

## School Board

### Administrative Procedure – Title IX Response <sup>1</sup>

The District responds to all reports of alleged Title IX Sex Discrimination regardless of whether a Complaint is filed. Use this procedure to implement the District’s response to reports of Title IX Sex Discrimination, as that term is defined in 34 C.F.R. §106.10.

The response steps outlined in this procedure include: Notice of Nondiscrimination, Training, Notification and Information, Response to Allegations, Supportive Measures, Title IX Complaint Initiation, Consideration of Removal of a Respondent, and Recordkeeping.

Title IX Complaints are processed using the District’s Title IX Complaint Grievance Process (Grievance Process) under administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*.

#### Glossary of Terms

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

#### Notice of Nondiscrimination

<b>Actor</b>	<b>Action</b>
Superintendent or Designee	<p>Develops a notice of nondiscrimination that includes the following elements (34 C.F.R. §106.8(c)(1)(i)):</p> <ol style="list-style-type: none"> <li>1. A statement that 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, including in employment;</li> <li>2. A statement that inquiries about the application of Title IX to the District may be referred to the District’s Title IX Coordinator, the U.S. Dept. of Education’s Office for Civil Rights, or both;</li> <li>3. The name, office address, email address, and telephone number of the District’s Title IX Coordinator;</li> <li>4. How to locate Board policy 2:265, <i>Title IX Grievance Procedure</i>, and the Grievance Process; and</li> <li>5. How to report information about conduct that may constitute sex discrimination under Title IX and how to make a complaint of sex discrimination.</li> </ol> <p>The following sample notice of nondiscrimination meets the minimum requirements of Title IX regulations: <sup>2</sup></p> <p style="text-align: center;">The District does not discriminate on the basis of sex and</p>

The footnotes should be removed before the material is used.

<sup>1</sup> Ensure that this sample Title IX response is aligned with the district’s policies, procedures, and practices.

<sup>2</sup> See p. 3 of *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](http://www2.ed.gov/about/offices/list/ocr/docs/resource-nondiscrimination-policies.pdf).

Actor	Action
	<p>prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in employment. Inquiries about Title IX may be referred to the District's Title IX Coordinator, the U.S. Dept. of Education's Office for Civil Rights, or both. The District's Title IX Coordinator is <i>[insert name, office address, email address, and telephone number]</i>. The District's nondiscrimination policy and grievance procedures can be located at <i>[insert link to location(s) on website or otherwise describe location(s)]</i>. To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to <i>[insert link to location(s) on website or otherwise describe location(s)]</i>.</p> <p>Provides the notice of nondiscrimination to students, parents/guardians, or other authorized legal representatives of students, employees, applicants for employment,<sup>3</sup> and all unions and professional organizations holding collective bargaining or professional agreements with the District. 34 C.F.R. §106.8(c).</p> <p>Ensures that all elements of the notice of nondiscrimination are prominently included on the District's website and in each handbook, catalog, announcement, bulletin, and application form that the District makes available to persons entitled to receive the notice, or which are otherwise used in connection with the recruitment of employees. Alternatively, where necessary due to the format or size of a particular publication, a publication may include a statement that the District 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)(i)-(ii).</p> <p>The following sample abbreviated nondiscrimination statement meets the minimum requirements of Title IX regulations:<sup>4</sup></p> <p>The District prohibits sex discrimination in any education program or activity that it operates. Individuals may report concerns or questions to the Title IX Coordinator. The notice of nondiscrimination is located at <i>[insert website address]</i>.</p> <p>Ensures that the District does not use or distribute a publication stating that the District treats applicants, students, or employees differently on</p>

The footnotes should be removed before the material is used.

<sup>3</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."

<sup>4</sup> See p. 4 of *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](http://www2.ed.gov/about/offices/list/ocr/docs/resource-nondiscrimination-policies.pdf).

<b>Actor</b>	<b>Action</b>
	the basis of sex, except as such treatment is permitted by Title IX. 34 C.F.R. §106.8(c)(2)(iii).

