

## School Board

### Uniform Grievance Procedure <sup>1</sup>

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 has 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>

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 sample policy 2:265, *Title IX 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 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/guardians 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. The *Web Content Accessibility Guidelines* (WCAG) Version 2.1, Level AA is the formal federal legal standard for public accommodation websites, including school districts. The compliance date for districts is 4-24-26 or 4-26-27, depending upon the size of the population where the district is located. 28 C.F.R. §§35.104 and 35.200 et seq. The U.S. Dept. of Justice's *Fact Sheet: New Rule on the Accessibility of Web Content and Mobile Apps Provided by State and Local Governments* (3-8-24). WCAG 2.1 is available at: [www.w3.org/TR/WCAG21](http://www.w3.org/TR/WCAG21). 105 ILCS 5/10-20.75, added by P.A. 102-238, also requires school districts to ensure their *Internet websites or web services* comply with Level AA of the WCAG 2.1 or any revised version of those guidelines. *Internet website or web service* means "any third party online curriculum that is made available to enrolled students or the public by a school district through the Internet." Id.

2. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §791 et seq. <sup>5</sup>
3. Discrimination and/or harassment on the basis of race, color, or national origin prohibited by the Illinois Human Rights Act, 775 ILCS 5/; Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d et seq.; and/or Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq. (see Board policy 2:270, *Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited*) <sup>6</sup>
4. Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq. (see also number 4, above, for discrimination and/or harassment on the basis of race, color, or national origin)
5. Sexual harassment prohibited by the State Officials and Employees Ethics Act<sup>7</sup>, 5 ILCS 430/70-5(a); Illinois Human Rights Act, 775 ILCS 5/; and Title VII of the Civil Rights Act of

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<sup>5</sup> See f/n 4's discussion of website accessibility above. See also the discussion in f/n 2 of sample policy 8:70, *Accommodating Individuals with Disabilities*.

<sup>6</sup> 105 ILCS 5/22-95(b)(1)(B), added by P.A. 103-472, requires a district to have an internal process for filing a complaint regarding a violation of its policy (or policies) prohibiting discrimination and harassment on the basis of race, color, national origin, and retaliation. Sample policy 2:270, *Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited*, utilizes this policy as an internal complaint process. See also sample administrative procedure 2:270-AP, *Prevention and Response Program for Complaints of Discrimination and Harassment Based on Race, Color, and National Origin*, which includes additional procedures to be followed when responding to complaints of discrimination and harassment on the basis of race, color, and national origin.

<sup>7</sup> 5 ILCS 430/70-5(a) 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. See sample policy 7:20, *Harassment of Students Prohibited*, and its f/n 9 for further information.

50 ILCS 205/3c 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). 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. And for further discussion and other applicable transparency laws that apply to this issue, see also f/n 16 in sample policy 5:20, *Workplace Harassment Prohibited*.

- 1964, 42 U.S.C. §2000e et seq. (Title IX sexual harassment complaints are addressed under Board policy 2:265, *Title IX Grievance Procedure*)<sup>8</sup>
6. Breastfeeding accommodations for students, 105 ILCS 5/10-20.60<sup>9</sup>
  7. Bullying, 105 ILCS 5/27-23.7<sup>10</sup>
  8. Misuse of funds received for services to improve educational opportunities for educationally disadvantaged or deprived children<sup>11</sup>
  9. Curriculum, instructional materials, and/or programs
  10. Victims' Economic Security and Safety Act, 820 ILCS 180/
  11. Illinois Equal Pay Act of 2003, 820 ILCS 112/
  12. Provision of services to homeless students
  13. Illinois Whistleblower Act, 740 ILCS 174/<sup>12</sup>
  14. 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.<sup>13</sup>

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<sup>8</sup> 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).

<sup>9</sup> 105 ILCS 5/10-20.60 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 (or appropriate Intermediate Service Center Executive Director) and, thereafter, to the State Superintendent. 23 Ill.Admin.Code §200.40. **Note:** Certain claims brought under 105 ILCS 5/10-20.60 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/frontpage/pro-students/issues/sex-issue03.html](http://www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/issues/sex-issue03.html).

<sup>10</sup> 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.

<sup>11</sup> 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.*, 179 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).

<sup>12</sup> The 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. False Claims Act (740 ILCS 175/) 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.

<sup>13</sup> 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.

#### 15. Employee Credit Privacy Act, 820 ILCS 70/ <sup>14</sup>

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 parent(s)/guardian(s)); this includes mediation.

#### Right to Pursue Other Remedies Not Impaired

The right of a person to prompt and equitable<sup>15</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.

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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/regulations-related-genetic-discrimination](http://www.eeoc.gov/regulations-related-genetic-discrimination). An FAQ entitled *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/) 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.

<sup>14</sup> 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. 820 ILCS 70/10(b). 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. *Id.*

<sup>15</sup> The phrase "prompt and equitable resolution" comes from Title IX implementing regulation 34 C.F.R. §106.8(b)(2) which requires schools to "adopt, publish, and implement grievance procedures ... that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in the recipient's education program or activity" alleging sex discrimination.

### 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>16</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 or designee shall process and review the complaint under 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 sex discrimination that, if true, would implicate Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 *et seq.*), the Title IX Coordinator or designee<sup>17</sup> shall process and review the complaint under Board policy 2:265, *Title IX Grievance Procedure*.

For any complaint alleging harassment on the basis of race, color, or national origin, the Nondiscrimination Coordinator or a Complaint Manager or designee shall process and review the complaint under Board policy 2:270, *Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited*, 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 Nondiscrimination Coordinator or a Complaint Manager or designee shall process and review the complaint according to that policy, in addition to any response required by this policy, and shall consider whether an investigation under Board policy 5:120, *Employee Ethics; Code of Professional Conduct; and Conflict of Interest*,<sup>18</sup> should be initiated.

