procedure is created for the reason discussed in 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i> , above.	<input type="checkbox"/>
2:265-AP2, Formal Title IX Sexual Harassment Complaint Grievance Process	<b>NEW.</b> The procedure is created for the reason discussed in 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i> , above.	<input type="checkbox"/>
2:265-E, Title IX Sexual Harassment Glossary of Terms	<b>NEW.</b> The exhibit is created for the reason discussed in 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i> , above.	<input type="checkbox"/>
4:180-AP1, School Action Steps for Pandemic Influenza or Other Virus/Disease	<b>RENAMED.</b> The procedure and footnotes are updated in response to the COVID-19 pandemic guidance and in response to a five-year review.	<input type="checkbox"/>
4:180-AP2, Pandemic Influenza Surveillance and Reporting	The procedure and footnotes are updated in response to a five-year review.	<input type="checkbox"/>
5:10, Equal Employment Opportunity and Minority Recruitment	The policy, Cross References, and footnotes are updated in response to Title IX regulations and to explicitly reference the Title IX Coordinator. Other continuous improvement updates are also made to the policy, Legal References, and footnotes.	<input type="checkbox"/>
5:20, Workplace Harassment Prohibited	The policy, Cross References, and footnotes are updated for the reasons discussed in 2:260, <i>Uniform Grievance Procedure</i> , above. Continuous improvement updates are also made to the Legal References.	<input type="checkbox"/>

## Revisions to Policies, Administrative Procedures, and Exhibits — *continued*

5:90-AP, Coordination with Children’s Advocacy Center	The procedure is updated to reference <b>NEW</b> policy 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i> .	<input type="checkbox"/>
5:100, Staff Development Program	The Legal References, Cross References, Administrative Procedure References, and footnotes are updated in response to Title IX regulations and for continuous improvement. The footnote 4 option for boards to list in-services in their policies is updated in response to Title IX training requirements. Boards that include this option in their adopted policy should update this text.	<input type="checkbox"/>
5:200, Terms and Conditions of Employment and Dismissal	The policy is unchanged. Footnotes are updated in response to: <ol style="list-style-type: none"> <li>1. Changes by the Education Omnibus Law. See 105 ILCS 105 ILCS 5/10-19, 5/10-19.05(a) and (j-5), 5/24-11, 5/24-12, and 5/24A-5, all amended by P.A. 101-643; and</li> <li>2. <i>2020 Election Day</i>. See 10 ILCS 5/2B-10, added by P.A. 101-642 and 105 ILCS 5/24-2 (e), amended by P.A. 101-642, designating <i>2020 Election Day</i> on 11-3-2020 as a legal school holiday for purposes of 105 ILCS 5/24.</li> </ol>	<input type="checkbox"/>
5:220, Substitute Teachers	The policy and footnotes are updated in response to 40 ILCS 5/16-118, amended by P.A. 101-645, extending until June 30, 2021, the limit of 120 paid days or 600 paid hours that a TRS annuitant can work as substitute teacher in a school year. Other minor style updates are also made to the footnotes.	<input type="checkbox"/>
5:330, Sick Days, Vacation, Holidays, and Leaves	The policy and footnotes are updated in response to <i>2020 Election Day</i> designated by 10 ILCS 5/2B-10, added by P.A. 101-642 and 105 ILCS 5/24-2(e), amended by P.A. 101-642 designating 11-3-2020 as a legal school holiday for purposes of 105 ILCS 5/24.	<input type="checkbox"/>
7:10, Equal Educational Opportunities	The policy, Cross References, and footnotes are updated in response to Title IX regulations, to explicitly reference the Title IX Coordinator, and to insert an option in the footnotes for boards to reflect guidance in the Ill. State Board of Education’s <i>Sample District Policy and Administrative Procedures</i> for supporting transgender, non-binary, and gender non-conforming students. Continuous improvement updates are also made to the Legal References.	<input type="checkbox"/>
7:10-AP1, Accommodating Transgender Students or Gender Non-Conforming Students	The procedure is updated in response to Ill. State Board of Education non-regulatory guidance, <i>Supporting Transgender, Nonbinary and Gender Nonconforming Students</i> .	<input type="checkbox"/>
7:20, Harassment of Students Prohibited	The policy, Cross References, and footnotes are updated for the reasons discussed in 7:10, <i>Equal Educational Opportunities</i> , above. Continuous improvement updates are also made to the Legal References.	<input type="checkbox"/>
7:20-AP, Harassment of Students Prohibited	The procedure is updated to reference <b>NEW</b> policy 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i> , and policy 5:90, <i>Abused and Neglected Child Reporting</i> . Continuous improvement updates are also made.	<input type="checkbox"/>
7:180, Prevention of and Response to Bullying, Intimidation, and Harassment	The policy, Cross References, and footnotes are updated in response to Title IX regulations and to reference <b>NEW</b> policy 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i> .	<input type="checkbox"/>
7:185, Teen Dating Violence Prohibited	The policy and Cross References are updated to reference <b>NEW</b> policy 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i> . The Cross Reference is also updated to reference policy 2:260, <i>Uniform Grievance Procedure</i> . Footnote 7 is updated for continuous improvement.	<input type="checkbox"/>
7:190-E2, Student Handbook Checklist	The exhibit is updated for the reasons discussed in 7:180, <i>Prevention of and Response to Bullying, Intimidation, and Harassment</i> , above, and for continuous improvement.	<input type="checkbox"/>
7:345-AP, Use of Educational Technologies; Student Data Privacy and Security	The procedure is updated on pg. 3 to correct the dates of Jan. 31 and July 31.	<input type="checkbox"/>



The IASB Office of General Counsel's mission is to honestly, professionally, and credibly protect and preserve IASB through legal risk management and compliance services for the IASB Board of Directors and staff; promote best practices to IASB members; create educational products and services; and maintain strong, collaborative relationships with the public education community.



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## School Board

### Administrative Procedure - Superintendent Committees

The Superintendent or designee creates Superintendent or administrative committees as deemed necessary, makes all appointments, and directs all activities. A Superintendent or administrative committees reports to the Superintendent or administrator who directs its activities. The Superintendent or designee should consult the Board Attorney (a) concerning whether any of these committees must comply with the Open Meetings Act (OMA), and/or (b) to receive guidance for ensuring that the meetings either comply with OMA requirements or do not trigger OMA.<sup>1</sup> Unless otherwise indicated, the listed Superintendent or administrative committees are optional:

#### Communicable and Chronic Infectious Disease Program Task Force

This task force assists in the development and review of a chronic and infectious disease program consistent with the District's policies and State and federal laws and regulations, and reports directly to the Superintendent or designee. Appointments are made to the task force only if the Superintendent or designee determines that its input is desirable. See Board policies 5:40, *Communicable and Chronic Infectious Disease*; and 7:280, *Communicable and Chronic Infectious Disease*.

Task force members include the Superintendent or designee, school medical advisor, a school nurse, and representatives from the School Board, local health department, PTA, the professional staff, and other employee groups.

#### Communicable and Chronic Infectious Disease Review Team

This review team monitors those employees and students who have a communicable and chronic infectious disease, and:

1. Reviews individual medical case histories.
2. Recommends the most appropriate educational setting for a student, which may include temporary removal from and return to the regular educational setting.
3. Recommends the most appropriate work setting for an employee; this may include retention in his/her present position, transfer to another position, or temporarily excused from or returned to his/her work assignment.

Team members include the District's medical advisor, a school nurse, the Building Principal, and the Superintendent or designee.

The review team is guided by the Board's policies, Ill. Dept. of Public Health (IDPH) rules and regulations, and all other applicable State and federal laws. It reports directly to the Superintendent or

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**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

<sup>1</sup> Superintendent and administrative committees are generally not governed by the Open Meetings Act (OMA), but the operation and function of specific committees may make the Act applicable. For example, any committee, whether superintendent or board, having as members at least a majority of the quorum (three out of seven) of the board, will be subject to OMA. 5 ILCS 120/1.02. Other factors that determine whether a committee is governed by OMA include "who appoints the members of the entity, the formality of their appointment, and whether they are paid for their tenure; the entity's assigned duties, including duties reflected in the entity's bylaws or authorizing statute; whether its role is solely advisory or whether it also has a deliberative or investigative function; whether the entity is subject to government control or otherwise accountable to any public body; whether the group has a budget; its place within the larger organization or institution of which it is a part; and the impact of decisions or recommendations that the group makes." *University Professionals v. Stukel*, 344 Ill.App.3d 856, 865 (1st Dist. 2003).

designee. See also policies 5:40, *Communicable and Chronic Infectious Disease*; and 7:280, *Communicable and Chronic Infectious Disease*. The review team consults the employee's or the student's personal physician and local health department officials before making any recommendations.

The Communicable and Chronic Infectious Disease Review Team respects the privacy rights of each employee and student and takes such precautions as may be necessary to secure confidentiality.

#### Food Allergy Management Committee

This committee develops and implements the District's Food Allergy Management Program and reports directly to the Superintendent or designee. It monitors the program for effectiveness and establishes a schedule for the Superintendent to report this information to the Board. See policy 7:285, *Food Allergy Management Program*, based upon the *ISBE/IDPH Guidelines* at: [www.isbe.net/Documents/food\\_allergy\\_guidelines.pdf](http://www.isbe.net/Documents/food_allergy_guidelines.pdf). See also the modifiable Microsoft® Word version of the *ISBE/IDPH Guidelines* at: [www.isbe.net/Pages/Food-Allergy-Guidelines.aspx](http://www.isbe.net/Pages/Food-Allergy-Guidelines.aspx).

Committee members include District-level administrators, Building Principals, the District Safety Coordinator (see 4:170-AP1, *Comprehensive Safety and Security Plan, Part C, District Safety Coordinator and Safety Team; Responsibilities*), District 504 Coordinator (see policy 6:120, *Education of Children with Disabilities*), staff members, parents/guardians, community members, and students.

#### Employee Substance Abuse Prevention Committee

This committee makes recommendations directly to the Superintendent or designee regarding the issues of employee substance abuse and resulting employee conduct standards, and:

1. Cooperates with community and State agencies on substance abuse programs.
2. Gathers information about substance abuse and suggests methods to disseminate it to employees.
3. Develops a support network that encourages employees to self-refer for treatment and suggests procedures for early identification and treatment.
4. Recommends procedures that would protect the privacy of employees while taking into consideration any directives from the Board to the Superintendent regarding the District's obligation to provide a safe environment and to ensure high quality performance, which may include but not be limited to:
  - a. Securing training for designated district employees to educate them to identify symptoms of being impaired by or under the influence of substances prohibited by policy. For guidance about what *impaired by* or *under the influence of means*, see:
    - i. Footnote discussions in numbers five and six in policy 5:50, *Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition*;
    - ii. 625 ILCS 5/11-501.2 and 5/11-501.9, amended by P.A. 101-27 (chemical and other tests, validity, etc., a/k/a *field sobriety tests*);
    - iii. 410 ILCS 705/10-50(d), added by P.A. 101-27 (an employer may consider an employee to be impaired or under the influence of cannabis if the employer has a *good faith belief* that an employee manifests specific articulable symptoms while working that decrease or lessen the employee's performance of the duties or tasks of the employee's job position, including symptoms of the employee's speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior, or negligence or carelessness in operating equipment or machinery; disregard for the safety of the employee or others, or involvement in any accident that results in serious damage to equipment or property; disruption of a production or

- manufacturing process; or carelessness that results in any injury to the employee or others) (**Note:** Consult the Board Attorney about identifying cannabis use)); and
- iv. Professional development opportunities in the area, e.g., local law enforcement agencies may be a place to begin.
  - b. Implementing a reasonable suspicion and/or drug testing<sup>2</sup> program(s) to enhance the District's ability to identify and discipline employees suspected of being impaired by and/or under the influence of prohibited substances. **Note:** Consult the Board Attorney before implementing any drug-testing program(s) or disciplining employees based upon the results of these programs. Drug testing will likely assist the District with the challenges of identifying cannabis-related issues, but the science behind impairment identification and behavioral testing for cannabis impairment is new and emerging.
  - c. Addressing expectations for employees in positions of leadership who are perpetually *on call*<sup>3</sup> due to the nature of their positions and responsibilities.
  - d. Holding licensed educators to a higher standard than non-licensed employees due to their professional code of conduct expectations.
  - e. Holding employees working directly with students to a higher standard than employees not working directly with students.
5. Recommends a method to explicitly inform employees of the consequences of violating the District's policy.
  6. Recommends best practices for discipline of employees who are suspected of or violating the District's policy. <sup>4</sup>

Committee members include the Superintendent or designee, the District's medical advisor/medical review officer, and employee representatives from both professional and educational support personnel. The committee is guided by Board policies, administrative procedures, and relevant State and federal statutes. See policies 5:50, *Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition*, 5:120, *Employee Ethics; Conduct; and Conflict of Interest*, and administrative procedure 5:120-AP2, *Employee Conduct Standards*.

### Pandemic Planning Team

This team builds a strong relationship with the local health department and emergency medical agencies and uses their assistance to develop and implement a comprehensive pandemic influenza school action plan and build awareness of the final plan among staff, students, and community. See policy 4:180, *Pandemic Preparedness; Management; and Recovery*, and its procedures.

Team members may include one or two Board members, administrators, and staff members. It reports directly to the Superintendent or designee.

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>2</sup> The best practice for ensuring the strongest defense when disciplining an employee for undertaking tasks while being impaired and/or under the influence of prohibited substances is a confirmed, positive, drug test used in combination with reasonable suspicion of impairment. Drug testing may be cost prohibitive and disruptive for school districts while also presenting several other legal considerations, including possible collective bargaining implications upon request by the employee representative. For example, while the Americans with Disabilities Act allows the results of such tests to be used as the basis for disciplinary action (42 U.S.C. §12114; 29 C.F.R. §1630.16 (c)), drug tests may still violate other laws, e.g., Title VI and the Rehabilitation Act (42 U.S.C. §2000e *et seq.*; and 29 U.S.C. §706 *et seq.*). Identifying and disciplining employees for cannabis use on a drug testing alone may present a unique set of challenges because cannabis can remain in a person's system for weeks.

<sup>3</sup> See f/n 3 of sample policy 5:50, *Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition*.

<sup>4</sup> Consult the board attorney regarding any disciplinary action explored for employees based solely on a positive cannabis test result. Employee discipline options may be an item on which collective bargaining may be required.

### Sex Equity Committee

This committee supports the District's efforts to eliminate sexual harassment by advising the Superintendent or designee on prevention, intervention, and education. Committee members may include community representatives, District administrators, teachers, and students. See policies 2:260, *Uniform Grievance Procedure*; 2:265, *Title IX Sexual Harassment Grievance Procedure*; 5:10, *Equal Employment Opportunity and Minority Recruitment*; 5:20, *Workplace Harassment Prohibited*; 5:90, *Abused and Neglected Child Reporting*; 7:10, *Equal Educational Opportunities*; 7:20, *Harassment of Students Prohibited*; 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*; and 7:185, *Teen Dating Violence Prohibited*.

### School Violence Prevention Team

This team builds awareness about and supports the development and implementation of the District's:

1. Targeted School Violence Prevention Program. See policy 4:190, *Targeted School Violence Prevention Program*, and procedure 4:190-AP1, *Targeted School Violence Prevention Program*.
2. Anti-bullying program, when and as appropriate. See policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*; and procedure 7:180-AP1, *Prevention, Identification, Investigation, and Response to Bullying*.

All Building Principals or their designees must be on this team. Other team members may include the District Safety Coordinator (see procedure 4:170-AP1, *Comprehensive Safety and Security Plan, Part C, District Safety Coordinator and Safety Team; Responsibilities*), law enforcement representatives, Board Attorney, District psychologist(s), mental health workers and/or social service agencies, faith leaders, community members, and students. It reports directly to the Superintendent or designee.

### Title I Parent Advisory Committee

This committee is required if the District receives or desires to receive Title I funds. See policy 6:170, *Title I Programs*; procedure 6:170-AP1, E1, *District-Level Parent and Family Engagement Compact*; 20 U.S.C. §§6312(a)(1)(A), 6318(a)(2)(F). The committee supports the development and implementation of the District's Title I plan. Its activities may include, at the Superintendent or designee's directive:

1. Facilitating the active involvement of parents/guardians in their children's academic success by such activities as coordinating Title I parent-teacher conferences, providing information to help parents/guardians assist their children, coordinating volunteer or paid participation by parents/guardians in school activities, and establishing a process to respond to parents/guardians' inquiries and recommendations.
2. Distributing Title I informational materials.
3. Consulting regarding the District's Title I Plan.
4. Supporting the implementation of Board policy 6:170, *Title I Programs*.

Committee members include parents/guardians and family members of Title I children. It reports directly to the Superintendent or designee.

PERA (Performance Educational Reform Act) Joint Committee and the RIF (Reduction in Force) Joint Committee 5

Each committee listed below is required until its function has been fulfilled; each reports directly to the Superintendent or designee.

1. PERA joint committee. This mandatory committee develops a plan for incorporating data and indicators of student growth into the evaluation plan. The joint committee is “composed of equal representation selected by the district and its teachers, or where applicable, the exclusive bargaining representative of its teachers.” 105 ILCS 5/24A-4(b). If, within 180 calendar days of the committee’s first meeting, the committee does not reach an agreement on the plan, the District must implement ISBE’s model evaluation plan with respect to the use of data and indicators on student growth. The amendment of an evaluation plan continues to be a mandatory subject of bargaining. This committee also agrees to the panel of qualified evaluators that reviews appeals of unsatisfactory performance ratings and determines the criteria for successful appeals.<sup>6</sup> 105 ILCS 5/24A-5.5, added by P.A. 101-591.
2. RIF joint committee. This mandatory committee convenes annually to consider issues identified in the statute concerning the selection of teachers for layoff. 105 ILCS 5/24-12(c). On or before December 1 each year, the RIF joint committee must be established and must hold its first meeting. It is composed of individuals appointed by the Board and the teachers (or the exclusive bargaining representative of its teachers).

Concussion Oversight Team

The Concussion Oversight Team is required until its function has been fulfilled; it reports directly to the Superintendent or designee. State law requires the team to establish protocols for return-to-play and return-to-learn for students who have suffered a concussion or head injury during interscholastic athletic activities. See policy 7:305, *Student Athlete Concussions and Head Injuries*. 105 ILCS 5/22-80(d), amended by P.A. 100-309. The Board must appoint or approve a Concussion Oversight Team. Section 22-80(d) identifies who must be on each Concussion Oversight Team. A physician, to the extent possible, must be on the Team. If the school employs an athletic trainer and/or nurse, they must be on the Team to the extent practicable. The Team must include, at a minimum, one person who is responsible for implementing and complying with the return-to-play and return-to-learn protocols adopted by the Team. Other licensed health care professionals may be appointed to serve on the Team. If it is not practicable for a physician, athletic trainer and/or nurse to be on the Team and other licensed health care professionals are not appointed to serve on the Team, the Team may be composed of only one person who need not be a licensed healthcare professional; however, that individual may not be a coach.

Wellness Committee 7

The Wellness Committee includes at least one representative from each of the following groups: parents, students, representatives of the school food authority, teachers of physical education, school

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<sup>5</sup> These committees are not subject to OMA. 105 ILCS 5/24A-4(b) and 105 ILCS 5/24-12(c), respectively, amended by P.A. 100-768.

<sup>6</sup> The PERA joint committee does not determine what rating will be issued to replace an unsatisfactory rating in the event of a successful appeal; that issue must be collectively bargained. 105 ILCS 5/24A-5.5, added by P.A. 101-591.

<sup>7</sup> Establishing a wellness committee is optional. The preamble to 7 C.F.R. §210.31(d)(1) suggests one method to comply with the rules is by: “identifying individuals” to serve on a “local school wellness policy committee.” However, the final text of 7 C.F.R. §210.31(d)(1) does not specifically require districts to establish a local school wellness policy committee – only that they “permit [groups listed in the procedure above] to participate ... .” See also f/n 23 in sample policy 6:50, *School Wellness*. If a district establishes a wellness committee, it should be listed here.

health professionals, a member of the Board,<sup>8</sup> school administrators,<sup>9</sup> and members of the community. It reports directly to the Superintendent or designee. Individuals of this committee will participate in the development, implementation, periodic reviews, and updates of policy 6:50, *School Wellness*. 7 C.F.R. §210.31(d)(1).

#### Children’s Advocacy Center Communication Committee 10

This committee supports the implementation of the Alleged Incidents of Sexual Abuse; Investigations subhead of policy 5:90, *Abused and Neglected Child Reporting*. It includes the District Nondiscrimination Coordinator, District Safety Coordinator, and at least one representative from each of the following groups: District-level administrators, Building Principals, school personnel, and employees from the accredited Children’s Advocacy Center (CAC) that serves the District. The CAC Communication Committee reports directly to the Superintendent or designee. See policy 5:90, *Abused and Neglected Child Reporting*, and administrative procedure 5:90-AP, *Coordination with Children’s Advocacy Center*.

#### Educational Technology Committee 11

This committee supports the implementation of policy 7:345, *Use of Educational Technologies; Student Data Privacy and Security*. Committee members report directly to the Superintendent and may include the Head of Information Technology, District-level administrators, Building Principals, and teachers. See administrative procedure 7:345-AP, *Use of Educational Technologies; Student Data Privacy and Security*.

#### Remote Learning Committee 12

This committee develops a plan for instruction in grades pre-kindergarten through 12 and presents it to the Superintendent for approval who then presents it to the Board for adoption when the:

1. Governor declares a disaster due to a public health emergency (20 ILCS 3305/7); and
2. State Superintendent of Education declares a requirement for the District to implement and use Remote Learning Days (RLDs) or Blended Remote Learning Days (BRLDs).

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<sup>8</sup> See f/n 1 above. As much of the work of developing a plan to involve local stakeholders is administrative/staff work rather than governance work, the best practice is to have a wellness committee be an administrative committee, but consult the board attorney for guidance about the application of the OMA when three or more board members serve on this committee.

<sup>9</sup> If a board wants to comply with the U.S. Dept. of Agriculture’s encouragement to include Supplemental Nutrition Assistance Program Education (SNAP-ED) coordinators or educators in the group to provide input about the wellness policy, insert: “Supplemental Nutrition Assistance Program Education (SNAP-ED) coordinators, educators,” immediately before: “, and members of the community.”

<sup>10</sup> Establishing a Children’s Advocacy Center (CAC) communication committee is optional and only applies to school districts within a county served by an accredited CAC. See f/n 13 in sample policy 5:90, *Abused and Neglected Child Reporting*, and 5:90-AP, *Coordination with Children’s Advocacy Center*.

<sup>11</sup> Establishing an Educational Technology Committee is optional. The Student Online Personal Protection Act (SOPPA), amended by P.A. 101-516, eff. 7-1-21, centralizes decision making about what K-12 online sites, services, and applications will be used in schools by requiring boards to adopt a policy for designating which district employees are authorized to enter into agreements with *operators* who collect personally identifiable information about students. See policy 7:345, *Use of Educational Technologies; Student Data Privacy and Security*, and 7:345-AP, *Use of Educational Technologies; Student Data Privacy and Security*.

<sup>12</sup> Establishing this committee is optional. 105 ILCS 5/10-30, added by P.A. 101-643, requires “the district to adopt a remote and blended remote learning day plan approved by the district superintendent” when certain emergency conditions exist that are related to the management of a public health emergency under the Ill. Emergency Management Act. See f/n 1 in sample administrative procedure 6:20-AP, *Remote and/or Blended Remote Learning Day Plan(s)*. A committee can assist the superintendent to ensure all the statutory requirements for implementing, monitoring, and amending the plan are met.

After adoption of the plan by the Board, this committee supervises the implementation of 6:20-AP, *Remote and/or Blended Remote Learning Day Plan(s)*, will report directly to the Superintendent or designee, and exists until its function has been fulfilled.

## School Board

### Administrative Procedure - Guidelines for Investigating Complaints Filed Under Policy 2:260, Uniform Grievance Procedure, and Allegations of Misconduct

All complaints are to be investigated, even when the complainant requests that nothing be done or is anonymous.

#### **Step 1:** Before the Investigation

- A. School employees must immediately report a suspicion of child abuse or neglect to the Illinois Department of Child and Family Services in compliance with State law and policy 5:90, *Abused and Neglected Child Reporting*. Reporting is required before proceeding further with the investigation.
- B. Consistent with policy 2:260, *Uniform Grievance Procedure*, the Superintendent appoints at least one District Complaint Manager to administer the complaint process. If possible, the Superintendent will appoint two Complaint Managers, one of each gender. A Complaint Manager investigates: (1) complaints filed under policy 2:260, *Uniform Grievance Procedure*, and (2) allegations of employee misconduct (for student misconduct allegations, see **Step 1: C.**, below).
- C. The appropriate Building Principal or designee investigates all allegations of student misconduct.
- D. Anyone with a complaint or making an allegation of misconduct should be referred to a Complaint Manager of their choosing or a Building Principal without delay.
- E. A Complaint Manager or Building Principal (hereafter referred to as *investigator*) investigates all complaints or allegations of misconduct, except that, depending on the circumstances, the Superintendent or School Board may appoint a special investigator. Whenever the Superintendent deems necessary, an attorney may serve as a special investigator. See *considerations* under **Step 1: F.**, below. The investigator should not have any involvement with the complainant or the alleged wrongdoer outside of the investigation. The Superintendent ensures that investigators have sufficient authority and resources, including access to the Board Attorney.
- F. The Board Attorney provides information and advice regarding the investigation process, including without limitation:
  1. Whether the investigator's notes and investigation records (including, without limitation, any audio or video recordings, photographs, or electronic images) are education records for purposes of the federal Family Education Rights and Privacy Act (FERPA) and/or school student records as defined in the Ill. School Student Records Act (105 ILCS 10/, implemented by 23 Ill.Admin.Code §375.10)?
  2. Whether the investigator's notes and investigation records (including, without limitation, any audio or video recordings, photographs, or electronic images) are subject to disclosure pursuant to a Freedom of Information Act (FOIA) request? A PAC opinion, binding on the parties, found that a city's investigatory records of an employee were not private or adjudicatory records and must be disclosed pursuant to a FOIA request (PAC Opinion 13-110).

3. Whether to record conversations, and if so, how to obtain and document consent under the criminal eavesdropping statute? 720 ILCS 5/14-1 et seq. prohibits recording a conversation in which someone has a reasonable expectation of privacy without the consent of all parties.
4. Whether the Board Attorney should participate in or conduct the investigation? Whether an outside attorney should serve as a special investigator? Considerations include:
  - a. The U.S. Supreme Court has held that a private attorney temporarily retained by government to perform an investigation of an employee is entitled to seek qualified immunity from suit under Section 1983. Filarsky v. Delia, 566 U.S. 377 (2012).
  - b. The FOIA exemption for communications between a public body and its attorney is available in only limited situations. See PAC Opinion 14-02 interpreting 5 ILCS 140/7(m).
  - c. Documents prepared by attorneys conducting an investigation under the prospect of litigation will not be subject to discovery during a subsequent lawsuit. Sandra TE v. South Berwyn School Dist., 600 F. 3d 612 (7th Circuit 2010) (when attorneys, as attorneys, perform a factual investigation, their documents are protected by the attorney-client privilege and the work-product doctrine).
- G. The investigator provides a fair opportunity for both sides to be heard.
- H. The investigator begins by carefully reading the complaint, and reviewing applicable Board policies, administrative procedures and manuals, laws, regulations, and collective bargaining agreements.
- I. The investigator develops a plan, including:
  1. Witness list
  2. Order of interviews
  3. Questions for witnesses
  4. Physical evidence needed, e.g., records, documents, reports, photos, and letters
- J. The investigator makes logistical arrangements, e.g., determine interview location and the need for photographs and/or a video or audio recording.
- K. If the investigator encounters an issue with legal ramifications outside of his/her understanding, either before or during the investigation, he/she consults the Board Attorney before proceeding further on that legal issue, as well as any other areas of the investigation it impacts.

**Step 2: Investigator Responsibilities During the Investigation**

- A. Typically, the complainant is interviewed first, then the subject of the investigation, and, finally, all witnesses. The following applies to all interviews:
  1. When possible, ensures that statements are written, dated, and signed by the person being interviewed. Does not audio or video record statements without first obtaining the Board Attorney’s advice concerning legal prerequisites and treatment of the recordings.

2. Asks open-ended questions and does not suggest answers to questions.
  3. Records important details, essentially who, did what, to whom, when, and how done and, if appropriate, why?
  4. Is objective and nonjudgmental; does not prejudge an alleged wrongdoer's guilt. Never show outrage or dismay.
  5. Asks for the names of any other witnesses.
  6. Deals with emotional outbursts and anger by patiently explaining that details are needed for an accurate investigation.
  7. If a witness cannot be interviewed, records the reason.
- B. While confidentiality should be maintained, does not make promises of confidentiality or anonymity. Only the Superintendent may promise confidentiality or anonymity.
  - C. Keeps the Superintendent informed, but does not discuss the investigation with Board members in order to avoid the appearance of prejudice or unfairness.
  - D. Obtains copies of all relevant written or electronic communications. Originals are not needed, but records how to get them.
  - E. Collects physical evidence and photographs. Keeps a record of when, and where, or from whom physical evidence was gathered.
  - F. Documents any information about the interview that is relevant, or may become relevant, including the person's demeanor, gestures, accuracy of memory, and overall credibility.
  - G. During the investigation, keeps the investigation file separate from personnel or student record files. In a subsequent hearing, the opposing side may be able to view the investigation file. Records relating to a public body's adjudication (hearing) of employee grievances or disciplinary cases are exempt from FOIA public records requests under 5 ILCS 140/7(1)(n). However, the exemption does not extend to the final outcome of cases in which discipline is imposed.

**Step 3: Investigator's Actions Following the Investigation**

- A. Reports to the Superintendent or designee the investigation results, that is, the matters investigated, facts, conclusions, and recommendations. Prepares a written report if appropriate or requested.
  1. Answers who, what, when, where, why, and how.
  2. Bases factual findings on whether an incident's occurrence is more likely than not. Identifies as many factual findings as possible to support a conclusion. In a "he said, she said" scenario, a decision can be based on the credibility of the parties and witnesses. Includes in the report any findings that are inconclusive.
  3. Makes a determination regarding credibility of specific evidence, that is, how believable is it and why by explaining the basis for the determination. Credible evidence is capable of belief by a reasonable person.
- B. Is prepared to testify as to the fairness of the investigation, the authenticity of the evidence, and the contents of the investigation report.

## School Board

### Administrative Procedure – Nondiscrimination Coordinator and Complaint Manager 1

The Nondiscrimination Coordinator directs the District's compliance with federal and State laws governing discrimination and harassment in the workplace. The Complaint Manager administers the complaint process in Board policy 2:260, *Uniform Grievance Procedure*.

#### Superintendent Responsibilities

- A. Appoints individuals to serve as a Nondiscrimination Coordinator and Complaint Manager whose skill set suggest they could effectively fulfill the responsibilities identified in this procedure. One individual may serve in both capacities. The Superintendent may serve in either capacity. If possible, at least two Complaint Managers are appointed, one of each gender.
- B. Identifies individuals to supervise the performance of the Nondiscrimination Coordinator and Complaint Manager. The supervisor must understand the responsibilities of each role and have authority to take action. If possible, a different individual is assigned to supervise each role as a control measure, e.g., the Human Resources Manager supervises the Nondiscrimination Coordinator's performance and the Superintendent supervises the Complaint Manager's performance.
- C. Requires each Nondiscrimination Coordinator and/or Complaint Manager to possess or obtain:
  1. In-depth knowledge of Board policies as well as rules and conduct codes for students and employees.
  2. General knowledge of State and federal laws concerning equal employment and educational opportunities.
  3. Ability to:
    - a. Communicate effectively, both orally and in writing, and to establish rapport with others;
    - b. Plan, implement, evaluate, and report activities conducted;
    - c. Be both consistent and flexible as circumstances warrant; and
    - d. Analyze, clarify, and mediate differences of opinion.
- D. Facilitates the effective performance of the Nondiscrimination Coordinator and Complaint Managers by:
  1. Providing them with clear expectations concerning their roles and responsibilities.
  2. Communicating to employees and students their functions and responsibilities.
  3. Providing them resources and professional development opportunities.
  4. Providing them access to the Board Attorney for legal advice concerning their responsibilities.

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<sup>1</sup> This sample procedure must be customized to assure alignment with the district's policies, procedures, and practices. At least one employee must be designated to complete the coordinator/complaint manager responsibilities. 34 C.F.R. §106.8(a); see also 29 C.F.R. §1604.11. Even small districts should strongly consider having a coordinator/complaint manager of each gender – this is an important measure to uncover sexual harassment and minimize liability exposure.

### Nondiscrimination Coordinator Responsibilities

- A. Directs the District's efforts to provide equal employment and educational opportunities and prohibit the harassment of employees, students, and others. Manages compliance with Board policies 2:260, *Uniform Grievance Procedure*; 2:265, *Title IX Sexual Harassment Grievance Procedure*; 5:10, *Equal Employment Opportunity and Minority Recruitment*; 5:20, *Workplace Harassment Prohibited*; 5:90, *Abused and Neglected Child Reporting*; 7:10, *Equal Educational Opportunities*; 7:20, *Harassment of Students Prohibited*; 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*; and 7:185, *Teen Dating Violence Prohibited*.
- B. Develops and manages a program that will fully inform all employees and students about the District's commitment to equal employment and educational opportunities and a harassment-free environment. A component of this program is to inform employees and students about Board policies and administrative procedures.
- C. Provides ongoing consultation, technical assistance, and information services regarding compliance requirements and programs.
- D. Assists the Human Resources Manager with monitoring compliance with the recordkeeping and notice requirements contained in federal and State laws concerning discrimination and harassment in schools and the workplace.
- E. Maintains grievance and compliance records and files.
- F. Makes recommendations for action by appropriate decision makers.
- G. Establishes a positive climate for nondiscrimination compliance efforts. This effort includes encouraging individuals to come forward with suggestions and complaints.

### Complaint Manager Responsibilities

- A. Implements and administers the grievance process contained in Board policy 2:260, *Uniform Grievance Procedure*.
- B. Manages complaints alleging a violation of any Board policy or procedure listed in the next section.
- C. Assists complainants and potential complainants by, among other things, providing consultation and information to them.
- D. Attempts to resolve complaints without resorting to the formal grievance process provided in Board policy 2:260, *Uniform Grievance Procedure*.
- E. Informs potential complainants, complainants, and witnesses that the District prohibits any form of retaliation against anyone who, in good faith, brings a complaint or provides information to the individual investigating a complaint.
- F. Receives formal complaints and notifies relevant individuals of the ensuing process.
- G. Investigates complaints or appoints a qualified individual to undertake the investigation on his or her behalf. Each complaint shall be investigated promptly, thoroughly, and impartially, and as confidentially as possible.
- H. For each formal complaint, prepares a comprehensive written report describing the: (a) complaint, (b) investigation, and (c) findings and recommendations. Provides the report to the Superintendent or School Board if the Superintendent is an alleged responsible party.

- I. Receives a request from a complainant to appeal the Superintendent’s resolution of the complaint and promptly forwards all relevant material to the Board.
- J. Monitors compliance with all requirements and time-lines specified in Board policy 2:260, *Uniform Grievance Procedure*.

Applicable Policies and Procedures

**Section 2**

1. 2:260 Uniform Grievance Procedure
2. 2:260-AP2 Nondiscrimination Coordinator and Complaint Manager
3. 2:265 Title IX Sexual Harassment Grievance Procedure
4. 2:265-AP1 Title IX Sexual Harassment Response
5. 2:265-AP2 Formal Title IX Sexual Harassment Complaint Grievance Process

**Section 5**

1. 5:10 Equal Employment Opportunity and Minority Recruitment
2. 5:20 Workplace Harassment Prohibited
3. 5:20-AP Sample Questions and Considerations for Conducting the Internal Harassment in the Workplace Investigation

**Section 6**

1. 6:120 Education of Children with Disabilities
2. 6:140 Education of Homeless Children
3. 6:140-AP Education of Homeless Children
4. 6:170 Title I Programs
5. 6:260 Complaints About Curriculum, Instructional Materials, and Programs

**Section 7 - Students**

1. 7:10 Equal Educational Opportunities
2. 7:10-AP1 Accommodating Transgender Students or Gender Non-Conforming Students; Inclusion
3. 7:20 Harassment of Students Prohibited
4. 7:20-AP Harassment of Students Prohibited
5. 7:180 Prevention of and Response to Bullying, Intimidation, and Harassment
6. 7:190 Student Behavior

**Section 8 - Community Relations**

1. 8:70 Accommodating Individuals with Disabilities
2. 8:110 Public Suggestions and Concerns

Resources

U.S. Equal Employment Opportunity Commission, [www.eeoc.gov](http://www.eeoc.gov).

“Enforcement Guidance and Related Documents,” U.S. Equal Employment Opportunity Commission, [www.eeoc.gov/policy/guidance.html](http://www.eeoc.gov/policy/guidance.html).

“Sex Discrimination Frequently Asked Questions,” U.S. Dept. of Education, Office for Civil Rights, [www2.ed.gov/about/offices/list/ocr/frontpage/faq/sex.html](http://www2.ed.gov/about/offices/list/ocr/frontpage/faq/sex.html) .

“Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties,” Office for Civil Rights, [www.ed.gov/about/offices/list/ocr/docs/shguide.html](http://www.ed.gov/about/offices/list/ocr/docs/shguide.html).

## School Board

### Administrative Procedure – Title IX Sexual Harassment Response 1

The District responds to all reports of alleged sexual harassment in violation of Title IX regardless of whether the Complainant or Title IX Coordinator<sup>2</sup> pursues a Formal Title IX Sexual Harassment Complaint. Use this procedure to implement the District’s required response to reports of sexual harassment that may violate Title IX.

Responses must include: Training, Reporting, an Initial Meeting with the Complainant and Complaint Analysis, Consideration of a Formal Title IX Sexual Harassment Complaint, Consideration of Removal of the Respondent, and Recordkeeping. Procedures for each of these responses are outlined below.

Formal Title IX Sexual Harassment Complaints are processed using 2:265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*.

#### Glossary of Terms

Use exhibit 2:265-E, *Title IX Sexual Harassment Glossary of Terms*, in conjunction with this procedure.

#### Training

<b>Actor</b>	<b>Action</b>
Superintendent or Designee	<p>Ensures:</p> <ol style="list-style-type: none"> <li>1. All District employees<sup>3</sup> receive training on the definition of sexual harassment, the scope of the District’s education program or activity, all relevant District policies and procedures, and the necessity to promptly forward all reports of sexual harassment to the Title IX Coordinator.</li> <li>2. An individual designated by the District as a Title IX Coordinator, investigator, decision-maker (including the Initial Decision-Maker and Appellate Decision-Maker), or informal resolution process facilitator receives training on the definition of sexual harassment, the scope of the District’s education program or activity, how to conduct an investigation and grievance process (including hearings, appeals, and informal resolution processes, as applicable), and how to serve impartially.</li> <li>3. Title IX investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant</li> </ol>

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<sup>1</sup> Customize this sample Title IX sexual harassment response to ensure alignment with the district’s policies, procedures, and practices.

<sup>2</sup> At least one employee must be designated as the Title IX Coordinator. 34 C.F.R. §106.8(a).

<sup>3</sup> Though not required by Title IX regulations, “elementary and secondary schools may choose to train non-employees such as volunteers about how to report sexual harassment or require volunteers to do so...and such schools would not face expanded Title IX liability by doing so.” 85 Fed. Reg. 30119. Consult the board attorney about this issue.

Actor	Action
	<p>evidence.</p> <ol style="list-style-type: none"> <li>4. Title IX decision-makers receive training on issues of relevance of questions and evidence, including when questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant to the allegations.</li> <li>5. Public availability of all training materials for the Title IX Coordinator, investigators, decision-makers, and any informal resolution facilitators<sup>4</sup> by posting them on the District’s website, if any, or otherwise making them available upon request for inspection by members of the public. 34 C.F.R. §106.45(b)(10)(i)(D). See 2:250-E2, <i>Immediately Available District Public Records and Web-Posted Reports and Records</i>.</li> </ol>

Reporting

Actor	Action
All District employees	<p>Upon receiving knowledge of a sexual harassment allegation:</p> <ol style="list-style-type: none"> <li>1. Immediately report a suspicion of child abuse or neglect to the Ill. Dept. of Children and Family Services on its Child Abuse Hotline 1-800-25-Abuse (1-800-252-2873 (within Illinois); 1-217-524-2606 (outside Illinois); or 1-800-358-5117 (TTY)).</li> <li>2. Promptly forward all reports of sexual harassment to the Title IX Coordinator.</li> </ol> <p><b>Note:</b> Employees may receive knowledge of a sexual harassment allegation via an anonymous report. 85 Fed. Reg. 30132.</p>

Initial Meeting with the Complainant; Complaint Analysis

Actor	Action
Title IX Coordinator	<p>Upon receiving knowledge of a sexual harassment allegation, promptly contacts the Complainant to (34 C.F.R. §106.44(a)):</p> <ol style="list-style-type: none"> <li>1. Discuss the availability of supportive measures;</li> <li>2. Consider the Complainant’s wishes with respect to supportive measures;</li> </ol> <p><b>Note:</b> If a Complainant desires supportive measures, the District should keep the Complainant’s identity confidential (including from the Respondent) unless disclosing the Complainant’s</p>

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<sup>4</sup> Naming only the training provider and course does not meet this requirement. See 85 Fed. Reg. 30254. Consult the board attorney regarding this requirement; making training materials of third-party consultants publicly available may violate their intellectual property rights. The DOE acknowledged the potential for intellectual property violations, suggesting that districts either “secure permission from the consultant to publish the training materials” or create their own training materials. 85 Fed. Reg. 30412.

	<p>identity is necessary to provide a particular supportive measure, e.g., no contact order. 85 Fed. Reg. 30133.</p> <p>3. Inform the Complainant that supportive measures are available regardless of whether the Complainant files a Formal Title IX Sexual Harassment Complaint; and</p> <p>4. Explain to the Complainant the process for filing a Formal Title IX Sexual Harassment Complaint, including 2:265-AP2, <i>Formal Title IX Sexual Harassment Complaint Grievance Process</i>.</p> <p>Maintains the confidentiality of the sexual harassment allegation, to the greatest extent practicable.</p> <p>Analyzes the sexual harassment allegation under the following Board policies:</p> <ul style="list-style-type: none"> <li>•2:260, <i>Uniform Grievance Procedure</i></li> <li>•5:20, <i>Workplace Harassment Prohibited</i></li> <li>•5:90, <i>Abused and Neglected Child Reporting</i></li> <li>•5:120, <i>Employee Ethics; Conduct; and Conflict of Interest</i></li> <li>•7:20, <i>Harassment of Students Prohibited</i></li> <li>•7:180, <i>Prevention of and Response to Bullying, Intimidation, and Harassment</i></li> <li>•7:185, <i>Teen Dating Violence Prohibited</i></li> <li>•7:190, <i>Student Behavior</i></li> </ul> <p>Answers the following questions:</p> <ol style="list-style-type: none"> <li>1. Does another appropriate method exist for processing and reviewing the sexual harassment allegation?</li> <li>2. If yes, does that other method govern the District’s response in addition to or at the exclusion of policy 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i>?</li> </ol> <p>See 2:265-E, <i>Title IX Sexual Harassment Glossary of Terms</i>, for a discussion of sexual harassment governed by laws other than Title IX. Consult the board attorney for guidance.</p>
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**Consideration of a Formal Title IX Sexual Harassment Complaint**

A Formal Title IX Sexual Harassment Complaint may be filed by the Complainant with the Title IX Coordinator in person, by mail, or by email, by using the contact information required to be listed for the Title IX Coordinator under 34 C.F.R. §106.8(a), and by any additional method designated by the District. The Formal Title IX Sexual Harassment Complaint must contain the Complainant’s physical or digital signature, or otherwise indicate that the Complainant is the person filing it.

When the Title IX Coordinator signs<sup>5</sup> a Formal Title IX Sexual Harassment Complaint, the Title IX Coordinator is not a Complainant or otherwise a party under 2:265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*. 34 C.F.R. §106.30.

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<sup>5</sup> Additionally, a Title IX coordinator who *signs* (instead of *files*) a formal Title IX sexual harassment complaint does not create a conflict of interest with the *respondent*. 85 Fed. Reg. 30216.

Actor	Action
Title IX Coordinator	<p><b>When a Complainant Does NOT File a Formal Title IX Sexual Harassment Complaint:</b></p> <p>Assesses the sexual harassment allegation to determine whether the circumstances justify overriding the Complainant’s choice and signing a Formal Title IX Sexual Harassment Complaint.</p> <p>“If a grievance process is initiated against the wishes of the complainant, that decision should be reached thoughtfully and intentionally by the Title IX Coordinator [and] not [be] an automatic result that occurs any time [the District] has notice that a complainant was allegedly victimized by sexual harassment.” 85 Fed. Reg. 30131. Consult the board attorney for guidance.</p> <p>The District’s Every Student Succeeds Act (ESSA) obligations may require the Title IX Coordinator to sign a Formal Title IX Sexual Harassment Complaint initiating a grievance process against an employee-respondent, even when the Complainant does not wish to file a Formal Title IX Sexual Harassment Complaint;<sup>6</sup> e.g., the District wishes to investigate allegations in order to determine whether it has probable cause of employee sexual misconduct that affect its ESSA obligations.<sup>7</sup></p> <p><b>When a Complainant Files, or the Title IX Coordinator Signs, a Formal Title IX Sexual Harassment Complaint:</b></p> <p>Proceeds to and follows 2:265-AP2, <i>Formal Title IX Sexual Harassment Complaint Grievance Process</i>, in conjunction with any response required by this procedure.</p>

Consideration of Removal of the Respondent

Actor	Action
Title IX Coordinator	<p><b>Emergency Removal of Respondent-Student:</b></p> <p>If the Respondent is an identified student, considers whether the Respondent-student should be removed from the District’s education program or activity on an emergency basis in accordance with 34 C.F.R. §106.44(c).</p> <p>Before removing a Respondent-student on an emergency basis, conducts an individualized safety and risk analysis to determine whether removal is justified by an immediate threat to the physical health or safety of any student or other individual arising from the sexual harassment allegations. See 4:190-AP2, <i>Threat Assessment Team (TAT)</i>.</p>

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<sup>6</sup> 85 Fed. Reg. 30192; 20 U.S.C. §7926 (Every Student Succeeds Act).

<sup>7</sup> *Id.* See also *ESSA Dear Colleague Letter on ESEA Section 8546 Requirements*, DOE Office of Elementary and Secondary Education (June 27, 2018), at: [www2.ed.gov/policy/elsec/leg/essa/section8546dearcolleagueletter.pdf](http://www2.ed.gov/policy/elsec/leg/essa/section8546dearcolleagueletter.pdf).