Training

<b>Actor</b>	<b>Action</b>
Superintendent or Designee	<p>Ensures that upon hiring or a change of position that alters a below-identified person's duties under Title IX, and annually thereafter (34 C.F.R. §106.8(d)):</p> <ol style="list-style-type: none"> <li>1. <u>Tier 1</u>: all District employees receive training on: <ol style="list-style-type: none"> <li>a. The District's obligation to address Title IX Sex Discrimination in its education program or activity;</li> <li>b. The scope of conduct that constitutes Title IX Sex Discrimination, including the definition of sex-based harassment; and</li> <li>c. All applicable notification and information requirements under the <b>Notification and Information</b> subhead, below (34 C.F.R. §§106.40(b)(2) and 106.44).</li> </ol> </li> <li>2. <u>Tier 2</u>: in addition to Tier 1 training, above, all designated Investigators, Decisionmakers, Appeal Decisionmakers, and other persons responsible for implementing the Grievance Process, or who have the authority to modify or terminate supportive measures under 34 C.F.R. § 106.44(g)(4) receive training on, to the extent related to their responsibilities: <ol style="list-style-type: none"> <li>a. The District's obligations under 34 C.F.R. §106.44 (see this administrative procedure, 2:265-AP1, <i>Title IX Response</i>);</li> <li>b. The District's Grievance Process under 34 C.F.R. §106.45 (see administrative procedure 2:265-AP2, <i>Formal Title IX Complaint Grievance Process</i>);</li> <li>c. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and</li> <li>d. The meaning and application of the term <i>relevant</i> in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under 34 C.F.R. §106.45 (see exhibit 2:265-E, <i>Title IX Glossary of Terms</i>).</li> </ol> </li> <li>3. <u>Tier 3</u>: in addition to Tier 1 training, above, all facilitators of an informal resolution process under 34 C.F.R. §106.44(k) receive training on: <ol style="list-style-type: none"> <li>a. The rules and practices associated with the District's informal resolution process; and</li> <li>b. How to serve impartially, including by avoiding conflicts of interest and bias.</li> </ol> </li> <li>4. <u>Tier 4</u>: in addition to Tier 1-3 training, above, the Title IX Coordinator and any designees receive training on: <ol style="list-style-type: none"> <li>a. Their specific responsibilities under Title IX (see 34</li> </ol> </li> </ol>

	<p>C.F.R. §§106.8(a), 106.40(b)(3), 106.44(f) and (g));</p> <p>b. The District’s recordkeeping system and the recordkeeping requirements under 34 C.F.R. § 106.44(f); and</p> <p>c. Any other training necessary to coordinate the District’s compliance with Title IX and its implementing regulations.<sup>5</sup></p> <p>5. All materials used to provide the training outlined in Nos. 1-4 are made available upon request for inspection by members of the public. See exhibit 2:250-E2, <i>Immediately Available District Public Records and Web-Posted Reports and Records</i>.</p>
--	--