### Investigation Process

The Complaint Manager will investigate the complaint or appoint a qualified person to undertake the investigation on his or her behalf.<sup>19</sup> The Complaint Manager shall ensure both parties have an equal opportunity to present evidence during an investigation. The complaint and identity of the Complainant will not be disclosed except: (1) as required by law, this policy, or any collective bargaining agreement, (2) as necessary to fully investigate the complaint, or (3) as authorized by the Complainant.

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<sup>16</sup> This is a best practice.

<sup>17</sup> "Title IX Coordinator or designee" is used where Title IX is implicated. In contrast, if Title IX is not implicated, "Nondiscrimination Coordinator or a Complaint Manager or designee" is used (see the last paragraph under the **Filing a Complaint** subhead).

<sup>18</sup> See sample administrative procedure 5:120-AP2, *Employee Conduct Standards*, and its exhibit 5:120-AP2, E, *Expectations and Guidelines for Employee-Student Boundaries*.

<sup>19</sup> 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).



The identity of any student witnesses will not be disclosed except: (1) as required by law, this policy, 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 from the Superintendent.

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 provide his or her written decision to the Complainant and the accused<sup>20</sup> as well as to the Complaint Manager. All decisions shall be based upon the *preponderance of evidence* standard.<sup>21</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 after an appeal of the Superintendent's decision, 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 provide its written decision to the Complainant and the accused,<sup>22</sup> 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.<sup>23</sup>

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<sup>20</sup> Using a consistent delivery method that allows the district to verify the date of receipt is a best practice, e.g., registered mail, return receipt requested, and/or personal delivery.

<sup>21</sup> *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.

<sup>22</sup> See f/n 20, above.

<sup>23</sup> 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.

### Appointing a Nondiscrimination Coordinator and Complaint Managers <sup>24</sup>

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. <sup>25</sup>

The Superintendent shall appoint at least one Complaint Manager to administer this policy. If possible, the Superintendent will appoint two Complaint Managers, each of a different 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.<sup>26</sup>

#### **Nondiscrimination Coordinator:**

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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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Name

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Name

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<sup>24</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.

<sup>25</sup> 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.

<sup>26</sup> 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 Ill. Principals Association (IPA) maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: [www.ilprincipals.org/msh/](http://www.ilprincipals.org/msh/).

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Address

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Address

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Email

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Email

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Telephone

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Telephone



LEGAL REF.: 8 U.S.C. §1324a et seq., Immigration Reform and Control Act.  
 20 U.S.C. §1232g, Family Education Rights Privacy Act.  
 20 U.S.C. §1400, The Individuals with Disabilities Education Act.  
 20 U.S.C. §1681 et seq., Title IX of the Education Amendments; 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. §791 et seq., Rehabilitation Act of 1973.  
 29 U.S.C. §2612, Family and Medical Leave Act.  
 42 U.S.C. §2000d et seq., Title VI of the Civil Rights Act of 1964.  
 42 U.S.C. §2000e et seq., Title VII of the Civil Rights Act of 1964.  
 42 U.S.C. §2000ff et seq., Genetic Information Nondiscrimination Act.  
 42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act.  
 42 U.S.C. §12101 et seq., Americans With Disabilities Act; 28 C.F.R. Part 35.  
 105 ILCS 5/2-3.8, 5/3-10, 5/10-20, 5/10-20.5, 5/10-20.7a, 5/10-20.60, 5/10-20.69,  
 5/10-20.75, 5/10-22.5, 5/22-19, 5/22-95 (final citation pending), 5/24-4, 5/27-1,  
 5/27-23.7, and 45/1-15.  
 5 ILCS 415/10(a)(2), Government Severance Pay Act.  
 5 ILCS 430/70-5(a), State Officials and Employees Ethics Act.  
 410 ILCS 513/, Ill. Genetic Information Privacy Act.  
 740 ILCS 174/, Whistleblower Act.  
 740 ILCS 175/, Ill. False Claims Act.  
 775 ILCS 5/, Ill. Human Rights Act.  
 820 ILCS 70/, Employee Credit Privacy Act.  
 820 ILCS 112/, Equal Pay Act of 2003.  
 820 ILCS 180/, Victims' Economic Security and Safety Act; 56 Ill.Admin.Code Part  
 280.  
 23 Ill.Admin.Code §§1.240, 200.40, 226.50, and 226.570.

CROSS REF.: 2:105 (Ethics and Gift Ban), 2:265 (Title IX Grievance Procedure), 2:270  
 (Discrimination and Harassment on the Basis of Race, Color, and National Origin  
 Prohibited), 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 Grievance Procedure <sup>1</sup>

Discrimination on the basis of sex, including sex-based harassment, affects a student's ability to learn and an employee's ability to work. Providing an educational and workplace environment free from discrimination on the basis of sex is an important District goal.

The District does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulations (34 C.F.R. Part 106), including against applicants for employment,<sup>2</sup> students, parents/guardians, employees, and third parties.

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<sup>1</sup> Title IX of the Education Amendments of 1972 (Title IX) (20 U.S.C. §1681 *et seq.*) requires this subject matter to 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 sample policy and its companion sample 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 grievances, except those contained in collective bargaining agreements. See the cross references for the policies referring to this Title IX 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 implementing regulations (34 C.F.R. Part 106). 34 C.F.R. §106.8(b)(1). A district must prominently display its Title IX notice of nondiscrimination on its website and in each handbook, catalog, announcement, bulletin, and application form made available to students, applicants for employment, parents/guardians, employees, and collective bargaining units. 34 C.F.R. §106.8(c)(2)(i). The notice must state that nondiscrimination extends to any program or activity operated by the district, including employment; 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 Office for Civil Rights, or both; the name or title, office address, email address, and telephone number of the district's Title IX Coordinator; how to locate the district's nondiscrimination policy and grievance procedures; how to report information about conduct that may constitute sex discrimination under Title IX; and how to make a complaint of sex discrimination. 34 C.F.R. §106.8(c)(1)(i). If necessary due to a publication's format or size, districts may instead include a statement that it prohibits sex discrimination in any education program or activity that it operates and that individuals may report concerns or questions to the Title IX Coordinator and provide the location of the notice on the district's website. 34 C.F.R. §106.8(c)(2)(ii). See the **Notice of Nondiscrimination** subhead of sample administrative procedure 2:265-AP1, *Title IX Response*, for a sample notice of nondiscrimination and nondiscrimination statement meeting the minimum requirements of Title IX regulations. See sample exhibit 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*.