	<p>If the Respondent-student is removed on an emergency basis:</p> <ol style="list-style-type: none"> <li>1. Provides the Respondent-student with written<sup>8</sup> notice and an opportunity to challenge the decision immediately<sup>9</sup> following the removal; and</li> <li>2. Follows requirements set forth in 105 ILCS 5/10-22.6.</li> </ol> <p><b>Administrative Leave for Respondent-Employee:</b></p> <p>If the Respondent is identified and is a non-student employee, in conjunction with the Assistant Superintendent for Human Resources, considers whether the Respondent-employee should be placed on administrative leave in accordance with 34 C.F.R. §106.44(d), relevant District policies and procedures, and any applicable collective bargaining agreements. See Board policies 5:240, <i>Suspension</i>, and 5:290, <i>Employment Termination and Suspensions</i>.</p> <p><b>Note:</b> While Title IX regulations do not impose a time limit on the duration of an emergency removal (85 Fed. Reg. 30230), time limits may apply based upon District policies and procedures, any applicable collective bargaining agreements, and other laws and regulations, e.g., the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, 105 ILCS 5/10-22.6.</p>
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Recordkeeping

Actor	Action
Title IX Coordinator	<p>Creates and maintains, for a period of at least seven years, records of any actions and supportive measures taken and provided in response to the report of sexual harassment, regardless of whether a Formal Title IX Sexual Harassment Complaint was filed. 34 C.F.R. §106.45(b)(10)(ii). Ensures that records document:</p> <ol style="list-style-type: none"> <li>1. Why the District’s response to the sexual harassment allegation was not deliberately indifferent, e.g., was deliberately concerned and appropriate;</li> <li>2. The supportive measures the District took to restore or preserve equal access to its education program or activity; and</li> <li>3. If the District did not provide Complainant with supportive measures, why not providing them was clearly reasonable in light of the circumstances. <u>Id.</u></li> </ol> <p>See 5:150, <i>Personnel Records</i>, and 5:150-AP, <i>Personnel Records</i>, addressing the identification, storage, and access to personnel records.</p> <p>See 7:340, <i>Student Records</i>, along with 7:340-AP1, <i>School Student Records</i>, and 7:340-AP2, <i>Storage and Destruction of School Student Records</i>, addressing the District’s legal obligations regarding the identification, confidentiality, safeguarding, access, and disposal of school student records.</p>

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<sup>8</sup> While Title IX regulations do not require written notice to the respondent (85 Fed. Reg. 30234), most attorneys agree providing written notice is a best practice. If the district does not want to provide written notice, delete “written.”

<sup>9</sup> *Immediately* is fact-specific, and is generally understood in the context of a legal process to mean occurring without delay, as soon as possible, or given the circumstances.” 85 Fed. Reg. 30229.

## School Board

### Administrative Procedure – Formal Title IX Sexual Harassment Complaint Grievance Process 1

This procedure implements the District’s investigation and response process to a Formal Title IX Sexual Harassment Complaint after a decision to pursue one has been made using 2:265-AP1, *Title IX Sexual Harassment Response*. See 34 C.F.R. Part 106. Use this procedure to comply with 34 C.F.R. §106.45, *Grievance process for formal complaints of sexual harassment*. Use exhibit 2:265-E, *Title IX Sexual Harassment Glossary of Terms*, in conjunction with this procedure.

This procedure contains a **Table of Contents** and lettered **Sections**.

#### Table of Contents

- A. Overview of 34 C.F.R. §106.45 Grievance Process
- B. Notice of Allegations
- C. Consolidation of Formal Title IX Sexual Harassment Complaints
- D. Dismissal of Formal Title IX Sexual Harassment Complaint
- E. Informal Resolution of Formal Title IX Sexual Harassment Complaint
- F. Investigation of Formal Title IX Sexual Harassment Complaint
- G. Determination Regarding Responsibility; Remedies
- H. Appeals
- I. Recordkeeping

#### Sections

##### **A. Overview of 34 C.F.R. §106.45 Grievance Process**

The District treats Complainants and Respondents engaging in the Formal Title IX Sexual Harassment Complaint Grievance Process (Grievance Process) equitably and adheres to the following guidelines:

1. Presumption of Non-Responsibility. The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Grievance Process. 34 C.F.R. §106.45(b)(1)(iv).
2. Grievance Process Required Before Imposing Sanctions. The District complies with this Grievance Process before imposing any disciplinary sanctions or other actions against a Respondent. 34 C.F.R. §106.45(b)(1)(i).
3. Supportive Measures.<sup>2</sup> The District may provide counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work<sup>3</sup> locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures to Complainants and/or Respondents. 34 C.F.R. §106.45(b)(1)(ix). See 2:265-E, *Title IX Sexual Harassment Glossary of Terms*, for the definition of *supportive measures*.

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<sup>1</sup> This sample Title IX sexual harassment grievance process must be customized to assure alignment with the district’s policies, procedures, and practices.

<sup>2</sup> Customize this list to reflect locally available supportive measures.

<sup>3</sup> For districts with residential facilities, insert “or housing” here.

4. Evidence Considered. All relevant evidence – including both inculpatory and exculpatory evidence – is objectively evaluated. Credibility determinations are not based on a person’s status as a Complainant, Respondent, or witness. The District does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, e.g., attorney-client privilege, doctor-patient privilege, or spousal privilege, unless the person holding such privilege has waived the privilege. 34 C.F.R. §106.45(b)(1)(ii) and (x).
5. Standard of Proof. All determinations are based upon the *preponderance of evidence* standard. 34 C.F.R. §106.45(b)(1)(vii). <sup>4</sup>
6. Right to Appeal. Each party may appeal any determination as described in **Section H. Appeals**, below. 34 C.F.R. §106.45(b)(1)(viii); 34 C.F.R. §106.45(b)(8)(i).
7. Timeline. This Grievance Process is concluded within 90 school business days<sup>5</sup> after receipt of a Formal Title IX Sexual Harassment Complaint. As used in this Grievance Process, *school business days* means days on which the District’s main office is open. For good cause, this Grievance Process may be temporarily delayed or extended for a limited time only if the Complainant and the Respondent are provided written notice of the delay/extension and the reasons for it. Good cause may include: the absence of a party, a party’s advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. 34 C.F.R. §106.45(b)(1)(v).
8. Disciplinary Sanctions and Remedies. Following a determination of responsibility, the District may implement recommended disciplinary sanctions, up to and including: discharge, for a Respondent-employee; expulsion, for a Respondent-student; and termination of any existing contracts and/or prohibition from District property and activities, for a third-party Respondent. 34 C.F.R. §106.45(b)(1)(vi).
  1. Where a determination of responsibility for sexual harassment is made against a Respondent, remedies designed to restore or preserve equal access to the District’s education program or activities are provided to a Complainant. Remedies may include the same individualized services described in Supportive Measures, above. Unlike Supportive Measures, however, remedies may be disciplinary or punitive, and they may burden the Respondent. 34 C.F.R. §106.45(b)(1)(i). The District may implement remedies up to and including the recommended disciplinary sanctions described above. 34 C.F.R. §106.45(b)(1)(vi).
9. Training Requirements. The District ensures certain training requirements are met. At a minimum, any individual designated by the District as a Title IX Coordinator, investigator, decision-maker (including the Initial Decision-Maker and Appellate Decision-Maker), or any person designated by the District to facilitate an informal resolution process will:

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<sup>4</sup> See f/n 26 in sample policy 2:265, *Title IX Sexual Harassment Grievance Procedure*. Ensure the same standard of proof used in that policy is used here.

<sup>5</sup> The method of calculation may be customized locally. This sample uses school business days. If the district uses a different calculation method, e.g., calendar days, insert it. 85 Fed. Reg. 30188. The formal Title IX sexual harassment complaint grievance process must include “reasonably prompt time frames for [their] conclusion, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if the recipient offers informal resolution processes.” 34 C.F.R. §106.45(b)(1)(v). **Consult with the board attorney to determine the most appropriate timeline for the district.**

- a. Not have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent; and
- b. Receive training on the definition of sexual harassment, the scope of the District's education program or activity, how to conduct an investigation and Grievance Process (including hearings, appeals, and informal resolution processes, as applicable), and how to serve impartially (including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias).

Any individual designated by the District as an investigator receives training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Any individual designated by the District as a decision-maker receives training on issues of relevance of questions and evidence, including training about when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant to the allegations. 34 C.F.R. §106.45(b)(1)(iii).

## **B. Notice of Allegations**

Upon signing a Formal Title IX Sexual Harassment Complaint or receiving a Formal Title IX Sexual Harassment Complaint filed by a Complainant, the Title IX Coordinator:

1. Provides written notice to all known parties of the following information: <sup>6</sup>
  - a. This procedure 2:265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*, including any available informal resolution process.
  - b. The allegations of sexual harassment potentially constituting Title IX sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Title IX sexual harassment, and the date and location of the alleged incident, if known.
  - c. That the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Grievance Process.
  - d. That all parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
  - e. That all parties may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Title IX Sexual Harassment Complaint (including evidence the District does not intend to rely on in determining responsibility, and inculpatory or exculpatory evidence) so that each party can meaningfully respond to the evidence before the investigation concludes.
  - f. That the District's behavior policies prohibit knowingly making false statements or knowingly submitting false information during the Grievance Process.
2. Provides a second written notice to all known parties if, during the investigation, the District decides to investigate allegations not included in the first written notice.

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<sup>6</sup> 34 C.F.R. §106.45(b)(2).

3. Decides whether to personally conduct the investigation or appoint a qualified investigator. If the Title IX Coordinator appoints a qualified investigator, provides written notice of the appointment to the Investigator.<sup>7</sup>

#### When the Complainant's Identity Is Unknown

If the Complainant's identity is unknown, e.g., where a third party reports that a Complainant was victimized by sexual harassment but does not reveal the Complainant's identity, or a Complainant reports anonymously, the Grievance Process may proceed if the Title IX Coordinator determines it is necessary to sign a Formal Title IX Sexual Harassment Complaint, even though the written notice provided in **Section B.1**, above, will not include the Complainant's identity. 85 Fed. Reg. 30133. If the Complainant's identity is later discovered, the Title IX Coordinator provides another written notice to the parties. *Id.* at f/n 594.

#### When the Respondent's Identity is Unknown

If the Respondent's identity is unknown, e.g. where a Complainant does not know the Respondent's identity, the Grievance Process shall proceed because an investigation might reveal the Respondent's identity, even though the written notice provided in **Section B.1**, above, will not include the Respondent's identity. If the Respondent's identity is later discovered, the Title IX Coordinator provides another written notice to the parties. 85 Fed. Reg. 30138.

### **C. Consolidation of Formal Title IX Sexual Harassment Complaints**

When the allegations of sexual harassment arise out of the same facts or circumstances, the Title IX Coordinator may consolidate Formal Title IX Sexual Harassment Complaints alleging sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party. 34 C.F.R. §106.45(b)(4).

### **D. Dismissal of Formal Title IX Sexual Harassment Complaint**

After an investigation, if the Title IX Coordinator determines that the conduct alleged would not constitute Title IX sexual harassment even if proved, did not occur in the District's education program or activity, or did not occur against a person in the United States, then the Title IX Coordinator dismisses the Formal Title IX Sexual Harassment Complaint with regard to that conduct for purposes of Title IX sexual harassment only. Such a dismissal does not preclude action under another applicable District policy or procedure.

At any time during the investigation, the Title IX Coordinator may dismiss the Formal Title IX Sexual Harassment Complaint, or any allegations contained in it, if any of the following occur:

1. The Complainant notifies the Title IX Coordinator in writing that he or she wants to withdraw the Formal Title IX Sexual Harassment Complaint or any allegations contained in it;
2. The Respondent is no longer enrolled or employed by the District; or
3. Specific circumstances prevent the District from gathering enough evidence to reach a determination as to the Formal Title IX Sexual Harassment Complaint or allegations in it.

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<sup>7</sup> Optional. Many attorneys agree written notice is a best practice. Delete this sentence if the district will not provide written notice of the appointment to the Investigator.

Upon dismissal, the Title IX Coordinator promptly sends simultaneous written notice to the parties of the dismissal, reason(s) for the dismissal, and the right to appeal the dismissal. 34 C.F.R. §106.45(b)(3).

**E. Informal Resolution of Formal Title IX Sexual Harassment Complaint <sup>8</sup>**

At any time prior to reaching a determination regarding responsibility, the District may facilitate informal resolution of a Formal Title IX Sexual Harassment Complaint, such as mediation, that does not involve a full investigation and adjudication, provided that the District (34 C.F.R. §106.45(b)(9)):

1. Provides the parties written notice disclosing:
  - a. The allegations;
  - b. Informal resolution process requirements, including the circumstances where parties are precluded from resuming a Formal Title IX Sexual Harassment Complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the Grievance Process for the Formal Title IX Sexual Harassment Complaint; and
  - c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
2. Obtains the parties’ voluntary, written consent to the informal resolution process; and
3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

**F. Investigation of Formal Title IX Sexual Harassment Complaint**

The Investigator or Title IX Coordinator follows these steps when investigating the allegations in a Formal Title IX Sexual Harassment Complaint.

Actor	Action
Investigator or Title IX Coordinator	1. During an investigation and throughout the Grievance Process (34 C.F.R. §106.45(b)(5)): <ol style="list-style-type: none"> <li>1. Ensures that the burden of proof and burden of gathering evidence rest on the District and not the parties involved. 34 C.F.R. §106.45(b)(5)(i).</li> <li>2. Provides an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. 34 C.F.R. §106.45(b)(5)(ii).</li> <li>3. Refrains from restricting the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. 34 C.F.R. §106.45(b)(5)(iii).</li> <li>4. Provides the parties the same opportunities to have others present</li> </ol>

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<sup>8</sup> Informal resolution may be offered only if a Formal Title IX Sexual Harassment Complaint is filed. 34 C.F.R. §106.45(b)(9).

Actor	Action
	<p>during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice (who may, but is not required to, be an attorney). 34 C.F.R. §106.45(b)(5)(iv).<sup>9</sup></p> <ol style="list-style-type: none"> <li>5. Provides, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate. 34 C.F.R. §106.45(b)(5)(v).</li> <li>6. Provides the parties an equal opportunity to inspect and review any evidence obtained during the investigation that is directly related to the Formal Title IX Sexual Harassment Complaint’s allegations (including evidence the District does not intend to rely on in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence). 34 C.F.R. §106.45(b)(5)(vi).</li> <li>7. Prior to the completion of the investigative report, sends to each party and the party’s advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy and provides each party with 10 school business days to submit a written response. <u>Id.</u></li> <li>8. Upon receipt of a party’s written response to the evidence, reviews the response and sends a copy to the other party in an electronic format or a hard copy.</li> </ol> <p>Prepares an investigative report summarizing all relevant evidence. 34 C.F.R. §106.45(b)(5)(vii).</p> <p>Sends to each party and the party’s advisor, if any, the investigative report in an electronic format or hard copy, for their review and written response. <u>Id.</u></p> <p style="padding-left: 40px;"><b>Note:</b> This step must occur at least 10 school business days before the Initial Decision-Maker’s determination regarding responsibility. <u>Id.</u></p> <p>At the conclusion of the investigation, sends to the Initial Decision-Maker in an electronic format or hard copy:</p> <ol style="list-style-type: none"> <li>1. The Formal Title IX Sexual Harassment Complaint;</li> <li>2. All evidence gathered during the investigation that is directly related to the Formal Title IX Sexual Harassment Complaint’s allegations (including evidence the District does not intend to rely on in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence); and</li> </ol>

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<sup>9</sup> While the district cannot limit the choice or presence of an advisor for any party, it can restrict the extent to which the advisor may participate in the proceedings if its restrictions apply equally to both parties. 34 C.F.R. §106.45(b)(5)(iv).

Actor	Action
	3. The investigative report.

**G. Determination Regarding Responsibility; Remedies**

Initial Decision-Maker	<p>The Superintendent or designee acts as the Initial Decision-Maker for all Formal Title IX Sexual Harassment Complaints, unless it involves allegations against the Superintendent or designee or against a Board Member. In such cases, an outside consultant, e.g., an attorney or retired school administrator, acts as the Initial Decision-Maker.</p> <p><b>Reviews Investigative Report and Corresponding Materials; Opportunity for Parties to Submit Questions</b></p> <p>Reviews all materials received from the Investigator.</p> <p>Provides the parties with written notice of the opportunity to submit, through the Initial Decision-Maker, written, relevant questions that a party wants asked of any party or witness. 34 C.F.R. §106.45(b)(6)(ii). In the written notice, informs the parties that:</p> <ol style="list-style-type: none"> <li>1. Questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant, unless they: are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent. <u>Id.</u></li> <li>2. Any questions must be submitted to the Initial Decision-Maker within five (5) school business days. <b>10</b></li> </ol> <p>Reviews any questions received from each party for submission to any party or witness.</p> <p>Determines which questions to forward to any party or witness for answers. If any proposed questions are excluded as not relevant, provides the proposing party with a written explanation of the decision to exclude a question as not relevant. <u>Id.</u></p> <p>Forwards relevant questions to any party or witness with instructions to submit answers to the Initial Decision-Maker within five (5) school business days. <b>11</b></p> <p>Upon receipt of answers to questions, provides each party with copies of them. <u>Id.</u></p> <p>Provides the parties with written notice of the opportunity to submit, through the Initial Decision-Maker, additional, limited follow-up written, questions that a party wants asked of any party or witness. <u>Id.</u> Informs the parties that any questions must be submitted to the Initial</p>
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**10** See f/n 5, above.

**11** Id.

	<p>Decision-Maker within five (5) school business days. <sup>12</sup></p> <p>Upon receipt of answers to the additional questions, provides each party with copies of them. <u>Id.</u></p> <p><b>Determination and Written Notice of Determination</b></p> <p>Basing all decisions on the <i>preponderance of evidence</i><sup>13</sup> standard, simultaneously issues to the parties a written determination regarding responsibility that (34 C.F.R. §106.45(b)(7)(ii)):</p> <ol style="list-style-type: none"> <li>1. Identifies the allegations potentially constituting Title IX sexual harassment;</li> <li>2. Describes the procedural steps taken from the receipt of the Formal Title IX Sexual Harassment Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;</li> <li>3. Contains findings of fact supporting the determination;</li> <li>4. Contains conclusions regarding the application of the District’s policies and procedures to the facts;</li> <li>5. Contains a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any recommended<sup>14</sup> disciplinary sanctions for the District to impose on the Respondent, and whether remedies designed to restore or preserve equal access to the District’s education program or activity will be provided by the District to the Complainant; and</li> <li>6. Outlines the District’s procedures and permissible bases for the Complainant and Respondent to appeal.</li> </ol>
Title IX Coordinator	Implements any remedies for the Complainant as ordered by the Initial Decision-Maker. 34 C.F.R. §106.45(b)(7)(iv).

## H. Appeals

The determination regarding responsibility becomes final either on the date that the Appellate Decision-Maker provides the parties with the written decision of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely. 34 C.F.R. §106.45(b)(7)(iii).

## I. Recordkeeping

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<sup>12</sup> Id.

<sup>13</sup> See f/n 4, above.

<sup>14</sup> 34 C.F.R. §106.45(b)(7)(ii)(E). This sample procedure uses the phrase “recommended disciplinary sanctions” because oftentimes, a district cannot immediately *impose* disciplinary sanctions – it can instead recommend disciplinary sanctions, e.g., a recommendation for student expulsion or teacher dismissal, which may only be imposed after each party exhausts their due process rights.

Actor	Action
Title IX Coordinator	<p>Creates and maintains, for a period of at least seven (7) years, records of (34 C.F.R. §106.45(b)(10)(i):</p> <ol style="list-style-type: none"> <li>1. The sexual harassment investigation, including any determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore/preserve equal access to the District’s education program or activity;</li> <li>2. Any appeal and its result;</li> <li>3. Any informal resolution and its result; and</li> <li>4. All materials used to train the Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution.</li> </ol> <p>See 5:150, <i>Personnel Records</i>, and 5:150-AP, <i>Personnel Records</i>, addressing the identification, storage, and access to personnel records.</p> <p>See 7:340, <i>Student Records</i>, along with 7:340-AP1, <i>School Student Records</i>, and 7:340-AP2, <i>Storage and Destruction of School Student Records</i>, addressing the District’s legal obligations regarding the identification, confidentiality, safeguarding, access, and disposal of school student records.</p>

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  - 4:170-AP1 Administrative Procedure - Comprehensive Safety and Security Plan
    - 4:170-AP1, E1 Exhibit - Accident or Injury Form
    - 4:170-AP1, E2 Exhibit - Memo to Staff Members Regarding Contacts by Media About a Crisis
  - 4:170-AP2 Administrative Procedure - Routine Communications Concerning Safety and Security
    - 4:170-AP2, E1 Exhibit - Letter to Parents/Guardians Regarding Student Safety
    - 4:170-AP2, E2 Exhibit - Letter to Parents/Guardians Regarding the Dangers of Underage Drinking
    - 4:170-AP2, E3 Exhibit - Letter to Parents/Guardians About Disruptive Social Media Apps; Dangers

- 4:170-AP2, E4 Exhibit - Letter to Parents/Guardians About Preventing and Reducing Incidences of Sexting
- 4:170-AP3 **OPEN**
- 4:170-AP4 Administrative Procedure - National Terrorism Advisory System
- 4:170-AP5 Administrative Procedure - Unsafe School Choice Option
- 4:170-AP6 Administrative Procedure - Plan for Responding to a Medical Emergency at a Physical Fitness Facility with an AED
- 4:170-AP6, E1 Exhibit - School Staff AED Notification Letter
- 4:170-AP6, E2 Exhibit - Notification to Staff and Parents/Guardians of CPR and AED Video
- 4:170-AP7 **OPEN**
- 4:170-AP7, E1 **OPEN**
- 4:170-AP7, E2 **OPEN**
- 4:170-AP7, E3 **OPEN**
- 4:170-AP8 Administrative Procedure - Movable Soccer Goal Safety
- 4:175 Convicted Child Sex Offender; Screening; Notifications
  - 4:175-AP1 Administrative Procedure - Criminal Offender Notification Laws; Screening
  - 4:175-AP1, E1 Exhibit - Informing Parents/Guardians About Offender Community Notification Laws
- 4:180 Pandemic Preparedness; Management; and Recovery
  - 4:180-AP1 Administrative Procedure - School Action Steps for Pandemic Influenza or Other Virus/Disease
  - 4:180-AP2 Administrative Procedure - Pandemic Influenza Surveillance and Reporting
  - 4:180-AP3 Administrative Procedure - Grant Flexibility; Payment of Employee Salaries During a Pandemic
- 4:190 Targeted School Violence Prevention Program
  - 4:190-AP1 Administrative Procedure - Targeted School Violence Prevention Program
  - 4:190-AP1, E1 Exhibit - Targeted School Violence Prevention Program Resources
  - 4:190-AP2 Administrative Procedure - Threat Assessment Team (TAT)

4:190-AP2, E1	Exhibit - Principles of Threat Assessment
4:190-AP2, E2	Exhibit - Threat Assessment Documentation
4:190-AP2, E3	Exhibit - Threat Assessment Key Areas and Questions; Examples
4:190-AP2, E4	Exhibit - Responding to Types of Threats
4:190-AP2, E5	Exhibit - Threat Assessment Case Management Strategies
4:190-AP2, E6	Exhibit - Targeted School Violence Prevention and Threat Assessment Education

## Operational Services

### Administrative Procedure - School Action Steps for Pandemic Influenza or Other Virus/Disease

Building a strong relationship with the local health department and emergency medical agencies is critical for developing a meaningful school action plan to address pandemic influenza (flu) or other virus/disease. The key planning activities in this checklist should build upon the School District’s existing contingency plans.

The following is a list of important step-by-step actions school officials should take before a pandemic flu or other virus/disease outbreak. This list needs to be repeated when an outbreak has several cycles or waves.

#### Prior to Outbreak/Preparedness and Planning Phase

<b>Actor</b>	<b>Action</b>
Superintendent or designee	Identify Pandemic Planning Team to operate as a Superintendent Committee that includes one or two School Board members, administrators, and staff members.
Superintendent and School Board	Identify, modify, and monitor relevant policies that a pandemic may possibly affect, including but not limited to: <ul style="list-style-type: none"> <li>1:20, <i>District Organization, Operations, and Cooperative Agreements</i></li> <li>2:20, <i>Powers and Duties of the School Board; Indemnification</i></li> <li>2:70, <i>Vacancies on the School Board - Filling Vacancies</i></li> <li>2:200, <i>Types of School Board Meetings</i></li> <li>2:220, <i>School Board Meeting Procedure</i></li> <li>3:70, <i>Succession of Authority</i></li> <li>4:130, <i>Free and Reduced-Price Food Services</i></li> <li>4:180, <i>Pandemic Preparedness; Management; and Recovery</i></li> <li>5:35, <i>Compliance with the Fair Labor Standards Act</i></li> <li>5:40, <i>Communicable and Chronic Infectious Disease</i></li> <li>5:180, <i>Temporary Illness or Incapacity</i></li> <li>5:185, <i>Family and Medical Leave</i></li> <li>5:200, <i>Terms and Conditions of Employment and Dismissal</i></li> <li>5:270, <i>Employment At-will, Compensation, and Assignment</i></li> <li>5:300, <i>Schedules and Employment Year</i></li> <li>5:330, <i>Sick Days, Vacation, Holidays and Leaves</i></li> <li>6:20, <i>School Year Calendar and Day</i></li> <li>6:60, <i>Curriculum Content</i></li> <li>6:120, <i>Education of Children with Disabilities</i></li> <li>6:150, <i>Home and Hospital Instruction</i></li> <li>7:70, <i>Attendance and Truancy</i></li> <li>7:280, <i>Communicable and Chronic Infectious Disease</i></li> <li>8:100, <i>Relations with Other Organizations and Agencies</i></li> </ul>

Actor	Action
<p>Superintendent or designee and Pandemic Planning Team</p>	<p>Begin review and use of the following publications:</p> <p>For flu season:  <b>School District (K-12) Pandemic Influenza Planning Checklist</b> at: <b>1</b>  <a href="http://www.idph.state.il.us/pandemic_flu/school_guide/sppg_checklist.pdf">www.idph.state.il.us/pandemic_flu/school_guide/sppg_checklist.pdf</a>.</p> <p>For COVID-19:  <b>Interim Guidance for Administrators of US K-12 Schools and Child Care Programs</b> at:  <a href="http://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/guidance-for-schools.html">www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/guidance-for-schools.html</a>.</p> <p><b>Pandemic COVID-19 Checklist: K-12 School Administrators</b> at:  <a href="http://www.dph.illinois.gov/sites/default/files/COVID-19%20Schools%20Checklist%20030420.pdf">www.dph.illinois.gov/sites/default/files/COVID-19%20Schools%20Checklist%20030420.pdf</a>.</p> <p><b>IDPH’s How should schools prepare for, and respond to, COVID-19? School Decision Tree</b> at:  <a href="http://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/guidance-for-schools.html#schools-prepare">www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/guidance-for-schools.html#schools-prepare</a>.</p> <p>Review and ensure a succession of authority plan exists in case Board members, administrators, and/or others are unable to fulfill duties during the pandemic. Succession plans for Board members unable to fulfill duties during the pandemic may create a vacancy on the Board. Discuss the issues of succession plans for elected officials with the Board Attorney. See Board policies 2:70, <i>Vacancies on the School Board - Filling Vacancies</i>, and 3:70, <i>Succession of Authority</i>.</p> <p>Work with local health and emergency preparedness officials. They may want to use the schools to disseminate information to families about a crisis.</p> <p>Train employees about FLSA, overtime, and recordkeeping requirements necessary to work during a pandemic while the District is closed.</p> <p>Open communications with employee unions regarding “wages, hours and terms and conditions of employment” during a pandemic. <b>2</b></p> <p>Address policies for employee absenteeism, identifying critical job functions, plans for alternate coverage, and return-to-work policies as</p>

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**1** This comprehensive checklist was prepared by the U. S. Department of Health and Human Services (HHS) and the Centers for Disease Control and Prevention (CDC), a major operating component of HHS. School districts play an integral role in protecting the health and safety of their staff, students and families. The HHS and CDC developed this checklist to assist school districts in developing and/or improving plans to prepare for and respond to a flu pandemic.

**2** During the 2020 COVID-19 pandemic, the Governor and the Ill. State Board of Education (ISBE) issued many directives and/or guidance. See the Ill. Gov., ISBE, Ill. Association of School Admin., Ill. Principals Assoc., Ill. Ed. Assoc., and Ill. Fed. of Teachers Joint Statement at: [www.isbe.net/Documents/Joint-Statement-Updated%203-27-20.pdf](http://www.isbe.net/Documents/Joint-Statement-Updated%203-27-20.pdf).

Actor	Action
	<p>well as disease symptom recognition. <sup>3</sup></p> <p>Ensure resources for nurses and staff to receive training and personal protective equipment to identify flu or other pandemic disease symptoms. For flu reporting, see 4:180-AP2, <i>Pandemic Influenza Surveillance and Reporting</i>. Remember that a person who is infected does not show symptoms right away, but children becoming ill may show different behavior than usual, such as eating less or being irritable. Knowing the differences between seasonal and pandemic flu is also critical to pandemic preparedness. A fact sheet is available at: <a href="http://www.cdc.gov/flu/pandemic-resources/basics/about.html">www.cdc.gov/flu/pandemic-resources/basics/about.html</a>.</p> <p>Train staff to protect themselves from occupational exposure to flu or other disease through workplace <i>social distancing</i> based upon the Occupational Safety and Health Administration’s (OSHA), <b>Guidance on Preparing Workplaces for an Influenza Pandemic</b>,<sup>4</sup> which may be found at: <a href="http://www.osha.gov/Publications/influenza_pandemic.html">www.osha.gov/Publications/influenza_pandemic.html</a>.</p> <p>Ensure that <b>Standard Surveillance</b> disease recognition procedures are in place and implemented. See 4:180-AP2, <i>Pandemic Influenza Surveillance and Reporting</i>.</p> <p>For flu, encourage the use of simple non-medical ways to reduce the spread of flu by <i>cough and sneeze etiquette</i> and cleansing of hands and work areas. For COVID-19, see the <b>Interim Guidance for Administrators of US K-12 Schools and Child Care Programs</b>, <i>When there is no community transmission (preparedness phase)</i> section at: <a href="http://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/guidance-for-schools.html#schools-prepare">www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/guidance-for-schools.html#schools-prepare</a>.</p> <p>Decide to what extent the District will encourage or require students and staff to stay home when they are mildly ill. Some parents/guardians may need to be more cautious in keeping their students out of school.</p> <p>Identify students who have a greater risk of infection and are most vulnerable to serious illness. Review their health needs and encourage those families to talk with their health care providers.</p> <p>Assess nutritional assistance needs for students who receive free and</p>

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<sup>3</sup> This is an item on which collective bargaining may be required. Any matter that impacts upon wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the matter involves an inherent managerial right.

During the 2020 COVID-19 pandemic, the Governor and ISBE issued many directives and/or guidance about employees. See the Ill. Gov. Pritzker, ISBE, Ill. Association of School Admin., Ill. Principals’ Assoc., Ill. Ed. Assoc., and Ill. Fed. of Teachers Joint Statement cited in the procedure above and the IDPH-ISBE joint workplace health and safety guidance at: [www.dph.illinois.gov/covid19/community-guidance/workplace-health-and-safety-guidance](http://www.dph.illinois.gov/covid19/community-guidance/workplace-health-and-safety-guidance).

<sup>4</sup> U.S. Department of Labor, Occupational Safety and Health Administration, OSHA 3327-02N, 2007. The handbook provides a general overview of pandemic preparedness related to OSHA standards. It does not alter or determine compliance responsibilities in OSHA standards or the Occupational Safety and Health Act of 1970. Because interpretations and enforcement policy may change over time, consult current OSHA administrative interpretations and decisions by the Occupational Safety and Health Review Commission for additional guidance on OSHA compliance requirements.

Actor	Action
	<p>reduced-price food programs. For more information about providing continuity of meal distribution for students eligible for reimbursable meals, see Q &amp; A #5 at: <a href="http://www.isbe.net/Documents/usda_qa072309.pdf">www.isbe.net/Documents/usda_qa072309.pdf</a> and ISBE’s nutrition page specific to managing COVID-19 issues at: <a href="http://www.isbe.net/nutrition">www.isbe.net/nutrition</a>.</p> <p>Through consultation with the Regional Office of Education or Intermediate Service Center and local authorities, develop strategies for remote learning through collaborative agreements (television or other local cable stations, teleconferencing, electronic instructional resources, etc.). 105 ILCS 5/10-30, added by P.A. 101-643 and see 6:20-AP, <i>Remote and/or Blended Remote Learning Day Plan(s)</i>.</p> <p>Educate staff, students, and parents/guardians about the differences between the various types of flu, other viruses, and/or other diseases, best hygienic practices to prevent them, and what could occur in a pandemic. See <b>Sample Parent Letter #1, Preparation and Planning</b> at: <a href="http://www.idph.state.il.us/pandemic_flu/school_guide/sppg_ltr_preparation.pdf">www.idph.state.il.us/pandemic_flu/school_guide/sppg_ltr_preparation.pdf</a>.</p> <p>Also see, <b>Preparing for the Flu</b> at: <a href="http://www.cdc.gov/h1n1flu/schools/toolkit/pdf/schoolflutoolkit.pdf">www.cdc.gov/h1n1flu/schools/toolkit/pdf/schoolflutoolkit.pdf</a> and <a href="http://www.dph.illinois.gov/topics-services/diseases-and-conditions/influenza#publications-publications-influenza">www.dph.illinois.gov/topics-services/diseases-and-conditions/influenza#publications-publications-influenza</a>.</p> <p>Review Sections IV and V of <b>School Guidance During an Influenza Pandemic</b> at: <a href="http://www.idph.state.il.us/pandemic_flu/schoolguide.htm">www.idph.state.il.us/pandemic_flu/schoolguide.htm</a>.</p>

**Outbreak of Flu or Other Virus/Disease**

Actor	Action
Superintendent or designee	<p>Depending upon the type of virus/disease:</p> <p>For COVID-19, review the <i>Interim Guidance for Administrators of US K-12 Schools and Child Care Programs</i> at: <a href="http://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/guidance-for-schools.html">www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/guidance-for-schools.html</a>.</p> <p>For flu, consider issuing <b>Sample Parent Letter # 2, First Bird Case</b> at: <a href="http://www.idph.state.il.us/pandemic_flu/school_guide/sppg_ltr_bird.pdf">www.idph.state.il.us/pandemic_flu/school_guide/sppg_ltr_bird.pdf</a>.</p> <p>Begin <b>Heightened Surveillance</b> responses. See 4:180-AP2, <i>Pandemic Influenza Surveillance and Reporting</i>.</p> <p>Issue <b>Sample Parent/Guardian Letter #3, Illinois/Regional Cases</b>, informing parents/guardians that some students are sick but schools remain open, include tip sheets and information resource list. A sample is at: <a href="http://www.idph.state.il.us/pandemic_flu/school_guide/sppg_il_cases.pdf">www.idph.state.il.us/pandemic_flu/school_guide/sppg_il_cases.pdf</a>.</p>
Pandemic Planning Team	When a confirmed case has entered a school, regardless of community transmission, work with local health department regarding a press release announcing that schools will remain open, if applicable, and advising

	<p>parents/guardians of their need to prepare.</p> <p>A sample, titled <b>Schools Open</b>, is at:  <a href="http://www.idph.state.il.us/pandemic_flu/school_guide/sppg_media_open.pdf">www.idph.state.il.us/pandemic_flu/school_guide/sppg_media_open.pdf</a>  <b>Note:</b> If this sample is used for COVID-19, amend it with those specifics.</p>
Building Principal	<p>Post flu or other virus/disease prevention signs on campuses. See Section V of <b>School Guidance During an Influenza Pandemic</b> at:  <a href="http://www.idph.state.il.us/pandemic_flu/schoolguide.htm">www.idph.state.il.us/pandemic_flu/schoolguide.htm</a>.</p> <p>For COVID-19, see <b>Promoting Behaviors that Reduce Spread</b> subhead in the <b>CDC’s Considerations for Schools</b> at:  <a href="http://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/schools.html">www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/schools.html</a>, including a handwashing etiquette example at:  <a href="http://www.cdc.gov/handwashing/when-how-handwashing.html">www.cdc.gov/handwashing/when-how-handwashing.html</a>.</p>

Expansion of the Outbreak

Actor	Action
Local Health Department	Issue epidemic statement to general public.
Superintendent or designee	For flu, begin <b>Intensive Surveillance</b> responses. See 4:180-AP2, <i>Pandemic Influenza Surveillance and Reporting</i> .

Continued Expansion of the Outbreak

Actor	Action
Local Health Department	Evaluate the need for school closure with local school officials.
Superintendent or designee	<p>In consultation with local health department, emergency management agencies, and Regional Office of Education, close school(s).</p> <p>Issue press release. A sample, titled <b>Schools Closed</b>, is at:  <a href="http://www.idph.state.il.us/pandemic_flu/school_guide/sppg_media_closed.pdf">www.idph.state.il.us/pandemic_flu/school_guide/sppg_media_closed.pdf</a>  <b>Note:</b> If this sample is used for COVID-19, amend it with those specifics.</p> <p>Issue <b>Sample Parent Letter #4, School Closure</b>. A sample is at:  <a href="http://www.idph.state.il.us/pandemic_flu/school_guide/sppg_closures.pdf">www.idph.state.il.us/pandemic_flu/school_guide/sppg_closures.pdf</a>  <b>Note:</b> If this sample is used for COVID-19, amend it with those specifics.</p>
School Board and/or Superintendent	Cancel any non-academic events.

Following the Outbreak

Actor	Action
Local Health Department	Evaluate the advisability of opening school(s) with school officials.
Superintendent or designee	<p>Issue press release that schools are open.</p> <p>Issue <b>Sample Parent Letter #5, Schools Reopen</b>. A sample is at:</p>

	<a href="http://www.idph.state.il.us/pandemic_flu/school_guide/sppg_reopening.pdf">www.idph.state.il.us/pandemic_flu/school_guide/sppg_reopening.pdf</a> . <b>Note:</b> If this sample is used for COVID-19, amend it with those specifics.
Pandemic Planning Team	Continue communicating with local health department.
Superintendent or designee	For flu, return to <b>Heightened Surveillance</b> response. See 4:180-AP2, <i>Pandemic Influenza Surveillance and Reporting</i> . Begin checklist again if an outbreak recurs.

**Local Health Department: 5**

**Regional Office of Education:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Telephone

**Emergency Management Agencies:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Telephone

Important Resources

The ISBE and IDPH released a publication titled **School Guidance During an Influenza Pandemic**, December 2006 at:

[www.idph.state.il.us/pandemic\\_flu/schoolguide.htm](http://www.idph.state.il.us/pandemic_flu/schoolguide.htm).

The resource is meant to guide and supplement, not replace school districts' existing plans.

Further information on pandemic flu can be found by calling 1-800-CDC-INFO or at the following websites:

[www.pandemicflu.gov](http://www.pandemicflu.gov)

[www.cdc.gov/flu](http://www.cdc.gov/flu)

[www.redcross.org](http://www.redcross.org)

[www.cchealth.org](http://www.cchealth.org)

Further information on COVID-19 is subject to continual change. Follow the Dep. of Health and Human Services/CDC and IDPH websites or call 1-800-CDC-INFO.

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**5** For a local health department director, see [www.cdc.gov/publichealthgateway/healthdirectories/index.html](http://www.cdc.gov/publichealthgateway/healthdirectories/index.html).

## Operational Services

### Administrative Procedure - Pandemic Influenza Surveillance and Reporting 1

During all levels of a pandemic flu outbreak, monitoring and documenting the number of students and faculty who are absent and report having influenza is critical. Keeping track of these numbers helps health officials determine whether: (1) the outbreak is increasing in scope, (2) to declare an epidemic and (3) to close school buildings and facilities. Consult the local public health department for an illness' *expected range*.

The following information assists officials with monitoring illness rates and the potential for an epidemic:

- Basic surveillance level definitions and response actions with instructions as outlined below.
- Website links to reporting form(s) to submit to the local public health department.
- Sample attendance log to document flu-related absences.

Surveillance Levels	Response Actions
<p><b>Standard Surveillance -</b> Reported illnesses are within expected range.</p>	<p>Monitor attendance for increased reports of absence due to flu-like illness.</p> <p>Do not report absences to the local health department.</p>
<p><b>Heightened Surveillance -</b> Reported illnesses exceed expected range.</p>	<p>Monitor weekly attendance for flu-like illness/absences on <b>Weekly Influenza Census</b> at:  <a href="http://www.idph.state.il.us/pandemic_flu/school_guide/sppg_weekly_census.pdf">www.idph.state.il.us/pandemic_flu/school_guide/sppg_weekly_census.pdf</a>.</p> <p>Begin morning <i>flu check</i> first hour of school; screen those who report positive for symptoms.</p> <p>Log absences due to flu-like illness on <b>Daily Pandemic Influenza Census Log</b>, a sample is available at:  <a href="http://www.idph.state.il.us/pandemic_flu/school_guide/sppg_daily_census.pdf">www.idph.state.il.us/pandemic_flu/school_guide/sppg_daily_census.pdf</a>.</p> <p>Send weekly absence report to local health department upon request.</p>
<p><b>Intensive Surveillance -</b> Reported illnesses significantly exceed expected range.</p>	<p>Monitor daily attendance and log absences on Daily Influenza Census or Daily Pandemic Influenza Log at:  <a href="http://www.idph.state.il.us/pandemic_flu/school_guide/sppg_daily_census.pdf">www.idph.state.il.us/pandemic_flu/school_guide/sppg_daily_census.pdf</a>.</p> <p>Continue morning flu check.</p> <p>Send daily absence report to local health department upon request.</p>

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1 This administrative procedure is specific to pandemic influenza only. Do not use this material for COVID-19 surveillance and reporting.

Surveillance Levels	Response Actions
	Begin preparation for potential school closure.

Important Resources

**School Guidance During an Influenza Pandemic, Section III. Surveillance** at: [www.idph.state.il.us/pandemic\\_flu/schoolguide.htm](http://www.idph.state.il.us/pandemic_flu/schoolguide.htm).

## General Personnel

### Administrative Procedure - Coordination with Children's Advocacy Center 1

Children's Advocacy Centers (CACs) are child-focused, trauma-informed, facility-based programs that provide a multi-disciplinary, comprehensive response to child abuse. Illinois CACs are organized and operate under the Children's Advocacy Center Act. 55 ILCS 80/. CACs are accredited based on standards set by the National Children's Alliance. 55 ILCS 80/2.5. See [www.nationalchildrensalliance.org/](http://www.nationalchildrensalliance.org/).

If the District is located within a county that is served by an accredited CAC, it must coordinate with the CAC to implement the **Alleged Incidents of Sexual Abuse; Investigations** subhead of Board policy 5:90, *Abused and Neglected Child Reporting*. 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-531. For a map of accredited CACs, and to identify a CAC that may serve the District, see [www.childrensadvocacycentersofillinois.org/about/map](http://www.childrensadvocacycentersofillinois.org/about/map). Use this procedure to coordinate with the District's local CAC.

#### Glossary of Terms

**Alleged incident of sexual abuse** - An incident of sexual abuse of a child (as defined in the Ill. Criminal Code of 2012, 720 ILCS 5/11-9.1A) that is alleged to have been perpetrated by school personnel, including a school vendor or volunteer, that occurred either: on school grounds during a school activity, outside of school grounds, or not during a school activity. 105 ILCS 5/22-85(b) (final citation pending), added by P.A. 101-531. <sup>2</sup>

**Alleged victim** - A student who is alleged to be the victim of an alleged incident of sexual abuse.

**Appropriate law enforcement agency** - A law enforcement agency whose employees have been involved, in some capacity, with an investigation of a particular alleged incident of sexual abuse. 105 ILCS 5/22-85(b) (final citation pending), added by P.A. 101-531.

**Child advocate** - May be a school social worker, a school or equally-qualified psychologist, or a person in a position the Ill. State Board of Education (ISBE) has identified as an appropriate advocate for a student during a school's investigation into an alleged incident of sexual abuse. 105 ILCS 5/22-85(i) (final citation pending), added by P.A. 101-531.

**Forensic interview** - An interview between a trained forensic interviewer, as defined by National Children's Alliance standards, and a child in which the interviewer obtains information from children in an unbiased and fact finding manner that is developmentally appropriate and culturally sensitive to support accurate and fair decision making by the multidisciplinary team in the criminal justice and child protection systems. 55 ILCS 80/2.5.

**School personnel** - School employees, vendors, and volunteers.

**Sexual Abuse and Sexual Assault** - See Ill. Criminal Code of 2012 definitions at:

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<sup>1</sup> This procedure cites the minimum requirements of State law. Modify this procedure based upon the District's specific implementation needs and any additional needs of the CAC that serves the District.

<sup>2</sup> Though 105 ILCS 5/22-85(b) (final citation pending), added by P.A. 101-531, defines *alleged incident of sexual abuse*, its definition is circular, using the term *sexual abuse* without defining what that means. To provide boards with clarity, this procedure uses the definition of *sexual abuse* from the Ill. Criminal Code of 2012.

- 720 ILCS 5/11-9.1A. Permitting sexual abuse of a child.
- 720 ILCS 5/11-1.20. Criminal sexual assault.
- 720 ILCS 5/11-1.30. Aggravated criminal sexual assault.
- 720 ILCS 5/11-1.40. Predatory criminal sexual assault of a child.
- 720 ILCS 5/11-1.50. Criminal sexual abuse.
- 720 ILCS 5/11-1.60. Aggravated criminal sexual abuse.