Notification and Information

<b>Actor</b>	<b>Action</b>
All District employees who are not <i>confidential employees</i> (see below)	<p>Upon receiving information about conduct that reasonably may constitute Title IX Sex Discrimination:</p> <ol style="list-style-type: none"> <li>1. Immediately report a suspicion of child abuse or neglect to the Ill. Dept. of Children and Family Services on its Child Abuse Hotline 1-800-25-Abuse (1-800-252-2873 (within Illinois); 1-217-524-2606 (outside Illinois); or 1-800-358-5117 (TTY)).</li> <li>2. Promptly notify the Title IX Coordinator. 34 C.F.R. § 106.44(c)(1).</li> </ol> <p>Upon receiving information of a student's pregnancy or related conditions from the student or a person who has a legal right to act on behalf of the student, promptly (34 C.F.R. § 106.40(b)(2)):</p> <ol style="list-style-type: none"> <li>1. Provide that person with the Title IX Coordinator's contact information; and</li> <li>2. Inform that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the District's program or activity.</li> </ol>
<i>Confidential employees</i> , if any <sup>6</sup>	<p>Upon receiving information about conduct that reasonably may constitute Title IX Sex Discrimination:</p> <ol style="list-style-type: none"> <li>1. Immediately report a suspicion of child abuse or neglect to the Ill. Dept. of Children and Family Services on its Child Abuse Hotline 1-800-25-Abuse (1-800-252-2873 (within Illinois); 1-217-524-2606 (outside Illinois); or 1-800-358-5117 (TTY)).</li> <li>2. Explain the following to the person who informs the confidential employee of conduct that reasonably may constitute Title IX Sex Discrimination (34 C.F.R. § 106.44(d)(2)): <ol style="list-style-type: none"> <li>a. The employee’s status as confidential for purposes of</li> </ol> </li> </ol>

The footnotes should be removed before the material is used.

<sup>5</sup> The district has discretion to choose the content and substance of any additional training needed. 89 Fed. Reg. 33487.

<sup>6</sup> Optional. Title IX regulations do not require districts to designate confidential employees. See sample exhibit 2:265-E, *Title IX Glossary of Terms*, for the definition of *confidential employee*. **Consult the board attorney about whether to designate any employees as confidential employees and its practical implications.**

	<p>Title IX, including the circumstances in which the employee is not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination;</p> <p>b. How to contact the District's Title IX Coordinator and how to make a Complaint of sex discrimination; and</p> <p>c. That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the Grievance Process. See <b>Section F. Informal Resolution of Title IX Complaint</b> in administrative procedure 2:265-AP2, <i>Formal Title IX Complaint Grievance Process</i>.</p>
--	--

Response to Allegations

<b>Actor</b>	<b>Action</b>
<p>Title IX Coordinator or Designee</p>	<p>Upon being notified of conduct that the notifying party believes reasonably may constitute Title IX Sex Discrimination, analyzes the allegation(s) to determine whether the conduct as alleged could constitute Title IX Sex Discrimination.</p> <p>Where the Title IX Coordinator reasonably determines that the conduct as alleged could constitute Title IX Sex Discrimination, takes the following actions to promptly and effectively end any Title IX Sex Discrimination in the District's education program or activity, prevent its recurrence, and remedy its effects:</p> <ol style="list-style-type: none"> <li>1. Treats the Complainant and Respondent equitably. 34 C.F.R. §106.44(f)(1)(i).</li> <li>2. Offers and coordinates supportive measures, as appropriate, for the Complainant. 34 C.F.R. §106.44(f)(1)(ii). See <b>Supportive Measures</b>, below.</li> <li>3. If the District has initiated the Grievance Process or offered an informal resolution process to the Respondent, offers and coordinates supportive measures, as appropriate, for the Respondent. <i>Id.</i> See <b>Supportive Measures</b>, below.</li> <li>4. Notifies the Complainant or, if the Complainant is unknown, the individual who reported the conduct, of: the Grievance Process; and the informal resolution process, if available and appropriate. 34 C.F.R. §106.44(f)(1)(iii)(A). <ul style="list-style-type: none"> <li><b>Note:</b> The U.S. Dept. of Education anticipates that during such conversations the Title IX Coordinator will confirm whether the individual reporting the alleged discrimination wants the District to conduct an investigation, and notes that "nothing in the final regulations would preclude the Title IX Coordinator from memorializing in writing the outcome of that conversation to help avoid any possible confusion about agreed upon next steps." 89 Fed. Reg. 33487.</li> </ul> </li> <li>5. If a Complaint is made, notifies the Respondent of: the Grievance</li> </ol>