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 sex discrimination may not constitute sex discrimination under Title IX, Title IX's reach is broad because an alleged complainant or alleged respondent may be anyone *participating in* or *attempting to participate in* the district's educational program or activity in the United States – including applicants for employment, students, parents/guardians, employees, volunteers, and third parties. Whether someone is *participating in* or *attempting to participate in* the district's educational program or activity requires a fact-specific analysis made on a case-by-case basis. 89 Fed. Reg. 33483. A district is responsible only for alleged discriminatory conduct over which it exercises disciplinary authority or otherwise has substantial control. 89 Fed. Reg. 33529.

<sup>2</sup> Subpart C of Title IX applies to *institutions of vocational education*, defined as a school or institution "which has as its primary purpose preparation of students to pursue a technical, skilled, or semiskilled occupation or trade, or to pursue study in a technical field, whether or not the school or institution offers certificates, diplomas, or degrees and whether or not it offers fulltime study." 34 C.F.R. §§106.15(d), 106.2. If Subpart C applies, add "admission and" before "employment."

### Title IX Sex Discrimination Prohibited

Sex discrimination as defined in Title IX (Title IX Sex Discrimination) is prohibited. A District employee, agent, or student violates this prohibition whenever that person engages in conduct on the basis of sex that causes another person to be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any education program or activity operated by the District. Title IX Sex Discrimination includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and/or gender identity.

Sex-based harassment is a form of Title IX Sex Discrimination. Sex-based harassment occurs whenever a person engages in conduct on the basis of sex that satisfies one or more of the following:<sup>3</sup>

1. A District employee, agent, or other person authorized by the District to provide an aid, benefit, or service under the District's education program or activity explicitly or impliedly conditions the provision of an aid, benefit, or service on a person's participation in unwelcome sexual conduct;<sup>4</sup> or
2. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive<sup>5</sup> that it limits or denies a person's ability to participate in or benefit from the District's education program or activity; or
3. Sexual assault, dating violence, domestic violence, or stalking as defined in 34 C.F.R. §106.2.<sup>6</sup>

### Definitions from 34 C.F.R. §106.2<sup>7</sup>

*Complainant* means: (1) a student or employee who is alleged to have been subjected to conduct that could constitute Title IX Sex Discrimination; or (2) a person other than a student or employee who is alleged to have been subjected to conduct that could constitute Title IX Sex Discrimination and who

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<sup>3</sup> 34 C.F.R. §106.2. The definition of *sex-based 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>4</sup> 34 C.F.R. §106.2. See sample exhibit 2:265-E, *Title IX Glossary of Terms*. This behavior is commonly called *quid pro quo* sex-based harassment. *Quid pro quo* sex-based harassment "covers harassment by members of a recipient's leadership, including board members, paid or unpaid, to the extent those individuals are authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity." 89 Fed. Reg. 33496. Title IX regulations do not limit *quid pro quo* sexual harassment to situations where the provision of an aid, benefit or service is conditioned on a *student's* participation in unwelcome sexual conduct. By way of example, *quid pro quo* Title IX sexual harassment involving an employee and a person other than a 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.

<sup>5</sup> Harassment can be pervasive if it is widespread, openly practiced, or well-known to students and staff, e.g., sex-based harassment occurring in hallways, graffiti in public areas, or harassment occurring during recess under a teacher's supervision. 89 Fed. Reg. 33509.

<sup>6</sup> See sample exhibit 2:265-E, *Title IX Glossary of Terms*, for these definitions. Prior to 8-1-24, Title IX regulations tied these definitions to definitions contained within other federal statutes. That is no longer the case, and the definitions are fully set forth in 34 C.F.R. §106.2.

<sup>7</sup> If the district uses sample exhibit 2:265-E, *Title IX Glossary of Terms*, or a similar document, the definitions of these terms within it should match the definitions used in this policy.

was participating or attempting to participate in the District's education program or activity at the time of the alleged Title IX Sex Discrimination.<sup>8</sup>

*Complaint* means an oral or written request to the District that objectively can be understood as a request for the District to investigate and make a determination about alleged discrimination under Title IX.

*Respondent* means a person who is alleged to have violated the District's prohibition on Title IX Sex Discrimination.

*Retaliation* means intimidation, threats, coercion, or discrimination against any person by the District, a student, or an employee or other person authorized by the District to provide aid, benefit, or service under the District's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a Complaint, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.<sup>9</sup>

### Making a Report

A person who wishes to make a report under this policy 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>10</sup>

School employees who receive information about conduct that reasonably may constitute Sex Discrimination under this policy shall promptly forward the report or information to the Title IX Coordinator. An employee who fails to promptly make or forward a report or information 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>11</sup>

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<sup>8</sup> The 2024 Title IX regulations shift the focus of the analysis from "whether the participation or attempted participation occurred at the time the complaint was filed" (as required under the 2020 Title IX regulations) to "the time of the alleged sex discrimination." 89 Fed. Reg. 33483.

<sup>9</sup> This streamlined definition of retaliation is based upon an example in *Resource for Drafting Nondiscrimination Policies, Notices of Nondiscrimination, and Grievance Procedures under 2024 Amendments to the U.S. Department of Education's Title IX Regulations*, U.S. Dept. of Education (4-19-24), at: [www2.ed.gov/about/offices/list/ocr/docs/resource-nondiscrimination-policies.pdf](https://www2.ed.gov/about/offices/list/ocr/docs/resource-nondiscrimination-policies.pdf).