Coordination with CAC

Actor	Action
ISBE	Identifies persons in positions who may be appropriate child advocates for students during a school’s investigation into an alleged incident of sexual abuse. As of March 2020, ISBE has not identified any persons.
Superintendent or designee	<p>Establishes a CAC Communication Committee (Committee) to operate as a Superintendent committee. See 2:150-AP, <i>Superintendent Committees</i>. Consider including:</p> <ul style="list-style-type: none"> <li>District Nondiscrimination Coordinator (see 2:260, <i>Uniform Grievance Procedure</i>; and 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i>)</li> <li>District Safety Coordinator (see 4:170-AP1, <i>Comprehensive Safety and Security Plan, Part C, District Safety Coordinator and Safety Team; Responsibilities</i>)</li> <li>District-level administrators</li> <li>Building Principals (Building Principals are mandatory for successful implementation of the Alleged Incidents of Sexual Abuse; Investigations subhead of policy 5:90, <i>Abused and Neglected Child Reporting</i>)</li> <li>School personnel</li> <li>Employees from the accredited CAC that serves the District</li> <li>Chairs and convenes Committee meetings for the purpose of implementing the <b>Alleged Incidents of Sexual Abuse; Investigations</b> subhead of policy 5:90, <i>Abused and Neglected Child Reporting</i>.</li> </ul> <p><b>Note:</b> To achieve the minimum requirement of State law that the District coordinate with its local CAC, this procedure establishes an administrative committee. Establishing a committee provides a best practice for aligning with governance principles and examining implementation issues specific to each individual school district and the CACs that serve each district. While smaller school districts, e.g., one-building districts, may be able to implement a program through one meeting, larger school districts will likely require the uniform coordination this Committee provides.</p> <p>Informs the School Board of the Committee’s progress and needs by adding information items to the Board’s agendas as needed.</p> <p>Ensures that at least every two years, school personnel are trained to</p>

Actor	Action
	<p>understand, provide information and referrals to, and address issues pertaining to students who are parents, expectant parents, or victims of domestic or sexual violence. <b>Note:</b> 105 ILCS 5/10-22.39(d) requires this training to be conducted by persons with expertise in domestic and sexual violence and the needs of expectant and parenting students and must include training concerning each of the following:</p> <ol style="list-style-type: none"> <li>1. Communicating with and listening to student victims of domestic or sexual violence and expectant and parenting students.</li> <li>2. Connecting student victims of domestic or sexual violence and expectant and parenting students to appropriate in-school services and other agencies, programs, and services as needed.</li> <li>3. Implementing the school district's policies, procedures, and protocols with regard to such students, including confidentiality.</li> </ol>
School Personnel	<p>Upon suspecting or receiving knowledge of an alleged incident of sexual abuse, shall perform each of the following (105 ILCS 5/22-85(c) (final citation pending), added by P.A. 101-531):</p> <ol style="list-style-type: none"> <li>1. Immediately report to the Ill. Dept. of Children and Family Services (DCFS) on its Child Abuse Hotline 1-800-25-ABUSE (1-800-252-2873 (within Illinois); 1-217-524-2606 (outside Illinois); or 1-800-358-5117 (TTY).</li> <li>2. Follow directions given by DCFS concerning filing a written report within 48 hours with the nearest DCFS field office. 25 ILCS 5/7, amended by P.A. 101-583. The written report shall include, if known, each of the following: <ol style="list-style-type: none"> <li>1. The name and address of the child, his or her parents/guardians, or other persons having custody;</li> <li>2. The child's age;</li> <li>3. The child's condition, including any evidence of previous injuries or disabilities; and</li> <li>4. Any other information that the reporter believes may be helpful to DCFS for its investigation.</li> </ol> </li> <li>3. Promptly notify the Superintendent or Building Principal that a report has been made.</li> </ol>
Superintendent or Building Principal	<p>Immediately coordinates any necessary notifications to the student's parents/guardians with DCFS, the applicable school resource officer (SRO), and/or local law enforcement.</p> <p>Notifies the District's Nondiscrimination Coordinator of the reported alleged incident of sexual abuse.</p>
DCFS and/or Appropriate Law Enforcement Agency	<p>Determines whether to accept a reported alleged incident of sexual abuse for investigation. If a reported alleged incident is accepted, refers the matter to the CAC serving the District. 105 ILCS 5/22-85(d) (final citation pending), added by P.A. 101-531.</p> <p><b>Note:</b> If neither DCFS nor law enforcement investigate the alleged incident of sexual abuse, the District can move forward with its own investigation without CAC involvement.</p>

Actor	Action
CAC	<p>Coordinates the investigation of the alleged incident of sexual abuse in accordance with its existing multidisciplinary team protocol and National Children’s Alliance accreditation standards. 105 ILCS 5/22-85(e)(1) (final citation pending), added by P.A. 101-531.</p> <p>Facilitates communication between the DCFS/law enforcement multidisciplinary team investigating the alleged incident of sexual abuse and the District’s Nondiscrimination Coordinator.<sup>3</sup> At a minimum:</p> <ol style="list-style-type: none"> <li>1. Ensures that all applicable parties have each other’s contact information; and</li> <li>2. Shares the CAC’s protocol regarding the process of approving the viewing of a forensic interview by school personnel, and a contact person for questions regarding the protocol. 105 ILCS 5/22-85(e)(2) (final citation pending), added by P.A. 101-531.</li> </ol>
Nondiscrimination Coordinator	<p>Upon being notified of the reported alleged incident of sexual abuse by the Superintendent or Building Principal, shall:</p> <p>Open and conduct the District’s investigation into the alleged incident of sexual abuse in accordance with policy 7:20, <i>Harassment of Students Prohibited</i>.</p> <p>Schedule regular follow-up calls to the CAC to inquire whether DCFS/law enforcement has opened an investigation into the alleged incident of sexual abuse.</p> <p><b>If DCFS/law enforcement investigation is not opened, stops using this procedure and continues the District’s investigation in accordance with policy 7:20, <i>Harassment of Students Prohibited</i>.</b></p> <p><b>If DCFS/law enforcement investigation is opened, continues with the following steps.</b></p> <p>Notes the date DCFS/law enforcement opened its investigation and sets a reminder for 15 calendar days after it.</p> <p><b>Note:</b> This time period is important because the CAC has 15 calendar days to conduct a forensic interview of the alleged victim. During this time, the District is cannot interview the alleged victim regarding the alleged incident.</p> <p>While the child abuse and/or criminal investigations related to the alleged incident of sexual abuse are being conducted by DCFS/law enforcement, the Nondiscrimination Coordinator:</p> <p>Continues the District’s investigation, which may include interviewing the alleged witnesses and/or the alleged perpetrator.</p> <p>May request information from the alleged victim or his or her</p>

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<sup>3</sup> Throughout this procedure “Nondiscrimination Coordinator” may be replaced with Title IX Coordinator or designee, Complaint Manager, School Resource Officer, or the title of any other school personnel leading the school’s investigation into the alleged incident of sexual abuse.

Actor	Action
	<p>parent/guardian to ensure his or her safety and well-being at school during the investigations. 105 ILCS 5/22-85(f) (final citation pending), added by P.A. 101-531.</p> <p>Refrains from interviewing the alleged victim until after the CAC completes its forensic interview. 105 ILCS 5/22-85(f) (final citation pending), added by P.A. 101-531. <sup>4</sup></p> <p>Upon request, must inform DCFS/law enforcement investigators of any evidence it has gathered, as permitted by federal or State law. 105 ILCS 5/22-85(f) (final citation pending), added by P.A. 101-531.</p> <p><b>Note:</b> Evidence gathered by the Nondiscrimination Coordinator during the District’s investigation may be confidential under the Illinois School Student Records Act (105 ILCS 10/) and the Family Rights and Educational Privacy Act (20 U.S.C. §1232g). <b>Consult the Board Attorney regarding what disclosures, if any, are allowed in response to a request from DCFS and/or law enforcement and conditions that must be met prior to disclosure.</b></p> <p>Schedule regular follow-up calls with the CAC to inquire about the status of the forensic interview of the alleged victim.</p>
CAC	<p>Informs the Nondiscrimination Coordinator that:</p> <ol style="list-style-type: none"> <li>1. The forensic interview of the alleged victim is complete, and the electronic recording of the forensic interview may be viewed; or</li> <li>2. The CAC determined a forensic interview will not be conducted. 105 ILCS 5/22-85(g), (h) (final citation pending), added by P.A. 101-531.</li> </ol>
Nondiscrimination Coordinator	<p>If the electronic recording of the forensic interview of the alleged victim is available for viewing:</p> <ol style="list-style-type: none"> <li>1. Verifies the CAC has obtained informed consent from an alleged victim over the age of 13 or the alleged victim’s parent/guardian for school personnel to view the forensic interview (105 ILCS 5/22-85(h) (final citation pending), added by P.A. 101-531); and</li> </ol> <p><b>Note:</b> Each CAC may have its own consent form. Contact your local CAC to confirm that it will obtain written consent from the alleged victim over the age of 13 or the alleged victim’s parent/guardian (if under the age of 13).</p> <ol style="list-style-type: none"> <li>2. Views the electronic recording of the forensic interview.</li> </ol>

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1. <sup>4</sup> The purpose of waiting to interview and coordinating with CACs is to minimize trauma of an alleged victim by preventing multiple interviews of him/her regarding the alleged incident of sexual abuse. When a DCFS/law enforcement investigation is pending, then the CAC’s forensic interview serves as the interview that other entities, e.g., school districts, may use by viewing or listening to it for their investigations. If a DCFS/law enforcement investigation is pending but the CAC does not conduct a forensic interview, then the school may conduct its own interview of the alleged victim after following the procedures outlined in this procedure.

Actor	Action
	If the CAC has not performed a forensic interview of the alleged victim within 15 calendar days after DCFS/law enforcement opens an investigation, notifies the CAC that the District intends to interview the alleged victim.
CAC	After receiving notification that the District intends to interview the alleged victim, has 10 additional calendar days to conduct a forensic interview. 105 ILCS 5/22-85(g) (final citation pending), added by P.A. 101-531.
Nondiscrimination Coordinator	<p>If the CAC does not conduct a forensic interview of the alleged victim within the 10 additional calendar days, proceeds with the District's interview of the alleged victim. <u>Id.</u></p> <p>If the alleged victim is under 18 years old, makes a child advocate available to the alleged victim and allows the child advocate to be present during the interview. A child advocate may be a school social worker, a school or equally qualified psychologist, or a person in a position that ISBE has identified as an appropriate advocate for a student during a school's investigation into an alleged incident of sexual abuse. 105 ILCS 5/22-85(i) (final citation pending), added by P.A. 101-531.</p> <p>Schedules regular follow-up calls to DCFS/law enforcement to inquire if the investigation of an incident has been suspended and/or is complete, including the outcome of the investigation. 105 ILCS 5/22-85(j), (k) (final citation pending), added by P.A. 101-531.</p>

## Students

### Administrative Procedure - Accommodating Transgender Students or Gender Non-Conforming Students 1

This procedure's accommodation and support guidelines advance the District's goals of: (1) providing all students equal access to a safe, non-hostile learning environment, and (2) implementing risk management controls in a developing and unsettled area of the law in which the federal Office of Civil Rights and Dept. of Justice have issued guidance.

While there is no mandate requiring procedures for accommodating transgender students or gender non-conforming students, this procedure guides school officials through the: (1) application of State and federal anti-discrimination laws to this student population, and (2) common needs in which transgender or gender non-conforming students may request accommodations and support at school. This procedure applies to all school activities, school-provided transportation, and school-sponsored events regardless of where they occur.

The Building Principal, Nondiscrimination Coordinator,<sup>2</sup> and/or Complaint Manager, with input from others as appropriate, will implement this procedure. They will work with each transgender or gender non-conforming student, and as appropriate with the student's parent(s)/guardian(s), to manage a student's accommodations and supports on a case-by-case basis. The Board Attorney will be consulted concerning legal compliance.

#### Gender-Based Discrimination Is Prohibited

School districts must provide equal educational opportunities to transgender students and gender non-conforming students. Under State law, *sex discrimination* extends to claims of discrimination based on *sexual orientation* and *gender identity*. 775 ILCS 5/5-101(11); 23 Ill.Admin.Code §1.240. The Ill. Human Rights Act defines *sexual orientation* as the "actual or perceived heterosexuality, homosexuality, bisexuality, or gender related identity, whether or not traditionally associated with the person's designated sex at birth." 775 ILCS 5/1-103(O-1). The Act permits schools to maintain single-sex facilities that are distinctly private in nature, e.g., restrooms and locker rooms. 775 ILCS 5/5-103.

Federal law prohibits exclusion and discrimination on the basis of *sex*. 20 U.S.C. §1681(a), Title IX of the Education Amendments of 1972. The U.S. Dept. of Education has taken varying positions on the application of Title IX to transgender or gender non-conforming students depending upon the administration in power. However, the Seventh Circuit U.S. Court of Appeals (which has jurisdiction over the State of Illinois) has ruled that a school's practice of denying a transgender student access to the bathroom that aligned with his gender identify violated Title IX because it was a sex-based

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<sup>1</sup> Administrative procedures guide the implementation of board policy. Policies are often implemented by district administrators through specifically-tailored administrative procedures. To implement a policy, the purpose and function of the policy must be understood. The purpose and function of 7:10, *Equal Educational Opportunities* is three-fold:

- (1) to ensure legal compliance with equal educational opportunity (EEO) laws,
- (2) to direct or authorize the superintendent or staff members to implement EEO laws, and
- (3) to establish board processes, and/or provide information about EEO laws to staff members and students.

This administrative procedure provides considerations for supports and accommodations that transgender students or gender non-conforming students may need as required by policy 7:10, *Equal Educational Opportunities*.

<sup>2</sup> If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, insert "Title IX Coordinator," here.

classification. See Whitaker by Whitaker v. Kenosha Unified School District No. 1 Board of Education, 858 F.3d 1034 (7th Cir. 2017).

School Board policy 7:10, *Equal Educational Opportunities*, recognizes the legal requirements described above. This procedure's guidance on accommodating transgender students or gender non-conforming students is based on the Ill. State Board of Education's (ISBE) non-regulatory guidance and OCR pronouncements. See the last section, **Resources**.

### Gender-Based Bullying and/or Harassment Is Prohibited

The laws prohibiting gender discrimination require the District to protect transgender students and gender non-conforming students from bullying and harassment by other students. Under Title IX of the Education Amendments of 1972 (Title IX), a school district is responsible for damages suffered by a student who was the victim of protected sex-based harassment: unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's educational program or activity. 34 C.F.R. §106.30(a). Board policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, and its accompanying procedures are used to address sex-based harassment as defined in Title IX. The School Code prohibits bullying on the basis of actual or perceived sexual orientation, gender-related identity or expression, and/or association with a person or group with one of the aforementioned actual or perceived characteristics. 105 ILCS 5/27-23.7(a). The Board policy on bullying and the District's suite of bullying prevention materials are used to address and resolve peer bullying and harassment of transgender or gender non-conforming students. See 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

### Terminology and Definitions

The District uses the following terms and definitions when discussing accommodations for a transgender student or gender non-conforming student (from the *Arcadia Resolution Agreement*, 7-24-13, at: [www.justice.gov/crt/about/edu/documents/arcadiaagree.pdf](http://www.justice.gov/crt/about/edu/documents/arcadiaagree.pdf) and [ISBE Non-Regulatory Guidance, Supporting Transgender, Nonbinary and Gender Nonconforming Students](http://www.isbe.net/supportallstudents), at: [www.isbe.net/supportallstudents](http://www.isbe.net/supportallstudents)). **Note:** Definitions are not intended to label students, but rather to assist with understanding. *Gender identity*, *sex assigned at birth*, *transgender*, and *gender transition* are defined slightly differently in a *Dear Colleague Letter* issued jointly by the U.S. Depts. of Education and Justice on 5-13-16 (see **Resources** below).

*Gender-based discrimination* – a form of sex discrimination, refers to differential treatment or harassment of a student based on the student's sex, including gender identity, gender expression, and non-conformity with gender stereotypes, that results in the denial or limitation of education services, benefits, or opportunities. Conduct may constitute gender-based discrimination regardless of the actual or perceived sex, gender identity, or sexual orientation of the persons experiencing or engaging in the conduct.

*Sex assigned at birth and assigned sex* – a label a person is given at birth, often based on a medical professional's interpretation of the newborn's physical characteristics. Common examples may be *male* or *female*. This is typically the sex reflected on one's original birth certificate.

*Gender expression* – an individual's characteristics and behaviors such as appearance, dress, grooming, mannerisms, voice or speech patterns, activities, and social interactions that are perceived as masculine, feminine, both, or neither.

*Gender identity* – a person's internal, deeply held sense or psychological knowledge of their own gender that can include being female, male, another gender, nonbinary, gender non-conforming, or no gender, and is unrelated to the person's sex assigned at birth. Gender identity is an innate part of a

person's identity, and the responsibility for determining an individual's gender identity rests with the individual. Unlike gender expression, gender identity is not visible to others.

*Transgender* – an individual whose gender identity is different from the individual's assigned sex at birth. Being transgender is not dependent on appearance, body parts, or medical procedures. Transgender can also be used as an umbrella term that encompasses diversity of gender identities and expressions. For purposes of this procedure, a *transgender student* is a student who consistently and uniformly asserts a gender identity different from the student's assigned sex, or for whom there is documented legal or medical evidence that the gender identity is sincerely held as part of the student's core identity.

*Gender transition* – the process whereby people may change their gender expression, bodies, and/or identity documents to match their gender identity. Transition can be social (changing gender expression, using facilities, using a different name/pronouns), medical (hormones and/or surgeries), and/or legal (changing name/gender marker on identity documents), and is different for every individual. It is common for gender transition to be an ongoing process and is unique to each person. *Gender stereotypes* – stereotypical notions of masculinity and femininity, including expectations of how boys or girls represent or communicate one's gender to others, such as behavior, clothing, hairstyles, activities, voice, mannerisms, or body characteristics.

*Gender non-conforming or gender expansive* – one's gender expression or gender identity that does not conform to traditional, societal, or stereotyped expectations based on the sex assigned at birth. Gender expansive individuals may identify as male, female, some combination of both, or neither.

*Gender pronouns* – The set of words used to refer to someone without using their name. Common examples include, but are not limited to, "she/her/hers," "he/him/his," "they/them/theirs," and "ze/zir/zirs."

*Gender support plan* – a document that may be used to create a shared understanding about the way in which a student's gender identity will be accounted for and supported at school.

*Facilities* refers to facilities and accommodations used by students at school or during school-sponsored activities and trips, and include, but are not limited to, restrooms, locker rooms, and overnight facilities.

#### Relevant Board Policies for Accommodations, Supports, and Inclusion of Transgender or Gender Non-Conforming Students

2:260, *Uniform Grievance Procedure*, contains the process for an individual to seek resolution of a complaint. A student may use this policy to complain about bullying. The District Complaint Manager shall address the complaint promptly and equitably.

2:265, *Title IX Sexual Harassment Grievance Procedure*, contains the process for an individual to report or complain of sexual harassment in violation of Title IX. The District Nondiscrimination Coordinator<sup>3</sup> shall address the report or complaint promptly and equitably.

6:60, *Curriculum Content*, requires the history curriculum to include a study of the roles and contributions of lesbian, gay, bisexual, and transgender (LGBT) people in the history of the U.S. and Illinois.

6:65, *Student Social and Emotional Development*, requires that social and emotional learning be incorporated into the District's curriculum and other educational programs.

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<sup>3</sup> If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, replace "Nondiscrimination Coordinator" with "Title IX Coordinator."

- 7:10, *Equal Educational Opportunities*, requires that equal educational and extracurricular opportunities be available to all students without regard to, among other protected statuses, sex, sexual orientation, and gender identity.
- 7:20, *Harassment of Students Prohibited*, prohibits *any* person from harassing, intimidating, or bullying a student based on an actual or perceived characteristic that is identified in the policy including, among other protected statuses, sex, sexual orientation, and gender identity.
- 7:130, *Student Rights and Responsibilities*, recognizes that all students are entitled to rights protected by the U.S. and Illinois Constitutions and laws for persons of their age and maturity in a school setting.
- 7:160, *Student Appearance*, prohibits students from dressing or grooming in such a way as to disrupt the educational process, interfere with a positive teaching/learning climate, or compromise reasonable standards of health, safety, and decency.
- 7:165, *Student Uniforms*, encourages students to wear school uniforms in order to maintain and promote orderly school functions, school safety, and a positive learning environment, if adopted.
- 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, contains the comprehensive structure for the District’s bullying prevention program.
- 7:185, *Teen Dating Violence Prohibited*, prohibits students 13-19 years of age from using or threatening to use physical, mental, or emotional abuse to control an individual in the dating relationship, and from using or threatening to use sexual violence in the dating relationship.
- 7:250, *Student Support Services*, directs the Superintendent to develop protocols for responding to students’ social, emotional, or mental health needs that impact learning.
- 7:330, *Student Use of Buildings - Equal Access*, grants student-initiated groups or clubs the free use of school premises for their meetings, under specified conditions.
- 7:340, *Student Records*, contains the comprehensive structure for managing school student records, keeping them confidential, and providing access as allowed or required.

Common Needs for Transgender or Gender Non-Conforming Students; Accommodations and Supports

The goal of an accommodation is to allow a transgender or gender non-conforming student to equally participate in educational and extracurricular opportunities. The right of transgender students to accommodations is generally found in legislation (Illinois Human Rights Act and Title IX) but has not been fully interpreted by the courts. Determining appropriate accommodations must be made on a case-by-case basis depending upon the needs expressed by the student.

The Superintendent may establish a gender support team that will identify accommodations for a specific student. Those accommodations may be documented in a gender support plan or other written document. The Board Attorney should be consulted and may be invited to be a member of the team.

This following list of possible accommodation considerations is not exhaustive, and each student’s request must be managed on a case-by-case basis. A particular student may not be interested in an accommodation for each item listed. Seek the Board Attorney’s advice concerning the scope and extent of accommodations.

1. Gender transition
2. Names and gender pronouns
3. School student records
4. For managing demographic information in the ISBE Student Information System, see [www.isbe.net/Documents/student\\_demographics.pdf](http://www.isbe.net/Documents/student_demographics.pdf).

5. Student privacy and confidentiality
6. Access to gender-segregated areas, e.g. locker rooms and restrooms
7. Sports and physical education classes - participation in competitive athletic activities and contact sports is resolved pursuant to IHSA policy #34, *Policy and School Recommendations for Transgender Participation* at:  
8. [www.ihsa.org/AbouttheIHSA/ConstitutionBylawsPolicies.aspx](http://www.ihsa.org/AbouttheIHSA/ConstitutionBylawsPolicies.aspx)
9. Dress codes
10. Gender segregation in other activities, e.g., class discussions and field trips (including any overnight school trips)
11. Communication with a new school about gender-specific accommodations upon transfer or graduation

### Training for School Staff Members

Professional development for staff members should include regular opportunities to gain a better understanding of equal educational opportunity laws, gender identity, gender expression, and gender diversity; the development of gender identity in children and adolescents; developmentally appropriate strategies for communicating with students and parents/guardians about issues related to gender identity; gender-affirming approaches to ensuring the safety and support of transgender students and gender non-conforming students; developmentally appropriate strategies for preventing and intervening in bullying incidents; and Board policies regarding equal educational opportunities, bullying, discrimination, and student privacy.

### Resources

Ill. State Board of Education, *Supporting Transgender, Nonbinary, and Gender Nonconforming Students* (March 1, 2020), at [www.isbe.net/supportallstudents](http://www.isbe.net/supportallstudents).

*Dealing with Legal Matters Surrounding Students' Sexual Orientation and Gender Identity*, published by the National School Board Association and other participating organizations, April 2013, at: [www.nsba.org/sites/default/files/reports/Dealing%20with%20Legal%20Matters%20Surrounding%20Students%E2%80%99%20Sexual%20Orientation%20and%20Gender%20Identity.pdf](http://www.nsba.org/sites/default/files/reports/Dealing%20with%20Legal%20Matters%20Surrounding%20Students%E2%80%99%20Sexual%20Orientation%20and%20Gender%20Identity.pdf).

*Gender Spectrum*, an organization whose mission is to help create gender sensitive and inclusive environments for all children and teens, at: [www.genderspectrum.org](http://www.genderspectrum.org).

Mass. Dept. of Elementary and Secondary Education, *Guidance for Massachusetts Public Schools Creating a Safe and Supportive School Environment Nondiscrimination on the Basis of Gender Identity* (undated), at: [www.doe.mass.edu/sfs/lgbtq/GenderIdentity.html](http://www.doe.mass.edu/sfs/lgbtq/GenderIdentity.html).

OCR *Dear Colleague Letter*, harassment and bullying (2010), at: [www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html](http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html).

OCR *Guidance on Responsibilities of Schools to Address Sexual Violence, Other Forms of Sex Discrimination* (2014) at: [www.ed.gov/news/press-releases/guidance-issued-responsibilities-schools-address-sexual-violence-other-forms-sex](http://www.ed.gov/news/press-releases/guidance-issued-responsibilities-schools-address-sexual-violence-other-forms-sex).

OCR and DOJ Consent Decrees and Resolution Agreements at:  
[www2.ed.gov/about/offices/list/ocr/docs/investigations/05115901.html](http://www2.ed.gov/about/offices/list/ocr/docs/investigations/05115901.html) (Anoka-Hennepin School District, MN, 3-5-2012).  
[www2.ed.gov/about/offices/list/ocr/docs/investigations/09111031.html](http://www2.ed.gov/about/offices/list/ocr/docs/investigations/09111031.html) (Tehachapi Unified School District, CA, 7-7-2011).

[www.justice.gov/crt/about/edu/documents/arcadiaagree.pdf](http://www.justice.gov/crt/about/edu/documents/arcadiaagree.pdf) (Arcadia Unified School District, CA, 7-24-2013).

OCR Resources for LGBTQ Students, at:

[www2.ed.gov/about/offices/list/ocr/lgbt.html](http://www2.ed.gov/about/offices/list/ocr/lgbt.html)

Executive Order No. 11,246, 30 FR 12319, 12935, 3 CFR, 1964-1965 Comp., p. 339, (1965), as amended on 7-21-14, prohibits discrimination by the federal government or federal contractors on the basis of sexual orientation or gender identity. The Secretary of Labor was directed to prepare implementing regulations within 90 days (or by 10-19-14).

The School Leaders Risk Management Association. *District Transgender and Gender Non-conforming Student Practice and Policy*, May 2014 (Copyright - Chicago: Brokers Risk Placement Service, Inc., 2014).

*Transgender Students in Schools: Frequently Asked Questions and Answers for Public School Boards and Staff*. April 2016 (Copyright – National School Boards Association), at:

[cdn-files.nsba.org/s3fs-public/reports/2016\\_Transgender\\_Guide.pdf?r8tsknQRT6y2\\_Cy.WC6K2y2KEH.ewZg](http://cdn-files.nsba.org/s3fs-public/reports/2016_Transgender_Guide.pdf?r8tsknQRT6y2_Cy.WC6K2y2KEH.ewZg).

*Which Way to the Restroom? Respecting the Rights of Transgender Youth in the School System*. April 2012 (Copyright - National School Boards Association), Grant Bowers and Wendy Lopez, at:

[www.nsba.org/sites/default/files/reports/Respecting%20the%20Rights%20of%20Transgender%20Youth%20and%20appendices.pdf](http://www.nsba.org/sites/default/files/reports/Respecting%20the%20Rights%20of%20Transgender%20Youth%20and%20appendices.pdf).

## Students

### Administrative Procedure - Harassment of Students Prohibited

This procedure informs: (1) the Building Principal of specific steps to prevent harassment of students, and (2) staff members of the appropriate response to allegations of harassment.

Actor	Action
Building Principal or Designee	<p>Informs staff members and students that the District prohibits harassment of students. Distributes or references School Board policies 2:260, <i>Uniform Grievance Procedure</i>; 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i>; and 7:20, <i>Harassment of Students Prohibited</i>, using various methods. Takes measures to prevent harassment of students, which may include:</p> <ol style="list-style-type: none"> <li>1. Conducts regular harassment awareness training for all school staff, including administrators, teachers, and guidance counselors, and ensures all new employees are trained.<sup>1</sup></li> <li>2. Conducts regular<sup>2</sup> age-appropriate harassment awareness training for students.</li> <li>3. Provides a means for students to learn and discuss what constitutes harassment and how to respond to it in the school setting.</li> <li>4. Surveys students to determine if harassment is occurring at school.</li> <li>5. Conducts regular<sup>3</sup> harassment awareness training for parents/guardians.</li> <li>6. Works with parents/guardians and students to develop and implement age-appropriate, effective measures for addressing harassment.</li> <li>7. Determines when extra supervision and precaution should be taken, such as when: two or more students seem to be in conflict with each other; there have been previous incidents of harassment, sexual assaults, threats, or bullying around perceived sexual orientation; or a specific student has had multiple disciplinary violations.</li> <li>8. Has a process in place to: (1) inform a staff member when a student that he or she supervises has a history of violent or sexually inappropriate behavior, and (2) keep such a student constantly supervised.</li> <li>9. Regularly trains staff members regarding: (1) their classroom and non-classroom supervisory responsibilities, e.g., during a school-sponsored event, before and after school, while students wait for the school bus, between classes, during lunch, and at recess, (2) behaviors that may be</li> </ol>

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<sup>1</sup> The term *regular* and phrase “ensuring all new employees are trained” is a best practice. Amend these terms to reflect the district’s practice.

<sup>2</sup> Id.

<sup>3</sup> Id.

Actor	Action
	<p>an indicator of sexual or physical violence against another student, and (3) what to do when they observe an unusual and disruptive student.</p> <p>10. Identifies areas in the school building that are isolated, e.g., restrooms, locker rooms, hallways while classes are in session, stairwells, and empty rooms, and takes extra steps to make them safe.</p> <p>11. Immediately notifies the police and relevant parents/guardians when an assault or attempted assault has occurred.</p>
<p>Nondiscrimination Coordinator and/or Complaint Manager(s)</p>	<p>Thoroughly and promptly investigates allegations of harassment by:</p> <ol style="list-style-type: none"> <li>1. Distributing Board policies 2:260, <i>Uniform Grievance Procedure</i>; 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i>; and 7:20, <i>Harassment of Students Prohibited</i>, to any person upon request;</li> <li>2. Following Board policies 2:260, <i>Uniform Grievance Procedure</i>; 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i>; and 7:20, <i>Harassment of Students Prohibited</i>;</li> <li>3. Notifying a student’s parents/guardians that they may attend any investigatory meetings in which their child is present;</li> <li>4. Keeping the complaining parents/guardians informed of any investigation’s progress; and</li> <li>5. Keeping confidential all information about an investigation and the statements of students and other witnesses. The Superintendent shall be kept informed of an investigation’s progress, unless the Superintendent is the subject of the complaint. If a complaint contains allegations involving the Superintendent, the Board President shall be kept informed of an investigation’s progress.</li> </ol>
<p>All District Staff Members</p>	<p>Immediately reports to the Ill. Dept. of Children and Family Services any situation that provides you with reasonable cause to believe that a child may be an abused child or a neglected child. See Board policy 5:90, <i>Abused and Neglected Child Reporting</i>.</p> <p>Promptly notifies the Superintendent or Building Principal that you made a report. If a report contains allegations involving the Superintendent, only notifies the Building Principal who shall contact the Board President. If a report contains allegations involving the Building Principal, only notifies the Superintendent.</p>

## Students

### Administrative Procedure – Use of Educational Technologies; Student Data Privacy and Security

Use this procedure to establish a process for evaluating the use of educational technologies for student learning and/or District operations, and to facilitate compliance with the Student Online Personal Protection Act (SOPPA), amended by P.A. 101-516, eff. 7-1-21.

#### Definitions (105 ILCS 85/5, amended by P.A. 101-516, eff. 7-1-21)

*Covered information* means personally identifiable information (PII) or information linked to PII in any media or format that is not publicly available and is any of the following: (1) created by or provided to an operator by a student or the student’s parent/guardian in the course of the student’s or parent/guardian’s use of the operator’s site, service or application; (2) created by or provided to an operator by an employee or agent of the District; or (3) gathered by an operator through the operation of its site, service, or application.

*Operators* are entities (such as educational technology vendors) that operate Internet websites, online services, online applications, or mobile applications that are designed, marketed, and primarily used for K-12 school purposes.

*K-12 school purposes* means purposes that are directed by, or that customarily take place at the direction of, a teacher, school, or school district; aid in the administration of school activities, including, but not limited to, instruction in the classroom or at home, administrative activities, and collaboration between students, school personnel, or parents; or are otherwise for the use and benefit of a school.

*Breach* means the unauthorized acquisition of computerized data that compromises the security, confidentiality or integrity of covered information maintained by an operator or the District.

*Parent* means a person who is the natural parent of the student or other person who has the primary responsibility for the care and upbringing of the student.

#### Educational Technologies Evaluation and SOPPA Implementation

<b>Actor</b>	<b>Action</b>
Superintendent or Designee or Privacy Officer	1. Establishes an Educational Technology Committee (Ed Tech Committee) to operate as a Superintendent committee for the purposes of: (1) evaluating the use of specific online applications and other educational technologies within the District, (2) establishing a list of applications or other services approved for use within the District, and (3) developing a process for the approval of online sites, applications, or services not already approved for District use which staff members may wish to use. See 2:150-AP, <i>Superintendent Committees</i> . Consider including: Head of Information Technology (IT) Other district-level administrators, such as Curriculum Director, Student Services Director, Business Manager Building Principals

Actor	Action
	<p style="text-align: center;">Teachers</p> <p><b>Note:</b> This procedure establishes an administrative committee. The administrative committee centralizes the local decision-making process regarding the use of educational technologies in a district, which in turn should help districts comply with the provisions of SOPPA governing the use of covered information by operators, contractual requirements, and security standards.</p> <ol style="list-style-type: none"> <li>2. Informs the School Board of the Ed Tech Committee’s progress.</li> <li>3. Makes recommendations to the Board about operator contracts, as needed and in alignment with Board policy 7:345, <i>Use of Educational Technologies; Student Data Privacy and Security</i>.</li> <li>4. Designates which District employee(s) are authorized to enter into written agreements with operators when prior board approval of the contract is not otherwise required by Board policy 4:60, <i>Purchases and Contracts</i>, and list them below: <ul style="list-style-type: none"> <li>_____</li> <li>Title</li> <li>_____</li> <li>Title</li> </ul> </li> <li>5. Assigns the following activities to the Head of IT and the Records Custodian: <ol style="list-style-type: none"> <li>a. Develop and maintain a protocol to manage parent requests for copies (electronic and paper) of students’ covered information.</li> <li>b. Develop and maintain a protocol to manage parent requests for corrections to factual inaccuracies contained in a student’s covered information.</li> <li>c. Develop and maintain a protocol to manage parent requests for deletion of a student’s covered information maintained by an operator.</li> </ol> </li> <li>6. Ensures that the parent of any student whose covered information was involved in a breach is provided with a breach notification letter no later than 30 calendar days after the District determines a breach has occurred or has been notified by an operator of a breach, unless an appropriate law enforcement agency has requested in writing that the District not provide breach notifications because doing so would interfere with a criminal investigation. See 7:345-AP, E3, <i>Parent Notification Letter for Student Data Breach</i>.</li> </ol>

Actor	Action
	<p>7. As appropriate, notifies the District’s liability carrier of any third party claims made against the District regarding a data breach.</p> <p>8. Consults with the Board Attorney for guidance as needed to ensure the District complies with the provisions of SOPPA.</p>
Head of IT or Privacy Officer	<p>1. Implements and maintains reasonable cybersecurity practices to protect covered information, such as technical, administrative, and physical safeguards that are consistent with any guidance from the Ill. State Board of Education (ISBE)<sup>1</sup> and 6:235-API, <i>Acceptable use of the District’s Electronic Networks</i>. Coordinates with the Superintendent to implement any staff training on such practices. Coordinates with the Business Manager regarding any recommendations for purchases of equipment or software related to cybersecurity.</p> <p>2. Creates, maintains, and regularly updates an internal inventory of all Internet websites, online services, online applications, and mobile applications that are being used in the District for K-12 purposes. <b>Note:</b> The inventory does not need to include general audience websites, online services, online applications, or mobile applications, even if login credentials are required to access the general audience sites, services, or applications.</p> <p>The inventory list should include the following, and any other information deemed pertinent: <sup>2</sup></p> <ol style="list-style-type: none"> <li>a. Name of Operator</li> <li>b. Contract term and expiration/renewal date</li> <li>c. K-12 purpose for which the online service, application, etc. is being used (e.g., curriculum content area and grade level(s))</li> <li>d. A listing of the <i>data elements</i><sup>3</sup> of covered information that the District collects, maintains, or discloses to the operator.</li> <li>e. A layperson explanation of the data elements listed for each operator including how the district uses the information, to whom or what entities it discloses the information, and for what purpose(s) the information is used.</li> </ol>

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<sup>1</sup> 105 ILCS 85/27, added by P.A. 101-516, eff. 7-1-21, requires the Ill. State Board of Education to make available on its website a guidance document for schools pertaining to reasonable security procedures and practices.

<sup>2</sup> Creating an internal inventory list as an initial step is a best practice to ensure a district complies with the posting requirements in item #3 in this row.

<sup>3</sup> The term data elements is not defined in the Student Online Personal Protection Act (SOPPA) (105 ILCS 85/). However, compare that term with the requirement in SOPPA that operator contracts include “a listing of the categories or types of covered information to be provided to the operator,” which suggests that data elements is a term that is different than and distinguishable from categories or types. Consult the board attorney for guidance on the level of detail to include in the posting of data elements.

Actor	Action
	<p>3. Ensures the following information is posted on the District’s website<sup>4</sup> and updated (if needed) by Jan. 31 and July 31 each year (105 ILCS 85/27(a), added by P.A. 101-516, eff. 7-1-21) (See 7:345-AP, E1, <i>Student Covered Information Reporting Form</i>):</p> <ul style="list-style-type: none"> <li>a. A list of operators with which the District has written contracts. 105 ILCS 85/27(a)(2).</li> <li>b. Copies of the District’s written contracts with operators, with redactions as permitted by State law and mutually agreed upon between the District and operators. 105 ILCS 85/27(a)(2).</li> <li>c. Business address of each operator. 105 ILCS 85/27(a)(2).</li> <li>d. For each operator, a list of any subcontractors to whom covered information may be disclosed or a link to a page on the operator’s website that clearly lists that information. 105 ILCS 85/27(a)(3).</li> <li>e. An explanation that is clear and understandable by a layperson, of the following (105 ILCS 85/27(a)(1)): <ul style="list-style-type: none"> <li>i. The <i>data elements</i><sup>5</sup> of covered information that the District collects, maintains, or discloses to any person, entity, third party, or governmental agency.</li> <li>ii. To whom or to what entities the covered information is disclosed.</li> <li>iii. How the covered information is used.</li> <li>iv. The purpose of the disclosure of the covered information.</li> </ul> </li> <li>f. For breaches involving 10% or more the District’s enrolled students, a list of any breaches of covered information maintained by the District or by an operator that includes the following information (105 ILCS 85/27(a)(5), added by P.A. 101-516, eff. 7-1-21): <ul style="list-style-type: none"> <li>i. The number of students whose covered information was involved in the breach, unless the breach involves the <i>personal information</i> of students, as defined by the Personal Information Protection Act, 815 ILCS 530/10. Personal information means either: <ul style="list-style-type: none"> <li>1. A student’s first name or first initial and last name in combination with any one or more of his or her (a) social security number, (b) driver’s license number or State ID card number, (c) financial account information (with any required security codes or</li> </ul> </li> </ul> </li> </ul>

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<sup>4</sup> This procedure requires a number of postings of specific information be made available on district’s website. For districts that do not maintain a website, replace that that text with “Make the following information available for inspection by the general public at the District’s administrative office or on the District’s website, if one becomes available.”

<sup>5</sup> See f/n 1, above.

Actor	Action
	<p>passwords), (d) medical information, (e) health insurance information, and/or (f) unique biometric data or other unique physical or digital representation of biometric data, when either the name or data elements are not encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the name or data elements have been acquired through the breach of security; or</p> <p>2. A student’s username or email address, in combination with a password or security question and answer that would permit access to an online account, when either the username or email address or password or security question and answer are not encrypted or redacted or are encrypted or redacted, but the keys to unencrypt or unredact or otherwise read the data elements have been obtained through the breach of security.</p> <p>g. A written description of the procedures a parent may use to carry out their rights to: (1) inspect and review his/her child’s covered information; (2) request electronic or paper copies of his/her child’s covered information and (3) request corrections to his/her child’s inaccurate covered information under SOPPA. 105 ILCS 85/27(4), added by P.A. 101-516, eff. 7-1-21.</p> <p>4. Posts on the District’s website any new operator contracts within 10 business days of the District entering into the contract, along with the information required in items 3.a. through 3.e. listed immediately above.<sup>6</sup> 105 ILCS 85/27(c), added by P.A. 101-516, eff. 7-1-21.</p> <p>5. Promptly notifies the Superintendent of any breach of covered information or other personal information of students so that appropriate notices can be provided.</p>
Business Manager or Privacy Officer	<p>1. Assists Head of IT in creating, maintaining, and updating the internal inventory list referenced in the row above.</p> <p>2. Reviews operator contracts (including electronic agreements, click wrap agreements, or other terms and conditions a user must agree to before using the product or service) before approval to ensure they contain the provisions required by SOPPA (this can also be accomplished through the Business Manager’s participation in the Committee described above).</p> <p>The following provisions are required for contracts entered into, renewed, or amended on or after 7-1-21, if the operator is seeking in</p>

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<sup>6</sup> SOPPA is silent on the manner in which a district may comply with posting requirements in items 3.a-3.e above, e.g., whether a district complies if it simply posts a contract, if the contract also contains all the required information in some form, or if a district must also separately list each piece of information on its website. Consult the Board attorney for guidance on this specific implementation issue.

Actor	Action
	<p>any manner any covered information from the District (105 ILCS 85/15(4), added by P.A. 101-516, eff. 7-1-21):</p> <ol style="list-style-type: none"> <li>a. A listing of the categories or types of covered information to be provided to the operator.</li> <li>b. A statement of the product or service being provided to the District by the operator.</li> <li>c. A statement that, pursuant to the federal Family Educational Rights and Privacy Act of 1974 (FERPA), the operator (1) is acting as a school official with a legitimate educational interest, (2) is performing an institutional service or function for which the District would otherwise use employees, (3) is under the direct control of the District, with respect to the use and maintenance of covered information, (4) is using the covered information only for an authorized purpose and (5) may not re-disclose covered information to third parties without the District's permission or pursuant to a court order.</li> <li>d. A description of how, if a breach is attributed to the operator, any costs and expenses incurred by the District in investigating and remediating the breach will be allocated between the operator and District. The costs and expenses may include, but are not limited to: (1) providing notification to parent of those students whose covered information was compromised and to regulatory agencies or other entities as required by law or contract, (2) providing credit monitoring to those students whose covered information was exposed in a manner during the breach that a reasonable person would believe that it could impact his or her credit or financial security, (3) legal fees, audit costs, fines, and any other fees or damages imposed against the school as a result of the security breach; and (4) providing any other notifications or fulfilling any other requirements adopted by the Ill. State Board of Education or of any other State or federal laws</li> <li>e. A statement that the operator must delete or transfer to the school all covered information if the information is no longer needed for the purposes of the written agreement and to specify the time period in which the information must be deleted or transferred once the operator is made aware that the information is no longer needed for the purposes of the written agreement.</li> <li>f. If the District maintains a website, a statement that the District must publish the written agreement on the District's website. If the school does not maintain a website, a statement that the District will make the written agreement available for inspection by the general public at its administrative office.</li> </ol> <p>3. As permitted by State law, obtains the operator's agreement regarding what provisions, if any, of the contract will be redacted in the copy</p>

Actor	Action
	<p>that is posted on the District’s website. Items 2.a, 2.b, and 2.c in the list immediately above may NOT be redacted in the posted copy.</p> <ol style="list-style-type: none"> <li>4. Ensures that the District also has written agreements in place that include the provisions listed in #2 above whenever it shares, transfers, discloses, or provides access to a student’s covered information to an entity or individual, other than the student’s parent, school personnel, Board members, or ISBE, unless the disclosure or transfer is (1) required by court or State or federal law or (2) to ensure legal or regulatory compliance. 105 ILCS 85/26(2), added by P.A. 101-516, eff. 7-1-21. <sup>7</sup></li> <li>5. With the authorization of the Superintendent, consults with the Board Attorney as needed for contract review.</li> <li>6. Provides a copy of all operator contracts to the Head of IT for posting on the District’s website.</li> </ol>
<p>Head of IT and Records Custodian or Privacy Officer</p>	<ol style="list-style-type: none"> <li>1. Develops and maintains a protocol to manage parent requests to inspect and review their child’s covered information, whether it is maintained by the District, ISBE, or an operator. 105 ILCS 85/33(c)(1), added by P.A. 101-516, eff. 7-1-21. If the covered information is a <i>school student record</i>, then follow the procedures and timelines for responding to student record requests in 7:340-AP1, <i>School Student Records</i>.</li> <li>2. Develops and maintains a protocol to manage parent requests for copies (electronic and paper) of students’ covered information. Align the protocol with the following requirements (105 ILCS 85/33(c)(2), added by P.A. 101-516, eff. 7-1-21): <ol style="list-style-type: none"> <li>a. If the parent requests an electronic copy of the student’s covered information, the District must provide an electronic copy of the information, unless the District does not maintain it in an electronic format and reproducing the information in an electronic format would be unduly burdensome to the District.</li> <li>b. If the parent requests a paper copy of the student’s covered information, the District may charge the parent the reasonable cost of copying in an amount not to exceed the amount fixed in a schedule adopted by ISBE. However, the parent may not be denied a copy of the information due to the parent’s inability to pay the cost of copying.</li> </ol> </li> </ol>

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<sup>7</sup> Under the Ill. School Student Records Act’s implementing regulations, districts are required to transfer the records of a student to another school in which a student has enrolled or intends to enroll upon request of the records custodian of the other school or student, with prior written notice to the parent. 23 Ill.Admin.Code §§375.70, 375.75. It therefore appears that SOPPA does not require a written agreement in such circumstance, to the extent the covered information being shared with another school is part of a student’s records being transferred. SOPPA does not address disclosure of covered information to the board attorney. Consult with the board attorney for guidance on this issue.

Actor	Action
	<ul style="list-style-type: none"> <li>c. The protocol must be consistent with any regulations issued by ISBE. <sup>8</sup></li> <li>d. If the covered information is a <i>school student record</i>, then follow the procedures and timelines for responding to student record requests in 7:340-AP1, <i>School Student Records</i>.</li> </ul> <p>3. Develops and maintains a protocol to manage parent requests for corrections to factual inaccuracies contained in a student's covered information. Align the protocol with the following requirements (105 ILCS 85/33(c)(3), added by P.A. 101-516, eff. 7-1-21):</p> <ul style="list-style-type: none"> <li>a. The District must determine whether the factual inaccuracy exists.</li> <li>b. If the District determines that a factual inaccuracy exists, and the District maintains or possesses the covered information, it must correct the inaccuracy and confirm the same with the parent within 90 calendar days after receiving the parent's request.</li> <li>c. If the District determines that a factual inaccuracy exists and an operator or ISBE maintains or possesses the information, the District must notify the operator or ISBE of the factual inaccuracy and correction to be made. The operator or ISBE must confirm the correction with the District within 90 calendar days after it receives the District's notice. The District must then confirm the correction with the parent within 10 business days after receiving confirmation of the correction from the operator or ISBE.</li> <li>d. If the covered information is a <i>school student record</i>, and the parent requests a hearing to challenge the accuracy of the record(s), follow the procedures and timelines in 7:340-AP1, <i>School Student Records</i>.</li> </ul> <p>4. Develop and maintain a protocol to manage parent requests for deletion of a student's covered information maintained by an operator. Align the protocol with the following requirements:</p> <ul style="list-style-type: none"> <li>a. Deny the request if granting it would result in a violation of the Ill. School Student Records Act or other records laws, such as the deletion of a <i>school student record</i> (temporary or permanent) that the District is required by law to maintain for a certain period of time. 105 ILCS 85/27(g), added by P.A. 101-516, eff. 7-1-21.</li> <li>b. Consider denying the request if granting it would effectively result in the student being unable to participate in all or a</li> </ul>

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<sup>8</sup> 105 ILCS 85/33(c)(2) requires ISBE to adopt rules on the methodology and frequency of these types of parent requests. As of PRESS Issue 104, those rules had not been adopted.

Actor	Action
	portion of the District’s curriculum through the site, service, or application being used. <sup>9</sup>
Building Principal(s) or Privacy Officer	<ol style="list-style-type: none"> <li>1. Ensures that parents are provided with 7:345-AP, E2, <i>Notice to Parents About Educational Technology Vendors</i>, at the beginning of each school year through distribution of school handbooks or other means generally used by the building to provide such notices to parents.<sup>10</sup> 105 ILCS 85/28(e), added by P.A. 101-516, eff. 7-1-21.</li> <li>2. Promptly communicates any parent requests for copies of, corrections to, or deletion of students’ covered information to the Records Custodian and Head of IT.</li> </ol>
Staff Members	<ol style="list-style-type: none"> <li>1. Participate in any District-required trainings on the privacy and security of student data.</li> <li>2. Refrain from using any new online sites, services, or applications that collect any student data or covered information that have not been pre-approved for use by the District.</li> <li>3. Be familiar with and abide by policy 6:235, <i>Access to Electronic Networks</i>, and 6:235-AP1, <i>Acceptable Use of the District’s Electronic Networks</i>.</li> </ol>
<p><b>K-12 Data Privacy and Cybersecurity Resources:</b></p> <p><a href="http://www.studentprivacy.ed.gov/">www.studentprivacy.ed.gov/</a>  <a href="http://www.ltcillinois.org/resources/dataprivacy/">www.ltcillinois.org/resources/dataprivacy/</a>  <a href="http://www.ferpasherpa.org/resources/">www.ferpasherpa.org/resources/</a>  <a href="http://www.k12cybersecure.com/resources/">www.k12cybersecure.com/resources/</a>  <a href="http://www.cosn.org/ProtectingPrivacy">www.cosn.org/ProtectingPrivacy</a>  Attai, Linnette. <i>Student Data Privacy: Building a School Compliance Program</i>. (Rowman &amp; Littlefield, 2018).</p>	

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<sup>9</sup> 105 ILCS 85/27(g) does not list this item as an exception to a parent request for deletion; however, it is included to help districts manage a potentially common scenario.