	<p>Process; and the informal resolution process, if available and appropriate. 34 C.F.R. §106.44(f)(1)(iii)(B).</p> <ol style="list-style-type: none"> <li>6. In response to a Complaint, initiates: the Grievance Process; or the informal resolution process, if available and appropriate and requested by all parties. 34 C.F.R. §106.44(f)(1)(iv).</li> <li>7. In the absence of a Complaint or the withdrawal of any or all of the allegations in a Complaint, and in the absence or termination of an informal resolution process, determines whether to initiate a Complaint of Title IX Sex Discrimination under the Grievance Process, considering the factors outlined in <b>Initiation of a Title IX Complaint</b>, below. 34 C.F.R. §106.44(f)(1)(v).</li> <li>8. If initiating a Complaint under No. 7, above, notifies the Complainant prior to doing so and appropriately addresses reasonable concerns about the Complainant’s safety or the safety of others, including by providing supportive measures. 34 C.F.R. §106.44(f)(1)(vi).</li> <li>9. Regardless of whether a Complaint is initiated, takes other appropriate prompt and effective steps, in addition to steps necessary to effectuate the remedies provided to an individual Complainant, if any, to ensure that Title IX Sex Discrimination does not continue or recur within the District’s education program or activity. 34 C.F.R. §106.44(f)(1)(vii).</li> </ol> <p>Regardless of whether the Title IX Coordinator reasonably determines that the conduct as alleged could constitute Title IX Sex Discrimination, considers whether action under any of the following policies is required, either in lieu of or in addition to any action under Board policy 2:265, <i>Title IX Grievance Procedure</i>:</p> <ul style="list-style-type: none"> <li>2:260, <i>Uniform Grievance Procedure</i></li> <li>5:10, <i>Equal Employment Opportunity and Minority Recruitment</i></li> <li>5:20, <i>Workplace Harassment Prohibited</i></li> <li>5:90, <i>Abused and Neglected Child Reporting</i></li> <li>5:120, <i>Employee Ethics; Code of Professional Conduct; and Conflict of Interest</i></li> <li>7:10, <i>Equal Educational Opportunities</i></li> <li>7:20, <i>Harassment of Students Prohibited</i></li> <li>7:180, <i>Prevention of and Response to Bullying, Intimidation, and Harassment</i></li> <li>7:185, <i>Teen Dating Violence Prohibited</i></li> <li>7:190, <i>Student Behavior</i></li> </ul> <p>Answers the following question(s):</p> <ol style="list-style-type: none"> <li>1. Does another appropriate method exist for processing and reviewing the sex discrimination allegation?</li> <li>2. If yes, does that other method govern the District’s response in addition to or at the exclusion of Board policy 2:265, <i>Title IX Grievance Procedure</i>?</li> </ol> <p>See exhibit 2:265-E, <i>Title IX Glossary of Terms</i>, for a discussion of sex discrimination governed by laws other than Title IX. Consult the board</p>
--	--

	attorney for guidance.
--	------------------------

Supportive Measures

Actor	Action
Title IX Coordinator or Designee	<p>Where the Title IX Coordinator has knowledge of conduct that reasonably may constitute Title IX Sex Discrimination in the District’s education program or activity, offers and coordinates supportive measures, as appropriate, for the Complainant. 34 C.F.R. §106.44(g). Where the District has initiated the Grievance Process or offered an informal resolution process to the Respondent, offers and coordinates supportive measures, as appropriate, for the Respondent. <u>Id.</u></p> <p><b>Note:</b> For allegations of Title IX Sex Discrimination other than sex-based harassment or retaliation, the District is not required to alter the alleged discriminatory conduct for the purposes of providing a supportive measure. This is because "such discrimination will likely relate to either sex discrimination allegations arising out of alleged unequal access to resources or facilities or allegations arising out of alleged sex discrimination in an educational setting such as different treatment on the basis of sex" and there "will be few appropriate supportive measures for such discrimination, other than eliminating the source of the discrimination" but eliminating the source of the discrimination "may only be provided as a remedy." 89 Fed. Reg. 33863.</p> <p>When determining appropriate supportive measures, considers relevant factors, including the following:</p> <ol style="list-style-type: none"> <li>1. Supportive measures may vary depending on what the District deems reasonably available. These measures may include, but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of school grounds; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment. 34 C.F.R. §106.44(g)(1). <ul style="list-style-type: none"> <li><b>Note:</b> Many actions taken by school personnel to quickly intervene and correct behavior, i.e., having educational conversations with students or changing student seating, may be considered reasonable supportive measures. 89 Fed. Reg. 33608.</li> </ul> </li> <li>2. Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or the District’s educational environment, or to provide support during the Grievance Process or during the informal resolution process. Supportive measures may not be imposed for punitive or disciplinary reasons. 34 C.F.R. §106.44(g)(2).</li> </ol> <p>If the Complainant or Respondent is a student with a disability, consults with one or more members, as appropriate, of the student’s</p>