<sup>10</sup> Using "or any employee with whom the Complainant is comfortable speaking" ensures Title IX compliance because Title IX requires "any employee" with information about conduct that may reasonably constitute sex discrimination to notify the Title IX Coordinator. Therefore, a report to any employee triggers a district's duty to respond. 34 C.F.R. §106.44(c)(1). 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>11</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). If a district has more than one Title IX Coordinator, it must designate one of its Title IX Coordinators to retain ultimate oversight to ensure the district's consistent compliance with its responsibilities under Title IX and its implementing regulations. 34 C.F.R. §106.8(a)(1). The Title IX Coordinator with ultimate oversight should be listed in this policy.

Districts must identify the Title IX Coordinator by name or title, office address, email address, and telephone number. 34 C.F.R. §106.8(c)(1)(i)(C). Consistent with how Nondiscrimination Coordinators and Complaint Managers are listed in **PRESS** sample policies, this policy requires the Title IX Coordinator's name to be listed. The name and contact information are not part of the adopted policy and do not require board action. This allows for amendments to the name and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

## Title IX Coordinator:

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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 of conduct that reasonably may constitute Title IX Sex Discrimination, the Title IX Coordinator and/or designee shall offer and coordinate supportive measures, as appropriate, for a Complainant.

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>12</sup> For any report received, the Title IX Coordinator shall review Board policies 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*; 5:120, *Employee Ethics; Code of Professional Conduct; and Conflict of Interest*;<sup>13</sup> 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*; and 7:190, *Student Behavior*, to determine if the allegations in the report require further action under those policies.

Reports of alleged Title IX Sex Discrimination 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 Title IX Sex Discrimination.

### Title IX Complaint Grievance Process

The Superintendent or designee shall implement procedures to ensure the prompt and equitable resolution of all Complaints according to a grievance process that fully complies with 34 C.F.R.

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A district's Nondiscrimination Coordinator often also serves as its Title IX Coordinator. See sample policy 2:260, *Uniform Grievance Procedure*.

<sup>12</sup> See sample exhibit 2:265-E, *Title IX Glossary of Terms*, for a discussion of Title IX Sex Discrimination and non-Title IX Sex Discrimination. If allegations of Title IX Sex Discrimination arise out of the same facts and circumstances as allegations of another type of discrimination, i.e., race discrimination in violation of Title VI of the Civil Rights Act of 1964, the district has the discretion to use this policy to address the sex and race discrimination or to choose a different process that complies with Title IX regulations. 89 Fed. Reg. 33642. Consult the board attorney for further guidance.

<sup>13</sup> See sample administrative procedure 5:120-AP2, *Employee Conduct Standards*.

§106.45.<sup>14</sup> See the District's Title IX Complaint Grievance Process (Grievance Process) under administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*.<sup>15</sup>

When a Complaint is filed, the Title IX Coordinator will investigate it and make a determination regarding the outcome of the Complaint, or appoint a qualified person(s) to undertake the investigation and make a determination regarding the outcome of the Complaint.<sup>16</sup>

#### Enforcement

Any District employee who is determined, at the conclusion of the Grievance Process, to have engaged in Title IX Sex Discrimination 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 Title IX Sex Discrimination 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/guardian, invitee, etc. Any District student who is determined, at the conclusion of the Grievance Process, to have engaged in Title IX Sex Discrimination will be subject to disciplinary action, including, but not limited to, suspension and expulsion consistent with student behavior policies.<sup>17</sup> Any person making a knowingly false accusation regarding Title IX Sex Discrimination 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>18</sup>

#### Retaliation Prohibited<sup>19</sup>

The District prohibits any form of retaliation, including peer retaliation, in its education program or activity. Any person should report claims of retaliation using this Board policy 2:265, *Title IX Grievance Procedure*.<sup>20</sup>

A student, employee, or other person authorized by the District to provide aid, benefit, or service under the District's education program or activity 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

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<sup>14</sup> 34 C.F.R. §106.45(b). For a Title IX complaint grievance process, see sample administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*. See also sample administrative procedures 2:265-AP1, *Title IX Response*, and 2:265-AP3, *Title IX Coordinator*.

<sup>15</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.**

<sup>16</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>17</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 Sex Discrimination.

<sup>18</sup> Examples of rights the district or parties may exercise ancillary to this Title IX 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>19</sup> 34 C.F.R. §106.71.

<sup>20</sup> Retaliation complaints must be processed under this policy. 34 C.F.R. §106.71.



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; Code of Professional Conduct; and Conflict of Interest), 5:200 (Terms and Conditions of Employment and Dismissal), 5:240 (Suspension), 5:290 (Employment Termination and Suspension), 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)

## General Personnel

### Staff Development Program <sup>1</sup>

The Superintendent or designee shall implement a staff development program. The goal of the 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 any School Improvement Plans so that student learning objectives meet or exceed goals established by the District and State.

### Abused and Neglected Child Reporting Act (ANCRA) and Erin's Law Training

The staff development program shall include the Abused and Neglected Child Reporting Act (ANCRA) mandated reporter training and training on the awareness and prevention of child sexual abuse and grooming behaviors (*Erin's Law*) as follows (see Board policies 4:165, *Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors*, and 5:90, *Abused and Neglected Child Reporting*): <sup>2</sup>

1. 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.
2. By January 31 of every year, all school personnel must complete evidence-informed training on preventing, reporting, and responding to child sexual abuse, grooming behaviors (including *sexual misconduct* as defined in *Faith's Law*), and boundary violations.

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<sup>1</sup> 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).

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.

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> 325 ILCS 5/4(j), amended by P.A. 102-604; and 105 ILCS 5/10-23.13, amended by P.A. 102-610, a/k/a *Erin's Law*. Sexual misconduct under *Faith's Law* is defined in 105 ILCS 5/22-85.5(c), added by P.A. 102-676.