<sup>10</sup> Members of the Ill. Principals Association (IPA) may subscribe to the IPA’s Model Student Handbook Service, which is aligned with IASB’s policy services. For more information, see: [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook).

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2:250-E1 Exhibit - Written Request for District Public Records

2:250-E2 Exhibit - Immediately Available District Public Records and Web-Posted Reports and Records

2:250-E3 Exhibit - Recurrent Requestor Notification

#### Uniform Grievance Procedure

2:260 Uniform Grievance Procedure

2:260-AP1 Administrative Procedure - Guidelines for Investigating Complaints Filed Under Policy 2:260, Uniform Grievance Procedure, and Allegations of Misconduct

2:260-AP2 Administrative Procedure - Nondiscrimination Coordinator and Complaint Manager

#### School Board

2:265 Title IX Sexual Harassment Grievance Procedure

2:265-AP1 Administrative Procedure - Title IX Sexual Harassment Response

2:265-AP2 Administrative Procedure - Formal Title IX Sexual Harassment Complaint Grievance Process

2:265-E Exhibit - Title IX Sexual Harassment Glossary of Terms

## School Board

### Exhibit - Immediately Available District Public Records and Web-Posted Reports and Records 1

[For use by only those Districts that have websites.]

The District’s Freedom of Information Officer designates the public records that are listed in this table as being immediately available to the public. The records that are asterisked (\*) are posted on the District’s website and may be immediately inspected, downloaded, printed, and/or copied. Any asterisked public record is also immediately available for inspection or copying upon request at the District’s administrative office during its regular business hours, provided any applicable fees are paid. Records not asterisked (\*) will be provided within five business days as allowed by the Freedom of Information Act, provided any applicable fees are paid.

<b>Web-posted records and information</b> (use of an * is explained in the paragraph above this table)	<b>Web-posting statutory reference and special instructions</b>
<p>*Annual schedule of regular meetings for the current school year that are posted at the beginning of each calendar or fiscal year</p> <p>*Public notice of each Board meeting that is posted at least 48 hours before the meeting and remains posted until the meeting is concluded</p> <p>*Agenda of each regular meeting that is posted at least 48 hours before a meeting and remains posted until the meeting is concluded</p> <p><b>Note:</b> For school districts that do not post board meeting notices and/or agendas on a website (because they do not have a website maintained by a full time staff member), the notice and agenda must be continuously available for public review during the entire 48-hour period preceding</p>	<p>5 ILCS 120/2.02.</p>

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

1 This exhibit has two purposes: (1) to identify the data and documents that must be posted on a district’s website, if the district has a website; and (2) to fulfill the requirement in the Freedom of Information Act (FOIA) for the district’s FOIA officer to designate the public records that are immediately available to the public. 5 ILCS 140/3.5(a). Many attorneys agree that using the required items for web-posting is an easy and practical way for the FOIA Officer to develop a list of public records that are *immediately available*. Some attorneys prefer that the district also retain copies of its web-posted public records for immediate inspection and/or copying upon request at the administrative office. The introductory paragraph manages this issue by indicating that copies of certain identified public records will also be immediately available in the district’s administrative office. This exhibit suggests identifying public records for immediate availability that are easily reproduced and stored, i.e., not voluminous. The FOIA Officer should customize this list as appropriate to the district’s circumstances.

Note, however, that simply referring a FOIA requester to a responsive document that is available on the district’s website is not a sufficient response and that a copy must be provided on request. See reference in Ill. Public Access Counselor binding opinion 10-1. Consult the board attorney for ideas to manage the district’s specific FOIA compliance issues.

<b>Web-posted records and information</b> (use of an * is explained in the paragraph above this table)	<b>Web-posting statutory reference and special instructions</b>
the meeting	
*Official open meeting minutes that are posted within 10 days of the Board’s approval and remain posted for at least 60 days	5 ILCS 120/2.06(b).
<p>*Description of the District and its records including:</p> <ol style="list-style-type: none"> <li>1. Summary of the District’s purpose</li> <li>2. Functional subdivisions</li> <li>3. Total amount of operating budget</li> <li>4. Number and location of all of its separate offices</li> <li>5. Approximate number of full- and part-time employees (see also, salary and benefits information report for the Superintendent, administrators, and teachers, District’s Statement of Affairs)</li> <li>6. Identification and membership of the Board</li> <li>7. Brief description of the methods whereby the public may request information and public records</li> <li>8. Directory information for the Freedom of Information Officer</li> <li>9. Address where requests for public records should be directed</li> <li>10. Fees</li> </ol>	<p>5 ILCS 140/4.</p> <p>The District must prominently post the list at each administrative office and make it available for inspection and copying.</p>
*A hyperlink to an email address(es) for members of the public to communicate with members of the Board	<p>50 ILCS 205/20.</p> <p>The hyperlink must be easily accessible from the District’s home page.</p>
Annual budget for current fiscal year, itemized by receipts and expenditures	<p>105 ILCS 5/17-1.2.</p> <p>This may be accomplished using Ill. State Board of Education (ISBE) <i>School District Budget Form</i> (50-36) or the summary pages from it. <sup>2</sup></p> <p>The District must notify its students’ parents/guardians when the budget is web-posted along with its website address.</p>
*District Report Card and a Report Card for each School	105 ILCS 5/10-17a, amended by P.A.s

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<sup>2</sup> For school officials who are concerned that some of their district’s constituents may not have the proper software to access these documents, the Ill. State Board of Education (ISBE) provides links to free *viewer* or *reader* products that support the ISBE School District Budget Form (50-36). These products can be downloaded and used to access the budget as posted on the district’s website. See [www.isbe.net/Pages/School-District-Joint-Agreement.aspx](http://www.isbe.net/Pages/School-District-Joint-Agreement.aspx).

<b>Web-posted records and information</b> (use of an * is explained in the paragraph above this table)	<b>Web-posting statutory reference and special instructions</b>
(the Report Cards will be provided by ISBE by Oct. 31 of each year)	<p>100-364, 100-448, 100-807, and 100-1121.</p> <p>Annually, no more than 30 calendar days after receiving the Report Cards from the State Superintendent, the District must: (1) present them at a regular Board meeting, (2) post them on the District's website, (3) make them available to a newspaper of general circulation serving the District, and (4) upon request, send them home to parents/guardians. 105 ILCS 5/10-17a(5).</p> <p>The District also must send a written notice home to parents/guardians stating: (1) that the Report Cards are available on the website, (2) the website's address, (3) that a printed copy will be sent upon request, and (4) the telephone number to request a printed copy. <u>Id.</u></p>
*A list of all contracts in excess of \$25,000 and any contracts with an exclusive bargaining representative	<p>105 ILCS 5/10-20.44.</p> <p>There is no statutory timeline for web-posting.</p> <p>Each year, in conjunction with the submission of the Statement of Affairs to ISBE, before Dec. 1, the District must submit to ISBE an annual report on all contracts over \$25,000 awarded during the previous fiscal year.</p>
*Contract(s) with any commercial driver training school(s) for driver education	<p>105 ILCS 5/27-24.2, amended by P.A. 100-465.</p> <p>The District is required to web-post this document if it has a website. If the District has no website, it must make the contract available upon request.</p>
Annual Statement of Affairs	<p>105 ILCS 5/10-17.</p> <p>The District is not required to web-post this document. It must, annually by Dec. 1, submit the Statement to ISBE for posting on ISBE's website, have copies of the Statement available in the main administrative office, and publish a</p>

<b>Web-posted records and information</b> (use of an * is explained in the paragraph above this table)	<b>Web-posting statutory reference and special instructions</b>
	summary of the Statement in a newspaper of general circulation published in the District.
<p>*Explanation of the data elements of <i>covered information</i><sup>3</sup> that the District collects, maintains, or discloses to any person, entity, third party, or governmental agency.</p> <p>*A description of the procedures<sup>4</sup> that parents/guardians may use to carry out their rights under 105 ILCS 85/33(c)(1), (2), &amp; (3) added by P.A. 101-516, eff. 7-1-21, including the right to:</p> <ol style="list-style-type: none"> <li>1. Inspect and review their child’s covered information</li> <li>2. Request a paper or electronic copy of their child’s covered information</li> <li>3. Request corrections for factual inaccuracies contained in their child’s covered information.</li> </ol>	<p>105 ILCS 85/27(a)(1), added by P.A. 101-516, eff. 7-1-21.</p> <p>The explanation of data elements of covered information must be clear and understandable by a layperson and cover the following: (1) how the District uses the covered information; (2) to whom or what entities the District discloses the covered information; and (3) for what purpose the District discloses the covered information.</p> <p>The explanation of data elements and description of parent rights procedures must be updated by Jan. 31 and July 31 each year, as needed.</p>
<p>*A list of operators with whom the District has written agreements and the following for each operator:</p> <ol style="list-style-type: none"> <li>1. Copy of the agreement</li> <li>2. Business address</li> <li>3. List of any subcontractors to whom covered information may be disclosed or a link to a page on the operator’s website that clearly lists the subcontractors</li> </ol>	<p>105 ILCS 85/27(a)(2) &amp; (3), added by P.A. 101-516, eff. 7-1-21.</p> <p>The District must post new operator contracts and an explanation of the data elements of covered information disclosed to the operator (see immediate row above) within 10 business days after entering into the contract. 105 ILCS 85/27(c), added by P.A. 101-516, eff. 7-1-21.</p> <p>This list must also be updated by Jan. 31 and July 31 each year, as needed.</p>
<p>*A list of <i>breaches</i> of covered information maintained by</p>	<p>105 ILCS 85/27(a)(5), added by P.A. 101-</p>

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<sup>3</sup> *Covered information* means personally identifiable information or material (PII) or information linked to PII in any media or format that is not publicly available and is any of the following: (1) created by or provided to an operator by a student or the student’s parent/guardian in the course of the student’s/guardian’s use of the operator’s site, service or application for K-12 school purposes; (2) created by or provided to an operator by an employee or agent of the District; or (3) gathered by an operator through the operation of its site, service, or application. 105 ILCS 85/5, amended by P.A. 101-516, eff. 7-1-21. *Operators* are entities that operate Internet websites, online services, online applications, or mobile applications that are designed, marketed, and used for K-12 school purposes. *Id.* See sample administrative procedure 7:345-AP, *Use of Educational Technologies; Data Privacy and Security*, for additional information regarding posting requirements under Student Online Personal Protection Act, 105 ILCS 85/, amended by P.A. 101-516, eff. 7-1-21, and sample exhibit 7:345-AP, E1, *Student Covered Information Reporting Form*, for a sample reporting format.

<sup>4</sup> Districts may choose to, but are not required to, include a description of these procedures in a student handbook.

<b>Web-posted records and information</b> (use of an * is explained in the paragraph above this table)	<b>Web-posting statutory reference and special instructions</b>
<p>the school or an operator involving 10% or more of the District’s student enrollment. The list must include:</p> <ol style="list-style-type: none"> <li>1. Number of students whose covered information was involved in the breach, unless the breach involved personal information as defined in the Personal Information Protection Act, 815 ILCS 530/5, in which case the number of students involved may not be disclosed.</li> <li>2. Date, estimated date, or estimated date range of the breach</li> <li>3. Name of the operator, if applicable</li> </ol>	<p>516, eff. 7-1-21.</p> <p>The District must update breach information by Jan. 31 and July 31 each year, and it must remain on the District’s website for at least five years after the District adds it to the list. Breaches that occurred (or were estimated to have occurred) prior to 7-1-21 or breaches that were posted more than five years prior to updating the current list do not need to be posted. <sup>5</sup></p>
<p>*Board policy 7:180, <i>Prevention of and Response to Bullying, Intimidation, and Harassment</i></p> <p>*Information developed as a result of the evaluation and assessment of the bullying policy’s outcomes and effectiveness</p>	<p>105 ILCS 5/27-23.7(b)(10) and (11).</p>
<p>*Contact information for the District’s Title IX Coordinator(s) and Board policies 2:260, <i>Uniform Grievance Procedure</i>; and 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i></p>	<p>34 C.F.R. §106.8.</p>
<p>*Training materials for any individuals designated as Title IX Coordinator(s), investigators, decision-makers, and informal resolution facilitators</p>	<p>34 C.F.R. §106.45(b)(10)(i)(D).</p> <p>Naming only the training provider and course does not meet this requirement. The U.S. Dept. of Education (DOE) requires training materials be publicly available “so that a district’s approach to training Title IX personnel may be transparently viewed by the [district’s] educational community and the public, including for the purpose of holding a [district] accountable for using training materials that comply with [Title IX] regulations.” 85 Fed. Reg. 30254. Consult the board attorney regarding this requirement; making training materials of third-party consultants publicly available</p>

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<sup>5</sup> 105 ILCS 85/27(d), added by P.A. 101-516, eff. 7-1-21, states that individual notification to the parent/guardian of a child whose covered information was breached may be delayed if a law enforcement agency determines that notification will interfere with a criminal investigation and provides the District with a written request for a delay of notice. This basis for delay does not specifically apply to the more general website notification of a breach, however, such a delay may also be warranted depending upon the circumstances. Consult the board attorney for guidance on this issue.

<b>Web-posted records and information</b> (use of an * is explained in the paragraph above this table)	<b>Web-posting statutory reference and special instructions</b>
	may violate their intellectual property rights. The DOE acknowledged the potential for intellectual property violations, suggesting that districts either “secure permission from the consultant to publish the training materials” or create their own training materials. 85 Fed. Reg. 30412.
*Board policy 7:20, <i>Harassment of Students Prohibited</i> , and age-appropriate explanations of its contents in student handbook(s)	105 ILCS 5/10-20.69 (final citation pending), added by P.A. 101-418.  The District must have an <i>age-appropriate</i> policy on sexual harassment (1) in the student handbook(s), (2) posted on the District’s website, and (3) posted in any other area where policies, rules and standards of conduct are posted in each school.
*Board policy 7:290, <i>Suicide and Depression Awareness and Prevention</i>	105 ILCS 5/2-3.166.
*Administrator and Teacher Salary and Benefits Report (itemized salary report for the Superintendent and all administrators and teachers); <i>benefits</i> includes without limitation vacation days, sick days, bonuses, annuities, and retirement enhancements	105 ILCS 5/10-20.47. 6  Annually on or before Oct. 1: (1) the information must be presented at a regular Board meeting and posted on the District’s website, and (2) after the Board meeting at which the information was presented, the Report must be provided to ISBE.
*Information regarding a Severance Agreement entered into because an employee or contractor was found to have engaged in sexual harassment or sexual discrimination	50 ILCS 205/3c, added by P.A. 100-1040.  Within 72 hours of Board approval, the District must post: (1) the name/title of person receiving payment under the severance agreement, (2) the amount of payment, (3) that the employee or contractor was found to have engaged in sexual harassment or sexual discrimination, as applicable, and (4) the date, time, and location of the meeting at

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6 105 ILCS 5/10-20.47 does not specify whether a district must provide employee names as part of its salary and benefits report. The general practice of districts has been to include names in the report. Consult the board attorney for guidance on this issue.

<b>Web-posted records and information</b> (use of an * is explained in the paragraph above this table)	<b>Web-posting statutory reference and special instructions</b>
	<p>which the agreement was approved.</p> <p><b>Note:</b> The Government Severance Pay Act (GSPA), 5 ILCS 415/10(a)(2), added by P.A. 100-895, prohibits an employee of a school district with contract provisions for severance pay from receiving any severance if he or she is fired for <i>misconduct</i> by the board, which includes sexual harassment and/or discrimination. <u>Id.</u> at 415/5. For more discussion about the reconciling these laws, see f/n 6 in policy 2:260, <i>Uniform Grievance Procedure</i>.</p>
<p>*As an employer that participates in the Ill. Municipal Retirement Fund (IMRF), a compensation report for employees who have a total compensation package that exceeds \$75,000 per year; <i>total compensation package</i> means salary, health insurance, a housing allowance, a vehicle allowance, a clothing allowance, bonuses, loans, vacation days granted, and sick days granted</p> <p>As of <b>PRESS</b> Issue 105 (Aug. 2020), IASB has not received a response from the Ill. Attorney General's office to its request for guidance concerning whether this requirement applies to employees who do not participate in IMRF, e.g., TRS participants.</p>	<p>5 ILCS 120/7.3.</p> <p>The report must be posted within six business days after the District approves a budget. The District may choose to post a physical copy of this information at its principal office in lieu of posting the information directly on the website in which case it must post directions on the website for accessing that information.</p>
<p>*As an employer that participates in the IMRF, a compensation report for employees who have a total compensation package that is equal to or in excess of \$150,000 per year; <i>total compensation package</i> means payment by the employer to the employee for salary, health insurance, a housing allowance, a vehicle allowance, a clothing allowance, bonuses, loans, vacation days granted, and sick days granted</p> <p>As of <b>PRESS</b> Issue 105, IASB has not received a response from the Ill. Attorney General's office to its request for guidance concerning whether this requirement applies to employees who do not participate in IMRF, e.g., TRS participants.</p>	<p>5 ILCS 120/7.3.</p> <p>The report must be posted at least six days before the District approves an employee's total compensation package that is equal to or in excess of \$150,000. The District may choose to post a physical copy of this information at its principal office in lieu of posting the information directly on the website in which case it must post directions on the website for accessing that information.</p>
<p>A description of activities to address intergroup conflict (an optional program authorized by Sec. 27-23.6)</p>	<p>105 ILCS 5/27-23.6(c).</p>
<p>*Names of Board members who have completed</p>	<p>105 ILCS 5/10-16a requires the District to</p>

<b>Web-posted records and information</b> (use of an * is explained in the paragraph above this table)	<b>Web-posting statutory reference and special instructions</b>
professional development leadership training	<p>post on its website the names of all Board members who have completed professional development leadership training. The web-posting may be expanded to log all Board members' training and development activities.</p> <p>5 ILCS 120/1.05(b) and (c) require each Board member to complete training on the Open Meetings Act. After completing the training, each Board member must file a copy of their certificate of completion with the Board.</p> <p>105 ILCS 5/24-16.5 requires each Board member to complete a training program on performance evaluations before voting on a dismissal based on a performance evaluation pursuant to the Performance Evaluation Reform Act.</p>
Immunization data reported to ISBE by each Nov. 15	<p>105 ILCS 5/27-8.1(6).</p> <p>By Dec. 1, the District must annually make the immunization <i>data</i> that it must report to ISBE each year publicly available. The data, not its format, must be identical to the data reported to ISBE. Boards have control over the method(s) used to make this data publicly available. One method is to instruct the reader to ask for the data directly from ISBE.</p>
Information on mental health issues and local treatment resources	The Ill. House of Representatives encouraged this in HR 478 (5-31-15).
All reliable assessments, scored by entities other than the District that are administered in each of the District's schools.	<p>105 ILCS 5/22-82(b).</p> <p>These must be made available to parents and/or guardians through the District's website or paper handouts.</p>
*The District's Remote and/or Blended Remote Learning Day Plan.	105 ILCS 5/10-30(6), added by P.A. 101-643.

## School Board

### Exhibit – Title IX Sexual Harassment Glossary of Terms <sup>1</sup>

Use this exhibit to educate employees and students about Title IX terms, and with the required Title IX response and grievance process in Board policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, implemented by administrative procedures 2:265-AP1, *Title IX Sexual Harassment Response*, and 2:265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*.

#### Glossary of Terms

**Actual Knowledge** – Notice of sexual harassment or allegations of sexual harassment to any District employee or to the District’s Title IX Coordinator. Assumption of knowledge based solely on the District’s status as an employer or other presumption under law does not constitute actual knowledge. This standard is not met when the only official of the District with actual knowledge is the Respondent. *Notice* as used here includes, but is not limited to, a report or complaint of sexual harassment to the Title IX Coordinator in person, by mail, by telephone, or by email using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. 34 C.F.R. §§ 106.30, 106.8(a).

**Appellate Decision-Maker** – An individual or group, e.g., a Board-appointed appeal examiner or the Board, which reviews an appeal of the Initial Decision-Maker’s determination regarding responsibility or a dismissal of a Formal Title IX Sexual Harassment Complaint (defined below). The Appellate Decision-Maker cannot be the same person as the Initial Decision-Maker, the Investigator, or the Title IX Coordinator. 34 C.F.R. §106.45(b)(8)(iii)(B). The Appellate Decision-Maker must be free from conflicts of interest or bias against complainants and respondents generally or against an individual Complainant or Respondent, and must be trained to serve impartially. 34 C.F.R. §106.45(b)(1)(iii).

**Complainant** – An individual who is alleged to be the victim of conduct that could constitute sexual harassment. 34 C.F.R. §106.30.

**Consent** – Knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Consent may not be inferred from silence, passivity, or a lack of verbal or physical resistance. A person’s manner of dress does not constitute consent. Past consent to sexual activities, or a current or previous dating relationship, does not imply ongoing or future consent. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person. Consent may be withdrawn at any time. A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following: (1) the person is incapacitated due to the use or influence of alcohol or drugs; (2) the person is asleep or unconscious; (3) the person is under age; or (4) the person is incapacitated due to a mental disability. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred. Coercion, force, or the threat of either invalidates consent.

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<sup>1</sup> This sample exhibit must be customized to assure alignment with the district’s policies, procedures, and practices.

**Note:** 34 C.F.R. §106.30, added at 85 Fed. Reg. 30574, states that Title IX recipients are not required to adopt a particular definition of consent with respect to sexual assault; however, in its 2020 Title IX rulemaking, the U.S. Dept. of Education (DOE) stated that “recipients must clearly define consent and must apply that definition consistently.” 85 Fed. Reg. 30125. **Consult the Board Attorney if the District would like to customize this definition.**

**Education Program or Activity** – Includes locations, events, or circumstances in the United States over which the District exercised substantial control over both the Respondent and the context in which the sexual harassment occurred. 34 C.F.R. §106.44(a).

**Note:** Title IX jurisdiction is geographically limited to discrimination against a person in the United States. 34 C.F.R. §106.8(d). The District’s Title IX obligations extend to off-campus sexual harassment incidents “if the off-campus incident occurs as part of the [district]’s ‘operations’ pursuant to 20 U.S.C. 1687 and 34 CFR 106.2(h)” or if the District “exercised substantial control over the respondent and the context of alleged sexual harassment that occurred off campus pursuant to § 106.44(a).” 85 Fed. Reg. 30196. No single factor is determinative of whether the District exercised *substantial control* or whether an incident occurred as part of the District’s *operations*. *Id.* at 30197. *Operations* may include computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in, the District’s operations. *Id.* at 30202. **Consult the Board Attorney for further guidance.**

**Formal Title IX Sexual Harassment Complaint** – A document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the District investigate the allegation. At the time of filing a Formal Title IX Sexual Harassment Complaint, a Complainant must be participating in or attempting to participate in the District’s education program or activity with which the Formal Title IX Sexual Harassment Complaint is filed.

**Note:** Whether a Complainant is *attempting to participate* is a fact-specific inquiry. For example, a Complainant who has graduated may still be attempting to participate in an education program where he or she intends to remain involved in alumni programs or activities. 85 Fed. Reg. 30138. **Consult the Board Attorney for further guidance.**

**Initial Decision-Maker** – An individual designated by the Title IX Coordinator to reach an initial determination regarding responsibility in a Formal Title IX Sexual Harassment Complaint (defined above) by applying the standard of proof set forth in 2:265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*. See 85 Fed. Reg. 30054. The Title IX Coordinator cannot be the Initial Decision-Maker. 34 C.F.R. §106.45(b)(7)(i). The Initial Decision-Maker must be free from conflicts of interest or bias against complainants and respondents generally or against an individual Complainant or Respondent, and must be trained to serve impartially. 34 C.F.R. §106.45(b)(1)(iii).

**Investigator** – The Title IX Coordinator or an individual designated by the Title IX Coordinator to investigate a *Formal Title IX Sexual Harassment Complaint* (defined above) according to 2:265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*. The Investigator must be free from conflicts of interest or bias against complainants and respondents generally or against an individual Complainant or Respondent, and must be trained to serve impartially. 34 C.F.R. §106.45(b)(1)(iii).

**Respondent** – An individual who has been reported to be the perpetrator of the conduct that could constitute sexual harassment. 34 C.F.R. §106.30.

**Supportive Measures** – Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to a Complainant or Respondent before or after the filing of a Formal Title IX Sexual Harassment Complaint or where no Formal Title IX Sexual Harassment Complaint has been filed. Such measures are designed to restore or preserve

equal access to the District’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District’s educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work<sup>2</sup> locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The District will maintain as confidential any supportive measures provided to a Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the District to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. 34 C.F.R. §106.30.

**Sexual Harassment Governed by Laws Other Than Title IX** – The District must also address sexual harassment that does not meet the definition of Title IX sexual harassment, including but not limited to sexual harassment in violation of the State Officials and Employees Ethics Act (5 ILCS 430/), Illinois Human Rights Act (775 ILCS 5/), and Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e et seq.).

For each report or complaint received, the Title IX Coordinator reviews the following Board policies<sup>3</sup> to determine if they require additional action by the District in addition to or at the exclusion of policy 2:265, *Title IX Sexual Harassment Grievance Procedure*:

- 2:260, *Uniform Grievance Procedure*. This policy provides a method for any student, parent/guardian, employee, or community member to file a complaint if he or she believes that the School Board, its employees, or its agents have violated his or her rights under the State or federal Constitution, State or federal statute, Board policy, or various enumerated bases.
- 5:20, *Workplace Harassment Prohibited*. This policy prohibits employees from engaging in sexual harassment.
- 5:90, *Abused and Neglected Child Reporting*. This policy requires employees who suspect or receive knowledge that a student may be an abused or neglected child to immediately report their suspicion to the Ill. Dept. of Children and Family Services (DCFS). If an employee reports an alleged incident of sexual abuse to DCFS and DCFS accepts the report for investigation, it further requires the District to coordinate with the local Children’s Advocacy Center.<sup>4</sup>
- 5:120, *Employee Ethics; Conduct; and Conflict of Interest*. This policy sets forth high standards for employee ethics and conduct, and incorporates by reference the Code of Ethics for Illinois Educators.
- 7:20, *Harassment of Students Prohibited*. This policy prohibits all sexual harassment of students.
- 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. This policy prohibits students from engaging in bullying, intimidation, and harassment at school, school-related events and electronically. Prohibited conduct includes stalking, sexual harassment, sexual violence, or retaliation for asserting or alleging an act of bullying.

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>2</sup> For districts with residential facilities, insert “or housing” here.

<sup>3</sup> Ensure the referenced locally-adopted board policies contain the language paraphrased in this exhibit. If not, either substitute similar language from the locally-adopted board policies on the same topics, or insert the titles from relevant locally adopted policies.

<sup>4</sup> Delete the second sentence if your district is not within a county served by an accredited Children’s Advocacy Center. For further discussion see f/n 14 in sample policy 5:90, *Abused and Neglected Child Reporting*.

- 7:185, *Teen Dating Violence Prohibited*. This policy prohibits students 13-19 years of age from using or threatening to use physical, mental, or emotional abuse to control an individual in the dating relationship, and from using or threatening to use sexual violence in the dating relationship.
- 7:190, *Student Behavior*. This policy sets forth student conduct rules, prohibited student conduct, and behavioral interventions and disciplinary measures designed to address the causes of misbehavior and teach students positive behavioral skills.

**Title IX Sexual Harassment** – Conduct on the basis of sex that satisfies one or more of the following (34 C.F.R. §106.30):

- A District employee conditions the provision of an aid, benefit, or service on an individual’s participation in unwelcome sexual conduct; or
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District’s education program or activity; or
- *Sexual assault* as defined in 20 U.S.C. §1092(f)(6)(A)(v), *dating violence* as defined in 34 U.S.C. §12291(a)(10), *domestic violence* as defined in 34 U.S.C. §12291(a)(8), or *stalking* as defined in 34 U.S.C. §12291(a)(30).
  - *Sexual assault* means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system (UCR Program) of the Federal Bureau of Investigation (FBI), and includes rape, fondling, incest, and statutory rape. 20 U.S.C. §1092(f)(6)(A)(v); 34 C.F.R. Part 668, Appendix A to Subpart D. For more information regarding the FBI UCR Program, see [www.fbi.gov/services/cjis/ucr/](http://www.fbi.gov/services/cjis/ucr/).
  - *Dating violence* means violence committed by a person: (1) who is or has been in a social relationship of a romantic or intimate nature with the victim, and (2) where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. 34 U.S.C. §12291(a)(10).
  - *Domestic violence* includes any felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction. 34 U.S.C. §12291(a)(8).
  - *Stalking* means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for his or her safety or the safety of others, or (2) suffer substantial emotional distress. 34 U.S.C. §12291(a)(30).

## Students

### Exhibit - Student Handbook Checklist

The Checklist contains mandatory and recommended notices that schools should give to their students and the students’ parents/guardians.<sup>1</sup> *Mandatory* means the notices are legally required. *Recommended* means including the notices are a best practice. The Checklist is in the IASB Policy Reference Manual (PRM) format, and it lists corresponding policies, procedures, and exhibits in numerical order within each sub-headed category. A corresponding citation to the Illinois Principals Association **Online Model Student Handbook (MSH)** is also listed, if one exists. Any handbook should be reviewed by the Board Attorney before distribution to ensure that all mandatory notices are included as this Checklist is subject to change without notice. This Checklist is not a substitute for legal advice.

### Mandatory Notices

#### Student Services

Mandatory Topics	IASB PRM	IPA MSH
Transportation	4:110, <i>Transportation</i>	4.10, <i>Bus Transportation</i>
Transportation reimbursement eligibility and dispute resolution <b>Note:</b> this program has been withdrawn due to lack of funding	4:110, <i>Transportation</i>	4.10, <i>Bus Transportation</i>
Eligibility criteria for free and reduced lunch	4:130, <i>Free and Reduced-Price Food Services</i> 4:130-E, <i>Free and Reduced-Price Food Services; Meal Charge Notifications</i>	3.10, <i>Fees, Fines &amp; Charges; Waiver of Student Fees</i>
Waiver of school fees along with the fee waiver application form	4:140, <i>Waiver of Student Fees</i> 4:140-AP, <i>Fines, Fees, and Charges - Waiver of Student Fees</i> 4:140-E1, <i>Application for Fee Waiver</i> 4:140-E2, <i>Response to Application for Fee Waiver, Appeal, and Response to Appeal</i>	3.10, <i>Fees, Fines &amp; Charges; Waiver of Student Fees</i> 3.10-E1, <i>Application for Fee Waiver</i>
School Wellness	6:50, <i>School Wellness</i>	

**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

<sup>1</sup> In its continuing commitment to help school districts comply with legal requirements for all policies and procedures, the Illinois Principals Association (IPA) in conjunction with the Illinois Association of School Boards’ (IASB) **PRESS**, have prepared this checklist to assist school administrators in preparing their student handbooks. A special thank you also goes to the law firm of Hodges, Loizzi, Eisenhammer, Rodick & Kohn LLP for allowing IPA and IASB to cross check this *Student Handbook Checklist* against its annual version.

Mandatory Topics	IASB PRM	IPA MSH
(required if the District participates in the National School Lunch Program or Breakfast Program)		
Alternative learning opportunities	6:110, <i>Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program</i>	2.90, <i>Credit for Proficiency, Non-District Experiences, Course Substitutions and Accelerated Placement</i>
Notification to parents/guardians of English Learners regarding their child's placement in, and information about, the District's English Learners programs	6:160, <i>English Learners</i>	12.60, <i>English Learners</i>
Parental involvement under Title I (only when the district receives Title I funds)	6:170, <i>Title I Programs</i> 6:170-AP1, <i>Checklist of Development, Implementation, and Maintenance of Parent and Family Engagement Compacts for Title I Programs</i> 6:170-AP1, E1, <i>District-Level Parent and Family Engagement Compact</i> 6:170-AP1, E2, <i>School-Level Parent and Family Engagement Compact</i> 6:170-AP2, <i>Notice to Parents Required by Elementary and Secondary Education Act, McKinney-Vento Homeless Assistance Act, and Protection of Pupil Rights Act</i>	12.130, <i>Parent Notices Required by the Every Student Succeeds Act</i>
Notice to parents required by the Elementary and Secondary Education Act	6:170-AP2, <i>Notice to Parents Required by Elementary and Secondary Education Act, McKinney-Vento Homeless Assistance Act, and Protection of Pupil Rights Act</i>	
Surveys that request personal information from students	7:15, <i>Student and Family Privacy Rights</i>	11.10, <i>Student Privacy Protections</i>
Birth certificate requirements for enrollment	7:50, <i>School Admissions and Student Transfers To and From Non-District Schools</i>	

<b>Mandatory Topics</b>	<b>IASB PRM</b>	<b>IPA MSH</b>
	7:50-AP, <i>School Admissions and Student Transfers To and From Non-District Schools</i>	
Dental examinations	7:100, <i>Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students</i>	
Eye examinations (K and students enrolling in public school for the first time only)	7:100, <i>Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students</i>	
Vaccinations (influenza and meningococcal)	7:100, <i>Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students</i>	
Administration of medications (includes asthma inhalers and epinephrine injectors, opioid antagonists, and glucagon)	7:270, <i>Administering Medicines to Students</i> 7:270-API, <i>Dispensing Medication</i> 7:270-E1, <i>School Medication Authorization Form</i>	5.20, <i>Student Medication</i> 5.20-E1, <i>Student Medication Authorization Form</i>

Student Programs

<b>Mandatory Topics</b>	<b>IASB PRM</b>	<b>IPA MSH</b>
Notice of instruction in recognizing and avoiding sexual abuse (K-8 only)	6:60-AP, <i>Comprehensive Health Education Program</i> 6:60-AP, E1, <i>Notice to Parents/Guardians of Students Enrolled in Family Life and Sex Education Classes</i>	12.40, <i>Sex Education Instruction</i> 12.40-E1, <i>Notice to Parents on Sex Education Instruction</i>
Free appropriate public education to students with disabilities  Special education services to eligible children whether or not enrolled in the District	6:120, <i>Education of Children with Disabilities</i> 6:120-API, <i>Special Education Procedures Assuring the Implementation of Comprehensive Programming for Children with Disabilities</i> (downloadable from IASB website, <a href="http://www.iasb.com">www.iasb.com</a> ) 6:120-API, E1, <i>Notice to Parents/Guardians Regarding Section 504 Rights</i>	10.10, <i>Education of Children with Disabilities</i>

Student Responsibilities

<b>Mandatory Topics</b>	<b>IASB PRM</b>	<b>IPA MSH</b>
IHSA policy on banned substances (required only for IHSA schools)	6:190, <i>Extracurricular and Co-Curricular Activities</i>	9.10, <i>Extracurricular and Athletic</i>

<b>Mandatory Topics</b>	<b>IASB PRM</b>	<b>IPA MSH</b>
	6:190-AP, <i>Academic Eligibility for Participation in Extracurricular Activities</i> 7:240, <i>Conduct Code for Participants in Extracurricular Activities</i> 7:240-AP1, <i>Code of Conduct for Extracurricular Activities</i>	<i>Activities Code of Conduct</i>
Absenteeism and truancy	7:70, <i>Attendance and Truancy</i>	2.10, <i>Attendance</i> 2.50, <i>Truancy</i>
Statement of district ownership of and right to search student lockers	7:140, <i>Search and Seizure</i>	8.10, <i>Search and Seizure</i>
Search procedures for school grounds and lockers	7:140, <i>Search and Seizure</i>	8.10, <i>Search and Seizure</i>
Notification regarding access to student accounts or profiles on social networking websites	7:140, <i>Search and Seizure</i> 7:140-E, <i>Letter to Parents/Guardians Regarding the Right to Privacy in the School Setting Act</i>	8.10, <i>Search and Seizure</i>
Bullying prohibited and reporting encouraged	7:180, <i>Prevention of and Response to Bullying, Intimidation, and Harassment</i>	6.40, <i>Prevention of and Response to Bullying, Intimidation, &amp; Harassment</i> 6.40-E1, <i>Aggressive Behavior Reporting Form</i>
Teen dating violence prohibited and reporting encouraged	7:185, <i>Teen Dating Violence Prohibited</i>	
Prohibition of electronic paging devices and making threat by Internet	7:190, <i>Student Behavior</i>	6.30, <i>Student Behavior</i>
All prohibited conduct in the school discipline code, including, but not limited to: 1. Controlled substances 2. Firearms and other weapons 3. E-cigarettes 4. Gangs and gang-related activity 5. Sexting prohibited	4:170-AP2, E4, <i>Letter to Parents/Guardians About Preventing and Reducing Incidences of Sexting</i> 7:190, <i>Student Behavior</i> 7:190-AP5, <i>Student Handbook - Electronic Devices</i> 7:190-AP6, <i>Guidelines for Investigating Sexting Allegations</i>	6.30, <i>Student Behavior</i>

<b>Mandatory Topics</b>	<b>IASB PRM</b>	<b>IPA MSH</b>
Inform parents/guardians when their child engaged in aggressive behavior along with the school's early intervention procedures	7:190-E1, <i>Aggressive Behavior Reporting Letter and Form</i>	6.40-E1, <i>Aggressive Behavior Reporting Form</i>
Suspension and expulsion, and due process requirements	7:200, <i>Suspension Procedures</i> 7:210, <i>Expulsion Procedures</i>	
School bus safety	7:220, <i>Bus Conduct</i> 4:110-AP3, <i>School Bus Safety Rules</i>	4.10, <i>Bus Transportation</i>
Videotape surveillance of buses (if applicable)	7:220, <i>Bus Conduct</i> 7:220-AP, <i>Electronic Recordings on School Buses</i>	4.10, <i>Bus Transportation</i>
Behavior interventions (these may be developed through the Spec. Ed. Coop if the district belongs to one)	7:230, <i>Misconduct by Students With Disabilities</i>	
Dress code	7:160, <i>Student Appearance</i>	6.20, <i>School Dress Code &amp; Student Appearance</i>
All other conduct prohibited by Board policy - school discipline code	7:190, <i>Student Behavior</i>	6.30, <i>Student Behavior</i>

Student Rights

<b>Mandatory Topics</b>	<b>IASB PRM</b>	<b>IPA MSH</b>
Notice of contact information for nondiscrimination and Title IX coordinator(s) and making reports or complaint of discrimination or sexual harassment	2:260, <i>Uniform Grievance Procedure</i> 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i>	6.40, <i>Prevention of and Response to Bullying, Intimidation &amp; Harassment</i>
Prohibition of discrimination on the basis of race, color, national origin, sex, sexual orientation, ancestry, age, religious beliefs, physical or mental disability, status as homeless, or actual or potential marital or parental status, including pregnancy	7:10, <i>Equal Educational Opportunities</i> 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i>	1.50, <i>Equal Opportunity &amp; Sex Equity</i>
Sex equity and grievance procedures	2:260, <i>Uniform Grievance Procedure</i> 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i> 7:10, <i>Equal Educational Opportunities</i>	1.50, <i>Equal Opportunity &amp; Sex Equity</i>

<b>Mandatory Topics</b>	<b>IASB PRM</b>	<b>IPA MSH</b>
	7:20, <i>Harassment of Students Prohibited</i>	
Sexual harassment prohibited and grievance procedures and age-appropriate information about the sexual harassment policy	2:260, <i>Uniform Grievance Procedure</i> 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i> 7:20, <i>Harassment of Students Prohibited</i> 7:185, <i>Teen Dating Violence Prohibited</i>	6.45, <i>Sexual Harassment &amp; Teen Dating Violence Prohibited</i>
Notify parents of their right to request their child's classroom teachers' qualifications	5:190-E1, <i>Notice to Parents of Their Right to Request Their Child's Classroom Teachers' Qualifications</i>	12.130, <i>Parent Notices Required by the Every Student Succeeds Act</i>
Educational rights of homeless students in the location where homeless children receive services	6:140, <i>Education of Homeless Children</i> 6:140-AP, <i>Education of Homeless Children</i>	12.30, <i>Homeless Child's Right to Education</i>
Notice of parent and student rights under the Children's Privacy Protection and Parental Empowerment Act	7:15, <i>Student and Family Privacy Rights</i> 7:15-E, <i>Notification to Parents of Family Privacy Rights</i>	11.10, <i>Student Privacy Protections</i>
Notice to parents/guardians about social network passwords	7:140, <i>Search and Seizure</i> 7:140- E, <i>Letter to Parents/Guardians Regarding the Right to Privacy in the School Setting Act</i>	6.70, <i>Access to Student Social Networking Passwords &amp; Websites</i>
Notice concerning privacy and access rights to school student records	7:340, <i>Student Records</i> 7:340-AP1, E1, <i>Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records</i> 7:340-AP1, E2, <i>Using a Photograph or Video Recording of a Student</i>	11.20, <i>Student Records</i>
Disclosure of directory information	7:340-AP1, E1, <i>Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records</i> 7:340-AP1, E2, <i>Using a Photograph or Video Recording of a Student</i>	11.20, <i>Student Records</i>
Information classified as directory information and for objecting to disclosure of information	7:340-AP1, E1, <i>Notice to Parents/Guardians and Students of Their Rights Concerning a</i>	11.20, <i>Student Records</i>

<b>Mandatory Topics</b>	<b>IASB PRM</b>	<b>IPA MSH</b>
	<i>Student's School Records</i>	
Military recruiting	7:340-AP1, E3, <i>Letter to Parents and Eligible Students Concerning Military Recruiters and Postsecondary Institutions Receiving Student Directory Information</i> 7:340-AP1, E4, <i>Frequently Asked Questions Regarding Military Recruiter Access to Students and Student Information</i>	11.20, <i>Student Records</i>
Student biometric information (when applicable)	7:340, <i>Student Records</i> 7:340-AP1, E5, <i>Biometric Information Collection Authorization</i>	11.30, <i>Student Biometric Information</i>
Notice to parents/guardians concerning student data collected by schools and operators under the Student Online Personal Protection Act	7:345-AP, E2, <i>Student Data Privacy; Notice to Parents About Educational Technology Vendors</i>	
Notice of disability accommodation	8:70, <i>Accommodating Individuals with Disabilities</i>	1.110, <i>Accommodating Individuals with Disabilities</i>

General Information

<b>Mandatory Topics</b>	<b>IASB PRM</b>	<b>IPA MSH</b>
Notice before a pesticide application	4:160, <i>Environmental Quality of Buildings and Grounds</i> 4:160-AP, <i>Environmental Quality of Buildings and Grounds</i>	12.80, <i>Pesticide Application Notice</i>
Availability of information concerning sex offenders	4:175-AP1, <i>Criminal Offender Notification Laws; Screening</i> 4:175-AP1, E1, <i>Informing Parents/Guardians About Offender Community Notification Laws</i>	12.120, <i>Violent Offender Community Notification</i>
School bus safety	4:110-AP3, <i>School Bus Safety Rules</i>	4.10, <i>Bus Transportation</i>
Asbestos management plan, notice of availability		
Notice to parents/guardians and	4:170, <i>Safety</i>	

<b>Mandatory Topics</b>	<b>IASB PRM</b>	<b>IPA MSH</b>
staff of IHSA’s online training video about hands-only CPR and AED	4:170-AP6, E1, <i>School Staff AED Notification Letter</i>	
Notice that a student athlete and his/her parent must sign acknowledgement of receiving the concussion policy (required only for IHSA schools)	7:305, <i>Student Athlete Concussions and Head Injuries</i> 7:305-AP, <i>Program for Managing Student Athlete Concussions and Head Injuries</i>	9.30, <i>Student Athlete Concussions and Head Injuries</i>
School visitation rights notice	8:95-E1, <i>Letter Notifying Parents/Guardians of School Visitation Rights</i> 8:95-E2, <i>Verification of School Visitation</i>	12.70, <i>School Visitation Rights</i>

**Recommended Notices**

Student Services

<b>Recommended Topics</b>	<b>IASB PRM</b>	<b>IPA MSH</b>
Information regarding waiver of student fees	4:140, <i>Waiver of Student Fees</i>	
Fire drill program, building specific plan	4:170, <i>Safety</i> 4:170-AP1, <i>Comprehensive Safety and Security Plan</i>	5.40, <i>Safety Drill Procedures and Conduct</i>
School safety plans, including severe weather and injury or sudden illness	4:170, <i>Safety</i> 4:170-AP1, <i>Comprehensive Safety and Security Plan</i> 4:170-AP1, E1, <i>Accident or Injury Form</i>	2.100, <i>Home and Hospital Instruction</i>
Targeted school violence prevention program, including threat assessment teams	4:190, <i>Targeted School Violence Prevention Program</i> 4:190-AP2, <i>Threat Assessment Team (TAT)</i>	
Home and hospital instruction	6:150, <i>Home and Hospital Instruction</i>	2.100, <i>Home and Hospital Instruction</i>
Student residency and tuition	7:60, <i>Residence</i> 7:60-AP1, <i>Challenging a Student’s Residence Status</i> 7:60-AP2, <i>Establishing Student Residency</i> 7:60-AP2, E1, <i>Letter of Residence from Landlord in Lieu of Lease</i> 7:60-AP2, E2, <i>Letter of Residence to</i>	

<b>Recommended Topics</b>	<b>IASB PRM</b>	<b>IPA MSH</b>
	<i>be Used When the Person Seeking to Enroll a Student is Living with a District Resident</i> 7:60-AP2, E3, <i>Evidence of Non-Parent's Custody, Control and Responsibility of a Student</i>	
Parking, building specific	7:140, <i>Search and Seizure</i>	4.20, <i>Parking</i>
Health and guidance counselor and social work access	7:250, <i>Student Support Services</i>	5.30, <i>Guidance &amp; Counseling</i>
Communicable and infectious disease	7:280, <i>Communicable and Chronic Infectious Disease</i> 7:280-AP, <i>Managing Students with Communicable and Infectious Diseases</i>	5.50, <i>Communicable Disease</i> 5.60, <i>Head Lice</i>
Students with diabetes	6:120-AP4, <i>Care of Students with Diabetes</i>	1.130, <i>Care of Students with Diabetes</i> 1.130-E1, <i>Authorization to Provide Diabetic Care</i>
Medical cannabis administration	7:270-E2, <i>School Medication Authorization Form - Medical Cannabis</i>	
Food allergy management program	7:285, <i>Food Allergy Management Program</i> 7:285-AP, <i>Implementing a Food Allergy Management Program</i>	1.120, <i>Students with Food Allergies</i>
Telephone use, building specific		

Student Programs

<b>Recommended Topics</b>	<b>IASB PRM</b>	<b>IPA MSH</b>
Weighted grades	6:280-AP, <i>Evaluating and Reporting Student Achievement</i>	
District philosophy and goals	1:30, <i>School District Philosophy</i> 3:10, <i>Goals and Objectives</i> 6:10, <i>Educational Philosophy and Objectives</i>	
Remote Learning and/or e-learning program(s)	6:20, <i>School Year Calendar and Day</i> 6:20-AP, <i>Remote and/or Blended Remote Learning Day Plan(s)</i>	

<b>Recommended Topics</b>	<b>IASB PRM</b>	<b>IPA MSH</b>
Anti-bias curriculum	6:60, <i>Curriculum Content</i>	
Driver education eligibility and requirements (high schools only)	6:60, <i>Curriculum Content</i>	
Parental objections to sex education, family life instruction, and sexually transmitted diseases	6:60-AP, E1, <i>Notice to Parents/Guardians of Students Enrolled in Family Life and Sex Education Classes</i>	12.40, <i>Sex Education Instruction</i> 12.40-E1, <i>Notice to Parents on Sex Education Instruction</i>
Biking and Walking Safety Education	6:60-AP, E2, <i>Resources for Biking and Walking Safety Education</i>	
Accelerated placement availability	6:135, <i>Accelerated Placement Program</i>	2:90, <i>Credit for Proficiency, Non-District Experiences, Course Substitutions and Accelerated Placement</i>
Adaptive physical education program exemption	6:310, <i>High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students</i>	2.80, <i>Exemption from PE Requirement (Regular Education)</i>
Bilingual education availability	6:160, <i>English Learners</i>	12.60, <i>English Learners</i>
Co-curricular activities	6:190, <i>Extracurricular and Co-Curricular Activities</i>	9.10, <i>Extracurricular and Athletic Activities Code of Conduct</i>
“No Pass, No Play”	6:190, <i>Extracurricular and Co-Curricular Activities</i> 6:190-AP, <i>Academic Eligibility for Participation in Extracurricular Activities</i>	9.10, <i>Extracurricular and Athletic Activities Code of Conduct</i>
Parental right to review instructional materials	6:210, <i>Instructional Materials</i>	11.10, <i>Student Privacy Protections</i>
Acceptable use and Internet safety	6:235, <i>Access to Electronic Networks</i> 6:235-AP1, <i>Acceptable Use of the District’s Electronic Networks</i> 6:235-AP1, E1, <i>Student Authorization for Access to the District’s Electronic Networks</i>	7.10, <i>Internet Acceptable Use</i> 7.10-E1, <i>Internet Acceptable Use Sign-Off</i>

<b>Recommended Topics</b>	<b>IASB PRM</b>	<b>IPA MSH</b>
	6:235-AP1, E2, <i>Staff Authorization for Access to the District's Electronic Networks</i>	
Social promotion	6:280, <i>Grading and Promotion</i> 6:280-AP, <i>Evaluating and Reporting Student Achievement</i>	2.60, <i>Grading and Promotion</i>
High school graduation requirements (high schools only)	6:300, <i>Graduation Requirements</i>	2.120, <i>Graduation Requirements</i>
Right of students with IEP to participate in graduation ceremony (high schools only)	6:300, <i>Graduation Requirements</i>	10.40, <i>Certificate of High School Completion</i>
Physical education, including waiver of required classes	6:310, <i>High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students</i>	2.80, <i>Exemption from PE Requirement (Regular Education)</i> 10.30, <i>Exemption from PE Requirement (Special Education)</i>
Class schedules, building specific		
Schedule of testing programs, building specific	6:340, <i>Student Testing and Assessment Program</i>	
Student distribution of non-curricular material	7:310, <i>Restrictions on Publications; Elementary Schools</i> 7:310-AP, <i>Guidelines for Student Distribution of Non-School Sponsored Publications; Elementary Schools</i> 7:315, <i>Restrictions on Publications; High Schools</i> 7:315-AP, <i>Guidelines for Student Distribution of Non-School Sponsored Publications; High Schools</i>	7.20, <i>Guidelines for Student Distribution of Non-School Sponsored Publications</i>

General Information

<b>Recommended Topics</b>	<b>IASB PRM</b>	<b>IPA MSH</b>
School calendar	6:20, <i>School Year Calendar and Day</i>	
Field trip	6:240, <i>Field Trips</i> 6:240-AP, <i>Field Trip Guidelines</i>	6.60, <i>Field Trips</i>
Release time for religious instruction/observance	7:80, <i>Release Time for Religious Instruction/Observance</i>	2.30, <i>Release Time for Religious Instruction and</i>

<b>Recommended Topics</b>	<b>IASB PRM</b>	<b>IPA MSH</b>
		<i>Observance</i>
Release time for students voting in elections	7:90, <i>Release During School Hours</i>	
Extra-curricular drug and alcohol testing (if applicable)	7:240-AP2, <i>Extracurricular Drug and Alcohol Testing Program</i> 7:240-AP2, E1, <i>Consent to Participate in Extracurricular Drug and Alcohol Testing Program</i>	9.10, <i>Extracurricular and Athletic Activities Code of Conduct</i>
Eligibility to remove college entrance exams from student transcripts	7:340, <i>Student Records</i>	11.20, <i>Student Records</i>
Equal access to school facilities	8:20, <i>Community Use of School Facilities</i>	
Identification and registration of persons entering the school building	8:30, <i>Visitors to and Conduct on School Property</i>	1.40, <i>Visitors</i>
Statement that the handbook is: 1. Only a summary of board policies governing the district; board policies are available to the public at the district office 2. A document that may be amended during the year without notice 3. Is a communication tool of all policies to persons expected to execute and comply with them	2:240, <i>Board Policy Development</i>	1.20, <i>Student Handbook Acknowledgement</i> 1.30, <i>General School Information</i>
Address of District offices, list of administrators, and contact information	2:250, <i>Access to District Public Records</i> 2:250-E2, <i>Immediately Available District Public Records and Web-Posted Reports and Records</i>	1.30, <i>General School Information</i>
Board members' names	2:250, <i>Access to District Public Records</i> 2:250-E2, <i>Immediately Available District Public Records and Web-Posted Reports and Records</i>	1.30, <i>General School Information</i>
List of District school addresses	2:250, <i>Access to District Public Records</i> 2:250-E2, <i>Immediately Available District Public Records and Web-Posted Reports and Records</i>	1.30, <i>General School Information</i>

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Notification of right to review teachers' qualifications	5:190, <i>Teacher Qualifications</i> 5:190-E1, <i>Notice to Parents of Their Right to Request Their Child's Classroom Teachers' Qualifications</i> 5:190-E2, <i>Notice to Parents When Their Child Is Assigned To or Has Been Taught for at Least Four Straight Weeks By a Teacher Who Does Not Meet Applicable State Certification/Licensure Requirements</i> 5:190-E3, <i>Letter to Teacher Who Does Not Meet Applicable State Certification/Licensure Requirements for the Grade Level and Subject Area of Assignment</i>	12.130, <i>Parent Notices Required by the Every Student Succeeds Act</i>
Notice when: 1. Student is being taught by a teacher who is not highly qualified, 2. School identified as in need of improvement, 3. Schools are identified for corrective action, 4. Schools are identified for restructuring, 5. There is eligibility for supplemental educational services, and 6. The district offers voluntary school choice, if applicable.	5:190-E2, <i>Notice to Parents When Their Child Is Assigned To or Has Been Taught for at Least Four Straight Weeks By a Teacher Who Does Not Meet Applicable State Certification/Licensure Requirements</i> 6:15, <i>School Accountability</i>	
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## School Board

### Uniform Grievance Procedure 1

A student, parent/guardian, employee, or community member should notify any District Complaint Manager if he or she believes that the School Board, its employees, or its agents have violated his or her rights guaranteed by the State or federal Constitution, State or federal statute, or Board policy<sup>2</sup>, or have a complaint regarding any one of the following:<sup>3</sup>

1. Title II of the Americans with Disabilities Act, 42 U.S.C. §12101 et seq.<sup>4</sup>
2. Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq., excluding Title IX sexual harassment complaints governed by policy 2:265, *Title IX Sexual Harassment Grievance Procedure*
3. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §791 et seq.<sup>5</sup>

**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

<sup>1</sup> State or federal law requires this subject matter be covered by policy and controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. Employee grievance procedures are a mandatory subject of bargaining and cannot be changed without the employee exclusive representative's consent. This policy and its companion policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, are in addition to, and not a substitute for, the employee grievance procedure contained in a collective bargaining agreement.