	<p>Individualized Education Program (IEP) team (34 C.F.R. §300.321), if any, or one or more members, as appropriate, of the group of persons responsible for the student’s placement decision under 34 C.F.R. §104.35(c), if any. This consultation is needed to determine how to comply with the requirements of the Individuals with Disabilities Education Act (20 U.S.C. §1400 <i>et seq.</i>) and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794) in the implementation of supportive measures. 34 C.F.R. §106.44(g)(6).</p> <p>At the conclusion of the Grievance Process or at the conclusion of the informal resolution process, determines whether to modify or terminate, as appropriate, any supportive measures previously implemented, or whether to continue such measures beyond that point. 34 C.F.R. §106.44(g)(3).</p> <p>Provides a party with the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially. 34 C.F.R. §106.44(g)(4).</p> <p>Provides the parties with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of the decision to provide, deny, modify, or terminate supportive measures applicable to them. 34 C.F.R. §106.44(g)(4).</p> <p style="padding-left: 40px;">The impartial employee must be someone other than the employee who made the challenged supportive decision and must have authority to modify or reverse the decision, if the impartial employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures under Title IX. <i>Id.</i></p> <p style="padding-left: 40px;">The impartial employee must receive Tier 2 training (see the <b>Training</b> subhead, above).</p> <p>If a party requests modification or reversal of a decision regarding a supportive measure by submitting a written request to the Title IX Coordinator, identifies an impartial employee who will:</p> <ol style="list-style-type: none"> <li>1. Review the request and other relevant information to determine: whether the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures under Title IX; and if so, whether modification or reversal of the supportive measures decision is appropriate;</li> <li>2. Upon conclusion of the review, notify the requesting party and the Title IX Coordinator of the outcome of the review; and</li> <li>3. As appropriate, notify the other party of any modifications to a supportive measure applicable to that party that results from the review.</li> </ol> <p>Ensures that information about supportive measures is not disclosed to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party’s access to the education program or activity, or when an exception in 34 C.F.R. §106.44(j)(1) through (5) applies, in conjunction with any response required by this procedure. 34 C.F.R. §106.44(g)(5).</p>
--	---



**Title IX Complaint Initiation**

A *Complaint* for purposes of Board policy 2:265, *Title IX Grievance Procedure*, and this procedure, means an oral or written request to the District that can objectively be understood as a request for the District to investigate and make a determination about alleged discrimination under Title IX.

The following persons have a right to make a Complaint (34 C.F.R. §106.45(a)(2)):

1. A Complainant (see Board policy 2:265, *Title IX Grievance Procedure*, and exhibit 2:265-E, *Title IX Glossary of Terms*);
2. A parent/guardian, or other legal representative with the legal right to act on behalf of a Complainant;
3. The Title IX Coordinator, after making the determination specified in No. 7 under the **Response to Allegations** subhead, above; and
4. For complaints of Title IX Sex Discrimination other than sex-based harassment, in addition to the persons listed under Nos. 1-3, above:
  - a. Any student or employee; or
  - b. Any person other than a student or employee who was participating or attempting to participate in the District’s education program or activity at the time of the alleged Title IX Sex Discrimination.