Mandated reporter 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; (4) understanding the response of child protective services and the role of the reporter after a call has been made; and (5) implicit bias. *Implicit bias* means the attitudes or internalized stereotypes that affect people's perceptions, actions, and decisions in an unconscious manner and that exist and often contribute to unequal treatment of people based on race, ethnicity, gender identity, sexual orientation, age, disability, and other characteristics. The implicit bias topic must include, at a minimum: (1) information on implicit bias; (2) information on racial and ethnic sensitivity; and (3) tools to adjust automatic patterns of thinking and ultimately eliminate discriminatory behaviors. 325 ILCS 5/4(j), amended by P.A. 102-604. Districts must provide mandated reporter training through either the Ill. Dept. of Children and Family Services (DCFS), an entity authorized to provide continuing education through the Dept. of Financial and Professional Regulation, ISBE, the Ill. Law Enforcement Training Standards Board, the Ill. 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.

### In-Service Training Requirements

The staff development program shall provide, at a minimum, within six months of employment and renewed at least once every five years thereafter (unless required more frequently by other State or federal law), the in-service training of all District staff who work with pupils on: <sup>3</sup>

1. Health conditions of students,<sup>4</sup> including but not limited to training on:
  - a. Anaphylactic reactions and management, conducted by a person with expertise on anaphylactic reactions and management;
  - b. Management of asthma, prevention of asthma symptoms, and emergency response in the school setting;
  - c. The basics of seizure recognition and first aid and emergency protocols, consistent with best practice guidelines issued by the Centers for Disease Control and Prevention;
  - d. The basics of diabetes care, how to identify when a diabetic student needs immediate or emergency medical attention, and whom to contact in case of emergency;

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<sup>3</sup> This list of in-service trainings is required by State law but only Nos. 4, 5(d), and 7 are required to be specified in board policy. Beginning 7-1-24, 105 ILCS 5/10-22.39, amended by P.A. 103-542, requires all teachers, administrators, and school support personnel to complete these trainings during an in-service training program conducted by their board or through other training opportunities, including institutes provided by regional superintendents and intermediate service center executive directors under 105 ILCS 5/3-11, amended by P.A.s 103-542 and 103-413. If teachers, administrators, or school support personnel obtain training outside of an in-service training program or from a previous school employer, they may present documentation showing current compliance to satisfy the requirement of receiving training within six months of first being employed. *Id.*

Different from the in-service training that school districts must provide to their staff, 105 ILCS 5/3-11, amended by P.A.s 103-542 and 103-413, contains requirements that the regional superintendents and intermediate service center executive directors must include during institutes for teachers, administrators, and school support personnel. Instruction on prevalent student chronic health conditions, as well as educator ethics and teacher-student conduct training, is also required. See also f/n.s 4-12 below discussing the board's requirements in 105 ILCS 5/10-22.39.

Both 105 ILCS 5/3-11 and 5/10-22.39 use the phrase *teachers, administrators, and school support personnel*, but for brevity this material uses the phrase *all District staff*. 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. It also provides an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject.

In-service training programs on the topics listed in 105 ILCS 5/10-22.39, amended by P.A.s 103-542 103-413, and 103-603, eff. 1-1-25, shall be credited toward hours of professional development required for license renewal as outlined in 105 ILCS 5/21B-45(e). School support personnel may be exempt from in-service training if the training is not relevant to the work they do.

<sup>4</sup> 105 ILCS 5/10-22.39(b-5), added by P.A. 103-542 and amended by P.A. 103-603, eff. 1-1-25. Nurses and school nurses, as defined by 105 ILCS 5/10-22.23 (school nurse), are exempt from training on health conditions of students. *Id.*

For No. 1(c), Consult the board attorney about whether:

4. 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 appeal denied). The court held that a teacher's failure to dial 911 immediately upon a student's asthma attack was willful and wanton conduct, subjecting the school district to liability under the Local Governmental and Governmental Employees Tort Immunity Act.
5. 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.

For No. 1(d), see also 105 ILCS 150/25, amended by P.A. 103-542, and No. 6 under the subhead **Additional Training Requirements**.

For No. 1(e), see also 105 ILCS 145/25, amended by P.A. 103-542, and No. 7 under the subhead **Additional Training Requirements**.

- e. Current best practices regarding identification and treatment of attention deficit hyperactivity disorder; and
  - f. How to respond to an incident involving life-threatening bleeding, including use of a school's trauma bleeding control kit, if applicable.<sup>5</sup>
2. Social-emotional learning.<sup>6</sup> Training may include providing education to all school personnel about the content of the Illinois Social and Emotional Learning Standards, how they apply to everyday school interactions, and examples of how social emotional learning can be integrated into instructional practices across all grades and subjects.
3. Developing cultural competency,<sup>7</sup> including but not limited to understanding and reducing implicit bias, including *implicit racial bias* as defined in 105 ILCS 5/10-20.61 (implicit bias training).
4. Identifying warning signs of mental illness, trauma, and suicidal behavior in youth, along with appropriate intervention and referral techniques, including resources and guidelines as outlined in 105 ILCS 5/2-3.166 (*Ann Marie's Law*) and the definitions of *trauma*, *trauma-responsive learning environments*, and *whole child* as set forth in 105 ILCS 5/3-11.<sup>8</sup>
5. Domestic and sexual violence and the needs of expectant and parenting youth, conducted by persons with expertise in domestic and sexual violence and the needs of expectant and parenting youth.<sup>9</sup> Training shall include, but is not limited to:
  - a. Communicating with and listening to youth victims of domestic or sexual violence and expectant and parenting youth;
  - b. Connecting 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;
  - c. Implementing the District's policies and procedures regarding such youth, including confidentiality; and
  - d. Procedures for responding to incidents of teen dating violence that take place at school, on school grounds, at school-sponsored activities, or in vehicles used for school-provided transportation as outlined in 105 ILCS 110/3.10 (see Board policy 7:185, *Teen Dating Violence Prohibited*).