A grievance procedure is required by many civil rights acts and implementing regulations, including those listed. For the sake of consistency and ease of administration, this policy consolidates all board grievance procedures, excluding Title IX sexual harassment complaints (see sample policy 2:265, *Title IX Sexual Harassment Grievance Procedure*) into one policy, except those contained in collective bargaining agreements. See the cross references for the policies referring to this uniform grievance procedure policy.

<sup>2</sup> Including the phrase "guaranteed by the State or federal Constitution, State or federal statute, or Board policy" broadens the scope of this policy beyond the items listed. Consult the board attorney regarding whether to retain this phrase and/or to otherwise limit the scope of this policy.

<sup>3</sup> The Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §1400 et seq.) is not included in the list of statutes that may serve as the basis of a grievance, and attorneys disagree whether it should be. Many believe that IDEA provides the exclusive remedy; others believe that including IDEA allows parents an opportunity to get their position before the board. Unique and specific complaint resolution mechanisms are expressly provided under IDEA, Article 14 of the School Code, and their respective implementing regulations. These mechanisms follow: (1) IDEA at 20 U.S.C. §1415 (procedural safeguards-mediation and due process); (2) IDEA regulations at 34 C.F.R. §§300.151-300.153 (state complaints), 300.506 (mediation), and 300.507 et seq. (due process); (3) School Code at §§14/8.02a (mediation and due process) and 14/8.02b (expedited due process); and (4) special education regulations at 23 Ill.Admin.Code §§226.560 (Mediation), 226.570 (State Complaint Procedures), and Subpart G (due process). A board that would like to include IDEA should consult the board attorney.

<sup>4</sup> The Americans with Disabilities Act Amendments Act (ADAAA) (Pub. L. 110-325), made significant changes to the Americans with Disabilities Act's definition of disability by broadening the scope of coverage. The ADAAA also overturned a series of U.S. Supreme Court decisions that interpreted the Americans with Disabilities Act of 1990 in a way that made it difficult to prove that impairments were a disability. The U.S. Equal Employment Opportunity Commission's (EEOC) regulations, 29 C.F.R. Part 1630, are at: [www.eeoc.gov/laws/types/disability\\_regulations.cfm](http://www.eeoc.gov/laws/types/disability_regulations.cfm).

Boards should consult with their attorneys regarding how the ADAAA and its implementing regulations impact their districts.

Title II of the ADA of 1990 also includes website accessibility. Addressing website accessibility is complicated. Many entities addressing website accessibility use *Web Content Accessibility Guidelines* (WCAG) 2.0, a frequently cited accessibility standard that contains guidelines developed by a private group of accessibility experts. WCAG 2.0 is the standard the U.S. Dept. of Justice referenced in its recent Title II rulemaking; however, it is not adopted as the formal legal standard for public accommodation websites. While it is not adopted as the formal legal standard for public accommodation websites, it has been used in many consent decrees and settlement agreements. See [www.w3.org/TR/WCAG20/](http://www.w3.org/TR/WCAG20/).

4. Title VI of the Civil Rights Act, 42 U.S.C. §2000d et seq.
5. Equal Employment Opportunities Act (Title VII of the Civil Rights Act), 42 U.S.C. §2000e et seq.
6. Sexual harassment prohibited by the State Officials and Employees Ethics Act<sup>6</sup>, 5 ILCS 430/70-5(a); Illinois Human Rights Act, 775 ILCS 5/; and Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq. (Title IX sexual harassment complaints are addressed under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*) <sup>7</sup>
7. Breastfeeding accommodations for students, 105 ILCS 5/10-20.60 **8**
8. Bullying, 105 ILCS 5/27-23.7 **9**
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11. Victims' Economic Security and Safety Act, 820 ILCS 180/
12. Illinois Equal Pay Act of 2003, 820 ILCS 112/
13. Provision of services to homeless students
14. Illinois Whistleblower Act, 740 ILCS 174/ **11**
15. Misuse of genetic information prohibited by the Illinois Genetic Information Privacy Act, 410 ILCS 513/; and Titles I and II of the Genetic Information Nondiscrimination Act, 42 U.S.C. §2000ff et seq. **12**
16. Employee Credit Privacy Act, 820 ILCS 70/ **13**

The Complaint Manager will first attempt to resolve complaints without resorting to this grievance procedure. If a formal complaint is filed under this policy, the Complaint Manager will address the complaint promptly and equitably. A student and/or parent/guardian filing a complaint under this policy may forego any informal suggestions and/or attempts to resolve it and may proceed directly to this grievance procedure. The Complaint Manager will not require a student or parent/guardian complaining of any form of harassment to attempt to resolve allegations directly with the accused (or the accused's parents/guardians); this includes mediation.

### Right to Pursue Other Remedies Not Impaired

The right of a person to prompt and equitable<sup>14</sup> resolution of a complaint filed under this policy shall not be impaired by the person's pursuit of other remedies, e.g., criminal complaints, civil actions, etc. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies and use of this grievance procedure does not extend any filing deadline related to the pursuit of other remedies. If a person is pursuing another remedy subject to a complaint under this policy, the District will continue with a simultaneous investigation under this policy.

### Deadlines

All deadlines under this policy may be extended by the Complaint Manager as he or she deems appropriate. As used in this policy, *school business days* means days on which the District's main office is open.

### Filing a Complaint

A person (hereinafter Complainant) who wishes to avail him or herself of this grievance procedure may do so by filing a complaint with any District Complaint Manager. The Complainant shall not be required to file a complaint with a particular Complaint Manager and may request a Complaint Manager of the same gender.<sup>15</sup> The Complaint Manager may request the Complainant to provide a written statement regarding the nature of the complaint or require a meeting with a student's parent(s)/guardian(s). The Complaint Manager shall assist the Complainant as needed.

For any complaint alleging bullying and/or cyberbullying of students, the Complaint Manager shall process and review the complaint according to Board policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, in addition to any response required by this policy. For any complaint alleging sexual harassment or other violation of Board policy 5:20, *Workplace Harassment Prohibited*, the Complaint Manager shall process and review the complaint according to that policy, in addition to any response required by this policy.

### Investigation Process

The Complaint Manager will investigate the complaint or appoint a qualified person to undertake the investigation on his or her behalf.<sup>16</sup> The Complaint Manager shall ensure both parties have an equal opportunity to present evidence during an investigation. If the Complainant is a student under 18 years of age, the Complaint Manager will notify his or her parents/guardians that they may attend any investigatory meetings in which their child is involved. The complaint and identity of the Complainant will not be disclosed except: (1) as required by law or this policy, (2) as necessary to fully investigate the complaint, or (3) as authorized by the Complainant.

The identity of any student witnesses will not be disclosed except: (1) as required by law or any collective bargaining agreement, (2) as necessary to fully investigate the complaint, or (3) as authorized by the parent/guardian of the student witness, or by the student if the student is 18 years of age or older.

The Complaint Manager will inform, at regular intervals, the person(s) filing a complaint under this policy about the status of the investigation. Within 30 school business days after the date the complaint was filed, the Complaint Manager shall file a written report of his or her findings with the Superintendent. The Complaint Manager may request an extension of time.

The Superintendent will keep the Board informed of all complaints.

If a complaint contains allegations involving the Superintendent or Board member(s), the written report shall be filed directly with the Board, which will make a decision in accordance with paragraph four of the following section of this policy.

### Decision and Appeal

Within five school business days after receiving the Complaint Manager's report, the Superintendent shall mail his or her written decision to the Complainant and the accused by first class U.S. mail as well as to the Complaint Manager. All decisions shall be based upon the *preponderance of evidence* standard.<sup>17</sup>

Within 10 school business days after receiving the Superintendent's decision, the Complainant or the accused may appeal the decision to the Board by making a written request to the Complaint Manager. The Complaint Manager shall promptly forward all materials relative to the complaint and appeal to the Board.

Within 30 school business days, the Board shall affirm, reverse, or amend the Superintendent's decision or direct the Superintendent to gather additional information. Within five school business days after the Board's decision, the Superintendent shall inform the Complainant and the accused of the Board's action.

For complaints containing allegations involving the Superintendent or Board member(s), within 30 school business days after receiving the Complaint Manager's or outside investigator's report, the Board shall mail its written decision to the Complainant and the accused by first class U.S. mail as well as to the Complaint Manager.

This policy shall not be construed to create an independent right to a hearing before the Superintendent or Board. The failure to strictly follow the timelines in this grievance procedure shall not prejudice any party. **18**

Appointing a Nondiscrimination Coordinator and Complaint Managers **19**

The Superintendent shall appoint a Nondiscrimination Coordinator to manage the District's efforts to provide equal opportunity employment and educational opportunities and prohibit the harassment of employees, students, and others. The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator. **20**

The Superintendent shall appoint at least one Complaint Manager to administer this policy. If possible, the Superintendent will appoint two Complaint Managers, one of each gender. The District's Nondiscrimination Coordinator may be appointed as one of the Complaint Managers.

The Superintendent shall insert into this policy and keep current the names, office addresses, email addresses, and telephone numbers of the Nondiscrimination Coordinator and the Complaint Managers.

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

5 See f/n 4's discussion of website accessibility above. To avoid allegations that a district violated Section 504 of the Rehabilitation Act of 1973 and Title II of the ADA of 1990, many attorneys suggest that school districts' websites meet the WCAG 2.0 guidelines. But see the discussion in f/n 2 of policy 8:70, *Accommodating Individuals with Disabilities*.

6 5 ILCS 430/70-5(a), amended by P.A.s 100-554 and 101-221, requires governmental entities (including school districts) to adopt an ordinance or resolution establishing a policy to prohibit sexual harassment that contains certain prescribed elements. See sample policy 5:20, *Workplace Harassment Prohibited*, at f/n 3 and subhead **Complaints of Sexual Harassment Made Against Board Members by Elected Officials** in sample policy 2:105, *Ethics and Gift Ban*, for further detail. Complaints of sexual harassment made against board members by fellow board members or other elected officials of governmental units must undergo an *independent review*, which is not a term defined in the statute. Unlike the powers granted by the Ill. General Assembly to municipalities to pass ordinances, school boards govern by rules referred to as *policies*. 105 ILCS 5/10-20.5. Further, school boards may only exercise powers given to them that are consistent with the School Code that may be requisite or proper for the maintenance, operation, and development of any school or schools under the jurisdiction of the board. 105 ILCS 5/10-20. School districts are also required to create, maintain, and implement an age-appropriate sexual harassment policy. 105 ILCS 5/10-20.69 (final citation pending), added by P.A. 101-418. See sample policy 7:20, *Harassment of Students Prohibited*, and its f/n 8 for further information.

A new publication law, 50 ILCS 205/3c, added by P.A. 100-1040, requires a school district to post on its website and make available to news media specific information about severance agreements that it enters into because an employee or contractor was "found to have engaged in sexual harassment or sexual discrimination, as defined by the Ill. Human Rights Act or Title VII of the Civil Rights Act of 1964." Consult the board attorney about the word *found*. It raises many practical application questions, e.g., when does the word *found* trigger a board's compliance responsibility pursuant to this law. Such questions include, but are not limited to:

1. Must a school board make a *finding* to trigger this requirement? If the severance agreement is entered into post-termination, a record of board *findings* rarely exists.
2. Are charges for termination *findings*? Often superintendents submit charges for termination, but these are not technically *findings*.
3. Are charges based on a complaint manager's report and determination(s) *findings* under the law when a board still has the ability to review and reject the complaint manager's determination(s)?

Next, contrast the above publication law with the Government Severance Pay Act (GSPA), 5 ILCS 415/10(a)(2), added by P.A. 100-895. GSPA prohibits an employee of a school district with contract provisions for severance pay from receiving any severance if he or she is fired for *misconduct* by the board. GSPA defines *misconduct* to include sexual harassment and/or discrimination. *Id.* at 415/5.

Consult the board attorney about how to reconcile whether sexual harassment and/or sexual discrimination is misconduct for which a severance would be prohibited under the GSPA, and therefore, not available to be published under 50 ILCS 205/3c, added by P.A. 100-1040. And for further discussion and other applicable transparency laws that apply to this issue, see also f/n 15 in policy 5:20, *Workplace Harassment Prohibited*.

7 Consult the board attorney regarding proper filing and storage of these investigation documents, including whether certain student-related investigation documents are *sole possession records*, a Family Policy Compliance Office (FPCO)-created an exemption to the Family Education Rights Privacy Act (FERPA) (20 U.S.C. §1232g). See *Letter to Ruscio*, 115 LRP 18601 (FPCO 12-17-14).

8 105 ILCS 5/10-20.60, added by P.A. 100-29, requires schools to implement the Ill. sex equity grievance procedures when processing student complaints about breastfeeding accommodations. Complainants must be informed that the board's decision may be appealed to the Regional Superintendent and, thereafter, to the State Superintendent. 23 Ill.Admin.Code §200.40. **Note:** Certain claims brought under Sec. 10-20.60 may also be covered by the anti-discrimination protections of Title IX; consult the board attorney for further advice. Guidance from U.S. Dept. of Education on Title IX requirements for pregnant and parenting students (June 2013) is available at: [www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf](http://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf).

9 All districts must have a policy on bullying. 105 ILCS 5/27-23.7. See sample policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. The inclusion of *bullying* in the list of topics that may serve as the basis of a grievance furthers the obligation to communicate this policy to students and their parents/guardians.

10 Parents/guardians of educationally disadvantaged children may sue a district for misuse of funds allocated by State law for the benefit of such children. *Noyola v. Bd. of Educ.*, 171 Ill.2d 121 (Ill. 1997) (affirming the appellate court's conclusion in *Noyola v. Bd. of Educ.*, 284 Ill.App.3d 128 (1st Dist. 1996) that parents/guardians may pursue a claim to enforce the requirements of the School Code but holding that the proper action for enforcement is by means of mandamus not an implied right of action).

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

**11** The Ill. Whistleblower Act (740 ILCS 174/) includes school districts in the definition of employer. It protects employees from employer retaliation for disclosing information to a government or law enforcement agency. Section 15 also contains language prohibiting employers from retaliating against employees who disclose information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding where the employee has reasonable cause to believe that the information reveals a violation of a State or federal law, rule or regulation. The Ill. Whistleblower Reward and Protection Act (740 ILCS 174/) includes school districts in its definition of *State*. A strict interpretation of this language appears to allow school boards to collect civil penalties and costs against someone making a false claim. Before disciplining any employee, boards should thoroughly investigate the ramifications of these acts in consultation with their attorney and liability insurance carriers.

**12** The Genetic Information Nondiscrimination Act (GINA) (42 U.S.C. §2000ff *et seq.*) is a federal law. Title I addresses the use of genetic information pertaining to health insurance. Title II protects job applicants, current and former employees, labor union members, and apprentices and trainees from discrimination based on their genetic information. GINA covers employers with 15 or more employees.

GINA broadly defines genetic information to include information about an individual's genetic tests, their family members, and, among other things, the manifestation of a disease or disorder in the individual or the individual's family members. Information about an individual's or family member's age or gender is excluded from genetic information. Its remedies mirror those available under a Title VII of the Civil Rights Act claim: back pay, reinstatement, attorneys' fees and compensatory and punitive damages. Retaliation against an individual who brings a claim under GINA is also prohibited. Federal regulations are available at 29 C.F.R. Part 1635, and background information on these regulations is available at: [www.eeoc.gov/policy/docs/qanda\\_geneticinfo.html](http://www.eeoc.gov/policy/docs/qanda_geneticinfo.html). An FAQ titled *FAQs on the Genetic Information Nondiscrimination Act* is available at: [www.dol.gov/agencies/ebsa/laws-and-regulations/laws/gina](http://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/gina).

The Ill. Genetic Information Protection Act (GIPA) (410 ILCS 513/, amended by P.A. 100-396) also prohibits employers from making employment decisions on the basis of any employee's genetic testing information and from penalizing employees who do not want to disclose their genetic information as part of a workplace wellness program. GIPA includes the federal GINA's definition of genetic information and creates more stringent obligations on Ill. employers. While the federal GINA exempts small employers (those with less than 15 employees), Illinois' GIPA covers all employers, even those with one employee. GIPA also provides penalties for negligent and intentional mishandling of genetic information. Note that Title II of GINA does not preempt GIPA's greater protections to Illinois employees.

Before using any sort of genetic information, consult the board attorney for guidance regarding GINA's and GIPA's specific applications to the district and how these laws integrate with other related federal laws, such as the Family and Medical Leave Act (29 U.S.C. §2612 *et seq.*) and the ADA, and State laws governing time off for sickness and workers' compensation.

**13** 820 ILCS 70/. Unless a satisfactory credit history is an *established bona fide occupational requirement* of a particular position, an employer may not: (1) refuse to hire, discharge, or otherwise discriminate against an individual with respect to employment because of the individual's credit history or credit report; (2) inquire about an applicant's or employee's credit history; or (3) order or obtain an applicant's or employee's credit report from a consumer reporting agency. The Act identifies circumstances that permit a satisfactory credit history to be a job requirement, such as, when the position's duties include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more. A person who is injured by a violation of this Act may bring a civil action to obtain injunctive relief and/or damages. 820 ILCS 70/25. The court must award costs and reasonable attorneys' fees to a prevailing plaintiff.

**14** The phrase "prompt and equitable resolution" comes from Title IX implementing regulation 34 C.F.R. §106.8(c) which requires schools to "adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints" of sex discrimination.

**15** This is a best practice.

**16** This policy gives complaint managers the flexibility to appoint another individual to conduct an investigation, which may be appropriate in cases where the neutrality or efficacy of the complaint manager is an issue, and/or where the district wishes to have the expertise and related attorney-client and work product privileges that an in-house or outside attorney may afford an investigation. Such alternative appointments are often made in consultation with the superintendent or other district-level administrator (except in cases involving complaints about those individuals).

**17** *Preponderance of evidence* is a standard used in civil cases. It means "the greater weight of the evidence, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force." See *Black's Law Dictionary, 11th ed. 2019*.

**18** The Ill. sex equity regulations require districts to have "specific timelines for completion of each step and rendering of a written decision, and shall provide for final appeal of grievance decisions made at the system level to the system's governing board." 23 Ill.Admin.Code §200.40(c)(1). To avoid arguments over these timelines, this sample policy provides that the failure to strictly follow the timelines does not prejudice any party. The grievance procedure is worthless if complaints are not thoroughly and promptly investigated.

**Nondiscrimination Coordinator:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

**Complaint Managers:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Telephone

LEGAL REF.: Age Discrimination in Employment Act, 29 U.S.C. §621 et seq.  
Americans With Disabilities Act, 42 U.S.C. §12101 et seq.

**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

**19** Title IX regulations require districts to designate and authorize at least one employee to coordinate efforts to comply with Title IX and to refer to that employee as the *Title IX Coordinator*. 34 C.F.R. §106.8(a). Districts must identify the Title IX coordinator by name, office address, email address, and telephone number. Id.

A district must prominently display its Title IX non-discrimination policies (this policy 2:260, *Uniform Grievance Procedure*, and sample policy 2:265, *Title IX Sexual Harassment Grievance Procedure*) and contact information for its Title IX coordinator(s) on its website, if any, and in each handbook made available to students, applicants for employment, parents/guardians, employees, and collective bargaining units. 34 C.F.R. §106.8(a) and (b). Notifications must state that nondiscrimination extends to employment, and that inquiries about the application of Title IX and its regulations may be referred to the district’s Title IX coordinator, to the U.S. Dept. of Education’s Assistant Secretary of Education, or both. 34 C.F.R. §106.8(b). See sample exhibit 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*.

While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

**20** The Nondiscrimination and Title IX Coordinator(s) need not be the same person. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, delete “~~The Nondiscrimination Coordinator also serves as the District’s Title IX Coordinator.~~” insert a hard return to create a new paragraph, and insert “The Superintendent shall appoint a Title IX Coordinator to coordinate the District’s efforts to comply with Title IX.” Then, list the Title IX and Nondiscrimination Coordinators’ names and contact information separately in this policy.

Best practice is that throughout the board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

**21** The board may include the following option to address publication of such contact information:

“The Superintendent or designee shall ensure that students, parents/guardians, employees, and members of the community are informed of the contact information for the District’s Nondiscrimination Coordinator and Complaint Managers on an annual basis.”

Publicizing the contact information for the Nondiscrimination Coordinator and Complaint Managers through personnel handbooks, student handbooks, and/or on the district’s website is a best practice. The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook).

Equal Employment Opportunities Act (Title VII of the Civil Rights Act), 42 U.S.C. §2000e et seq.  
 Equal Pay Act, 29 U.S.C. §206(d).  
 Genetic Information Nondiscrimination Act, 42 U.S.C. §2000ff et seq.  
 Immigration Reform and Control Act, 8 U.S.C. §1324a et seq.  
 McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 et seq.  
 Rehabilitation Act of 1973, 29 U.S.C. §791 et seq.  
 Title VI of the Civil Rights Act, 42 U.S.C. §2000d et seq.  
 Title IX of the Education Amendments, 20 U.S.C. §1681 et seq.; 34 C.F.R. Part 106  
 State Officials and Employees Ethics Act, 5 ILCS 430/70-5(a).  
 105 ILCS 5/2-3.8, 5/3-10, 5/10-20.7a, 5/10-20.60, 5/10-22.5, 5/22-19, 5/24-4, 5/27-1, 5/27-23.7, and 45/1-15.  
 Illinois Genetic Information Privacy Act, 410 ILCS 513/.  
 Illinois Whistleblower Act, 740 ILCS 174/.  
 Illinois Human Rights Act, 775 ILCS 5/.  
 Victims' Economic Security and Safety Act, 820 ILCS 180/, 56 Ill.Admin.Code Part 280.  
 Equal Pay Act of 2003, 820 ILCS 112/.  
 Employee Credit Privacy Act, 820 ILCS 70/.  
 23 Ill.Admin.Code §§1.240 and 200.40.

CROSS REF.:

2:105 (Ethics and Gift Ban), 2:265 (Title IX Sexual Harassment Grievance Procedure), 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria), 5:90 (Abused and Neglected Child Reporting), 6:120 (Education of Children with Disabilities), 6:140 (Education of Homeless Children), 6:170 (Title I Programs), 6:260 (Complaints About Curriculum, Instructional Materials, and Programs), 7:10 (Equal Educational Opportunities), 7:15 (Student and Family Privacy Rights), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:310 (Restrictions on Publications; Elementary Schools), 7:315 (Restrictions on Publications; High Schools), 8:70 (Accommodating Individuals with Disabilities), 8:95 (Parental Involvement), 8:110 (Public Suggestions and Concerns)

## School Board

### Title IX Sexual Harassment Grievance Procedure <sup>1</sup>

Sexual harassment affects a student's ability to learn and an employee's ability to work. Providing an educational and workplace environment free from sexual harassment is an important District goal. The District does not discriminate on the basis of sex in any of its education programs or activities, and it complies with Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulations (34 C.F.R. Part 106) concerning everyone in the District's education programs and activities, including applicants for employment, students, parents/guardians, employees, and third parties.

#### Title IX Sexual Harassment Prohibited

Sexual harassment as defined in Title IX (Title IX Sexual Harassment) is prohibited. Any person, including a District employee or agent, or student, engages in Title IX Sexual Harassment whenever that person engages in conduct on the basis of an individual's sex that satisfies one or more of the following: <sup>2</sup>

1. A District employee conditions the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct;<sup>3</sup> or

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> Title IX of the Education Amendments of 1972 (Title IX) (20 U.S.C. §1681 *et seq.*) requires this subject matter be covered by policy and controls this policy's content. This policy contains items on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. Employee grievance procedures are a mandatory subject of bargaining and cannot be changed without the employee exclusive representative's consent. This policy and its companion policy 2:260, *Uniform Grievance Procedure*, are in addition to, and not a substitute for, the employee grievance procedure contained in a collective bargaining agreement.

For the sake of consistency and ease of administration, this policy addresses only Title IX sexual harassment grievances, except those contained in collective bargaining agreements. See the cross references for the policies referring to this Title IX sexual harassment grievance procedure policy.

A district must have at least one policy explicitly stating it does not discriminate on the basis of sex in its education programs or activities under Title IX and its implementation regulations (34 C.F.R. Part 106). 34 C.F.R. §106.8(b)(1). Title IX jurisdiction is geographically limited to discrimination against a person in the United States. 34 C.F.R. §106.8(d). Though all complaints of sexual harassment may not constitute sexual harassment under Title IX, Title IX's reach is broad because an alleged complainant or alleged respondent may be *anyone* in the District's educational program or activity in the United States – including applicants for employment, students, parents/guardians, any employee, and third parties.

<sup>2</sup> 34 C.F.R. §106.30. The definition of *sexual harassment* in the policy and in Title IX includes *unwelcome* conduct. *Id.* However, case law does not always distinguish between *welcome* and *unwelcome* conduct. See *Mary M. v. North Lawrence Community Sch. Corp.*, 131 F.3d 1220 (7th Cir. 1997) (8th grade student did not need to show that a school employee's sexual advances were *unwelcome* in order to prove sexual harassment).

<sup>3</sup> 34 C.F.R. §106.30. This behavior is commonly called *quid pro quo* sexual harassment. See 85 Fed. Reg. 30036, f/n 94. By using the term *individual*, Title IX regulations do not limit *quid pro quo* sexual harassment to situations where the provision of an aid, benefit or service by an employee is conditioned on a current *student's* participation in unwelcome sexual conduct. By way of example, *quid pro quo* Title IX sexual harassment involving an employee and an individual other than a current student may be implicated when: an employee tells a former student she can only get a letter of recommendation if she participates in unwelcome sexual conduct; an employee selects a volunteer for a coveted field trip chaperone position if he participates in unwelcome sexual conduct; or a supervisory employee subjects a subordinate employee to unwelcome sexual conduct in exchange for a promotion.

2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's educational program or activity; or
3. *Sexual assault* as defined in 20 U.S.C. §1092(f)(6)(A)(v), *dating violence* as defined in 34 U.S.C. §12291(a)(10), *domestic violence* as defined in 34 U.S.C. §12291(a)(8), or *stalking* as defined in 34 U.S.C. §12291(a)(30). <sup>4</sup>

Examples of sexual harassment include, but are not limited to, touching, crude jokes or pictures, discussions of sexual experiences, teasing related to sexual characteristics, spreading rumors related to a person's alleged sexual activities, rape, sexual battery, sexual abuse, and sexual coercion.

Definitions from 34 C.F.R. §106.30

*Complainant* means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. <sup>5</sup>

*Education program or activity* includes locations, events, or circumstances where the District has substantial control over both the *Respondent* and the context in which alleged sexual harassment occurs.<sup>6</sup>

*Formal Title IX Sexual Harassment Complaint* means a document filed by a *Complainant* or signed by the Title IX Coordinator<sup>7</sup> alleging sexual harassment against a *Respondent* and requesting that the District investigate the allegation. <sup>8</sup>

*Respondent* means an individual who has been reported to be the perpetrator of the conduct that could constitute sexual harassment. <sup>9</sup>

*Supportive measures* mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the *Complainant* or the *Respondent* before or after the filing of a *Formal Title IX Sexual Harassment Complaint* or where no *Formal Title IX Sexual Harassment Complaint* has been filed. <sup>10</sup>

Title IX Sexual Harassment Prevention and Response

The Superintendent or designee will ensure that the District prevents and responds to allegations of Title IX Sexual Harassment as follows:

1. Ensures that the District's comprehensive health education program in Board policy 6:60, *Curriculum Content*, incorporates (a) age-appropriate sexual abuse and assault awareness and prevention programs in grades pre-K through 12,<sup>11</sup> and (b) age-appropriate education about the warning signs, recognition, dangers, and prevention of teen dating violence in grades 7-12.<sup>12</sup> This includes incorporating student social and emotional development into the

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<sup>4</sup> See sample exhibit 2:265-E, *Title IX Sexual Harassment Glossary of Terms*, for these definitions and other definitions of italicized terms in this policy.

<sup>5</sup> 34 C.F.R. §106.30.

<sup>6</sup> 34 C.F.R. §106.44(a).

<sup>7</sup> See f/n 19 in sample policy 2:260, *Uniform Grievance Procedure*.

<sup>8</sup> 34 C.F.R. §106.30.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* See sample administrative procedure 2:265-AP1, *Title IX Sexual Harassment Response*, for further discussion of supportive measures.

<sup>11</sup> Required by 105 ILCS 110/3 and 105 ILCS 5/10-23.13 (*Erin's Law*).

<sup>12</sup> Required by *Id.* at 110/3.

District's educational program as required by State law and in alignment with Board policy 6:65, *Student Social and Emotional Development*.

2. Incorporates education and training for school staff<sup>13</sup> as recommended by the Superintendent, Title IX Coordinator, Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, or a Complaint Manager. <sup>14</sup>
3. Notifies applicants for employment,<sup>15</sup> students, parents/guardians, employees, and collective bargaining units of this policy and contact information for the Title IX Coordinator by, at a minimum, prominently displaying them on the District's website, if any, and in each handbook made available to such persons. <sup>16</sup>

### Making a Report

A person who wishes to make a report under this Title IX Sexual Harassment grievance procedure may make a report to the Title IX Coordinator, Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a Complaint Manager, or any employee with whom the person is comfortable speaking.<sup>17</sup> A person who wishes to make a report may choose to report to a person of the same gender.

School employees shall respond to incidents of sexual harassment by promptly making or forwarding the report to the Title IX Coordinator. An employee who fails to promptly make or forward a report may be disciplined, up to and including discharge.

The Superintendent shall insert into this policy and keep current the name, office address, email address, and telephone number of the Title IX Coordinator. <sup>18</sup>

### **Title IX Coordinator:**

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<sup>13</sup> For boards that insert optional paragraphs listing trainings in f/n 4 of policy 5:100, *Staff Development Program*, insert “pursuant to policy 5:100, *Staff Development Program*, and” after the word staff.

<sup>14</sup> 105 ILCS 110/3. Detailed training requirements exist for Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. 34 C.F.R. §106.45(b)(1)(iii). Title IX rules “[leave districts] discretion to determine the kind of training to other employees that will best enable the [district], and its Title IX Coordinator, to meet Title IX obligations.” 85 Fed. Reg. 30114. Many attorneys agree the best practice is to train all district staff about the definition of sexual harassment, the scope of the district's education program or activity, all relevant district policies and procedures, and the necessity to promptly forward all reports of sexual harassment to the Title IX coordinator. See sample procedure 2:265-API, *Title IX Sexual Harassment Response*.

<sup>15</sup> Most school districts are not covered by Subpart C of Title IX, which “applies only to institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education.” 34 C.F.R. §106.15(d). If your district is covered by Subpart C, amend this to state “applicants for admission or employment.”

<sup>16</sup> 34 C.F.R. §106.8. See paragraph 2 of f/n 19 in sample policy 2:260, *Uniform Grievance Procedure*. See also sample exhibit 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*.

<sup>17</sup> Using “or any employee with whom the Complainant is comfortable speaking” ensures Title IX compliance because Title IX deems “any employee” of an elementary or secondary school who has notice of sexual harassment or allegations of sexual harassment to have *actual knowledge*. Therefore, a report to any employee triggers a district's duty to respond. 34 C.F.R. §106.30. This policy contains an item upon which collective bargaining may be required. Any policy that impacts wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

<sup>18</sup> Title IX regulations require districts to designate and authorize at least one employee to coordinate its efforts to comply with Title IX and to refer to that employee as the *Title IX Coordinator*. 34 C.F.R. §106.8(a). Districts must identify the Title IX coordinator by name, office address, email address, and telephone number. *Id.* A district's nondiscrimination coordinator often also serves as its Title IX coordinator. See sample policy 2:260, *Uniform Grievance Procedure*.

While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

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Name

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Address

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Email

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Telephone

### Processing and Reviewing a Report or Complaint

Upon receipt of a report, the Title IX Coordinator and/or designee will promptly contact the *Complainant* to: (1) discuss the availability of supportive measures, (2) consider the *Complainant's* wishes with respect to *supportive measures*, (3) inform the *Complainant* of the availability of *supportive measures* with or without the filing of a *Formal Title IX Sexual Harassment Complaint*, and (4) explain to the *Complainant* the process for filing a *Formal Title IX Sexual Harassment Complaint*.<sup>19</sup>

Further, the Title IX Coordinator will analyze the report to identify and determine whether there is another or an additional appropriate method(s) for processing and reviewing it.<sup>20</sup> For any report received, the Title IX Coordinator shall review Board policies 2:260, *Uniform Grievance Procedure*; 5:20, *Workplace Harassment Prohibited*; 5:90, *Abused and Neglected Child Reporting*; 5:120, *Employee Ethics; Conduct; and Conflict of Interest*; <sup>21</sup> 7:20, *Harassment of Students Prohibited*; 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*; 7:185, *Teen Dating Violence Prohibited*; and 7:190, *Student Behavior*, to determine if the allegations in the report require further action.

Reports of alleged sexual harassment will be confidential to the greatest extent practicable, subject to the District's duty to investigate and maintain an educational program or activity that is productive, respectful, and free of sexual harassment.

### Formal Title IX Sexual Harassment Complaint Grievance Process

When a *Formal Title IX Sexual Harassment Complaint* is filed, the Title IX Coordinator will investigate it or appoint a qualified person to undertake the investigation. <sup>22</sup>

The Superintendent or designee shall implement procedures to ensure that all *Formal Title IX Sexual Harassment Complaints* are processed and reviewed according to a Title IX grievance process that fully complies with 34 C.F.R. §106.45.<sup>23</sup> The District's grievance process shall, at a minimum: <sup>24</sup>

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<sup>19</sup> Required by 34 C.F.R. §106.44(a) and (b) regardless of whether a formal Title IX sexual harassment complaint is filed.

<sup>20</sup> See sample exhibit 2:265-E, *Title IX Sexual Harassment Glossary of Terms*, for a discussion of Title IX sexual harassment and non-Title IX sexual harassment. Consult the board attorney for further guidance.

<sup>21</sup> See sample administrative procedure 5:120-AP2, *Employee Conduct Standards*.

<sup>22</sup> This policy gives Title IX coordinators the flexibility to appoint another qualified individual to conduct an investigation. This may be appropriate when the neutrality or efficacy of the Title IX coordinator is an issue, and/or where the district wishes to have the expertise that an in-house or outside attorney may afford to an investigation. Alternative appointments are often made in consultation with the superintendent or other district-level administrator (except in cases involving complaints about those individuals) and the board attorney. If a complaint involves the superintendent or other district-level administrator, alternative appointments are often made in consultation with the board and the board attorney.

<sup>23</sup> 34 C.F.R. §106.45(b). See sample administrative procedures 2:265-AP1, *Title IX Sexual Harassment Response*, and 2:265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*.

1. Treat *Complainants* and *Respondents* equitably by providing remedies to a *Complainant* where the *Respondent* is determined to be responsible for sexual harassment, and by following a grievance process that complies with 34 C.F.R. §106.45 before the imposition of any disciplinary sanctions or other actions against a *Respondent*.
2. Require an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations may not be based on a person’s status as a *Complainant*, *Respondent*, or witness.
3. Require that any individual designated by the District as a Title IX Coordinator, investigator, decision-maker, or any person designated by the District to facilitate an informal resolution process:
  - a. Not have a conflict of interest or bias for or against complainants or respondents generally or an individual *Complainant* or *Respondent*.
  - b. Receive training on the definition of sexual harassment, the scope of the District’s *education program or activity*, how to conduct an investigation and grievance process (including hearings, appeals, and informal resolution processes, as applicable), and how to serve impartially. <sup>25</sup>
4. Require that any individual designated by the District as an investigator receiving training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
5. Require that any individual designated by the District as a decision-maker receive training on issues of relevance of questions and evidence, including when questions and evidence about the *Complainant’s* sexual predisposition or prior sexual behavior are not relevant.
6. Include a presumption that the *Respondent* is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
7. Include reasonably prompt timeframes for conclusion of the grievance process.
8. Describe the range of possible disciplinary sanctions and remedies the District may implement following any determination of responsibility.
9. Base all decisions upon the *preponderance of evidence* standard. <sup>26</sup>

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<sup>24</sup> 34 C.F.R. §106.45(b)(1) lists the basic requirements for a grievance process. While live hearings are only required for postsecondary institutions, elementary and secondary schools may choose to offer them as part of their grievance process. **Consult the board attorney if the board wants the district to use a live hearing in its grievance process.**

If using a live hearing during the grievance process, amend #5 by inserting the following underscored text: “Require that any individual designated by the District as a decision-maker receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant.”

<sup>25</sup> Aside from the general training requirements of 34 C.F.R. §106.45(b)(1)(iii), the DOE gives districts flexibility to determine certain training practices or techniques to best meet training requirements based upon their unique local conditions and resources within their educational community. 85 Fed. Reg. 30120. See also 85 Fed. Reg. 30084 (declining to specify that training of Title IX personnel must include implicit bias training, so long as training provides instruction on how to serve impartially and avoid prejudgment of the facts at issue, conflicts of interest, and bias, and that training materials avoid sex stereotypes).

10. Include the procedures and permissible bases for the *Complainant* and *Respondent* to appeal.
11. Describe the range of *supportive measures* available to *Complainants* and *Respondents*.
12. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. <sup>27</sup>

### Enforcement

Any District employee who is determined, at the conclusion of the grievance process, to have engaged in sexual harassment will be subject to disciplinary action up to and including discharge. Any third party who is determined, at the conclusion of the grievance process, to have engaged in sexual harassment will be addressed in accordance with the authority of the Board in the context of the relationship of the third party to the District, e.g., vendor, parent, invitee, etc. Any District student who is determined, at the conclusion of the grievance process, to have engaged in sexual harassment will be subject to disciplinary action, including, but not limited to, suspension and expulsion consistent with student behavior policies.<sup>28</sup> Any person making a knowingly false accusation regarding sexual harassment will likewise be subject to disciplinary action.

This policy does not increase or diminish the ability of the District or the parties to exercise any other rights under existing law. <sup>29</sup>

### Retaliation Prohibited <sup>30</sup>

The District prohibits any form of retaliation against anyone who, in good faith, has made a report or complaint, assisted, or participated or refused to participate in any manner in a proceeding under this policy. Any person should report claims of retaliation using Board policy 2:260, *Uniform Grievance*

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<sup>26</sup> 34 C.F.R. §106.45(b)(1)(vii) requires the Title IX sexual harassment grievance process to state the standard of evidence it will use to determine responsibility of the respondent. The standard of evidence selected must be applied “consistently to formal complaints alleging Title IX sexual harassment regardless of whether the respondent is a student or an employee.” 85 Fed. Reg. 30373. This sample policy uses the *preponderance of the evidence* standard, not the *clear and convincing evidence* standard. *Preponderance of the evidence* is a standard used in civil cases. It means “the greater weight of the evidence, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force.” See *Black’s Law Dictionary, 11th ed. 2019*. *Preponderance of the evidence* is the standard used in sample policy 2:260, *Uniform Grievance Procedure*. *Clear and convincing* is a higher standard, requiring more than *preponderance of the evidence* but less than proof beyond a reasonable doubt. It means “evidence indicating that the thing to be proved is highly probable or reasonably certain.” See *Black’s Law Dictionary, 11th ed. 2019*. **Consult the board attorney regarding the appropriate standard for the district, as well as implications if a different standard is used in this policy than in 2:260, *Uniform Grievance Procedure*.** For boards that choose the *clear and convincing evidence* standard, delete “*preponderance-of*” and insert “*clear and convincing*.” Ensure the same standard of evidence is used in 2:265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*.

<sup>27</sup> Examples of legally-recognized privileges include attorney-client privilege, doctor-patient privilege, and spousal privilege. See 85 Fed. Reg. 30277.

<sup>28</sup> See sample policies 7:190, *Student Behavior*, and 7:230, *Misconduct by Students with Disabilities*. See also sample policies 7:200, *Suspension Procedures*, and 7:210, *Expulsion Procedures*, for due process requirements when student suspension or expulsion is recommended following a determination of responsibility for Title IX sexual harassment.

<sup>29</sup> Examples of rights the district or parties may exercise ancillary to this Title IX sexual harassment grievance procedure include, but are not limited to: disciplinary processes for suspensions and expulsions of students under 105 ILCS 5/10-22.6; tenured teacher dismissal proceedings under 105 ILCS 5/24-12; any other pre-termination process required by an applicable collective bargaining agreement, employment policy or procedure, or employment contract; and student appeal of a sex equity grievance decision under 23 Ill. Admin. Code §200.40 (see sample policy 7:10, *Equal Educational Opportunities*).

<sup>30</sup> 34 C.F.R. §106.71.

*Procedure. 31*

Any person who retaliates against others for reporting or complaining of violations of this policy or for participating in any manner under this policy will be subject to disciplinary action, up to and including discharge, with regard to employees, or suspension and expulsion, with regard to students.

LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Educational Amendments of 1972; 34 C.F.R. Part 106.  
Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999).  
Gebser v. Lago Vista Independent Sch. Dist., 524 U.S. 274 (1998).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:20 (Workplace Harassment Prohibited), 5:90 (Abused and Neglected Child Reporting), 5:100 (Staff Development Program), 5:120 (Employee Ethics; Conduct, and Conflict of Interest), 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development), 7:10 (Equal Educational Opportunities), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior)

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**31** Retaliation complaints must be processed under policy 2:260, *Uniform Grievance Procedure*, because they are covered under the district’s grievance procedure for resolving non-sexual harassment Title IX complaints. See 34 C.F.R. §106.8(c). Title IX sexual harassment regulations state that “[c]omplaints alleging retaliation may be filed according to the grievance procedures for sex discrimination required to be adopted under §106.8(c).” 34 C.F.R. §106.71.

## General Personnel

### Equal Employment Opportunity and Minority Recruitment 1

The School District shall provide equal employment opportunities<sup>2</sup> to all persons regardless of their race; color; creed; religion;<sup>3</sup> national origin; sex;<sup>4</sup> sexual orientation;<sup>5</sup> age;<sup>6</sup> ancestry; marital status;<sup>7</sup>

**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

<sup>1</sup> Federal and State law (see the policy's Legal References) require that all districts have a policy on equal employment opportunities and control this policy's content. **This is a complex, confusing, and highly litigated area of the law; consult the board attorney for advice on the application of these laws to specific fact situations.**

<sup>2</sup> *Equal employment opportunities* apply to virtually all terms and conditions of employment, e.g., discharge, hire, promotion, pay, demotion, and benefits (see the policy's Legal References). The Ill. Constitution protects the following categories from discrimination in employment: race, color, creed, national ancestry, sex, and handicap. Art. I, §§17, 18, and 19. The Ill. Human Rights Act (IHRA) protects the following categories from discrimination in employment, whether *actual* or *perceived*: race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, order of protection status, sexual orientation, pregnancy, unfavorable discharge from military service, and citizenship status. 775 ILCS 5/1-102 and 5/1-103, amended by P.A. 101-221. Beginning 7-1-20, the IHRA requires employers to annually disclose to the Ill. Dept. of Human Rights (IDHR) certain information about adverse judgments and administrative rulings where there was a finding of sexual harassment or unlawful discrimination under any federal, State, or local law, as well as data regarding settlement agreements, if requested by an IDHR investigator. 775 ILCS 5/2-108, added by P.A. 101-221, scheduled to be repealed on 1-1-30.

The Equal Employment Opportunities Act (EEOA, a/k/a Title VII of the Civil Rights Act of 1964) prohibits discrimination because of an individual's race, color, religion, sex, or national origin. 42 U.S.C. §2000e *et seq.*, amended by The Lilly Ledbetter Fair Pay Act of 2009 (LLFPA), Pub.L. 111-2.

Under the Workplace Transparency Act (WTA) (820 ILCS 96/, added by P.A. 101-221), employers may not, as a condition of employment or continued employment, prevent prospective or current employees from making truthful statements or disclosures about alleged unlawful employment practices, including discrimination. *Id.* at 96/1-25.

The LLFPA clarifies that a discriminatory compensation decision or other practice occurs each time an employee is paid or receives a last benefits check pursuant to the discriminatory compensation decision as opposed to only from the time when the discriminatory compensation decision or other practice occurred. The Act has no legislative history available to define what the phrase *or other practice* might mean beyond a discriminatory compensation decision.

The Ill. Equal Pay Act of 2003 (EPA) offers additional protection by prohibiting the payment of wages to one sex less than the opposite sex or to an African-American less than a non-African-American *for the same or substantially similar work*. 820 ILCS 112/, amended by P.A.s 100-1140 and 101-177. The Ill. Dept. of Labor (IDOL) enforces the EPA. The EPA also prohibits employers from requesting or requiring applicants to disclose wage or salary history as a condition of being considered for employment or as a condition of employment. *Id.* at 112/10(b-5), added by P.A. 101-177. If an applicant voluntarily offers such information without prompting, an employer still cannot use that information in making an offer or determining future pay. See sample administrative procedure 5:30-AP1, *Interview Questions*, for sample permissible inquiries on this topic. Employers may seek wage or salary history from an applicant's current or former employer if that information is a matter of public record under the Freedom of Information Act; however, districts that wish to undertake such searches should exercise caution; the fact a district seeks out publicly available wage information could still be used against it in a pay discrimination claim. *Id.* at 112/10(b-10), added by P.A. 101-177. Consult the board attorney for further guidance.

While not exhaustive, other laws protecting these and additional classifications are named in subsequent footnotes.

<sup>3</sup> 775 ILCS 5/2-102 of the IHRA, amended by P.A. 100-100, contains a *religious discrimination* subsection. It expressly prohibits employers from requiring a person to violate a sincerely held religious belief to obtain or retain employment unless, after engaging in a bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's or prospective employee's sincerely held religious belief, practice, or observance without undue hardship on the conduct of the employer's business. Religious beliefs include, but are not limited to: the wearing of any attire, clothing, or facial hair in accordance with the requirements of his/her religion. 775 ILCS 5/2-102(E-5). Employers may, however, enact a dress code or grooming policy that restricts attire, clothing, or facial hair to maintain workplace safety or food sanitation. *Id.*

In addition to the IHRA and the federal EEOA (discussed in f/n 2), see 775 ILCS 35/, Religious Freedom Restoration Act.

arrest record;<sup>8</sup> military status; order of protection status;<sup>9</sup> unfavorable military discharge;<sup>10</sup> citizenship status provided the individual is authorized to work in the United States;<sup>11</sup> use of lawful products while not at work;<sup>12</sup> being a victim of domestic violence, sexual violence, or gender violence;<sup>13</sup> genetic information;<sup>14</sup> physical or mental handicap or disability, if otherwise able to perform the essential functions of the job with reasonable accommodation;<sup>15</sup> pregnancy, childbirth, or related medical conditions;<sup>16</sup> credit history, unless a satisfactory credit history is an established bona fide occupational requirement of a particular position;<sup>17</sup> or other legally protected categories. **18 19 20**

**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

<sup>4</sup> Discrimination on the basis of sex under the EEOA includes discrimination on the basis of sexual orientation or transgender status. Bostock v. Clayton County, 140 S.Ct. 1731 (2020); Hively v. Ivy Tech, 853 F.3d 339 (7th Cir. 2017). In addition to the IHRA and the federal EEOA (discussed in f/n 2), see Title IX of the Education Amendments of 1972 (Title IX). 20 U.S.C. §1681 *et seq.*; 34 C.F.R. Part 106. See sample policy 2:265, *Title IX Sexual Harassment Grievance Procedure*. The federal Equal Pay Act prohibits an employer from paying persons of one sex less than the wage paid to persons of the opposite sex for equal work. 29 U.S.C. §206(d). See f/n 2 above for more information on State equal pay protections, including on the basis of sex. The LLFPA defines *date of underpayment* as each time wages are underpaid. Employees have one year from the time they become aware of the underpayment to file a complaint with the IDOL. 820 ILCS 112/15(b).

<sup>5</sup> *Sexual orientation* means actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity; it does not include a physical or sexual attraction to a minor by an adult. 775 ILCS 5/1-103(O-1).

<sup>6</sup> Age Discrimination in Employment Act (ADEA) (29 U.S.C. §621 *et seq.*), amended by LLFPA (see f/n 2). 29 C.F.R. Part 1625, amended the U.S. Equal Employment Opportunity Commission (EEOC) regulations under ADEA to reflect the U.S. Supreme Court's decision in General Dynamic Systems, Inc. v. Cline, 540 U.S. 581 (2004), holding the ADEA to permit employers to favor older workers because of age. Thus, favoring an older person over a younger person is not unlawful discrimination, even when the younger person is at least 40 years old.

<sup>7</sup> 105 ILCS 5/10-22.4 and 775 ILCS 5/1-103(Q), amended by P.A. 101-221. The term *marital status* means an individual's legal status of being married, single, separated, divorced, or widowed. 775 ILCS 5/1-103(J). This statutory definition does not encompass the identity of one's spouse. Thus, school districts may adopt no-spouse policies. Boaden v. Dept. of Law Enforcement, 171 Ill.2d 230 (Ill. 1996).

<sup>8</sup> Districts may not make employment decisions on the basis of arrest history, but may use job-disqualifying criminal convictions. 775 ILCS 5/2-103. The Job Opportunities for Qualified Applicants Act prohibits an employer from asking about a criminal record until the employer determines that the applicant is qualified for the position; however, this does not apply when employers are required to exclude applicants with certain criminal convictions from employment. School employers should limit their requests for criminal convictions to *job-disqualifying* convictions. 820 ILCS 75/15. See also the EEOC's guidance, *Consideration of Arrest and Conviction Records in Employment Decisions*, at: [www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm).

<sup>9</sup> 775 ILCS 5/1-103(Q), amended by P.A. 101-221. The term *order of protection status* means a person protected under an order of protection issued pursuant to the Ill. Domestic Violence Act of 1986 or an order of protection issued by a court of another state. 775 ILCS 5/1-103(K-5).

<sup>10</sup> *Military status* means a person's status on active duty or in status as a veteran in the U.S. Armed Forces, veteran of any reserve component of U.S. Armed Forces, or current member or veteran of the Ill. Army National Guard or Ill. Air National Guard. 775 ILCS 5/1-103(J-1). *Unfavorable military discharge* does not include those characterized as RE-4 or *dishonorable*. 775 ILCS 5/1-103(P). The Uniformed Services Employment and Reemployment Rights Act of 1994 prohibits employers from discriminating or retaliating against any person for reasons related to past, present, or future service in a *uniformed service*. 38 U.S.C. §4301 *et seq.*

<sup>11</sup> 775 ILCS 5/1-102(C). According to the Immigration Reform and Control Act of 1986, all employers must verify that employees are either U.S. citizens or authorized to work in the U.S. 8 U.S.C. §1324(a) *et seq.*

<sup>12</sup> The Right to Privacy in the Workplace Act prohibits discrimination based on use of lawful products, e.g., alcohol, cannabis, and tobacco, off premises during non-working hours. 820 ILCS 55/5, amended by P.A. 101-27.

<sup>13</sup> 820 ILCS 180/30, amended by P.A. 101-221, Victims' Economic Security and Safety Act. *Gender violence* means: (1) one or more acts of violence or aggression that are a criminal offense under State law committed, at least in part, on the basis of a person's actual or perceived sex or gender, (2) a physical intrusion or invasion of a sexual nature under coercive conditions that is a criminal offense under State law, or (3) a threat to commit one of these acts. 820 ILCS 180/10(12.5), added by P.A. 101-221. An employer is prohibited from discriminating against any individual, e.g. an applicant for employment, because he or she "is an employee whose employer is subject to Section 21 of the Workplace Violence Prevention Act." The Workplace Violence Prevention Act allows an employer to seek a *workplace protection restraining order* when there is a credible threat of violence at the workplace. 820 ILCS 275/. Section 21 requires the employer seeking a *workplace protection restraining order* to notify the employee who is a victim of unlawful violence. 820 ILCS 275/21.

21 No one will be penalized solely for his or her status as a registered qualifying patient or a registered designated caregiver for purposes of the Compassionate Use of Medical Cannabis Program Act, 410 ILCS 130/. 22

Persons who believe they have not received equal employment opportunities should report their claims to the Nondiscrimination Coordinator and/or a Complaint Manager for the Uniform Grievance Procedure. These individuals are listed below. No employee or applicant will be discriminated or retaliated against because he or she: (1) requested, attempted to request, used, or attempted to use a reasonable accommodation as allowed by the Illinois Human Rights Act, or (2) initiated a complaint, was a witness, supplied information, or otherwise participated in an investigation or proceeding involving an alleged violation of this policy or State or federal laws, rules or regulations, provided the employee or applicant did not make a knowingly false accusation nor provide knowingly false information. 23

#### Administrative Implementation

The Superintendent shall appoint a Nondiscrimination Coordinator for personnel who shall be responsible for coordinating the District's nondiscrimination efforts. The Nondiscrimination Coordinator may be the Superintendent or a Complaint Manager for the Uniform Grievance Procedure. The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator. 24

The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers. 25

## Nondiscrimination Coordinator: 26

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

**14** Illinois' Genetic Information Privacy Act (GIPA) (410 ILCS 513/25) and Title II of Genetic Information Nondiscrimination Act (GINA) (42 U.S.C. §2000ff *et seq.*). Both laws protect job applicants and current and former employees from discrimination based on their genetic information. Note that GIPA provides greater protections to Illinois employees than Title II of GINA. GIPA, amended by P.A. 100-396, prohibits employers from penalizing employees who do not disclose genetic information or do not choose to participate in a program requiring disclosure of the employee's genetic information. See f/n 12 in sample policy 2:260, *Uniform Grievance Procedure*, for the definition of genetic information and a detailed description of both statutes, including of Title I of GINA affecting the use of genetic information in health insurance. In 2011, the EEOC published an informative guidance letter, *ADA & GINA: Incentives for Workplace Wellness Program* at: [www.eeoc.gov/eeoc/foia/letters/2011/ada\\_gina\\_incentives.html](http://www.eeoc.gov/eeoc/foia/letters/2011/ada_gina_incentives.html). But the EEOC vacated certain 2016 ADA and GINA wellness program regulations following an adverse court ruling. 83 Fed. Reg. 65296. Those rules provided guidance to employers on the extent to which they could use incentives (such as discounted health plan costs) to encourage employees to participate in wellness programs that asked for employee and family health information. Consult the board attorney for guidance regarding specific application of ADA and GINA and how they integrate with other related laws, e.g., the Family Medical Leave Act, the Americans with Disabilities Act, and other State laws governing time off for sickness and workers' compensation.

**15** Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. §12101 *et seq.*), amended by the Americans with Disabilities Act Amendments Act of 2008 (ADAAA) (Pub. L. 110-325) and modified by the LFFPA; Rehabilitation Act of 1973 (29 U.S.C. §701 *et seq.*).

**16** 775 ILCS 5/2-102(I). Employers must provide reasonable accommodations to employees with conditions related to pregnancy, childbirth, or related conditions. 775 ILCS 5/2-102(J). Employers are required to post a notice summarizing the right to be free from unlawful discrimination and the right to certain reasonable accommodations. 775 ILCS 5/2-102(K). The IDOL is required to prepare such a notice, retrievable from its website, which employers may use.

Federal law also prohibits employers from discriminating against employees and applicants on the basis of pregnancy, childbirth, or related medical conditions. 42 U.S.C. §2000e(k). State law also prohibits the State, which includes school districts, from interfering with or discriminating against an individual's fundamental right to continue a pregnancy or to have an abortion. 775 ILCS 55/, added by P.A. 101-13. Pregnant workers with pregnancy-related impairments may have disabilities for which they may be entitled to reasonable accommodation under the ADA. Guidance from the EEOC (7-14-14) is available at: [www.eeoc.gov/laws/guidance/pregnancy\\_qa.cfm](http://www.eeoc.gov/laws/guidance/pregnancy_qa.cfm).

**17** 820 ILCS 70/, Employee Credit Privacy Act. Unless a satisfactory credit history is an *established bona fide occupational requirement* of a particular position, an employer may not: (1) refuse to hire, discharge, or otherwise discriminate against an individual with respect to employment because of the individual's credit history or credit report; (2) inquire about an applicant's or employee's credit history; or (3) order or obtain an applicant's or employee's credit report from a consumer reporting agency. The Act identifies circumstances that permit a satisfactory credit history to be a job requirement, such as, the position's duties include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more.

**18** Insert the following optional sentence (775 ILCS 5/1-103(a) and 29 U.S.C. §631):

*Age*, as used in this policy, means the age of a person who is at least 40 years old.

**19** Insert the following optional provision (29 U.S.C. §705(10)(A)-(B), (20)(C)(v), (20)(D) and 42 U.S.C. §12114):

*Handicap* and *disability*, as used in this policy, excludes persons:

1. Currently using illegal drugs;
2. Having a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, are unable to perform the duties of the job; or
3. Whose current alcohol use prevents them from performing the job's duties or constitutes a direct threat to the property or safety of others.  
Persons who have successfully completed or are participating in a drug rehabilitation program are considered *disabled*.

**20** Districts may not make residency in the district a condition of employment for teachers or educational support personnel. 105 ILCS 5/24-4.1, 5/10-23.5. This ban on residency requirements for teachers applies only to instructional personnel, and not, for example, to assistant principals. *Owen v. Kankakee Sch. Dist.*, 261 Ill.App.3d 298 (3rd Dist. 1994). Districts also may not ask an applicant, or the applicant's previous employer, whether the applicant ever received, or filed a claim for, benefits under the Workers' Compensation Act or Workers' Occupational Diseases Act. 820 ILCS 55/10(a). Districts are also prohibited from requiring, requesting, or coercing an employee or potential employee to provide a user name and password or any password or other related account information to gain or demand access to his or her personal online account. 820 ILCS 55/10(b). While the law does not prohibit employers from viewing public information, consult the board attorney before engaging in this practice.

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Name

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Address

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Email

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Telephone

**Complaint Managers:**

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**21** School districts must accommodate mothers who choose to continue breastfeeding after returning to work. See 740 ILCS 137/, Right to Breastfeed Act; 820 ILCS 260/, amended by P.A. 100-1003, Nursing Mothers in the Workplace Act (NMWA); and 29 U.S.C. §207(r), Fair Labor Standards Act. At least one court has ruled an implied private right of action may exist under the NMWA. *Spriesch v. City of Chicago*, 2017 WL 4864913 (N.D.Ill. 2017). See sample language for a personnel handbook in 5:10-AP, *Workplace Accommodations for Nursing Mothers*.

**22** 410 ILCS 130/40, amended by P.A. 101-363, scheduled to be repealed on 7-1-20; 77 Ill.Admin.Code Part 946. To legally use medical cannabis, an individual must first become a *registered qualifying patient*. Their use of cannabis, e.g. permissible locations, is governed by the Compassionate Use of Medical Cannabis Program Act. 410 ILCS 130/, amended by P.A.s 100-660 and 101-363. There are many situations in which no one, even a registered qualifying patient, may possess or use cannabis except as provided under *Ashley's Law* (105 ILCS 5/22-33, added by P.A. 100-660), including in a school bus or on the grounds of any preschool, or primary or secondary school. 410 ILCS 130/30(a)(2)(3), amended by P.A. 100-660. See sample policy 5:50, *Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition*, at f/n 9 for further discussion.

**23** 775 ILCS 5/6-101. Discrimination on the basis of a request for or use of a reasonable accommodation is a civil rights violation under the IHRA. *Id.* Most discrimination laws prohibit retaliation against employees who oppose practices made unlawful by those laws, including, for example, the EEOA, Title IX, ADA, ADEA, Victims' Economic Security and Safety Act, the EPA, and the Ill. Whistleblower Act (IWA).

The IWA specifically prohibits employers from retaliating against employees for: (1) disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation (740 ILCS 174/15(b)); (2) disclosing information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding where the employee has reasonable cause to believe that the information reveals a violation of a State or federal law, rule or regulation (740 ILCS 174/15(a)); (3) refusing to participate in an activity that would result in a violation of a State or federal law, rule, or regulation, including, but not limited to, violations of the Freedom of Information Act (740 ILCS 174/20); and (4) disclosing or attempting to disclose public corruption or wrongdoing (740 ILCS 174/20.1). The definition of retaliation is expanded to include *other retaliation and threatening retaliation*. 740 ILCS 174/20.1, 20.2.

The Ill. False Claims Act defines *State* to include school districts. 740 ILCS 175/2(a). Thus, boards may seek a penalty from a person for making a false claim for money or property. 740 ILCS 175/4. For information regarding the IWA and the tort of retaliatory discharge. See *Thomas v. Guardsmark*, 487 F.3d 531 (7th Cir. 2007)(discussing the elements of retaliatory discharge and IWA); *Sherman v. Kraft General Foods, Inc.*, 272 Ill.App.3d 833 (4th Dist. 1995)(finding employee who reported asbestos hazard had a cause of action for retaliatory discharge).

**24** The Nondiscrimination and Title IX Coordinator(s) need not be the same person. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, delete "~~The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator.~~" insert a hard return to create a new paragraph, and insert "The Superintendent shall appoint a Title IX Coordinator to coordinate the District's efforts to comply with Title IX." Then, list the Title IX and Nondiscrimination Coordinators' names and contact information separately in this policy.

**25** Title IX regulations require districts to designate and authorize at least one employee to coordinate their efforts to comply with Title IX and to refer to that employee as the *Title IX Coordinator*. 34 C.F.R. §106.8(a). Districts must identify the Title IX Coordinator by name, office address, email address, and telephone number. *Id.* See f/n 19 in sample policy 2:260, *Uniform Grievance Procedure*.

While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

**26** Best practice is that throughout the district's board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

_____ Name	_____ Name
_____ Address	_____ Address
_____ Email	_____ Email
_____ Telephone	_____ Telephone

The Superintendent shall also use reasonable measures to inform staff members and applicants that the District is an equal opportunity employer, such as, by posting required notices and including this policy in the appropriate handbooks. <sup>27</sup>

Minority Recruitment <sup>28</sup>

The District will attempt to recruit and hire minority employees. The implementation of this policy may include advertising openings in minority publications, participating in minority job fairs, and recruiting at colleges and universities with significant minority enrollments. This policy, however, does not require or permit the District to give preferential treatment or special rights based on a protected status without evidence of past discrimination.

- LEGAL REF.:       8 U.S.C. §1324a et seq., Immigration Reform and Control Act.  
                      20 U.S.C. §1681 et seq., Title IX of the Education Amendments of 1972; 34 C.F.R. Part 106.  
                      29 U.S.C. §206(d), Equal Pay Act.  
                      29 U.S.C. §621 et seq., Age Discrimination in Employment Act.  
                      29 U.S.C. §701 et seq., Rehabilitation Act of 1973.  
                      38 U.S.C. §4301 et seq., Uniformed Services Employment and Reemployment Rights Act (1994).  
                      42 U.S.C. §1981 et seq., Civil Rights Act of 1991.  
                      42 U.S.C. §2000e et seq., Title VII of the Civil Rights Act of 1964; 29 C.F.R. Part 1601.  
                      42 U.S.C. §2000ff et seq., Genetic Information Nondiscrimination Act of 2008.

**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

<sup>27</sup> In addition to notifying employees of the Uniform Grievance Procedure, a district must notify them of the person(s) designated to coordinate the district’s compliance with Title IX and the Rehabilitation Act of 1973. 34 C.F.R. §§106.8(a), 104.8(a). The Nondiscrimination Coordinator may be the same individual for both this policy and policy 7:10, *Equal Educational Opportunities*, as well as a Complaint Manager for policy 2:260, *Uniform Grievance Procedure*. A comprehensive faculty handbook can provide required notices, along with other important information, to recipients. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and school board. Any *working conditions* contained in the handbook may be subject to mandatory collective bargaining.

<sup>28</sup> All districts must have a policy on minority recruitment. 105 ILCS 5/10-20.7a. Unlike minority recruitment efforts, affirmative action plans are subject to significant scrutiny because of the potential for reverse discrimination. The U.S. Constitution’s guarantee of equal protection prohibits school districts from using racial hiring quotas without evidence of past discrimination. See 29 C.F.R. §1608.1 et seq. (EEOC’s guidelines for affirmative action plans); Wygant v. Jackson Bd. of Ed., 476 U.S. 267 (1986) (The goal of remedying societal discrimination does not justify race-based layoffs.); City of Richmond v. J.A. Croson Co., 488 U.S. 469 (1989) (Minority contractor quota struck; quotas must be narrowly tailored to remedy past discrimination and the city failed to identify the need for remedial action and whether race-neutral alternatives existed).

The IHRA states that it shall not be construed as requiring any employer to give preferential treatment or special rights based on sexual orientation or to implement affirmative action policies or programs based on sexual orientation. 775 ILCS 5/1-101.1.

42 U.S.C. §2000d et seq., Title VI of the Civil Rights Act of 1964.  
42 U.S.C. §2000e(k), Pregnancy Discrimination Act.  
42 U.S.C. §12111 et seq., Americans with Disabilities Act, Title I.  
Ill. Constitution, Art. I, §§17, 18, and 19.  
105 ILCS 5/10-20.7, 5/20.7a, 5/21.1, 5/22.4, 5/23.5, 5/22-19, 5/24-4, 5/24-4.1, and 5/24-7.  
410 ILCS 130/40, Compassionate Use of Medical Cannabis Program Act.  
410 ILCS 513/25, Genetic Information Privacy Act.  
740 ILCS 174/, Ill. Whistleblower Act.  
775 ILCS 5/1-103, 5/2-102, 103, and 5/6-101, Ill. Human Rights Act.  
775 ILCS 35/5, Religious Freedom Restoration Act.  
820 ILCS 55/10, Right to Privacy in the Workplace Act.  
820 ILCS 70/, Employee Credit Privacy Act.  
820 ILCS 75/, Job Opportunities for Qualified Applicants Act.  
820 ILCS 112/, Ill. Equal Pay Act of 2003.  
820 ILCS 180/30, Victims' Economic Security and Safety Act.  
820 ILCS 260/, Nursing Mothers in the Workplace Act.

CROSS REF.: 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria), 5:40 (Communicable and Chronic Infectious Disease), 5:50 (Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition), 5:70 (Religious Holidays), 5:180 (Temporary Illness or Temporary Incapacity), 5:200 (Terms and Conditions of Employment and Dismissal), 5:250 (Leaves of Absence), 5:270 (Employment, At-Will, Compensation, and Assignment), 5:300 (Schedules and Employment Year), 5:330 (Sick Days, Vacation, Holidays, and Leaves), 7:10 (Equal Educational Opportunities), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 8:70 (Accommodating Individuals with Disabilities)

## General Personnel

### Workplace Harassment Prohibited 1

The School District expects the workplace environment to be productive, respectful, and free of unlawful discrimination, including harassment. District employees shall not engage in harassment or abusive conduct on the basis of an individual's actual or perceived race, color, religion<sup>2</sup>, national origin, ancestry, sex, sexual orientation, age, citizenship status, disability, pregnancy, marital status, order of protection status, military status, or unfavorable discharge from military service, nor shall they engage in harassment or abusive conduct on the basis of an individual's other protected status identified in Board policy 5:10, *Equal Employment Opportunity and Minority Recruitment*.

**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

<sup>1</sup> State or federal law controls this policy's content. Federal law requires districts to take action to prevent sexual harassment and to disseminate a policy regarding its prohibition of sex discrimination. 29 C.F.R. §1604.11(f); 34 C.F.R. §106.8(b). State law requires districts to establish a policy to prohibit sexual harassment. 5 ILCS 430/70-5(a), amended by P.A.s 100-554 and 101-221. See f/n 3 below. Harassment based on a protected status is a form of discrimination that violates many State and federal laws (see the policy's Legal References).

Workplace harassment policies have typically focused on *sexual* harassment since it receives the most attention. However, the broad prohibitions against discrimination in State and federal civil rights laws will cover harassing conduct that is motivated by animus against any protected status. See *Porter v. Erie Foods International, Inc.*, 576 F.3d 629 (7th Cir. 2009) (recognizing a cause of action for race harassment). For a list of protected statuses, see sample policy 5:10, *Equal Employment Opportunity and Minority Recruitment*. This policy prohibiting harassment has a separate section on sexual harassment because of the extensive statutory and case law regarding it.

Under the Ill. Human Rights Act (IHRA), harassment is unlawful if it has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. 775 ILCS 5/2-101(E-1), added by P.A. 101-221. *Working environment* is not limited to a physical location to which an employee is assigned. *Id.* Harassment is unlawful on the basis of the specifically-listed categories in this policy whether that status is *actual or perceived*. *Id.*

An employer is liable under Title VII of the Civil Rights Act of 1964 (Title VII) for an employee's harassment of a co-worker if the employer was negligent with respect to the offensive behavior by, for example, failing to take remedial action when it knew or should have known about the harassment. 42 U.S.C. §2000e *et seq.* An employer is liable under the IHRA for harassment by its nonmanagerial and nonsupervisory employees if it becomes aware of the conduct and fails to take reasonable corrective measures. 775 ILCS 5/2-102(A), amended by P.A. 101-221. However, when the perpetrator is the victim's supervisor, the employer will be vicariously liable for the supervisor's actions. Lack of knowledge of a supervisor's misconduct is no defense. *Burlington Industries v. Ellerth*, 524 U.S. 742 (1998); *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998). A *supervisor* is someone who has the authority to demote, discharge, or take other negative job action against the victim. *Vance v. Ball State University*, 133 S.Ct. 2434 (2013). Note that the IHRA, (775 ILCS 5/2-102(D)) imposes strict liability on the employer when an employee has been sexually harassed by supervisory personnel regardless of whether the harasser has any authority over the complainant. *Sangamon County Sheriff's Dept. v. Ill. Human Rights Com'n*, 233 Ill.2d 125 (Ill. 2009). Additionally, under the IHRA, an employer is liable for the harassment of *nonemployees* by nonmanagerial and nonsupervisory employees if it becomes aware of the conduct and fails to take reasonable corrective measures. 775 ILCS 5/2-102(A-10) and (D-5), added by P.A. 101-221. Nonemployees are those who are directly performing services for an employer pursuant to a contract, such as contractors or consultants. *Id.*

Not all harassing conduct is unlawful discrimination, even if it is disruptive and hurtful. If a board wants to include language in this policy prohibiting employees from engaging in intimidating or offensive conduct that is *not* a civil rights violation, it should consult the board attorney.

<sup>2</sup> Section 2-102 of the IHRA, amended by P.A. 100-100, contains a *religious discrimination* subsection. It expressly prohibits employers from requiring a person to violate a sincerely held religious belief to obtain or retain employment unless, after engaging in a bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's or prospective employee's sincerely held religious belief, practice, or observance without undue hardship on the conduct of the employer's business. Religious beliefs include, but are not limited to: the wearing of any attire, clothing, or facial hair in accordance with the requirements of his/her religion. 775 ILCS 5/2-102(E-5). Employers may, however, enact a dress code or grooming policy that restricts attire, clothing, or facial hair to maintain workplace safety or food sanitation. *Id.*

Harassment of students, including, but not limited to, sexual harassment, is prohibited by Board policies 2:260, *Uniform Grievance Procedure*; 2:265, *Title IX Sexual Harassment Grievance Procedure*; 7:20, *Harassment of Students Prohibited*; 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*; and 7:185, *Teen Dating Violence Prohibited*.

The District will take remedial and corrective action to address unlawful workplace harassment, including sexual harassment.

### Sexual Harassment Prohibited <sup>3</sup>

The District shall provide a workplace environment free of verbal, physical, or other conduct or communications constituting harassment on the basis of sex as defined and otherwise prohibited by State and federal law. The District provides annual sexual harassment prevention training in accordance with State law. <sup>4</sup>

District employees shall not make unwelcome sexual advances or request sexual favors or engage in any unwelcome conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.<sup>5</sup> Sexual harassment prohibited by this policy includes, but is not limited to, verbal, physical, or other conduct. The terms intimidating, hostile, or offensive include, but are not limited to, conduct that has the effect of humiliation, embarrassment, or discomfort. Sexual harassment will be evaluated in light of all the circumstances.

### Making a Report or Complaint

Employees and *nonemployees*<sup>6</sup> (persons who are not otherwise employees and are directly performing services for the District pursuant to a contract with the District, including contractors, and consultants) are encouraged to promptly report information regarding violations of this policy. Individuals may choose to report to a person of the individual's same gender. Every effort should be made to file such reports or complaints as soon as possible, while facts are known and potential witnesses are available.

Aggrieved individuals, if they feel comfortable doing so, should directly inform the person engaging in the harassing conduct or communication that such conduct or communication is offensive and must stop.

### Whom to Contact with a Report or Complaint <sup>7</sup>

An employee should report claims of harassment, including making a confidential report, to any of the following: his/her immediate supervisor, the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager. <sup>8</sup>

Employee may also report claims using Board policy 2:260, *Uniform Grievance Procedure*. If a claim is reported using Board policy 2:260, then the Complaint Manager shall process and review the claim according to that policy, in addition to any response required by this policy.

The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers. The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator. <sup>9</sup>

**Nondiscrimination Coordinator:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

**Complaint Managers:**

_____ Name	_____ Name
_____ Address	_____ Address
_____ Email	_____ Email
_____ Telephone	_____ Telephone

Investigation Process

Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator or a Complaint Manager.<sup>10</sup> Any employee who fails to promptly forward a report or complaint may be disciplined, up to and including discharge.

Reports and complaints of harassment will be confidential to the greatest extent practicable, subject to the District's duty to investigate and maintain a workplace environment that is productive, respectful, and free of unlawful discrimination, including harassment.

For any report or complaint alleging sexual harassment that, if true, would implicate Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 *et seq.*), the Nondiscrimination Coordinator or designee<sup>11</sup> shall consider whether action under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, should be initiated.

For any other alleged workplace harassment that does not require action under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, the Nondiscrimination Coordinator or a Complaint Manager or designee shall consider whether an investigation under policy 2:260, *Uniform Grievance Procedure*, and/or 5:120, *Employee Ethics; Conduct, and Conflict of Interest*,<sup>12</sup> should be initiated, regardless of whether a written report or complaint is filed.

### Reports That Involve Alleged Incidents of Sexual Abuse of a Child by School Personnel 13

An *alleged incident of sexual abuse* is an incident of sexual abuse of a child, as defined in 720 ILCS 5/11-9.1A(b), that is alleged to have been perpetrated by school personnel, including a school vendor or volunteer, that occurred: on school grounds during a school activity; or outside of school grounds or not during a school activity.

Any complaint alleging an incident of sexual abuse shall be processed and reviewed according to policy 5:90, *Abused and Neglected Child Reporting*. In addition to reporting the suspected abuse, the complaint shall also be processed under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, or policy 2:260, *Uniform Grievance Procedure*.

### Enforcement 14

A violation of this policy by an employee may result in discipline, up to and including discharge.<sup>15</sup> A violation of this policy by a third party will be addressed in accordance with the authority of the Board in the context of the relationship of the third party to the District, e.g., vendor, parent, invitee, etc. Any person making a knowingly false accusation regarding harassment will likewise be subject to disciplinary action, which for an employee that may be up to and including discharge. <sup>16</sup>

### Retaliation Prohibited

An employee's employment, compensation, or work assignment shall not be adversely affected by complaining or providing information about harassment. Retaliation against employees for bringing complaints or providing information about harassment is prohibited (see Board policy 2:260, *Uniform Grievance Procedure*), and depending upon the law governing the complaint, whistleblower protection may be available under the State Officials and Employees Ethics Act (5 ILCS 430/), the Whistleblower Act (740 ILCS 174/), and the Ill. Human Rights Act (775 ILCS 5/). <sup>17</sup>

An employee should report allegations of retaliation to his/her immediate supervisor, the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager.

Employees who retaliate against others for reporting or complaining of violations of this policy or for participating in the reporting or complaint process will be subject to disciplinary action, up to and including discharge.

## Recourse to State and Federal Fair Employment Practice Agencies 18

The District encourages all employees who have information regarding violations of this policy to report the information pursuant to this policy. The following government agencies are available to assist employees: the Ill. Dept. of Human Rights and the U.S. Equal Employment Opportunity Commission.

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

3 The IHRA (775 ILCS 5/2-102(D)) provides that sexual harassment is a civil rights violation:

For any employer, employee, agent of any employer, employment agency or labor organization to engage in sexual harassment; provided, that an employer shall be responsible for sexual harassment of the employer's employees by non-employees or non-managerial and non-supervisory employees only if the employer becomes aware of the conduct and fails to take reasonable corrective measures.

See sample policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, for the definition of Title IX sexual harassment (20 U.S.C. §1681 *et seq.*), and see f/n 3 of it for examples of employee sexual harassment that may violate Title IX. Title IX's reach is broad because an alleged complainant or alleged respondent may be *anyone* in the district's educational program or activity. This includes applicants for employment, students, parents/guardians, any employee, and third parties. Districts are liable for Title IX sexual harassment when *any* district employee has *actual knowledge* of sexual harassment or allegations of sexual harassment against anyone in the district (except when the only employee with knowledge is the perpetrator of the alleged sexual harassment). 34 C.F.R. §106.30.

The State Officials and Employees Ethics Act (SOEEA) (5 ILCS 430/70-5(a), amended by P.A.s 100-554 and 101-221) requires governmental entities (including school districts) to adopt an ordinance or resolution establishing a policy to prohibit sexual harassment. Unlike the powers granted by the Ill. General Assembly to municipalities to pass ordinances, school boards govern by rules referred to as *policies*. 105 ILCS 5/10-20.5. Further, school boards may only exercise powers given to them that are consistent with the School Code that may be requisite or proper for the maintenance, operation, and development of any school or schools under the jurisdiction of the board. 105 ILCS 5/10-20.

The policy must include, at a minimum: (1) a prohibition on sexual harassment; (2) details on how an individual can report an allegation of sexual harassment, including options for making a confidential report to a supervisor, ethics officer, Inspector General, or the Ill. Dept. of Human Rights (IDHR); (3) a prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under the SOEEA, the Whistleblower Act (740 ILCS 174/), and the IHRA (775 ILCS 5/); (4) the consequences: (a) of a violation of the prohibition on sexual harassment and (b) for knowingly making a false report; and (5) a mechanism for reporting and independent review of allegations of sexual harassment made against an elected official of the governmental unit by another elected official of a governmental unit. 5 ILCS 430/70-5(a), amended by P.A.s 100-554 and 101-221. Sample policy 2:105, *Ethics and Gift Ban*, covers item (5) of this list.

4 775 ILCS 5/2-109, added by P.A. 101-221. See sample policy 5:100, *Staff Development Program*, at f/n 4. Districts may use a free, online model program to be offered by the Ill. Dept. of Human Rights (IDHR), develop their own program, or utilize a combination of the two, as long as it includes the following, at a minimum: (1) an explanation of sexual harassment consistent with the IHRA, (2) examples of conduct that constitutes unlawful harassment, (3) a summary of relevant federal and State law concerning sexual harassment and remedies available to victims of sexual harassment, and (4) a summary of responsibilities of employers in the prevention, investigation, and corrective measures of sexual harassment. *Id.* at 5/2-109(B), added by P.A. 101-221. For IDHR's online model program, see its *Model Sexual Harassment Prevention Training Program* page at: <https://www2.illinois.gov/dhr/Training/Pages/State-of-Illinois-Sexual-Harassment-Prevention-Training-Model.aspx>. Employers that fail to comply with this training requirement may face financial penalties. *Id.* Training on other types of workplace harassment is not required by law; however it is best practice.

5 This definition is from State and federal law. 775 ILCS 5/2-101(E) and 29 C.F.R. §1604.11. *Working environment* is not limited to a physical location to which an employee is assigned. 775 ILCS 5/2-101(E), amended by P.A. 101-221. The harassing conduct must be severe or pervasive so as to alter the conditions of the employee's work environment by creating a hostile or abusive situation. *Williams v. Waste Management*, 361 F.3d 1021 (7th Cir. 2004). The surrounding circumstances, expectations, and relationships will distinguish between teasing or rough-housing and conduct that a reasonable person would find severely hostile or abusive. In addition, while same-sex gender harassment claims are actionable, the victim must show that s/he suffered disadvantageous employment conditions to which members of the other sex were not exposed. *Oncale v. Sundowner Offshore Services*, 523 U.S. 75 (1998).

6 775 ILCS 5/2-102(A-10) and (D-5), added by P.A. 101-221. See also f/n 1, above, for discussion regarding nonemployees.

7 While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

The Superintendent shall also use reasonable measures to inform staff members, applicants, and

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**8** 5 ILCS 430/70-5(a), amended by P.A. 100-554, requires that a school board policy prohibiting sexual harassment include details for reporting an allegation of sexual harassment, including options for making a confidential report to a supervisor and an ethics officer. 5 ILCS 430/20-23 defines ethics officers as being designated by State agencies under the jurisdiction of the Executive Ethics Commission. School districts are not State agencies (5 ILCS 430/1-5) and do not have ethics officers; thus, this sample policy substitutes Complaint Manager for ethics officer. Note also that the IDHR has established a Sexual Harassment Hotline Call Center and website to help the public find resources and assistance for the filing of sexual harassment complaints. The hotline can be reached Monday through Friday with the exception of State holidays, between the hours of 8:30 a.m. and 5:00 p.m., at 1-877-236-7703. See [www2.illinois.gov/sites/sexualharassment/Pages/default.aspx](http://www2.illinois.gov/sites/sexualharassment/Pages/default.aspx). All communications received by the IDHR are exempt from disclosure under the Freedom of Information Act (FOIA).

**9** Title IX regulations require districts to identify the name, office address, email address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. The Nondiscrimination and Title IX Coordinator(s) need not be the same person. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, delete "~~The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator,~~" and supplement the previous sentence to state "The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator, Title IX Coordinator, and Complaint Managers." Then, list the Title IX and Nondiscrimination Coordinators' names and contact information separately in this policy.

**10** If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, supplement this sentence to state "Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator, Title IX Coordinator, or a Complaint Manager."

**11** "Nondiscrimination Coordinator or designee" is used where Title IX is potentially implicated. In contrast, if Title IX is likely not implicated then "Nondiscrimination Coordinator or a Complaint Manager or designee" is used (see next paragraph in policy text). If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, delete "~~Nondiscrimination~~" and insert "Title IX" in its place.

**12** See administrative procedure 5:120-AP2, *Employee Conduct Standards*.

**13** Required for districts located within a county served by an accredited Children's Advocacy Center (CAC). Delete this subhead if your school district is within a county not served by an accredited CAC. 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-531 (governing the investigation of an *alleged incident of sexual abuse* of any child within any Illinois counties served by a CAC). For further discussion see f/n 14 in sample policy 5:90, *Abused and Neglected Child Reporting*.

**14** See *Berry v. Delta Airlines*, 260 F.3d 803, 811 (7th Cir. 2001) ("If an employer takes reasonable steps to discover and rectify the harassment of its employees ... it has discharged its legal duty.")

In addition to violating other civil rights laws, a school district violates the *public accommodations* article in the IHRA if it fails to take corrective action to stop severe or pervasive harassment. 775 ILCS 5/5-102 and 5/5-102.2.

**15** 5 ILCS 430/70-5(a), amended by P.A. 100-554 (consequences of a violation of the prohibition on sexual harassment). When discharge is the penalty, examine 50 ILCS 205/3c, added by P.A. 100-1040. It requires a school district to post on its website and make available to news media specific information about severance agreements that it enters into because an employee or contractor was found to have engaged in sexual harassment or sexual discrimination, as defined by the IHRA or Title VII. *Id.* Additionally, under the Workplace Transparency Act (WTA), employers may not require confidentiality clauses in settlement or termination agreements involving alleged unlawful employment practices under federal or State civil rights laws, except under specific conditions. 820 ILCS 96/1-30, added by P.A. 101-221.

Prior to the passage of 50 ILCS 205/3c, added by P.A. 100-1040, and the WTA, members of the public could already access copies of severance agreements between school districts and their former employees under FOIA. The Ill. Atty. Gen. Public Access Counselor (PAC) directed a public body to release a settlement agreement that arose out of claims of sexual harassment. PAO 14-4. The PAC noted that the public body could not withhold the entire settlement agreement under 5 ILCS 140/7(1)(c), which exempts personal information that would constitute a clearly unwarranted invasion of privacy. Instead, it could redact personal information from the agreement, such as the complainants' names in order to protect their privacy. *Id.* However, data regarding settlement agreements involving allegations of sexual harassment or other unlawful discrimination that an employer must report to IDHR under 775 ILCS 5/2-108 is categorically exempt from FOIA. 5 ILCS 140/7.5(oo), added by P.A. 101-221. See f/n 6 in sample policy 2:260, *Uniform Grievance Procedure*, for more discussion about reconciling 50 ILCS 205/3c, added by P.A. 100-1040, with another new law, the Government Severance Pay Act (GSPA) (5 ILCS 415/10(a)(1), added by P.A. 100-895), which prohibits school district employees with contract provisions for severance pay to receive any severance pay if they are fired for *misconduct* by the board.

**16** 5 ILCS 430/70-5(a), amended by P.A. 100-554 (consequences for knowingly making a false report of sexual harassment).

nonemployees of this policy, which shall include posting on the District website and/or making this policy available in the District's administrative office, and including this policy in the appropriate handbooks. <sup>19</sup>

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<sup>17</sup> *Id.* (prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under the SOEEA, the Whistleblower Act (740 ILCS 174/), and the IHRA (775 ILCS 5/)).

*Crawford v. Metro. Gov't of Nashville & Davidson County*, 555 U.S. 271 (2009) (holding the anti-retaliation provision in EEOA protects an employee who spoke out about harassment, not only on his or her own initiative, but also in answering questions during an employer's internal investigation).

<sup>18</sup> 5 ILCS 430/70-5(a), amended by P.A. 100-554, (how an individual can report an allegation of sexual harassment, including options for making a confidential report to the Inspector General or the IDHR). This sample policy does not reference the Inspector General because the Inspector General does not have jurisdiction over public school districts. 5 ILCS 430/1. School districts must also annually disclose to IDHR certain data about *adverse judgment or administrative rulings* made against them where there was a finding of sexual harassment or unlawful discrimination under federal, State, or local laws. 775 ILCS 5/2-108, added by P.A. 101-221.

<sup>19</sup> A district must notify employees of the grievance procedure and the person(s) designated to coordinate the district's compliance with Title IX. 34 C.F.R. §106.8. The nondiscrimination coordinator can be the same individual for both this policy and policy 7:10, *Equal Educational Opportunities*, as well as the complaint manager in policy 2:260, *Uniform Grievance Procedure*. A comprehensive faculty handbook can provide required notices, along with other important information to recipients. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board. Any *working conditions* contained in the handbook may be subject to mandatory collective bargaining.

Informing nonemployees is not required by law. However, given the potential for employer liability under the IHRA for harassment of nonemployees, best practice is to publicize this policy to those individuals as well.

LEGAL REF.: Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq.; 29 C.F.R. §1604.11.  
Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq.; 34 C.F.R. Part 106.  
State Officials and Employees Ethics Act, 5 ILCS 430/70-5(a).  
Ill. Human Rights Act, 775 ILCS 5/2-101(E) and (E-1), 5/2-102(A), (A-10), (D-5), 5/2-102(E-5), 5/2-109, 5/5-102, and 5/5-102.2.  
56 Ill. Admin.Code Parts 2500, 2510, 5210, and 5220.  
Burlington Industries v. Ellerth, 524 U.S. 742 (1998).  
Crawford v. Metro. Gov't of Nashville & Davidson County, 555 U.S. 271 (2009).  
Faragher v. City of Boca Raton, 524 U.S. 775 (1998).  
Franklin v. Gwinnett Co. Public Schools, 503 U.S. 60 (1992).  
Harris v. Forklift Systems, 510 U.S. 17 (1993).  
Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 (2005).  
Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986).  
Oncala v. Sundowner Offshore Services, 523 U.S. 75 (1998).  
Porter v. Erie Foods International, Inc., 576 F.3d 629 (7th Cir. 2009).  
Sangamon County Sheriff's Dept. v. Ill. Human Rights Com'n, 233 Ill.2d 125 (Ill. 2009).  
Vance v. Ball State University, 133 S. Ct. 2434 (2013).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 4:60 (Purchases and Contracts), 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; Conduct; and Conflict of Interest), 7:20 (Harassment of Students Prohibited), 8:30 (Visitors to and Conduct on School Property)

## General Personnel

### Staff Development Program 1

The Superintendent or designee shall implement a staff development program. The goal of such program shall be to update and improve the skills and knowledge of staff members in order to achieve and maintain a high level of job performance and satisfaction. Additionally, the development program for licensed staff members shall be designed to effectuate the District and School Improvement Plans so that student learning objectives meet or exceed goals established by the District and State.