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<sup>5</sup> See 105 ILCS 5/10-20.85, added by P.A. 103-128, for a definition of *trauma kit*. To avoid confusion between trauma related to life-threatening bleeding and *trauma* as defined in 105 ILCS 5/3-11(b), added by P.A. 103-413, this policy uses the phrase *trauma bleeding control kit* instead of *trauma kit*.

Beginning with the 2024-25 school year, training on life-threatening bleeding must be completed within six months of employment and renewed within two years. Beginning with the 2027-28 school year, training on life-threatening bleeding must be completed within six months of employment and renewed at least once every five years thereafter. 105 ILCS 5/10-22.39(b-5)(7), added by P.A. 103-542 and amended by P.A. 103-603, eff. 1-1-25. Trained employees using a trauma kit are generally immune from civil liability. *Id.*

<sup>6</sup> 105 ILCS 5/10-22.39(b-10), added by P.A. 103-542.

<sup>7</sup> 105 ILCS 5/10-22.39(b-15), added by P.A. 103-542.

<sup>8</sup> 105 ILCS 5/10-22.39(b-20), added by P.A. 103-542 and amended by P.A. 103-603, eff. 1-1-25. Training on the implementation of trauma-informed practices satisfies the requirements of this subsection. *Id.* In addition, Illinois Mental Health First Aid training may satisfy the requirements of this subsection. If teachers, administrators, or school support personnel obtain mental health first aid training outside of an in-service training program, they may present a certificate of successful completion of that training to the school district to satisfy the requirements of this law. *Id.* For further information on Mental Health First Aid, see <https://namiillinois.org/resources/about-mental-illness/mental-health-first-aid/>.

<sup>9</sup> 105 ILCS 5/10-22.39(b-25), added by P.A. 103-542. See sample policy 7:185, *Teen Dating Violence Prohibited*.

6. Protections and accommodations for students,<sup>10</sup> including but not limited to training on:
  - a. The federal Americans with Disabilities Act as it pertains to the school environment; and
  - b. Homelessness.
7. Educator ethics and responding to child sexual abuse and grooming behavior (see Board policy 5:120, *Employee Ethics; Code of Professional Conduct; and Conflict of Interest*);<sup>11</sup> including but not limited to training on:
  - a. Teacher-student conduct;
  - b. School employee-student conduct; and
  - c. Evidence-informed training on preventing, recognizing, reporting, and responding to child sexual abuse and grooming as outlined in 105 ILCS 5/10-23.13 (*Erin's Law*).
8. Effective instruction in violence prevention and conflict resolution,<sup>12</sup> conducted in accordance with the requirements of 105 ILCS 5/27-23.4 (violence prevention and conflict resolution education).

#### Additional Training Requirements

In addition, the staff development program shall include each of the following: <sup>13</sup>

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<sup>10</sup> 105 ILCS 5/10-22.39(b-30), added by P.A. 103-542. Beginning with the 2024-25 school year, training on homelessness must be completed within six months of employment and renewed within two years. Beginning with the 2027-28 school year, training on homelessness must be completed within six months of employment and renewed at least once every five years thereafter. Boards may work with a community-based organization specializing in working with homeless children and youth to develop and provide this training. See 105 ILCS 5/10-22.39(b-30)(1) - (5), added by P.A. 103-542, for homelessness training content requirements. **Note:** the homelessness training content requirements in 105 ILCS 5/10-22.39(b-30)(1) - (5), added by P.A. 103-542, are nearly identical to the homelessness training content requirements in 105 ILCS 5/10-22.39(g) (final citation pending), added by P.A. 103-41, eff. 8-20-24.

Beginning with the 2016-17 school year, institutes under 105 ILCS 5/3-11 had to 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 Executive Director 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.

<sup>11</sup> 105 ILCS 5/10-22.39(b-35), added by P.A. 103-542. Each board may want to have a conversation with the superintendent and direct him or her to develop a curriculum for the in-services that instructs all district staff to maintain boundaries and act appropriately, professionally, and ethically with students. See also sample policy 5:120, *Employee Ethics; Code of Professional 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>12</sup> 105 ILCS 5/10-22.39(b-40), added by P.A. 103-542.

<sup>13</sup> Optional. These in-services and/or trainings are required by State and/or federal law but are not required to be specified in board policy. The only non-School Code State and/or federal law training requirements listed are from the Abused and Neglected Child Reporting Act (325 ILCS 5/), Ill. Human Rights Act (775 ILCS 5/), Seizure Smart School Act (105 ILCS 150/), Care of Students with Diabetes Act (105 ILCS 150/), and Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 *et seq.*).

1. 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. <sup>14</sup>
2. 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. <sup>15</sup>
3. 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. <sup>16</sup>
4. 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. <sup>17</sup>
5. For school personnel who work with hazardous or toxic materials on a regular basis, training on the safe handling and use of such materials. <sup>18</sup>
6. For delegated care aides performing services in connection with a student's seizure action plan, training in accordance with 105 ILCS 150/, the Seizure Smart School Act. <sup>19</sup>
7. For delegated care aides performing services in connection with a student's diabetes care plan, training in accordance with 105 ILCS 145/, the Care of Students with Diabetes Act. <sup>20</sup>
8. For all District staff, annual sexual harassment prevention training. <sup>21</sup>

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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 sample policies and procedures. Many of those policies and procedures 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>14</sup> 105 ILCS 5/10-22.6(c-5). School board members are also included.

<sup>15</sup> 7 C.F.R. Parts 210 and 235. 7 C.F.R. §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). 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/cn/professional-standards](http://www.fns.usda.gov/cn/professional-standards).

<sup>16</sup> Required only for districts with grades 9-12 by 105 ILCS 25/1.15. Delete for elementary school districts.

<sup>17</sup> 105 ILCS 5/22-80(h).

<sup>18</sup> 105 ILCS 5/10-20.17a; 23 Ill.Admin.Code §1.330.

<sup>19</sup> 105 ILCS 150/25, amended by P.A. 103-542.

<sup>20</sup> 105 ILCS 145/25, amended by P.A. 103-542.

<sup>21</sup> 775 ILCS 5/2-109. See f/n 5 in sample policy 5:20, *Workplace Harassment Prohibited*, for further detail about this training requirement.



9. Title IX requirements for training in accordance with 34 C.F.R. §106.8(d) (see Board policy 2:265, *Title IX Grievance Procedure*).<sup>22</sup>
10. Training for all District employees on the prevention of discrimination and harassment based on race, color, and national origin in school as part of new employee training and at least once every two years.<sup>23</sup>
11. Training for at least one designated employee at each school about the Prioritization of Urgency of Need for Services (PUNS) database and steps required to register students for it.<sup>24</sup>

The Superintendent shall develop protocols for administering youth suicide awareness and prevention education to staff consistent with Board policy 7:290, *Suicide and Depression Awareness and Prevention*.<sup>25 26</sup>

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<sup>22</sup> 34 C.F.R. §106.8(d). For training requirement details, see sample administrative procedures 2:265-AP1, *Title IX Response*, and 2:265-AP3, *Title IX Coordinator*.

<sup>23</sup> 775 ILCS 5/5A-103(c), added by P.A. 103-472. For training requirement details, see sample administrative procedure 2:270-AP, *Prevention and Response Program for Complaints of Discrimination and Harassment Based on Race, Color, and National Origin*.

<sup>24</sup> 105 ILCS 5/2-3.163(c), amended by P.A. 103-504.

<sup>25</sup> Required by 105 ILCS 5/2-3.166(c)(2) (*Ann Marie's Law*). See sample administrative procedures 6:60-AP1, *Comprehensive Health Education Program*, and 7:290-AP, *Resource Guide for Implementation of Suicide and Depression Awareness and Prevention Program*.

<sup>26</sup> Districts are not required to train staff on life-saving techniques, though 105 ILCS 110/3, amended by P.A. 103-608, eff. 1-1-25, requires that all teachers, administrators, and other school personnel, as determined by school officials, be provided with information about emergency procedures and life-saving techniques within 30 days after the first day of each school year. *Id.* Such life-saving techniques must include the Heimlich maneuver, hands-only cardiopulmonary resuscitation (CPR), and automated external defibrillator (AED) use. The information provided must be in accordance with standards of the American Red Cross, the American Heart Association (AHA), or another nationally recognized certifying organization. *Id.* See e.g., <https://cpr.heart.org/en/cpr-courses-and-kits/hands-only-cpr/hands-only-cpr-resources>, <https://cpr.heart.org/en/training-programs/aed-implementation>, and [www.redcross.org/take-a-class/resources/learn-first-aid/adult-child-choking](http://www.redcross.org/take-a-class/resources/learn-first-aid/adult-child-choking).

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 aligns with 105 ILCS 5/3-11, 105 ILCS 110/3, amended by P.A. 103-608, eff. 1-1-25, 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 using an AED are generally exempt from civil liability if they were trained and acted according to the standards of the AHA. 745 ILCS 49/12. The board may also want to address other staff development opportunities. While not required to be in policy, 105 ILCS 5/27-23.10, amended by P.A. 103-542, requires a school board to collaborate with State and local law enforcement agencies on gang resistance education. 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.

LEGAL REF.:	<p>20 U.S.C. §1681 <u>et seq.</u>, Title IX of the Educational Amendments of 1972; 34 C.F.R. Part 106.</p> <p>42 U.S.C. §1758b, Pub. L. 111-296, Healthy, Hunger-Free Kids Act of 2010; 7 C.F.R. Parts 210 and 235.</p> <p>105 ILCS 5/2-3.62, 5/2-3.166, 5/3-11, 5/10-20.17a, 5/10-20.61, 5/10-22.6(c-5), 5/10-22.39, 5/10-23.12, 5/10-23.13, 5/22-80(h), 5/22-95, and 5/24-5.</p> <p>105 ILCS 25/1.15, Interscholastic Athletic Organization Act.</p> <p>105 ILCS 145/25, Care of Students with Diabetes Act</p> <p>105 ILCS 150/25, Seizure Smart School Act.</p> <p>105 ILCS 110/3, Critical Health Problems and Comprehensive Health Education Act.</p> <p>325 ILCS 5/4, Abused and Neglected Child Reporting Act.</p> <p>745 ILCS 49/, Good Samaritan Act.</p> <p>775 ILCS 5/2-109 and 5/5A-103, Ill. Human Rights Act.</p> <p>23 Ill.Admin.Code §§ 22.20, 226.800, and Part 525.</p> <p>77 Ill.Admin.Code §527.800.</p>
CROSS REF.:	<p>2:265 (Title IX Grievance Procedure), 2:270 (Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited), 3:40 (Superintendent), 3:50 (Administrative Personnel Other Than the Superintendent), 4:160 (Environmental Quality of Buildings and Grounds), 4:165 (Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors), 5:20 (Workplace Harassment Prohibited), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; Code of Professional 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 (Anaphylaxis Prevention, Response, and Management Program), 7:290 (Suicide and Depression Awareness and Prevention), 7:305 (Student Athlete Concussions and Head Injuries)</p>
ADMIN. PROC.:	<p>2:265-AP1 (Title IX Response), 2:265-AP2 (Formal Title IX Complaint Grievance Process), 2:265-AP3 (Title IX Coordinator), 2:270-AP (Prevention and Response Program for Complaints of Discrimination and Harassment Based on Race, Color, and National Origin), 4:160-AP (Environmental Quality of Buildings and Grounds), 4:170-AP6 (Plan for Responding to a Medical Emergency at a Physical Fitness Facility with an AED), 5:100-AP (Staff Development Program), 5:120-AP2 (Employee Conduct Standards), 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), 7:250-AP2 (Protocol for Responding to Students with Social, Emotional, or Mental Health Needs), 7:285-AP (Anaphylaxis Prevention, Response, and Management Program), 7:290-AP (Resource Guide for Implementation of Suicide and Depression Awareness and Prevention Program)</p>

## Students

### Harassment of Students Prohibited <sup>1</sup>

No person, including a School District employee, 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; physical appearance; socioeconomic status; academic status; 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

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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 5/10-20.71 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. Each district must also have a policy on bullying. 105 ILCS 5/27-23.7, amended by P.A. 103-47; see sample policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

This policy's list of protected classifications aligns with the list in sample policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. The protected classifications are found in 105 ILCS 5/27-23.7(a), amended by P.A. 103-47; 775 ILCS 5/1-103, amended by P.A.s 102-896; 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, amended by P.A. 103-47.