The staff development program shall provide, at a minimum, at least once every two years, the in-service training of licensed school personnel and administrators on current best practices regarding the identification and treatment of attention deficit disorder and attention deficit hyperactivity disorder, the application of non-aversive behavioral interventions in the school environment, and the use of psychotropic or psychostimulant medication for school-age children. <sup>2</sup>

The staff development program shall provide, at a minimum, once every two years, the in-service training of all District staff on educator ethics, teacher-student conduct, and school employee-student conduct. <sup>3 4 5</sup>

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<sup>1</sup> State law requires the subject matter in paragraph 2 to be covered by policy. State or federal law controls this policy's content. A school board may set and enforce professional growth requirements. 105 ILCS 5/24-5. Failure to meet professional growth requirements is considered remediable. *Morris v. Ill. State Bd. of Educ.*, 198 Ill.App.3d 51 (3rd Dist. 1990).

105 ILCS 5/2-3.62 requires the Ill. State Board of Education (ISBE) to establish a regional network of educational service centers to coordinate and combine existing services in a manner that is practical and efficient for schools. Their purposes are to provide, among other things, continuing education, in-service training, and staff development services to all local school districts in Illinois.

<sup>2</sup> This paraphrases 105 ILCS 5/10-20.36(b). The topic covered in this paragraph must be in a board policy. *Id.* A school medical staff, an individualized educational program team, or a professional worker (as defined in Section 14-1.10) may recommend that a student be evaluated by an appropriate medical practitioner. School personnel may consult with the practitioner, with the consent of the student's parent/guardian.

<sup>3</sup> 105 ILCS 5/10-22.39(f) requires boards to conduct this in-service. While the language of this paragraph is not required to be in board policy, including it provides a way for boards to monitor that it is being done. Including this language provides an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Each board may then want to have a conversation with the superintendent and direct him or her to develop a curriculum for the in-service that instructs all district staff to maintain boundaries and act appropriately, professionally, and ethically with students. See also sample policy 5:120, *Employee Ethics; Conduct; and Conflict of Interest*, and f/n 11 in sample policy 4:110, *Transportation*. These expectations will be most effective when they reflect local conditions and circumstances. Employee conduct issues may be subjects of mandatory collective bargaining, therefore consulting the board attorney should be a part of this process. A district would commit an unfair labor practice by implementing new employee conduct rules without first offering to negotiate them with the applicable exclusive bargaining representative.

<sup>4</sup> Insert the following option if a board wants to list in-services and/or trainings that State and federal law require, but are not required to be specified in board policy. If the board does not choose this option, delete 325 ILCS 5/4 from the Legal References. The only non-School Code State and/or federal law training requirements listed are from the Abused and Neglected Child Reporting Act, Ill. Human Rights Act, the Seizure Smart School Act, and Title IX of the Education Amendments of 1972 (Title IX).

In addition, the staff development program shall include each of the following:

1. At least, once every two years, training of all District staff by a person with expertise on anaphylactic reactions and management.

The Superintendent shall develop protocols for administering youth suicide awareness and prevention

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2. At least every two years, an in-service to train school personnel, at a minimum, to understand, provide information and referrals, and address issues pertaining to youth who are parents, expectant parents, or victims of domestic or sexual violence.
3. Training that, at a minimum, provides District staff with a basic knowledge of matters relating to acquired immunodeficiency syndrome (AIDS) and the availability of appropriate sources of counseling and referral.
4. Training for licensed school personnel and administrators who work with students in grades kindergarten through 12 to identify the warning signs of mental illness and suicidal behavior in youth along with appropriate intervention and referral techniques.
5. Abused and Neglected Child Reporting Act (ANCRA), School Code, and *Erin's Law* Training as follows:
  - a. Staff development for local school site personnel who work with students in grades kindergarten through 8, in the detection, reporting, and prevention of child abuse and neglect (see policy 5:90, *Abused and Neglected Child Reporting*).
  - b. Within three months of employment, each staff member must complete mandated reporter training from a provider or agency with expertise in recognizing and reporting child abuse. Mandated reporter training must be completed again at least every three years (see policy 5:90, *Abused and Neglected Child Reporting*).
  - c. Informing educators about the recommendation in the *Erin's Law* Taskforce Report requesting them to attend continuing professional development programs that address the prevention and identification of child sexual abuse (see policy 5:90, *Abused and Neglected Child Reporting*).
6. Education for staff instructing students in grades 7 through 12, concerning teen dating violence as recommended by the District's Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students or Complaint Manager.
7. Ongoing professional development for teachers, administrators, school resource officers, and staff regarding the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, the appropriate and available supportive services for the promotion of student attendance and engagement, and developmentally appropriate disciplinary methods that promote positive and healthy school climates.
8. Annual continuing education and/or training opportunities (*professional standards*) for school nutrition program directors, managers, and staff. Each school food authority's director shall document compliance with this requirement by the end of each school year and maintain documentation for a three year period.
9. All high school coaching personnel, including the head and assistant coaches, and athletic directors must obtain online concussion certification by completing online concussion awareness training in accordance with 105 ILCS 25/1.15. Coaching personnel and athletic directors hired on or after 8-19-14 must be certified before their position's start date.
10. The following individuals must complete concussion training as specified in the Youth Sports Concussion Safety Act: coaches and assistant coaches (whether volunteer or employee) of an interscholastic athletic activity; nurses, licensed and/or non-licensed healthcare professionals serving on the Concussion Oversight Team; athletic trainers; game officials of an interscholastic athletic activity; and physicians serving on the Concussion Oversight Team.
11. Every two years, school personnel who work with students must complete an in-person or online training program on the management of asthma, the prevention of asthma symptoms, and emergency response in the school setting.
12. Training for school personnel to develop cultural competency, including understanding and reducing implicit racial bias.
13. For school personnel who work with hazardous or toxic materials on a regular basis, training on the safe handling and use of such materials.
14. For nurses, administrators, guidance counselors, teachers, persons employed by a local health department and assigned to a school, and persons who contract with the District to perform services in connection with a student's seizure action plan, training in the basics of seizure recognition, first aid, and appropriate emergency protocols.
15. For all District staff, annual sexual harassment prevention training.
16. Title IX requirements for training as follows (see policy 2:265, *Title IX Sexual Harassment Grievance Procedure*):

education to staff consistent with Board policy 7:290, *Suicide and Depression Awareness and*

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- a. For all District staff, training on the definition of sexual harassment, the scope of the District's education program or activity, all relevant District policies and procedures, and the necessity to promptly forward all reports of sexual harassment to the Title IX Coordinator.
- b. For school personnel designated as Title IX coordinators, investigators, decision-makers, or informal resolution facilitators, training on the definition of sexual harassment, the scope of the District's education program or activity, how to conduct an investigation and grievance process (including hearings, appeals, and informal resolution processes, as applicable), and how to serve impartially.
- c. For school personnel designated as Title IX investigators, training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
- d. For school personnel designated as Title IX decision-makers, training on issues of relevance of questions and evidence, including when questions and evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant.

Alternative to paragraph number 2:

2. At least every two years, an in-service to train school personnel who work with students on how to: (a) communicate with and listen to youth victims of domestic or sexual violence and expectant and parenting youth, (b) connect youth victims of domestic or sexual violence and expectant and parenting youth to appropriate in-school services and other agencies, programs and services as needed, and (c) implement the School District's policies, procedures, and protocols with regard to such youth, including confidentiality. The in-service shall be conducted by persons with expertise in domestic and sexual violence and the needs of expectant and parenting youth.

Citations for this option follow:

1. 105 ILCS 5/10-22.39(e) (refers to anaphylactic reactions/management).
2. 105 ILCS 5/10-22.39(d).
3. 105 ILCS 5/10-22.39(c).
4. 105 ILCS 5/10-22.39(b), amended by P.A.s 100-903 and 101-350. The law allows districts to use the Ill. Mental Health First Aid training program to provide this training. If a licensed employee or an administrator obtains mental health first aid training outside of an in-service training program, he or she may present a certificate of successful completion of that training to the school district to satisfy the requirements of this law.
5. 105 ILCS 5/10-23.12, amended by P.A. 101-531; 325 ILCS 5/4(j), amended by P.A. 101-564; and *Erin's Law Taskforce Final Report*, authorized by 105 ILCS 5/22-65 and repealed by P.A. 99-30 because of submission of the Report at: [www.isbe.net/Documents/erins-law-final0512.pdf](http://www.isbe.net/Documents/erins-law-final0512.pdf) and see also [www.erinslawillinois.org/](http://www.erinslawillinois.org/) for more resources based upon the report. Training may be in-person or web-based and must include, at a minimum, information on the following topics: (1) indicators for recognizing child abuse and child neglect; (2) the process for reporting suspected child abuse and child neglect and the required documentation; (3) responding to a child in a trauma-informed manner; and (4) understanding the response of child protective services and the role of the reporter after a call has been made. 325 ILCS 5/4(j), amended by P.A. 101-564. Districts must provide training through either DCFS, an entity authorized to provide continuing education through the Dept. of Financial and Professional Regulation, the Ill. State Board of Education, the Ill. Law Enforcement Training Standards Board, the Ill. Dept. of State Police, or an organization approved by DCFS to provide mandated reporter training. *Id.* *Child-serving organizations*, which are not defined in ANCRA, are "encouraged to provide in-person annual trainings." *Id.*
6. 105 ILCS 110/3.10(b)(2).
7. 105 ILCS 5/10-22.6(c-5), amended by P.A. 100-810. School board members are also included.
8. 7 C.F.R. Parts 210 and 235. Section 210.2 defines school nutrition program directors, managers and staff. 7 C.F.R. §§210.15(b)(8) (recordkeeping requirements) and 210.31(a), (c), (d), and (e) (professional standards requirements); 210.31(g)(requiring school food authority director to keep records), amended by Fed. Reg. Vol. 81, No. 146 at 50169 and finalized 7-29-16. Food service funds may be used for reasonable, allocable, and necessary training costs. 7 C.F.R. §210.31(f). The U.S. Dept. of Agriculture (USDA) has established implementation resources that contain training opportunities and resources covering the four core training areas: nutrition, operations, administration, and communications/marketing at: [www.fns.usda.gov/school-meals/professional-standards](http://www.fns.usda.gov/school-meals/professional-standards).
9. 105 ILCS 25/1.15.
10. 105 ILCS 5/22-80(h), amended by P.A. 100-309.
11. 105 ILCS 5/22-30(j-15). Consult the board attorney about whether:

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- a. All asthma action plans should require immediate 911 calls based upon In re Estate of Stewart, 406 Ill.Dec. 345 (2nd Dist. 2016); In re Estate of Stewart, 412 Ill.Dec. 914 (Ill. 2017) (school district's asthma attack was *willful and wanton* conduct, subjecting the school district to liability under the Local Governmental and Governmental Employees Tort Immunity Act.
  - b. The duties and responsibilities of the district when it asks for, but does not receive an asthma action plan from a parent/guardian and the logistics of distributing any received plans to those employees who need to know based upon Stewart, above.
12. 105 ILCS 5/10-20.61, added by P.A. 100-14.
  13. 105 ILCS 5/10-20.17a; 23 Ill.Admin.Code §1.330.
  14. 105 ILCS 150/25, added by P.A. 101-50.
  15. 775 ILCS 5/2-109, added by P.A. 101-221.
  16. 34 C.F.R. §106.45(b)(1)(iii).

Putting this optional list into the policy will help the board monitor that the required in-service and training topics are being covered. While it is possible to *pick and choose*, this practice is likely to add more confusion to an already confusing responsibility. Unless noted, the School Code does not mandate the frequency with which the training must occur. Several other trainings that are mentioned in laws other than the School Code are addressed in other policies. Many of those policies are listed in the cross-references to this policy, e.g., training requirements under the Care of Students with Diabetes Act. 105 ILCS 145/.

<sup>5</sup> Different from the in-service training that school districts must provide to their staff, 105 ILCS 5/3-11, contains requirements that the regional superintendents must include during teachers institutes. Instruction on prevalent student chronic health conditions, as well as educator ethics and teacher-student conduct training is also required. See also f/n 3 above discussing the board's requirement in Section 10-22.39. Beginning with the 2016-17 school year, teachers' institutes must also include instruction on the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. §12101 *et seq.*) as it pertains to the school environment at least every two years. Contact the Regional Superintendent or the appropriate Intermediate Service Center with questions about online training for this component of a teachers' institute. Discuss with the board attorney the best practices of documenting trainings and evaluations of trainings; many attorneys in the field prefer documentation of ADA trainings to assist in their defense of any potential ADA claims against the district.

For districts that have a practice of providing instruction in life-saving techniques and first-aid in their staff development programs, insert the following optional paragraph that restates 105 ILCS 5/3-11, 105 ILCS 110/3, and 77 Ill.Admin.Code §527.800:

An opportunity shall be provided for all staff members to acquire, develop, and maintain the knowledge and skills necessary to properly administer life-saving techniques and first aid, including the Heimlich maneuver, cardiopulmonary resuscitation, and the use of an automated external defibrillator, in accordance with a nationally recognized certifying organization. Physical fitness facilities' staff must be trained in cardiopulmonary resuscitation and use of an automated external defibrillator.

Persons performing CPR are generally exempt from civil liability if they are trained in CPR (745 ILCS 49/10); persons performing automated external defibrillation are generally exempt from civil liability if they were trained and acted according to the standards of the American Heart Association (745 ILCS 49/12).

The board may also want to address other staff development opportunities. While not required to be policy, 105 ILCS 5/27-23.10 requires a school board to collaborate with State and local law enforcement agencies on gang resistance education and training. It also states that ISBE may assist in the development of instructional materials and teacher training for gang resistance education and training, which may be helpful to include in the staff development program. Other mandated and recommended staff development opportunities that are not located in the School Code or ISBE rules are found in the Ill. Administrative Code or federal regulations. Many of them are cross referenced in this policy.

<sup>6</sup> Required by 105 ILCS 5/2-3.166(c)(2).

- LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Educational Amendments of 1972; 34 C.F.R. Part 106.  
 42 U.S.C. §1758b, Pub. L. 111-296, Healthy, Hunger-Free Kids Act of 2010;7 C.F.R. Parts 210 and 235.  
 105 ILCS 5/2-3.62, 5/10-20.17a, 5/10-20.61, 5/10-22.6(c-5), 5/10-22.39, 5/10-23.12, 5/22-80(h), and 5/24-5.  
 105 ILCS 25/1.15, Interscholastic Athletic Organization Act.  
 105 ILCS 150/25, Seizure Smart School Act.  
 105 ILCS 110/3, Critical Health Problems and Comprehensive Health Education Act.  
 325 ILCS 5/4, Abused and Neglected Child Reporting Act.  
 745 ILCS 49/, Good Samaritan Act.  
 775 ILCS 5/2-109, Ill. Human Rights Act.  
 23 Ill.Admin.Code §§ 22.20, 226.800, and Part 525.  
 77 Ill.Admin.Code §527.800.
- CROSS REF.: 2:265 (Title IX Sexual Harassment Grievance Procedure), 3:40 (Superintendent), 3:50 (Administrative Personnel Other Than the Superintendent), 4:160 (Environmental Quality of Buildings and Grounds), 5:20 (Workplace Harassment Prohibited), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; Conduct; and Conflict of Interest), 5:250 (Leaves of Absence), 6:15 (School Accountability), 6:20 (School Year Calendar and Day), 6:50 (School Wellness), 6:160 (English Learners), 7:10 (Equal Educational Opportunities), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:270 (Administering Medicines to Students), 7:285 (Food Allergy Management Program), 7:290 (Suicide and Depression Awareness and Prevention), 7:305 (Student Athlete Concussions and Head Injuries)
- ADMIN. PROC.: 2:265-AP1 (Title IX Sexual Harassment Response), 2:265-AP2 (Formal Title IX Sexual Harassment Complaint Grievance Process), 4:160-AP (Environmental Quality of Buildings and Grounds), 4:170-AP6 (Plan for Responding to a Medical Emergency at an Indoor Physical Fitness Facility), 5:100-AP (Staff Development Program), 5:150-AP (Personnel Records), 6:120-AP4 (Care of Students with Diabetes), 7:250-AP1 (Measures to Control the Spread of Head Lice at School)

## Professional Personnel

### Terms and Conditions of Employment and Dismissal 1

The School Board delegates authority and responsibility to the Superintendent to manage the terms and conditions for the employment of professional personnel. The Superintendent shall act reasonably and comply with State and federal law as well as any applicable collective bargaining agreement in effect. The Superintendent is responsible for making dismissal recommendations to the Board consistent with the Board's goal of having a highly qualified, high performing staff. <sup>2</sup>

### School Year

Teachers shall work according to the school calendar adopted by the Board, which shall have a minimum of 176 student attendance days and a minimum of 180 teacher work days, including teacher institute days.<sup>3</sup> Teachers are not required to work on legal school holidays unless the District has followed applicable State law that allows it to hold school or schedule teachers' institutes, parent-teacher conferences, or staff development on the third Monday in January (the Birthday of Dr. Martin Luther King, Jr.); February 12 (the Birthday of President Abraham Lincoln); the first Monday in March (known as Casimir Pulaski's birthday); the second Monday in October (Columbus Day); and November 11 (Veterans' Day). <sup>4</sup>

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<sup>1</sup> State or federal law controls this policy's content. This policy contains items on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. The local collective bargaining agreement may contain provisions that exceed these requirements. In such cases, the board policy should be amended to state, "Please refer to the applicable collective bargaining agreement."

Evaluation, tenure, and dismissals changed significantly from 2013 to 2016 as P.A.s 96-861, 97-8, and 98-513 were implemented. These public acts are referred to as *Education Reform* or *Education Reform Acts*.

<sup>2</sup> This paragraph is consistent with the IASB's *Foundational Principles of Effective Governance*. Boards have three options for using this paragraph: (1) use it as an introduction to the policy; (2) use it alone leaving the specific other topics for administrative implementation; or (3) do not use it.

<sup>3</sup> 105 ILCS 5/10-19, amended by P.As. 101-12 and 101-643. See 6:20, *School Year Calendar and Day*.

<sup>4</sup> 105 ILCS 5/24-2(b). See 5:330, *Sick Days, Vacation, Holidays, and Leaves*, for a holiday listing as well as a discussion of the case finding the State-mandated school holiday on Good Friday unconstitutional. 105 ILCS 5/24-2, amended by P.A. 101-642, prohibits districts from making a deduction "from the time or compensation of a school employee on account of any legal or special holiday."

10 ILCS 5/2B-10, added by P.A. 101-642 and 105 ILCS 5/24-2 (e), amended by P.A. 101-642, designates 2020 Election Day on 11-3-2020 as a legal school holiday for purposes of 105 ILCS 5/24. It requires all government offices, with the exception of election authorities, to be closed unless authorized to be used as a location for Election Day services or as a polling place. 10 ILCS 5/2B-10, added by P.A. 101-642, requires any school closed under it to make itself available to an election authority as a polling place for 2020 General Election Day and comply with all safety and health practices established by the Ill. Department of Public Health (IDPH).

No waiver exists for 2020 Election Day. 105 ILCS 5/24-24(b) and (e), amended by P.A. 101-642.

### School Day

Teachers are required to work the school day adopted by the Board.<sup>5</sup> Teachers employed for at least four hours per day shall receive a duty-free lunch equivalent to the student lunch period, or 30 minutes, whichever is longer. <sup>6</sup>

The District accommodates employees who are nursing mothers according to provisions in State and federal law. <sup>7</sup>

### Salary

Teachers shall be paid according to the salaries fixed by the Board, but in no case less than the minimum salary provided by the School Code.<sup>8</sup> Teachers shall be paid at least monthly on a 10- or 12-month basis. <sup>9</sup>

### Assignments and Transfers

The Superintendent is authorized to make teaching, study hall, extra class duty, and extracurricular assignments.<sup>10</sup> In order of priority, assignments shall be made based on the District's needs and best interests, employee qualifications, and employee desires.

### School Social Worker Services Outside of District Employment

School social workers may not provide services outside of their District employment to any student(s) attending school in the District. *School social worker* has the meaning stated in 105 ILCS 5/14-1.09a. <sup>11</sup>

### Dismissal

The District will follow State law when dismissing a teacher. <sup>12</sup>

## Evaluation

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**5** A school day is required to consist of a minimum of five clock hours under the direct supervision of a teacher or non-teaching personnel or volunteer personnel that provides non-teaching or supervisory duties as specified in 105 ILCS 5/10-22.34(a) in order to qualify as a full day of attendance. 105 ILCS 5/10-19.05(a) and (j-5), added by P.A. 101-12 and amended by P.A. 101-643. See [www.isbe.net/school-calendar](http://www.isbe.net/school-calendar) for ISBE's instructional day changes notice regarding this law. See 105 ILCS 5/10-19.05, added by P.A. 101-12 and amended by P.A. 101-643, for additional exceptions to the attendance calculation.

**6** 105 ILCS 5/24-9.

**7** 740 ILCS 137/; 820 ILCS 260/, amended by P.A. 100-1003. Ill. law requires more of employers than federal law. Consult the board attorney to ensure the district is properly accommodating nursing mothers. See 5:10-AP, *Workplace Accommodations for Nursing Mothers*.

**8** 105 ILCS 5/10-20.7, 5/10-21.1, 5/24-1, and 5/24-8, amended by P.A. 101-443 (minimum salary). Salaries are a mandatory subject of collective bargaining. 115 ILCS 5/10. Annually, by Oct. 1, each district must: (1) during an open school board meeting, report salary and benefits information for the superintendent, administrators, and teachers; (2) publish that information on the district's website, if any; and (3) provide this information to ISBE. 105 ILCS 5/10-20.47. According to a Public Access Counselor (PAC) *Informal Mediation* letter interpreting 5 ILCS 120/7.3, an IMRF employer must post on its website the names of employees having a total compensation package that exceeds \$75,000 per year. 2012 PAC 19808 (Informal Mediation by the Ill. Attorney General's Public Access Counselor (PAC); see PAC Annual Report for 2012 at [www.foia.ilattorneygeneral.net/pdf/Public\\_Access\\_Counselor\\_Annual\\_Report\\_2012.pdf](http://www.foia.ilattorneygeneral.net/pdf/Public_Access_Counselor_Annual_Report_2012.pdf)).

**9** 105 ILCS 5/24-21.

**10** Districts are required to have a policy on the distribution of the listed assignments. 23 Ill.Admin.Code §1.420(d).

Absent an individual or collective bargaining agreement, the board has unilateral discretion to assign or retain a teacher to or in an extracurricular duty. *Betebner v. Bd. of Educ.*, 336 Ill.App. 448 (4th Dist. 1949); *Dist. 300 Educ. Assoc. v. Bd. of Educ.*, 31 Ill.App.3d 550 (2nd Dist. 1975); *Lewis v. Bd. of Educ.*, 181 Ill.App. 3d 689 (5th Dist. 1989).

**11** Optional. This subhead provides information to district employees and the community that 105 ILCS 5/14-1.09a, amended by P.A. 100-356, prohibits school social workers from moonlighting by providing services to students attending the districts in which they are employed. Delete "5/10-20.65, 5/14-1.09a," from the Legal References if the board deletes this subhead.

**12** All dismissal laws in the chart below were amended by the *Education Reform Acts*. 105 ILCS 5/24A-5.5, added by P.A. 101-591, requires districts to develop and implement a local appeals process for unsatisfactory ratings issued to teachers under 105 ILCS 5/24A-5, amended by P.A. 101-643. Districts must: (1) develop the process in cooperation with the bargaining unit or teachers, if applicable, and (2) include an assessment of the original rating by a panel of qualified evaluators agreed to by the PERA joint committee (105 ILCS 5/24A-4(b)).

<b>Non-tenure Teacher Discharge</b>	105 ILCS 5/24-11, amended by P.A. 101-643
<b>Tenured and Non-tenure Teachers</b> Reduction in Force	105 ILCS 5/24-12(b), amended by P.A. 101-643, and (c)
<b>Tenured Teacher Discharge</b> Where Cause Remediable	105 ILCS 5/24-12(d) (prior reasonable warning required) 105 ILCS 5/24-12(d) (procedural mandates) 105 ILCS 5/10-22.4 (general authority)
<b>Tenured Teacher Discharge</b> Where Cause Irremediable	105 ILCS 5/24-12(d) (no prior warning required) 105 ILCS 5/24-12(d) (procedural mandates) 105 ILCS 5/10-22.4 (general authority)
<b>Tenured Teacher Discharge</b> Failure to complete remediation plan with a rating of <i>Proficient</i>	105 ILCS 5/24A-5(m) (participation in remediation plan after unsatisfactory evaluation) 105 ILCS 5/24-12(d)(1), amended by P.A. 101-643 (no prior warning required if cause(s) were subject of remediation plan) 105 ILCS 5/24-12(d) (procedural mandates) 105 ILCS 5/10-22.4 (general authority)
<b>Tenured Teacher Discharge - Optional</b> <b>Alternative Evaluative Dismissal Process for PERA Evaluation</b> Failure to complete remediation plan with a <i>Proficient</i> or better rating 105 ILCS 5/24A-2.5	105 ILCS 5/24-16.5(d) (provide written notice) 105 ILCS 5/24-16.5 (pre-remediation and remediation procedural mandates) 105 ILCS 5/24-16.5(e) and (f) (school board makes final decision with only PERA-trained board members participating in vote)
<b>Tenured Teacher Discharge</b> <i>Unsatisfactory</i> PERA evaluation within 36 months of completing a remediation plan 105 ILCS 5/24A-2.5	105 ILCS 5/24A-5(n) (forego remediation and proceed to dismissal) 105 ILCS 5/24-12(d) (procedural mandates)

The District’s teacher evaluation system will be conducted under the plan developed pursuant to State law. **13**

On an annual basis, the Superintendent will provide the Board with a written report which outlines the results of the District’s teacher evaluation system.

LEGAL REF.: 105 ILCS 5/10-19, 5/10-19.05, 5/10-20.65, 5/14-1.09a, 5/22.4, 5/24-16.5, 5/24-2, 5/24-8, 5/24-9, 5/24-11, 5/24-12, 5/24-21, 5/24A-1 through 24A-20.  
820 ILCS 260/1 et seq.  
23 Ill.Admin.Code Parts 50 (Evaluation of Educator Licensed Employees) and 51 (Dismissal of Tenured Teachers).  
Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532(1985).

CROSS REF.: 5:290 (Employment Termination and Suspensions), 6:20 (School Year Calendar and Day)

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	105 ILCS 5/10-22.4 (general authority)
<b>Educational Support Personnel Employees</b> (non-licensed)	105 ILCS 5/10-23.5, amended by P.A. 101-46
<b>Probationary Teacher</b> (non-tenure teacher)	105 ILCS 5/24-11, amended by P.A. 101-643

Various components of a RIF (e.g., impact and decision to RIF) and an evaluation plan (e.g., development, implementation, and impact) may be subject to mandatory collective bargaining. Central City Educ. Assoc. v. IELRB, 149 Ill.2d 496 (Ill. 1992).

Teacher RIF procedures were changed by 105 ILCS 5/24-12, amended by P.A. 101-643. See *PERA Overview for School Board Members*, question 13, “What is the process for selecting teachers for a reduction in force/layoff (RIF)” at: [www.iasb.com/law/PERAoverview.pdf](http://www.iasb.com/law/PERAoverview.pdf).

According to a binding opinion from the Ill. Public Access Counselor, a board must identify an employee by name in a motion to dismiss him or her. PAO 13-16. As this may be a significant change in practice with possible other legal consequences, a board should consult with the board attorney on this issue before dismissing employee.

**13** Teacher evaluation plans are covered in *PERA Overview for School Board Members* at: [www.iasb.com/law/PERAoverview.pdf](http://www.iasb.com/law/PERAoverview.pdf).

## Professional Personnel

### Substitute Teachers 1

The Superintendent may employ substitute teachers as necessary to replace teachers who are temporarily absent.

A substitute teacher must hold either a valid teaching or substitute license or short-term substitute license and may teach in the place of a licensed teacher who is under contract with the Board.<sup>2</sup> There is no limit on the number of days that a substitute teacher may teach in the District during the school year, except as follows: <sup>3</sup>

1. A substitute teacher holding a substitute license may teach for any one licensed teacher under contract with the District only for a period not to exceed 90 paid school days in any one school term.
2. A teacher holding a Professional Educator License<sup>4</sup> or Educator License with Stipulations<sup>5</sup> may teach for any one licensed teacher under contract with the District only for a period not to exceed 120 paid school days.
3. A short-term substitute teacher holding a short-term substitute teaching license may teach for any one licensed teacher under contract with the District only for a period not to exceed five consecutive school days. <sup>6</sup>

The Illinois Teachers' Retirement System (TRS) limits a substitute teacher who is a TRS annuitant to substitute teaching for a period not to exceed 120 paid days or 600 paid hours in each school year, but not more than 100 paid days in the same classroom. Beginning July 1, 2021, a substitute teacher who is a TRS annuitant may substitute teach for a period not to exceed 100 paid days or 500 paid hours in

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<sup>1</sup> State law controls this policy's content. Policy 5:30, *Hiring Process and Criteria*, contains the requirements for pre-employment investigations, e.g., a fingerprint based criminal history records check. See also 5:30-AP2, *Investigations*. Each board may require new substitute teacher employees to furnish evidence of physical fitness to perform duties assigned and must require new substitute teacher employees to furnish evidence of freedom from communicable disease. 105 ILCS 5/24-5(b-5), added by P.A. 100-855. Evidence may consist of a physical examination, which must be performed within 90 days before the time it is presented to the board, and the substitute teacher bears the cost of the physical examination. *Id.* A new or existing substitute teacher may also be subject to additional health examinations as required by the Ill. Dept. of Public Health or by order of a local public health official. *Id.*

<sup>2</sup> 23 Ill.Admin.Code §1.790(a)(2), requires that any individual who serves as a substitute teacher for driver's education be endorsed for driver's education pursuant to 23 Ill.Admin.Code §25.100(k).

<sup>3</sup> Substitute teaching licenses are governed by 105 ILCS 5/21B-20(3), amended by P.A. 100-596; 23 Ill.Admin.Code §§1.790 and 25.520.

<sup>4</sup> Professional educator licenses are governed by 105 ILCS 5/21B-20(1) and 23 Ill.Admin.Code Part 25.

<sup>5</sup> Educator licenses with stipulations are governed by 105 ILCS 5/21B-20(2), amended by P.A. 100-596, and 23 Ill.Admin.Code Part 25. 105 ILCS 5/21B-20(2)(E), amended by P.A. 100-13, permits an individual who holds a valid career and technical educator endorsement on an Educator License with Stipulations but who does not hold a bachelor's degree to substitute teach in career and technical education classrooms. Similarly, 105 ILCS 5/21B-20(2)(F), amended by P.A. 100-13, permits an individual who holds a provisional or part-time provisional career and technical educator endorsement on an Educator License with Stipulations but who does not hold a bachelor's degree to substitute teach in career and technical education classrooms.

<sup>6</sup> 105 ILCS 5/21B-20(4), added by P.A. 100-596. Districts may not hire a short-term substitute teacher for teacher absences lasting six or more days. *Id.*

any school year, unless the subject area is one where the Regional Superintendent has certified that a personnel shortage exists. <sup>7</sup>

The School Board establishes a daily rate of pay for substitute teachers. Substitute teachers receive only monetary compensation for time worked and no other benefits. <sup>8</sup>

### Short-Term Substitute Teachers <sup>9</sup>

A short-term substitute teacher must hold a valid short-term substitute teaching license and have completed the District's short-term substitute teacher training program.<sup>10</sup> Short-term substitutes may teach no more than five consecutive school days for each licensed teacher who is under contract with the Board. <sup>11</sup>

### Emergency Situations <sup>12</sup>

A substitute teacher may teach when no licensed teacher is under contract with the Board if the District has an emergency situation as defined in State law. During an emergency situation, a substitute teacher is limited to 30 calendar days of employment per each vacant position. The Superintendent shall notify the appropriate Regional Office of Education within five business days after the employment of a substitute teacher in an emergency situation.

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<sup>7</sup> 40 ILCS 5/16-118, amended by P.A.s 100-596 and 101-645 (specifying permissible paid days and hours for TRS annuitants), and 16-150.1, amended by P.A. 101-49 (TRS annuitants may return to teaching in a subject shortage area until 6-30-21). Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center."

<sup>8</sup> If a board provides substitute teachers other benefits, it may consider listing them here.

<sup>9</sup> 105 ILCS 5/21B-20(4), added by P.A. 100-596, governs Short-Term Substitute Teaching Licenses, which may be issued from 7-1-18 until 6-30-23. Short-Term Substitute Teaching Licenses are not eligible for endorsements. *Id.* Applicants for a Short-Term Substitute Teaching License must hold an associate's degree or have completed at least 60 credit hours from a regionally accredited institution of higher education. Individuals who have had their Professional Educator License or Educator License with Stipulations suspended or revoked are not eligible to be short-term substitutes. *Id.* Short-term substitutes may not be hired for teacher absences lasting six or more days. *Id.* 105 ILCS 5/21B-20(4) repeals on 7-1-23.

<sup>10</sup> 105 ILCS 5/10-20.68, added by P.A. 100-596, requires boards to conduct this training. This requirement provides an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Each board may then want to have a conversation with the superintendent and direct him or her to develop a curriculum for a short-term substitute teacher training program that provides individuals who hold a Short-Term Substitute Teaching License with information on curriculum, classroom management techniques, school safety, and district and building operations. See also 5:220-AP, *Substitute Teachers*, and f/n 3 in 5:220-AP. These expectations will be most effective when they reflect local conditions and circumstances. Training and curriculum for a short-term substitute teacher training program may be subjects of mandatory collective bargaining, therefore consulting with the board attorney should be a part of this process. A district would commit an unfair labor practice by implementing new programs for staff without first offering to negotiate them with the applicable exclusive bargaining representative.

School boards may choose to also offer this training program to individuals who hold a Substitute Teaching License and/or substitute teachers holding a Professional Educator License. This provision repeals on 7-1-23.

<sup>11</sup> See f/n 6.

<sup>12</sup> 105 ILCS 5/21B-20(3). An *emergency situation* is defined as one where an unforeseen vacancy has occurred and (i) a teacher is unable to fulfill his or her contractual duties, or (ii) the district's teacher capacity needs exceed previous indications and the district is actively engaged in advertising to hire a fully licensed teacher for the vacant position.

Use this alternative for districts in suburban Cook County: replace "Regional Office of Education" with "appropriate Intermediate Service Center."

LEGAL REF.: 105 ILCS 5/10-20.68, 5/21B-20(2), 5/21B-20(3), and 5/21B-20(4).  
23 Ill.Admin.Code §1.790 (Substitute Teacher) and §25.520 (Substitute Teaching License).

CROSS REF.: 5:30 (Hiring Process and Criteria)

## Educational Support Personnel

### Sick Days, Vacation, Holidays, and Leaves 1

Each of the provisions in this policy applies to all educational support personnel to the extent that it does not conflict with an applicable collective bargaining agreement or individual employment contract or benefit plan; in the event of a conflict, such provision is severable and the applicable bargaining agreement or individual agreement will control.

### Sick and Bereavement Leave 2

Full or part-time educational support personnel who work at least 600 hours per year receive 10 paid sick leave days per year. Part-time employees will receive sick leave pay equivalent to their regular workday. Unused sick leave shall accumulate to a maximum of 180 days, including the leave of the current year. 3

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements. The introductory paragraph recognizes that an applicable collective bargaining agreement or individual employment contract will supersede a conflicting provision of the policy. Alternatively, if the policy's subject matter is superseded by a bargaining agreement, the board policy may state, "Please refer to the applicable collective bargaining agreement."

Districts must coordinate leaves provided by State law and the local bargaining agreement with the leave granted by the Family and Medical Leave Act (FMLA) (29 U.S.C. §2612), amended by Sec. 565 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111-84). The FMLA grants eligible employees 12 weeks unpaid leave each year for: (1) the birth and first-year care of a child; (2) the adoption or foster placement of a child; (3) the serious health condition of an employee's spouse, parent, or child; (4) the employee's own serious health condition; (5) the existence of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on (or has been notified of an impending call to) *covered active duty* in the Armed Forces; and (6) to care for the employee's spouse, child, parent, or next of kin who is a covered service member with a serious injury or illness. The definition of *covered servicemember* includes a veteran "who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness" if the veteran was a member of the Armed Forces "at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy." 29 U.S.C. §2611. Districts are permitted to count paid leave (granted by State law or board policy) taken for an FMLA purpose against an employee's FMLA entitlement. 29 C.F.R. §825.207. See policy 5:185, *Family and Medical Leave*.

A plethora of State laws grant leaves to employees of the State and municipalities, but are not applicable to school districts, including the Employee Blood Donation Leave Act (820 ILCS 149/), Local Government Disaster Service Volunteer Act (50 ILCS 122/), Organ Donor Leave Act (5 ILCS 327/), and Civil Air Patrol Leave Act (820 ILCS 148/).

<sup>2</sup> This section contains the minimum benefits provided by 105 ILCS 5/24-6. Each specified number of days in this section is the statutory minimum. The School Code does not address whether an employee's 10 paid sick leave days are available upon employment, accrued over months, or after working for a certain period of time, e.g., one year. Also be aware that the Employee Sick Leave Act (820 ILCS 191/) allows employees to use employer-provided sick leave to care for an ill or injured *family* member or to attend a medical appointment with a family member. The law defines family members as a child, stepchild, spouse, domestic partner, sibling, parent, mother- or father-in-law, grandchild, grandparent, or stepparent. *Id.* at 191/10(b). Leave may be taken under the same terms for which the employee would be permitted to take leave for his or her own illness or injury. Before adopting this policy or applying its provisions, the district should examine any applicable bargaining agreements. Strict accounting of unused sick days is important to avoid:

1. Employees accumulating sick time on a full-time basis when they are truly working part-time hours;
2. Inconsistent treatment; and
3. Inaccurate reporting to IMRF (credit is given for full day unused sick days upon retirement). 40 ILCS 5/7-139(a)(8).

Sick leave is defined in State law as personal illness, quarantine at home, serious illness or death in the immediate family or household, or birth, adoption, or placement for adoption. The Superintendent and/or designee shall monitor the use of sick leave.

As a condition for paying sick leave after three days absence for personal illness or 30 days for birth or as the Board or Superintendent deem necessary in other cases, the Board or Superintendent may require that the staff member provide a certificate from: (1) a physician licensed in Illinois to practice medicine and surgery in all its branches, (2) a chiropractic physician licensed under the Medical Practice Act, (3) a licensed advanced practice registered nurse, (4) a licensed physician assistant who has been delegated the authority to perform health examinations by his or her supervising physician, or (5) if the treatment is by prayer or spiritual means, a spiritual adviser or practitioner of the employee's faith. If the Board or Superintendent requires a certificate during a leave of less than three days for personal illness, the District shall pay the expenses incurred by the employee.

The use of paid sick leave for adoption or placement for adoption is limited to 30 days unless a longer leave is provided in an applicable collective bargaining agreement. The Superintendent may require that the employee provide evidence that the formal adoption process is underway. <sup>4</sup>

#### Vacation <sup>5</sup>

Twelve-month employees shall be eligible for paid vacation days according to the following schedule:

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<sup>3</sup> As this policy is consistent with the minimum requirements of State law, this provision on the maximum number of sick days that may be accumulated is based on the minimum number required as stated in 105 ILCS 5/24-6. The number may be increased to meet or exceed the number IMRF will recognize for retirement credit purposes. The following alternative does this: "Unused sick leave shall accumulate to the maximum number of days that IMRF will recognize for retirement credit purposes."

The following optional provisions apply to boards that want to address the IMRF's requirement that public bodies must have a written plan allowing eligible employees to convert their eligible accumulated sick leave to service credit upon their retirement. See 40 ILCS 5/7-139(a)(8). See also IMRF General Memorandum #555 at:

[www.imrf.org/en/publications-and-archive/general-memos/2007-general-memos/general-memo-555](http://www.imrf.org/en/publications-and-archive/general-memos/2007-general-memos/general-memo-555).

**Option 1:** No collective bargaining agreement applies and the board wants to publicize its written plan. Insert the following sentence: This policy is the District's written plan allowing eligible employees to convert eligible accumulated sick leave to service credit upon a District employee's retirement under the Ill. Municipal Retirement Fund.

**Option 2:** A local collective bargaining agreement contains the written plan and the board wants to publicize it. Insert the following sentence: Please refer to the applicable collective bargaining agreement(s) for the District's written plan allowing eligible employees to convert eligible accumulated sick leave to service credit upon an employee's retirement under the Ill. Municipal Retirement Fund.

**Option 3:** A district maintains two separate sick leave plans, one for employees under a collective bargaining agreement, and one for non-unionized employees. Insert the text for both Option 1 and Option 2.

**Note:** If Options 1, 2, or 3 are chosen, add 40 ILCS 5/7-139 to the Legal References. If the board does not have a written sick leave plan for purposes of IMRF sick leave to service credit conversion or does not wish to include it in the policy, do not include any of the options above or add the citation to the Legal References.

<sup>4</sup> 105 ILCS 5/24-6, amended by P.A. 100-513.

<sup>5</sup> State law does not require districts to give employees vacations.

<u>Length of Employment</u>		<u>Monthly Accumulation</u>	<u>Maximum Vacation Leave Earned Per Year</u>
<u>From:</u>	<u>To:</u>		
Beginning of year 2	End of year 5	0.83 Days	10 Days per year
Beginning of year 6	End of year 15	1.25 Days	15 Days per year
Beginning of year 16	End of year	1.67 Days	20 Days per year

Part-time employees who work at least half-time are entitled to vacation days on the same basis as full-time employees, but the pay will be based on the employee's average number of part-time hours per week during the last vacation accrual year. The Superintendent will determine the procedure for requesting vacation.

Vacation days earned in one fiscal year must be used by the end of the following fiscal year; they do not accumulate. Employees resigning or whose employment is terminated are entitled to the monetary equivalent of all earned vacation. <sup>6</sup>

### Holidays <sup>7</sup>

Unless the District has a waiver or modification of the School Code pursuant to Section 2-3.25g or 24-2(b) allowing it to schedule school on a legal school holiday listed below, District employees will not be required to work on:

New Year's Day	Labor Day
Martin Luther King Jr.'s Birthday	Columbus Day
Abraham Lincoln's Birthday	Veteran's Day
Casimir Pulaski's Birthday	2020 Election Day
Memorial Day	Thanksgiving Day
Independence Day	Christmas Day

A holiday will not cause a deduction from an employee's time or compensation. The District may require educational support personnel to work on a school holiday during an emergency or for the continued operation and maintenance of facilities or property.

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<sup>6</sup> Required by 820 ILCS 115/5 and 56 Ill.Admin.Code §300.520 (Earned Vacations).

<sup>7</sup> Holidays are listed in 105 ILCS 5/24-2(a), (e), amended by P.A. 101-642, and 10 ILCS 5/2B-10, added by P.A. 101-642. For information on the waiver process allowed by 105 ILCS 5/24-2(b), see 2:20-E, *Waiver and Modification Request Resource Guide*. Holidays not specified in the School or Election Codes may be added to the policy; however, boards adding additional holidays should monitor and review to ensure the list remains current.

A State-mandated school holiday on Good Friday is unconstitutional according to *Metzl v. Leininger*, 57 F.3d 618 (7th Cir. 1995). Closing school on religious holidays may be permissible for those districts able to demonstrate that remaining open would be a waste of educational resources because of widespread absenteeism. Also, districts may be able to close school on Good Friday by adopting a spring holiday rationale or ensuring that it falls within spring break. School districts should discuss their options, including the collective bargaining implications, with their board attorney.

For more information about 2020 Election Day, see the discussion in f/n 4 in 5:200, *Terms and Conditions of Employment and Dismissal*.

## Personal Leave 8

Full-time educational support personnel have one paid personal leave day per year. The use of a personal day is subject to the following conditions:

1. Except in cases of emergency or unavoidable situations, a personal leave request should be submitted to the Building Principal three days before the requested date.
2. No personal leave day may be used immediately before or immediately after a holiday, or during the first and/or last five days of the school year, unless the Superintendent grants prior approval.
3. Personal leave may not be used in increments of less than one-half day.
4. Personal leave is subject to any necessary replacement's availability.
5. Personal leave may not be used on an in-service training day and/or institute training days.
6. Personal leave may not be used when the employee's absence would create an undue hardship.

## Leave to Serve as a Trustee of the Illinois Municipal Retirement Fund

Upon request, the Board will grant 20 days of paid leave of absence per year to a trustee of the Ill. Municipal Retirement Fund in accordance with 105 ILCS 5/24-6.3. **9**

## Other Leaves

Educational support personnel receive the following leaves on the same terms and conditions granted professional personnel in Board policy 5:250, *Leaves of Absence*:

1. Leaves for Service in the Military and General Assembly. **10**
2. School Visitation Leave. **11**
3. Leaves for Victims of Domestic Violence, Sexual Violence, or Gender Violence. **12**
4. Child Bereavement Leave. **13**
5. Leave to serve as an election judge. **14**

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**8** State law does not address personal leave. It is not uncommon for boards to grant educational support personnel the same number of personal leave days as are granted to professional staff.

**9** Required by 105 ILCS 5/24-6.3. A similar leave exists for an elected trustee for the Ill. Teachers' Retirement System. See 5:250, *Leaves of Absence*.

**10** Military leave is governed by the School Code (105 ILCS 5/10-20.7b, 5/24-13, and 13.1); the Service Member Employment and Reemployment Rights Act (330 ILCS 61/, added by P.A. 100-1101, streamlining several job-related protection laws into one statute, mandating leave for *active service* and requiring the public employer to make up the difference between military pay and regular compensation); and the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. §4301 *et seq.*).

Granting General Assembly leave to ESPs is optional.

**11** 820 ILCS 147/, amended by P.A. 101-486. See policy 5:250, *Leaves of Absence*, and 5:250-AP, *School Visitation Leave*.

**12** Required by Victims' Economic Security and Safety Act (820 ILCS 180/, amended by P.A. 101-221) and 56 Ill.Admin.Code Part 280. Important information about this leave is discussed in f/n 20, 21, and 22 of 5:250, *Leaves of Absence*.

**13** 820 ILCS 154/. Important information about this leave is discussed in f/n 5 of 5:250, *Leaves of Absence*.

**14** 10 ILCS 5/13-2.5.

LEGAL REF.: 105 ILCS 5/10-20.7b, 5/24-2, and 5/24-6.  
330 ILCS 61/, Service Member Employment and Reemployment Rights Act.  
820 ILCS 147, School Visitation Rights Act.  
820 ILCS 154/, Child Bereavement Leave Act.  
820 ILCS 180/, Victims' Economic Security and Safety Act.  
School Dist. 151 v. ISBE, 154 Ill.App.3d 375 (1st Dist. 1987); Elder v. Sch. Dist. No.127 1/2, 60 Ill.App.2d 56 (1st Dist. 1965).

CROSS REF.: 5:180 (Temporary Illness or Temporary Incapacity), 5:185 (Family and Medical Leave), 5:250 (Leaves of Absence)

## Students

### Equal Educational Opportunities 1

Equal educational and extracurricular opportunities shall be available for all students without regard to color, race, nationality, religion, sex, sexual orientation, ancestry, age, physical or mental disability, gender identity,<sup>2</sup> status of being homeless, immigration status, order of protection status, actual or potential marital or parental status, including pregnancy.<sup>3</sup> Further, the District will not knowingly enter into agreements with any entity or any individual that discriminates against students on the basis of sex or any other protected status, except that the District remains viewpoint neutral when granting access to school facilities under School Board policy 8:20, *Community Use of School*

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<sup>1</sup> State or federal law requires this subject matter be covered by policy and controls this policy's content.

<sup>2</sup> Adopting separate policies or inserting policy statements about accommodations and inclusion of transgender students in the educational program are unsettled areas of the law. Some lawyers believe doing so may open boards to equal protection challenges for not creating separate policies for other protected statuses, e.g., race, nationality, religion, etc. Executive Order (EO) 2019-11, titled "Strengthening Our Commitment to Affirming and Inclusive Schools" established the Affirming and Inclusive Schools Task Force (Task Force) to identify strategies and best practices for ensuring welcoming, safe, supportive, and inclusive school environments for transgender, nonbinary, and gender nonconforming students. The Task Force delivered a report that served as the basis for two non-regulatory guidance documents entitled *Supporting Transgender, Nonbinary and Gender Nonconforming Students* and *Sample District Policy and Administrative Procedures* at [www.isbe.net/supportallstudents](http://www.isbe.net/supportallstudents). The Ill. State Board of Education (ISBE) hosts these documents on its website.

Consult the board attorney if your board wishes to adopt a separate policy or insert policy statements about accommodations and inclusion of transgender students.

For boards that want to incorporate ISBE's *Sample District Policy and Administrative Procedures* policy recommendation into this policy, insert the following in place of "gender identity," gender, gender identity (whether or not traditionally associated with the student's sex assigned at birth), gender expression.

If the board inserts this option, it must also insert the options in f/n 7, below and in f/n 2 of sample policy 7:20, *Harassment of Students Prohibited*, BUT NOTE THE PROTECTED STATUSES LIST IN THIS POLICY IS DIFFERENT AND SHOULD NOT BE COPIED FROM HERE INTO 7:20, *HARASSMENT OF STUDENTS PROHIBITED*.

See 7:10-AP1, *Accommodating Transgender Students or Gender Non-Conforming Students*, for a case-by-case procedure that school officials may use when a student requests an accommodation based upon his or her gender identity.

For a list of policies that address the equal educational opportunities, health, safety, and general welfare of students within the District, see 7:10-E, *Equal Educational Opportunities Within the School Community*.

<sup>3</sup> Many civil rights laws guarantee equal education opportunities; see citations in the Legal References.

In 23 Ill.Admin.Code §1.240, ISBE states that "no school system may deny access to its schools or programs to students who lack documentation of their immigration status or legal presence in the United States, and no school system may inquire about the immigration status of a student (*Plyler v. Doe*, 457 U.S. 202 (1982))."

The Ill. Human Rights Act (IHRA) and an ISBE rule prohibit schools from discriminating against students on the basis of *sexual orientation* and *gender identity*. 775 ILCS 5/5-101(11); 23 Ill.Admin.Code §1.240. *Sexual orientation* is defined as the "actual or perceived heterosexuality, homosexuality, bisexuality, or gender related identity, whether or not traditionally associated with the person's designated sex at birth." 775 ILCS 5/1-103(O-1). *Gender identity* is included in the definition of sexual orientation in the Act. The Act permits schools to maintain single-sex facilities that are distinctly private in nature, e.g., restrooms and locker rooms. 775 ILCS 5/5-103. 775 ILCS 5/1-102(A) makes *order of protection status* a protected category.

The IHRA's jurisdiction is specifically limited to: (1) failing to enroll an individual, (2) denying access to facilities, goods, or services, or (3) failing to take corrective action to stop severe or pervasive harassment of an individual. 775 ILCS 5/5-102.2.

*Facilities.*<sup>4</sup> Any student may file a discrimination grievance by using Board policy 2:260, *Uniform Grievance Procedure*.<sup>5</sup>

### Sex Equity<sup>6</sup>

No student shall, based on sex, sexual orientation, or gender identity<sup>7</sup> be denied equal access to programs, activities, services, or benefits or be limited in the exercise of any right, privilege, advantage, or denied equal access to educational and extracurricular programs and activities.

Any student may file a sex equity complaint by using Board policy 2:260, *Uniform Grievance Procedure*. A student may appeal the Board's resolution of the complaint to the Regional

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<sup>4</sup> 23 Ill.Admin.Code §200.40(b) prohibits entering into agreements with entities that discriminate against students on the basis on sex. Section 200.80(a)(4) contains an exception for single sex youth organizations, e.g., Boy and Girl Scouts. Note that the U.S. Supreme Court refused to apply N.J.'s public accommodation law to the Boy Scouts because forcing the Scouts to accept a homosexual as a member would violate the Scouts' freedom of expressive association. *Boy Scouts of America v. Dale*, 530 U.S. 640 (2002). When deciding whether to allow non-school groups to use its facilities, a public school district may not engage in viewpoint discrimination. *Good News Club v. Milford Central Sch.*, 533 U.S. 98 (2001).

<sup>5</sup> Districts must have a grievance procedure. See Legal References following policy. Absent a specific statute or rule, there is no consensus on whether students have the right to appeal a board's decision to the Regional Superintendent and thereafter to the State Superintendent pursuant to 105 ILCS 5/2-3.8.

<sup>6</sup> Every district must have a policy on sex equity. 23 Ill.Admin.Code §200.40(b). The IHRA, Public Accommodation section, prohibits schools from: (1) failing to enroll an individual, (2) denying a individual access to its facilities, goods, or services, or (3) failing take corrective action to stop severe or pervasive harassment of an individual (775 ILCS 5/5-102.2), on the basis of the individual's sex or sexual orientation, among other classifications (775 ILCS 5/5-101). Districts must periodically evaluate their policies and practices to identify and eliminate sex discrimination as well as evaluate course enrollment data to identify disproportionate enrollment based on sex. In-service training for all staff members is required. 23 Ill.Admin.Code §1.420.

With some exceptions, Title IX of the Education Amendments of 1972 (Title IX) guarantees that "[n]o person in the United States shall, on the basis of gender, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance..." 20 U.S.C. §§1681(a). Equal participation and equal opportunity in athletics is addressed in the U.S. Dept. of Education's implementing rules. 34 C.F.R. §106.41. Generally, when a school district offers a team for one gender but not for the other, a member of the excluded gender is allowed to try out for the team unless the sport is a *contact sport*. Contact sports are boxing, wrestling, rugby, ice hockey, football, basketball, and other sports involving bodily contact. The rules also list the factors that determine whether equal opportunities are available to both genders. These include: whether the selection of athletics accommodates the interests and abilities of both genders; equipment and supplies; scheduling; opportunity to receive coaching and academic tutoring; locker rooms, practice facilities, and fields; and publicity. Title IX prohibits any person from sexually harassing a student. See sample policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, for further discussion.

105 ILCS 5/10-20.60 (final citation pending), added by P.A. 100-29, requires public schools to provide reasonable accommodations to breastfeeding students. See sample administrative procedure 7:10-AP-2, *Accommodating Breastfeeding Students*, for specific *reasonable accommodations* under Illinois law.

105 ILCS 5/10-20.60 (final citation pending), added by P.A. 100-163, requires school districts to make feminine hygiene products (defined as tampons and sanitary napkins for use in connection with the menstrual cycle) available, at no cost to students, in the bathrooms of school buildings serving students in grades 6 through 12. **Note:** The statute does not delineate between types of bathrooms (student, staff, girls, boys, unisex, etc.). Consult with the board attorney about implementing this law.

<sup>7</sup> For boards that want to incorporate ISBE's *Sample District Policy and Administrative Procedures* policy recommendations into this policy (see f/n 2 above), insert:

1. In place of "or gender identity" as follows: "~~or~~ gender identity, or gender expression".
2. The following sentence as the second sentence of this subhead: "Students shall be supported in a manner consistent with their gender identity. This will include, but not be limited to, use of restrooms, locker rooms, and other facilities that correspond with the student's gender identity."

Superintendent (pursuant to 105 ILCS 5/3-10) and, thereafter, to the State Superintendent of Education (pursuant to 105 ILCS 5/2-3.8). <sup>8</sup>

### Administrative Implementation

The Superintendent shall appoint a Nondiscrimination Coordinator, who also serves as the District's Title IX Coordinator.<sup>9</sup> The Superintendent and Building Principal shall use reasonable measures to inform staff members and students of this policy and related grievance procedures. <sup>10</sup>

LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Education Amendments of 1972; 34 C.F.R. Part 106.  
29 U.S.C. §791 et seq., Rehabilitation Act of 1973.  
42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act.  
Good News Club v. Milford Central Sch., 533 U.S. 98 (2001).  
Ill. Constitution, Art. I, §18.  
105 ILCS 5/3.25b, 5/3.25d(b), 5/10-20.12, 5/10-20.60 (P.A.s 100-29 and 100-163, final citations pending), 5/10-22.5, and 5/27-1.  
775 ILCS 5/1-101 et seq., Illinois Human Rights Act.  
775 ILCS 35/5, Religious Freedom Restoration Act.  
23 Ill.Admin.Code §1.240 and Part 200.

CROSS REF.: 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 6:65 (Student Social and Emotional Development), 7:20 (Harassment of Students Prohibited), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:60 (Residence), 7:130 (Student Rights and Responsibilities), 7:160 (Student Appearance), 7:165 (Student Uniforms), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:250 (Student Support Services), 7:330 (Student Use of Buildings - Equal Access), 7:340 (Student Records), 8:20 (Community Use of School Facilities)

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<sup>8</sup> Districts must have a grievance procedure and must tell students that they may appeal a board's resolution of a sex equity complaint to the Regional Superintendent and, thereafter, to the State Superintendent. 23 Ill.Admin.Code §200.40. Student complaints regarding breastfeeding accommodations must also be processed in accordance with these procedures. See sample policy 2:260, *Uniform Grievance Procedure*, at f/n 8.

Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center." Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center."

<sup>9</sup> Required by regulations implementing Title IX. 34 C.F.R. Part 106.8(a). See f/n 19 in sample policy 2:260, *Uniform Grievance Procedure*. If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, amend this sentence to state: "The Superintendent shall appoint a Nondiscrimination Coordinator and a Title IX Coordinator."

<sup>10</sup> Required by regulations implementing Title IX. 34 C.F.R. Part 106; 23 Ill.Admin.Code §200.40. Comprehensive faculty and student handbooks can provide required notices, along with other important information, to recipients. Handbooks can be developed by the building principal, but should be reviewed and approved by the superintendent and board. Faculty handbooks may contain working conditions and be subject to mandatory collective bargaining. The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook).

## Students

### Harassment of Students Prohibited 1

No person, including a School District employee or agent, or student, shall harass, intimidate, or bully a student on the basis of actual or perceived: race; color; national origin; military status; unfavorable discharge status from military service; sex; sexual orientation; gender identity<sup>2</sup>; gender-related identity or expression; ancestry; age; religion; physical or mental disability; order of protection status; status of being homeless; actual or potential marital or parental status, including pregnancy; association with a person or group with one or more of the aforementioned actual or perceived characteristics; or any other distinguishing characteristic. The District will not tolerate harassing, intimidating conduct, or bullying whether verbal, physical, sexual, or visual, that affects the tangible benefits of education, that unreasonably interferes with a student's educational performance, or that creates an intimidating, hostile, or offensive educational environment. Examples of prohibited conduct include name-calling, using derogatory slurs, stalking, sexual violence, causing psychological harm, threatening or causing physical harm, threatened or actual destruction of property, or wearing or possessing items depicting or implying hatred or prejudice of one of the characteristics stated above. <sup>3</sup>

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<sup>1</sup> State or federal law requires this subject matter be covered by policy, controls this policy's content, and 105 ILCS 5/10-20.69 (final citation pending), added by P.A. 101-531, requires that every two years, each district within an Illinois county served by an accredited Children's Advocacy Center review all its existing sexual abuse investigation policies and procedures to ensure consistency with 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-531. Each district must also have a policy on bullying. 105 ILCS 5/27-23.7, amended by P.A. 100-137; see sample policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

This policy's list of protected classifications is identical to the list in 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. The protected classifications are found in 105 ILCS 5/27-23.7(a); 775 ILCS 5/1-103, amended by P.A. 101-221; and 23 Ill.Admin.Code §1.240.

The list of protected classifications in sample policy 7:10, *Equal Educational Opportunities*, is different – it does not contain the classifications that are exclusively identified in the bullying statute. 105 ILCS 5/27-23.7.

The Ill. Human Rights Act (IHRA) and an ISBE rule prohibit schools from discriminating against students on the basis of *sexual orientation* and *gender identity*. 775 ILCS 5/5-101(11); 23 Ill.Admin.Code §1.240. *Sexual orientation* is defined as the "actual or perceived heterosexuality, homosexuality, bisexuality, or gender related identity, whether or not traditionally associated with the person's designated sex at birth." 775 ILCS 5/1-103(O-1). *Gender identity* is included in the definition of sexual orientation in the Act. The Act permits schools to maintain single-sex facilities that are distinctly private in nature, e.g., restrooms and locker rooms. 775 ILCS 5/5-103. 775 ILCS 5/1-102(A), added *order of protection status* to its list of protected categories. The IHRA's jurisdiction is specifically limited to: (1) failing to enroll an individual, (2) denying access to facilities, goods, or services, or (3) failing to take corrective action to stop severe or pervasive harassment of an individual. 775 ILCS 5/5-102.2.

<sup>2</sup> See f/n 2 in sample policy 7:10, *Equal Educational Opportunities*, for a discussion about Executive Order (EO) 2019-11 establishing the Affirming and Inclusive Schools Task Force (Task Force) that made policy and administrative procedure recommendations to the Ill. State Board of Education (ISBE) that are discussed in its publication *Sample District Policy and Administrative Procedures* at [www.isbe.net/supportallstudents](http://www.isbe.net/supportallstudents).

For boards that want to incorporate ISBE's sample policy recommendation, insert the following in place of "gender identity;": gender; gender identity (whether or not traditionally associated with the student's sex assigned at birth);

**If the board inserts this option, it must also insert the options in f/ns 2 and 7 of policy 7:10, *Equal Educational Opportunities*, BUT NOTE THE PROTECTED STATUSES LIST IN THIS POLICY IS DIFFERENT AND SHOULD NOT BE COPIED FROM HERE INTO 7:10, *EQUAL EDUCATIONAL OPPORTUNITIES*.**

## Sexual Harassment Prohibited

The District shall provide an educational environment free of verbal, physical, or other conduct or communications constituting harassment on the basis of sex as defined and otherwise prohibited by State and federal law.<sup>4</sup> See policies 2:265, *Title IX Sexual Harassment Grievance Procedure*, and 2:260, *Uniform Grievance Procedure*.

## Making a Report or Complaint

Students are encouraged to promptly report claims or incidences of bullying, intimidation, harassment, sexual harassment, or any other prohibited conduct to the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a Complaint Manager, or any employee with whom the student is comfortable speaking.<sup>5</sup> A student may choose to report to an employee of the student's same gender.

Reports under this policy will be considered a report under Board policy 2:260, *Uniform Grievance Procedure*, and/or Board policy 2:265, *Title IX Sexual Harassment Grievance Procedure*. The Nondiscrimination Coordinator and/or Complaint Manager shall process and review the report according to the appropriate grievance procedure.<sup>6</sup> The Superintendent shall insert into this policy the

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<sup>3</sup> This list of examples of prohibited conduct is optional. While hate speech is not specifically mentioned in this paragraph, any hate speech used to harass or intimidate is banned. Hate speech without accompanying misconduct may be prohibited in response to actual incidences when hate speech interfered with the educational environment. *West v. Derby Unified Sch. Dist.*, 206 F.3d 1358 (10th Cir. 2000).

<sup>4</sup> Two laws apply to sexual harassment of students in Illinois. Title IX of the Education Amendments of 1972 (Title IX) and the IHRA prohibit discrimination on the basis of sex and sexual harassment in any educational program or activity receiving federal financial assistance. 20 U.S.C. §1681. Title IX defines sexual harassment as conduct on the basis of sex that meets one or more of the following: (1) a district employee conditions the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct; (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it denies a person equal access to the District's education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in federal law. 34 C.F.R. §106.30. See sample policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, and sample exhibit 2:265-E, *Title IX Sexual Harassment Glossary of Terms*. Consult the board attorney to ensure the nondiscrimination coordinator and complaint managers are trained to appropriately respond to allegations of Title IX sexual harassment. See sample procedures 2:265-AP1, *Title IX Sexual Harassment Response*, and 2:265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*.

The IHRA prohibits any district employee or agent from sexually harassing a student, and defines sexual harassment as any unwelcome sexual advances or requests for sexual favors made to a student, or any conduct of a sexual nature toward a student, when: (1) such conduct has the purpose of substantially interfering with the student's educational performance or creating an intimidating, hostile or offensive educational environment; or (2) the district employee or agent either explicitly or implicitly makes the student's submission to or rejection of such conduct as a basis for making various enumerated education-related determinations. 775 ILCS 5/5A-201(E).

School districts are liable for damage awards for an employee's sexual harassment of a student in limited situations. Liability occurs only when a district official who, at a minimum, has authority to institute corrective action, has actual notice of and is deliberately indifferent to the employee's misconduct. *Gebser v. Lago Vista Independent Sch. Dist.*, 524 U.S. 274 (1998). Schools are liable in student-to-student sexual harassment cases when school agents are deliberately indifferent to sexual harassment, of which they have actual knowledge that is so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school. *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629 (1999). The Ill. Dept. of Human Rights investigates charges of sexual harassment in violation of the IHRA, and it is a civil rights violation when a district fails to take remedial or disciplinary action against an employee the district knows engaged in sexual harassment. 775 ILCS 5/5A-102.

<sup>5</sup> Using "or any employee with whom the student is comfortable speaking" ensures compliance with Title IX regulations providing that "any employee" of an elementary or secondary school who has notice of sexual harassment or allegations of sexual harassment is deemed to have *actual knowledge* which triggers a district's duty to respond. 34 C.F.R. §106.30. By including "any employee" in this list, this policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

names, office addresses, email addresses, and telephone numbers of the District’s current Nondiscrimination Coordinator and Complaint Managers. <sup>7</sup> The Nondiscrimination Coordinator also serves as the District’s Title IX Coordinator. <sup>8</sup>

**Nondiscrimination Coordinator:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

**Complaint Managers:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

The Superintendent shall use reasonable measures to inform staff members and students of this policy by including:

1. For students, age-appropriate information about the contents of this policy in the District’s student handbook(s), on the District’s website, and, if applicable, in any other areas where policies, rules, and standards of conduct are otherwise posted in each school. <sup>9</sup>

**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

<sup>6</sup> If the district’s Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, supplement this sentence to state “The Nondiscrimination Coordinator, Title IX Coordinator, and/or Complaint Manager shall process and review the report according to the appropriate grievance procedure.”

<sup>7</sup> While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

Each district must communicate its bullying policy to students and their parents/guardians. 105 ILCS 5/27-23.7, amended by P.A. 100-137; see sample policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

<sup>8</sup> Title IX regulations require districts to identify the name, office address, email address, and telephone number of the person who is responsible for coordinating the district’s compliance efforts. The Nondiscrimination and Title IX Coordinator(s) need not be the same person. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, delete “~~The Nondiscrimination Coordinator also serves as the District’s Title IX Coordinator.~~” supplement the previous sentence to state “The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District’s current Nondiscrimination Coordinator, Title IX Coordinator, and Complaint Managers.” Then, list the Title IX and Nondiscrimination Coordinators’ names and contact information separately in this policy.

2. For staff members, this policy in the appropriate employee handbook(s), if applicable, and/or in any other areas where policies, rules, and standards of conduct are otherwise made available to staff.

### Investigation Process

Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator or a Complaint Manager.<sup>10</sup> Any employee who fails to promptly comply may be disciplined, up to and including discharge.

Reports and complaints of harassment will be confidential to the greatest extent practicable, subject to the District's duty to investigate and maintain an educational environment that is productive, respectful, and free of unlawful discrimination, including harassment.

For any report or complaint alleging sexual harassment that, if true, would implicate Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 et seq.), the Nondiscrimination Coordinator or designee<sup>11</sup> shall consider whether action under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, should be initiated.

For any other alleged student harassment that does not require action under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, the Nondiscrimination Coordinator or a Complaint Manager or designee shall consider whether an investigation under policies 2:260, *Uniform Grievance Procedure*, and/or 7:190, *Student Behavior*, should be initiated, regardless of whether a written report or complaint is filed.

### Reports That Involve Alleged Incidents of Sexual Abuse of a Child by School Personnel <sup>12</sup>

An *alleged incident of sexual abuse* is an incident of sexual abuse of a child, as defined in 720 ILCS 5/11-9.1A(b), that is alleged to have been perpetrated by school personnel, including a school vendor

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<sup>9</sup> In addition to notifying students of policies 2:260, *Uniform Grievance Procedure*, and 2:265, *Title IX Sexual Harassment Grievance Procedure*, a district must notify them of the name, office address, email address, and telephone number of district's Title IX Coordinator. 34 C.F.R. §106.8(a). 105 ILCS 5/10-20.69 (final citation pending), added by P.A. 101-418, requires districts to maintain and implement an *age-appropriate* policy on sexual harassment that is included in the school district's student handbook, as well as on a district's website and, if applicable, other areas where such information is posted in each school. The law does not expressly state that the age-appropriate policy is for students; however, that is the most logical interpretation. In practice, most districts maintain a student handbook for each building. Because the law only requires one policy, this policy manages the age-appropriate requirement by directing age-appropriate explanations of the policy be included in the building-level student handbook(s). Student handbooks can be developed by the building principals, but should be reviewed and approved by the superintendent and school board.

The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook).

<sup>10</sup> If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, supplement this sentence to state "Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator, Title IX Coordinator, or a Complaint Manager."

<sup>11</sup> "Nondiscrimination Coordinator or designee" is used where Title IX is potentially implicated. In contrast, if Title IX is likely not implicated then "Nondiscrimination Coordinator or a Complaint Manager or designee" is used (see next paragraph in policy text). If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, delete "~~Nondiscrimination~~" and insert "Title IX" in its place.

<sup>12</sup> Required for districts located within a county served by an accredited Children's Advocacy Center (CAC). Delete this subhead if your school district is within a county not served by an accredited CAC. 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-531 (governing the investigation of an *alleged incident of sexual abuse* of any child within any Illinois counties served by a CAC). For a map of accredited CACs, and to identify a CAC that may serve your district, see [www.childrensadvocacycentersofillinois.org/about/map](http://www.childrensadvocacycentersofillinois.org/about/map). For further discussion see f/n 14 in policy 5:90, *Abused and Neglected Child Reporting*.

or volunteer, that occurred: on school grounds during a school activity; or outside of school grounds or not during a school activity.

Any complaint alleging an incident of sexual abuse shall be processed and reviewed according to policy 5:90, *Abused and Neglected Child Reporting*. In addition to reporting the suspected abuse, the complaint shall also be processed under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, or policy 2:260, *Uniform Grievance Procedure*.

### Enforcement

Any District employee who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to disciplinary action up to and including discharge. Any third party who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be addressed in accordance with the authority of the Board in the context of the relationship of the third party to the District, e.g., vendor, parent, invitee, etc. Any District student who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to disciplinary action, including but not limited to, suspension and expulsion consistent with the behavior policy. Any person making a knowingly false accusation regarding prohibited conduct will likewise be subject to disciplinary action.

### Retaliation Prohibited

Retaliation against any person for bringing complaints or providing information about harassment is prohibited (see policies 2:260, *Uniform Grievance Procedure*, and 2:265, *Title IX Sexual Harassment Grievance Procedure*).

Students should report allegations of retaliation to the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager.

LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Educational Amendments of 1972; 34 C.F.R. Part 106.  
105 ILCS 5/10-20.12, 10-22.5, 5/27-1, and 5/27-23.7.  
775 ILCS 5/1-101 et seq., Illinois Human Rights Act.  
23 Ill.Admin.Code §1.240 and Part 200.  
Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999).  
Franklin v. Gwinnett Co. Public Schs., 503 U.S. 60 (1992).  
Gebser v. Lago Vista Independent Sch. Dist., 524 U.S. 274 (1998).  
West v. Derby Unified Sch. Dist. No. 260, 206 F.3d 1358 (10th Cir. 2000).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 5:20 (Workplace Harassment Prohibited), 5:90 (Abused and Neglected Child Reporting), 7:10 (Equal Educational Opportunities), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:240 (Conduct Code for Participants in Extracurricular Activities)

## Students

### Prevention of and Response to Bullying, Intimidation, and Harassment 1

Bullying, intimidation, and harassment diminish a student's ability to learn and a school's ability to educate. Preventing students from engaging in these disruptive behaviors and providing all students equal access to a safe, non-hostile learning environment are important District goals.

Bullying on the basis of actual or perceived race, color, national origin, military status, unfavorable discharge status from the military service, sex, sexual orientation, gender identity, gender-related identity or expression, ancestry, age, religion, physical or mental disability, order of protection status, status of being homeless, or actual or potential marital or parental status, including pregnancy, association with a person or group with one or more of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic **is prohibited** in each of the following situations: <sup>2</sup>

1. During any school-sponsored education program or activity.
2. While in school, on school property, on school buses or other school vehicles, at designated school bus stops waiting for the school bus, or at school-sponsored or school-sanctioned events or activities.
3. Through the transmission of information from a school computer, a school computer network, or other similar electronic school equipment.
4. Through the transmission of information from a computer that is accessed at a nonschool-related location, activity, function, or program or from the use of technology or an electronic device that is not owned, leased, or used by the School District or school if the bullying causes a substantial disruption to the educational process or orderly operation of a school. This paragraph (item #4) applies only when a school administrator or teacher receives a report that bullying through this means has occurred; it does not require staff members to monitor any nonschool-related activity, function, or program.

### Definitions from 105 ILCS 5/27-23.7 <sup>3</sup>

**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

<sup>1</sup> All districts must have a policy on bullying. 105 ILCS 5/27-23.7, amended by P.A. 100-137. Every two years, each district must review and re-evaluate this policy, make necessary and appropriate revisions, and file the updated policy with ISBE. This sample policy's first paragraph allows a school board to consider its goals for preventing bullying and remedying its consequences; it may be amended.

In addition to a bullying prevention policy, all districts must have a policy on student behavior. 105 ILCS 5/10-20.14; 23 Ill.Admin.Code §1.280. Boards must, in consultation with their parent-teacher advisory committees and other community-based organizations, address aggressive behavior, including bullying, in their student behavior policy. See 7:190, *Student Behavior*; 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. See f/n 7, below.

<sup>2</sup> This paragraph and its subparts 1-4 are from the bullying prevention statute. 105 ILCS 5/27-23.7(a); see also 775 ILCS 5/1-103 and 23 Ill.Admin.Code §1.240. The protected statuses are mandated by the bullying prevention statute; the list of protected statuses is identical to the list in 7:20, *Harassment of Students Prohibited*.

*Bullying* includes *cyberbullying* and means any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a student or students that has or can be reasonably predicted to have the effect of one or more of the following:

1. Placing the student or students in reasonable fear of harm to the student's or students' person or property;
2. Causing a substantially detrimental effect on the student's or students' physical or mental health;
3. Substantially interfering with the student's or students' academic performance; or
4. Substantially interfering with the student's or students' ability to participate in or benefit from the services, activities, or privileges provided by a school.

*Cyberbullying* means bullying through the use of technology or any electronic communication, including without limitation any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic system, photo-electronic system, or photo-optical system, including without limitation electronic mail, Internet communications, instant messages, or facsimile communications. *Cyberbullying* includes the creation of a webpage or weblog in which the creator assumes the identity of another person or the knowing impersonation of another person as the author of posted content or messages if the creation or impersonation creates any of the effects enumerated in the definition of *bullying*. *Cyberbullying* also includes the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons if the distribution or posting creates any of the effects enumerated in the definition of *bullying*.

*Restorative measures* means a continuum of school-based alternatives to exclusionary discipline, such as suspensions and expulsions, that: (i) are adapted to the particular needs of the school and community, (ii) contribute to maintaining school safety, (iii) protect the integrity of a positive and productive learning climate, (iv) teach students the personal and interpersonal skills they will need to be successful in school and society, (v) serve to build and restore relationships among students, families, schools, and communities, and (vi) reduce the likelihood of future disruption by balancing accountability with an understanding of students' behavioral health needs in order to keep students in school.

*School personnel* means persons employed by, on contract with, or who volunteer in a school district, including without limitation school and school district administrators, teachers, school guidance counselors, school social workers, school counselors, school psychologists, school nurses, cafeteria workers, custodians, bus drivers, school resource officers, and security guards.

#### Bullying Prevention and Response Plan

The Superintendent or designee shall develop and maintain a bullying prevention and response plan that advances the District's goal of providing all students with a safe learning environment free of bullying and harassment. This plan must be consistent with the requirements listed below; each numbered requirement, 1-12, corresponds with the same number in the list of required policy components in 105 ILCS 5/27-23.7(b) 1-12. <sup>4</sup>

1. The District uses the definition of *bullying* as provided in this policy. <sup>5</sup>

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>3</sup> All definitions are directly from 105 ILCS 5/27-23.7, amended by P.A. 100-137.

<sup>4</sup> As each numbered requirement, 1-12, corresponds with the same number in 5/27-23.7(b)1-12, there are no reference citations in footnotes. All non-statutory requirements, plus alternatives and optional provisions, are described in footnotes.

2. Bullying is contrary to State law and the policy of this District. However, nothing in the District’s bullying prevention and response plan is intended to infringe upon any right to exercise free expression or the free exercise of religion or religiously based views protected under the First Amendment to the U.S. Constitution or under Section 3 of Article I of the Illinois Constitution.
3. Students are encouraged to immediately report bullying. A report may be made orally or in writing to the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a Complaint Manager, or any staff member with whom the student is comfortable speaking.<sup>6</sup> Anyone, including staff members and parents/guardians, who has information about actual or threatened bullying is encouraged to report it to the District named officials or any staff member. The District named officials and all staff members are available for help with a bully or to make a report about bullying.<sup>7</sup> Anonymous reports are also accepted.

**Nondiscrimination Coordinator: 8**

\_\_\_\_\_

Name

\_\_\_\_\_

Address

\_\_\_\_\_

Email

\_\_\_\_\_

Telephone

**Complaint Managers:**

_____	_____
Name	Name
_____	_____
Address	Address
_____	_____

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>5</sup> A board may augment the School Code requirement by using this alternative:  
Using the definition of *bullying* as provided in this policy, the Superintendent or designee shall emphasize to the school community that: (a) the District prohibits bullying, and (b) all students should conduct themselves with a proper regard for the rights and welfare of other students. This may include a process for commending or acknowledging students for demonstrating appropriate behavior.

<sup>6</sup> The statute requires that the policy contain the email address and telephone number for the staff person(s) responsible for receiving bullying reports. Using the district Nondiscrimination Coordinator and Complaint Managers is consistent with 2:260, *Uniform Grievance Procedure*. While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored. A telephone number for making anonymous reports may also be added.

<sup>7</sup> 105 ILCS 5/27-23.7(d), amended by P.A. 100-137, requires that “[s]chool personnel available for help with a bully or to make a report about bullying” be made known to parents/guardians, students, and school personnel.

<sup>8</sup> Sample policy 2:260, *Uniform Grievance Procedure*, states that a district’s Nondiscrimination Coordinator also serves as its Title IX Coordinator. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, list the Title IX and Nondiscrimination Coordinators’ names separately in this policy. Best practice is that throughout the district’s board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

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Email

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Email

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Telephone

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Telephone

4. Consistent with federal and State laws and rules governing student privacy rights, the Superintendent or designee shall promptly inform the parent(s)/guardian(s) of every student involved in an alleged incident of bullying and discuss, as appropriate, the availability of social work services, counseling, school psychological services, other interventions, and restorative measures. <sup>9</sup>
5. The Superintendent or designee shall promptly investigate and address reports of bullying, by, among other things:
  - a. Making all reasonable efforts to complete the investigation within 10 school days after the date the report of a bullying incident was received and taking into consideration additional relevant information received during the course of the investigation about the reported bullying incident.
  - b. Involving appropriate school support personnel and other staff persons with knowledge, experience, and training on bullying prevention, as deemed appropriate, in the investigation process.
  - c. Notifying the Building Principal or school administrator or designee of the reported incident of bullying as soon as possible after the report is received.
  - d. Consistent with federal and State laws and rules governing student privacy rights, providing parents/guardians of the students who are parties to the investigation information about the investigation and an opportunity to meet with the Building Principal or school administrator or his or her designee to discuss the investigation, the findings of the investigation, and the actions taken to address the reported incident of bullying.
    - a. The Superintendent or designee shall investigate whether a reported incident of bullying is within the permissible scope of the District's jurisdiction and shall require that the District provide the victim with information regarding services that are available within the District and community, such as counseling, support services, and other programs. <sup>10</sup>
6. The Superintendent or designee shall use interventions to address bullying, that may include, but are not limited to, school social work services, restorative measures, social-emotional skill building, counseling, school psychological services, and community-based services. <sup>11</sup>
7. A reprisal or retaliation against any person who reports an act of bullying **is prohibited**. A student's act of reprisal or retaliation will be treated as *bullying* for purposes of determining any consequences or other appropriate remedial actions.
8. A student will not be punished for reporting bullying or supplying information, even if the District's investigation concludes that no bullying occurred. However, knowingly making a false accusation or providing knowingly false information will be treated as *bullying* for purposes of determining any consequences or other appropriate remedial actions.

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>9</sup> 105 ILCS 5/10-20.14 contains a similar requirement. See 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

<sup>10</sup> This sentence contains requirements found in 105 ILCS 5/27-23.7(d).

<sup>11</sup> A grant may be available from the Ill. State Board of Education for the promotion of a safe and healthy learning environment. 105 ILCS 5/2-3.176, added by P.A. 101-438. A list of grant funding opportunities is available at: [www.isbe.net/Pages/Grants.aspx](http://www.isbe.net/Pages/Grants.aspx).

9. The District’s bullying prevention and response plan must be based on the engagement of a range of school stakeholders, including students and parents/guardians.
10. The Superintendent or designee shall post this policy on the District’s website, if any, and include it in the student handbook, and, where applicable, post it where other policies, rules, and standards of conduct are currently posted. The policy must be distributed annually to parents/guardians, students, and school personnel (including new employees when hired), and must also be provided periodically throughout the school year to students and faculty. **12**
11. The Superintendent or designee shall assist the Board with its evaluation and assessment of this policy’s outcomes and effectiveness. This process shall include, without limitation:
  - a. The frequency of victimization;
  - b. Student, staff, and family observations of safety at a school;
  - c. Identification of areas of a school where bullying occurs;
  - d. The types of bullying utilized; and
  - e. Bystander intervention or participation.

The evaluation process may use relevant data and information that the District already collects for other purposes. The Superintendent or designee must post the information developed as a result of the policy evaluation on the District’s website, or if a website is not available, the information must be provided to school administrators, Board members, school personnel, parents/guardians, and students.

12. The Superintendent or designee shall fully implement the Board policies, including without limitation, the following: **13**
  - a. 2:260, *Uniform Grievance Procedure*. A student may use this policy to complain about bullying.

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

**12** 105 ILCS 5/27-23.7(b)(10), amended by P.A. 100-137.

**13** The statute requires that the bullying policy *be consistent with* other board policies. The list of policies may be deleted and the following alternative used: “12. The District’s bullying prevention plan must be consistent with other Board policies.” If a policy list is included, be sure the referenced policies were adopted locally and amend the list accordingly.

The bullying statute does not identify staff member duties regarding the prevention of or response to student bullying. The following optional provision addresses staff member responsibilities and may be added as a new paragraph 13:

13. The Superintendent or designee shall fully inform staff members of the District’s goal to prevent students from engaging in bullying and the measures being used to accomplish it. This includes each of the following:
  - a. Communicating the District’s expectation and State law requirement that teachers and other certificated or licensed employees maintain discipline.
  - b. Establishing the expectation that staff members: (1) intervene immediately to stop a bullying incident that they witness or immediately contact building security and/or law enforcement if the incident involves a weapon or other illegal activity, (2) report bullying, whether they witness it or not, to an administrator, and (3) inform the administration of locations on school grounds where additional supervision or monitoring may be needed to prevent bullying.
  - c. Where appropriate in the staff development program, providing strategies to staff members to effectively prevent bullying and intervene when it occurs.
  - d. Establishing a process for staff members to fulfill their obligation to report alleged acts of bullying.

- b. 2:265, *Title IX Sexual Harassment Grievance Procedure*. Any person may use this policy to complain about sexual harassment in violation of Title IX of the Education Amendments of 1972.
- c. 6:60, *Curriculum Content*. Bullying prevention and character instruction is provided in all grades in accordance with State law.
- d. 6:65, *Student Social and Emotional Development*. Student social and emotional development is incorporated into the District's educational program as required by State law.
- e. 6:235, *Access to Electronic Networks*. This policy states that the use of the District's electronic networks is limited to: (1) support of education and/or research, or (2) a legitimate business use.
- f. 7:20, *Harassment of Students Prohibited*. This policy prohibits *any* person from harassing, intimidating, or bullying a student based on an identified actual or perceived characteristic (the list of characteristics in 7:20 is the same as the list in this policy).
- g. 7:185, *Teen Dating Violence Prohibited*. This policy prohibits teen dating violence on school property, at school sponsored activities, and in vehicles used for school-provided transportation.
- h. 7:190, *Student Behavior*. This policy prohibits, and provides consequences for, hazing, bullying, or other aggressive behaviors, or urging other students to engage in such conduct.
- i. 7:310, *Restrictions on Publications; Elementary Schools*, and 7:315, *Restrictions on Publications; High Schools*. These policies prohibit students from and provide consequences for: (1) accessing and/or distributing at school any written, printed, or electronic material, including material from the Internet, that will cause substantial disruption of the proper and orderly operation and discipline of the school or school activities, and (2) creating and/or distributing written, printed, or electronic material, including photographic material and blogs, that causes substantial disruption to school operations or interferes with the rights of other students or staff members. **14**

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**14** For elementary districts, delete: ~~and 7:315, *Restrictions on Publications; High Schools*~~ and delete the Cross Reference to *7:315, Restrictions on Publications; High Schools*. For high school districts, delete ~~7:310, *Restrictions on Publications; Elementary Schools*, and~~ and delete the Cross Reference to *7:310, Restrictions on Publications; Elementary Schools*. In both cases, revise the beginning of the sentence to read: "Thisee policyies prohibiṡ students from and provides."

LEGAL REF.: 405 ILCS 49/, Children’s Mental Health Act.  
105 ILCS 5/10-20.14, 5/24-24, and 5/27-23.7.  
23 Ill.Admin.Code §1.240 and §1.280.

CROSS REF.: 2:240 (Board Policy Development), 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 4:170 (Safety), 5:230 (Maintaining Student Discipline), 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development), 6:235 (Access to Electronic Networks), 7:20 (Harassment of Students Prohibited), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:220 (Bus Conduct), 7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for Participants in Extracurricular Activities), 7:285 (Food Allergy Management Program), 7:310 (Restrictions on Publications; Elementary Schools), 7:315 (Restrictions on Publications; High Schools)

## Students

### Teen Dating Violence Prohibited <sup>1</sup>

Engaging in teen dating violence that takes place at school, on school property, at school-sponsored activities, or in vehicles used for school-provided transportation is prohibited.<sup>2</sup> For purposes of this policy, the term *teen dating violence* occurs whenever a student who is 13 to 19 years of age uses or threatens to use physical, mental, or emotional abuse to control an individual in the dating relationship; or uses or threatens to use sexual violence in the dating relationship. <sup>3</sup>

The Superintendent or designee shall develop and maintain a program to respond to incidents of teen dating violence that: <sup>4</sup>

1. Fully implements and enforces each of the following Board policies: <sup>5</sup>
  - a. 2:260, *Uniform Grievance Procedure*. This policy provides a method for any student, parent/guardian, employee, or community member to file a complaint if he or she believes that the School Board, its employees, or its agents have violated his or her rights under the State or federal Constitution, State or federal statute, Board policy, or various enumerated bases.
  - b. 2:265, *Title IX Sexual Harassment Grievance Procedure*. This policy prohibits any person from engaging in sexual harassment in violation of Title IX of the Education Amendments of 1972. Prohibited conduct includes but is not limited to sexual assault, dating violence, domestic violence, and stalking.
  - c. 7:20, *Harassment of Students Prohibited*. This policy prohibits any person from harassing, intimidating, or bullying a student based on the student's actual or perceived characteristics of sex; sexual orientation; gender identity; and gender-related identity or expression (this policy includes more protected statuses).

**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

<sup>1</sup> All school boards must have a policy on teen dating violence. 105 ILCS 110/3.10. This sample policy is designed to align with a district's already-existing procedures for reporting bullying and school violence. See f/n 7. The curriculum components for teen dating violence education, which apply to districts with students enrolled in grades 7 through 12, are listed in 6:60-AP, *Comprehensive Health Education Program*.

<sup>2</sup> 105 ILCS 110/3.10(b)(1). School officials must proceed carefully before disciplining a student for out-of-school conduct. A school's authority over off-campus conduct is much more limited than incidents that occur on school grounds. However, school officials may generally: (1) remove a student from extracurricular activities when the conduct code for participation requires students to conduct themselves at all times as good citizens and exemplars of the school (see sample policy 7:240, *Conduct Code for Participants in Extracurricular Activities*); and (2) suspend or expel a student from school attendance when the student's expression causes substantial disruption to school operations.

<sup>3</sup> 105 ILCS 110/3.10(a). For districts that wish to broaden the ages (e.g., perhaps include 11-12 year olds in a middle school setting), delete the following phrase from the first sentence: "~~who is 13 to 19 years of age~~". The law defines *dating* or *dating relationship* as an "ongoing social relationship of a romantic or intimate nature between two persons." The terms do not include "a casual relationship or ordinary fraternization between two persons in a business or social context."

<sup>4</sup> Required by 105 ILCS 110/3.10(b)(3).

<sup>5</sup> Be sure the referenced board policies, as adopted locally, contain the language paraphrased in this policy. If not, either substitute similar language from the locally adopted board policies on the same topics, or just insert the titles from relevant locally adopted policies.

The statutory content requirements for a teen dating policy include "establish[ing] procedures for the manner in which employees of a school are to respond to incidents of teen dating violence." This policy fulfills this requirement by incorporating by reference the following administrative procedure: 7:180-AP1, *Prevention, Identification, Investigation, and Response to Bullying*. This means that 7:180-AP1 should be considered to be part of this policy.

- d. 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. This policy prohibits students from engaging in bullying, intimidation, and harassment at school, school-related events and electronically. Prohibited conduct includes threats, stalking, physical violence, sexual harassment, sexual violence, theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying.
2. Encourages anyone with information about incidents of teen dating violence to report them to any of the following individuals: **6**
  - a. Any school staff member. School staff shall respond to incidents of teen dating violence by following the District’s established procedures for the prevention, identification, investigation, and response to bullying and school violence. **7**
  - b. The Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, or a Complaint Manager identified in policy 7:20, *Harassment of Students Prohibited*. **8**
3. Incorporates age-appropriate instruction in grades 7 through 12, in accordance with the District’s comprehensive health education program in Board policy 6:60, *Curriculum Content*. This includes incorporating student social and emotional development into the District’s educational program as required by State law and in alignment with Board policy 6:65, *Student Social and Emotional Development*. **9**
4. Incorporates education for school staff, as recommended by the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, or a Complaint Manager. **10**
5. Notifies students and parents/guardians of this policy. **11**

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**6** 105 ILCS 110/3.10(b)(4), requires the policy to identify by job title which school officials are responsible for receiving reports related to teen dating violence.

**7** *Id.* at ¶ns 5 and 6. Sexual violence is one listed component of teen dating violence. 105 ILCS 110/3.10(a). Sexual violence has also been found by the Ill. Gen. Assembly to be a component of bullying and school violence. 105 ILCS 5/27-23.7. Thus, identifying *any school staff member* is consistent with 7:180-AP1, *Prevention, Identification, Investigation, and Response to Bullying*, which uses the student-friendly reporting system outlined in 7:180-AP1, E2, *Be a Hero by Reporting Bullying*.

**8** *Id.* Under any reporting system, a report involving bullying and school violence that is based upon a protected status (often teen dating violence will involve conduct based upon the target’s sex) must be referred to the district’s Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, or a Complaint Manager (7:20, *Harassment of Students Prohibited*). Customize this list to reflect local conditions. These individuals may also take reports directly from students.

**9** Required by 105 ILCS 110/3.10(b)(2). The curriculum-specific components for teen dating violence education are listed in 6:60-AP, *Comprehensive Health Education Program*.

**10** *Id.* For boards that add the optional paragraphs in policy 5:100, *Staff Development Program*, add the phrase “and policy 5:100, *Staff Development Program*.”

**11** Required by 105 ILCS 110/3.10(b)(5). Boards must communicate this policy to students and their parents/guardians. This may be accomplished, in part, by (1) sending 7:185-E, *Memo to Parents/Guardians Regarding Teen Dating Violence*, and (2) amending the district’s anti-bullying campaign statement(s), such as the following, in the student handbook and school website:

Bullying, teen dating violence, intimidation, and harassment are not acceptable in any form and will not be tolerated at school or any school-related activity. The School District will take disciplinary action against any student who participates in such conduct or who retaliates against someone for reporting incidents of bullying, teen dating violence, intimidation, or harassment.

Incorporated  
by Reference: 7:180-AP1, (Prevention, Identification, Investigation, and Response to Bullying)

LEGAL REF.: 105 ILCS 110/3.10.

CROSS REF.: 2:240 (Board Policy Development), 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 5:100 (Staff Development Program), 5:230 (Maintaining Student Discipline), 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:190 (Student Behavior), 7:220 (Bus Conduct), 7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for Participants in Extracurricular Activities)



**Diamond Lake School District 76**  
**Embrace Empower Excel** Each Child Each Day

BOARD OF EDUCATION  
COMMITTEE OF THE WHOLE MEETING  
Tuesday, September 1, 2020

**ITEM V-C**

**Personnel: Approve Resolution for Personnel Items: Action**

The resolution is being submitted for approval at the Committee of the Whole Meeting on Tuesday, September 1, 2020.

**BE IT RESOLVED**, the Diamond Lake 76 Board of Education accepts and approves the Personnel Items as depicted on the Agenda:

**1.New Hire(s):**

Employee	School	Position	Effective Date
Will Carr	WOMS	Learning Associate	9.2.2020



**Diamond Lake School District 76**  
**Embrace Empower Excel** Each Child Each Day

2020/21 Board of Education Meetings <small>Approved: 5/19/2020</small>		
Committee	Business	Special Meetings/Public Hearings
*	7/21/2020	
8/04/2020	8/25/2020	
9/01/2020	9/15/2020	9/15/2020 Budget Hearing
10/06/2020	10/20/2020	
	11/17/2020	
*	12/15/2020	12/15/2020 Levy Hearing
*	1/19/2021	
2/02/2021	2/16/2021	
3/02/2021	3/16/2021	
4/06/2021	4/20/2021	
5/04/2021	5/18/2021	
6/08/2021	6/22/2021	

\*One meeting is scheduled for the months of July, December & January.

All Board Meetings will begin at 7:00 PM  
 at West Oak Campus, 500 Acorn Lane, Mundelein, IL 60060



# Diamond Lake School District 76

Embrace Empower Excel Each Child Each Day

## First Day Attendance 8.31.2020

School	Present	Absent	Total Enrolled	Percentage
Diamond Lake	232	23	255 (K-2)	91.0%
West Oak Intermediate	261	19	280	92.8%
West Oak Middle	268	29	297	90.2%