The Ill. Human Rights Act (IHRA) and an Ill. State Board of Education (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. Additionally, *race* is defined to include traits associated with race, including, but not limited to, hair texture and protective hairstyles such as braids, locks, and twists. 775 ILCS 5/1-103(M-5), added by P.A. 102-1102. 775 ILCS 5/1-102(A), added *order of protection status* to its list of protected categories. IHRA's jurisdiction regarding schools as a public accommodation 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, amended by P.A. 102-1102. It is also a violation of IHRA if a district is aware of an employee or agent's harassment towards a student but fails to take appropriate action to stop the harassment. 775 ILCS 5/5A-101 and 102, amended by P.A. 103-472.

<sup>2</sup> See f/n 3 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 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 3 and 8 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*.**

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>

### 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 Board policies 2:265, *Title IX Grievance Procedure*, and 2:260, *Uniform Grievance Procedure*.

### Making a Report or Complaint

Students are encouraged to promptly report claims or incidents 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

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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 incidents 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 IHRA prohibit discrimination on the basis of sex and sex-based 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, agent, or other authorized person conditions the provision of an aid, benefit, or service on a person's participation in unwelcome sexual conduct; (2) unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from 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. §106.2. See sample policy 2:265, *Title IX Grievance Procedure*, and sample exhibit 2:265-E, *Title IX 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 sex-based harassment. See sample procedures 2:265-AP1, *Title IX Response*, 2:265-AP2, *Formal Title IX Complaint Grievance Process*, and 2:265-AP3, *Title IX Coordinator*.

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-101(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.

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 Grievance Procedure*. The Nondiscrimination Coordinator and/or Complaint Manager or designee shall process and review the report according to the appropriate grievance procedure.<sup>6</sup> 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.<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

\_\_\_\_\_  
Name

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<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.

<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 or designee 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. 103-47; see sample policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

<sup>8</sup> Title IX regulations require districts to designate and authorize at least one employee, referred to as the Title IX Coordinator, who is responsible for coordinating the district's compliance efforts. 34 C.F.R. §106.8(a). For further discussion of the Title IX Coordinator, see f/n 11 in sample policy 2:265, *Title IX Grievance Procedure*.

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.

Address	Address
Email	Email
Telephone	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>
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 sex-based 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 Board policy 2:265, *Title IX Grievance Procedure*, should be initiated.

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<sup>9</sup> In addition to notifying students of policies 2:260, *Uniform Grievance Procedure*, and 2:265, *Title IX 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 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 Ill. Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: [www.ilprincipals.org/msh](http://www.ilprincipals.org/msh).

<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.



For any report or complaint alleging harassment on the basis of race, color, or national origin, the Nondiscrimination Coordinator or a Complaint Manager or designee shall investigate under Board policy 2:270, *Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited*.

For any other alleged student harassment that does not require action under Board policies 2:265, *Title IX Grievance Procedure*, or 2:270, *Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited*, the Nondiscrimination Coordinator or a Complaint Manager or designee shall consider whether an investigation under Board 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 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 Board policy 5:90, *Abused and Neglected Child Reporting*. In addition to reporting the suspected abuse, the complaint shall also be processed under Board policy 2:265, *Title IX Grievance Procedure*, or Board 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/guardian, 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 Board policies 2:260, *Uniform Grievance Procedure*, 2:265, *Title IX Grievance Procedure*, and 2:270, *Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited*).

Students should report allegations of retaliation to the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager.

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<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 (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/ns 14-16 in sample policy 5:90, *Abused and Neglected Child Reporting*.

- LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Educational Amendments of 1972; 34 C.F.R. Part 106.  
29 U.S.C. §791 et seq., Rehabilitation Act of 1973; 34 C.F.R. Part 104.  
42 U.S.C. §2000d, Title VI of the Civil Rights Act of 1964; 34 C.F.R. Part 100.  
105 ILCS 5/10-20.12, 5/10-22.5, 5/10-23.13, 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 Grievance Procedure), 2:270 (Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited), 4:165 (Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors), 5:20 (Workplace Harassment Prohibited), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; Code of Professional Conduct; and Conflict of Interest), 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**

### **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 Grievance Procedure*. This policy prohibits a District employee, agent, or student from engaging in sex discrimination, including sex-based 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, including a District employee, agent, or student, from harassing intimidating, or bullying a student

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<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-AP1, *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.

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).

- 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: <sup>6</sup>
  - 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. <sup>7</sup>
  - 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*. <sup>8</sup>
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*. <sup>9</sup>
4. Incorporates education for school staff, as recommended by the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, or a Complaint Manager. <sup>10</sup>
5. Notifies students and parents/guardians of this policy. <sup>11</sup>

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<sup>6</sup> 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.

<sup>7</sup> *Id.* at f/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*.

<sup>8</sup> *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.

<sup>9</sup> Required by 105 ILCS 110/3.10(b)(2). The curriculum-specific components for teen dating violence education are listed in 6:60-AP1, *Comprehensive Health Education Program*.

<sup>10</sup> *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*."

<sup>11</sup> 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 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)