<b>Actor</b>	<b>Action</b>
Title IX Coordinator or Designee	<p><b>In the absence of a Complaint or the withdrawal of any or all of the allegations in a Complaint, and in the absence or termination of an informal resolution process:</b></p> <p>Determines whether to initiate a Complaint of Title IX Sex Discrimination under the Grievance Process, considering, at a minimum, the following factors (34 C.F.R. §106.44(f)(1)(v)(A)):</p> <ol style="list-style-type: none"> <li>1. The Complainant's request not to proceed with initiation of a Complaint;</li> <li>2. The Complainant's reasonable safety concerns regarding initiation of a Complaint;</li> <li>3. The risk that additional acts of sex discrimination would occur if a Complaint is not initiated;</li> <li>4. The severity of the alleged Title IX Sex Discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;</li> <li>5. The age and relationship of the parties, including whether the Respondent is an employee of the District;</li> <li>6. The scope of the alleged discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;</li> <li>7. The availability of evidence to assist a Decisionmaker in determining whether Title IX Sex Discrimination occurred; and</li> <li>8. Whether the District could end the alleged discrimination and prevent its recurrence without initiating the Grievance Process.</li> </ol> <p><b>When a Complaint is filed by an eligible person or initiated by the Title IX Coordinator:</b></p>

	Proceeds to and follows the Grievance Process (34 C.F.R. §106.44(f)(1)(iv)) in conjunction with any response required by this procedure and other applicable District policies. See administrative procedure 2:265-AP2, <i>Formal Title IX Complaint Grievance Process</i> .
--	--

Consideration of Removal of the Respondent

Actor	Action
Title IX Coordinator or Designee	<p><b>Emergency Removal of <i>Student Respondent</i>:</b></p> <p>If the Respondent is an identified student, considers whether the student-Respondent should be removed from the District’s education program or activity on an emergency basis in accordance with 34 C.F.R. §106.44(h).</p> <p>Before removing a student-Respondent on an emergency basis, conducts an individualized safety and risk analysis to determine whether removal is justified by an immediate<sup>7</sup> and serious threat to the health or safety of a Complainant or any students, employees, or other persons arising from the allegations of sex discrimination.</p> <p>If the student-Respondent is removed on an emergency basis:</p> <ol style="list-style-type: none"> <li>1. Provides the student-Respondent with written<sup>8</sup> notice and an opportunity to challenge the decision immediately following the removal; and</li> <li>2. Follows requirements set forth in 105 ILCS 5/10-22.6. See Board policies 7:200, <i>Suspension Procedures</i>, and 7:210, <i>Expulsion Procedures</i>.</li> </ol> <p><b>Administrative Leave for <i>Employee Respondent</i>:</b></p> <p>If the Respondent is an identified non-student employee, in conjunction with the District's human resources administrator, considers whether the employee-Respondent should be placed on administrative leave in accordance with 34 C.F.R. §106.44(i), relevant District policies and procedures, and any applicable collective bargaining agreements. See Board policies 5:240, <i>Suspension</i>, and 5:290, <i>Employment Termination and Suspensions</i>.</p> <p><b>Note:</b> While Title IX regulations do not impose a time limit on the duration of an emergency removal, time limits may apply based upon District policies and procedures, any applicable collective bargaining agreements, and other laws and regulations, e.g., the Individuals with Disabilities Education Act, Section 504 of the</p>

The footnotes should be removed before the material is used.

<sup>7</sup> *Immediate threats* “involve emergency situations in which there is not time for recipients to assess risks and in which an immediate law enforcement response is necessary” whereas *imminent threats* “are those that while not active, are likely to occur soon but not immediately, and thus are appropriate for an individualized risk assessment.” 89 Fed. Reg. 33615. For further information on individualized threat assessment, see sample administrative procedure 4:190-AP2, *Threat Assessment Team*.

<sup>8</sup> While Title IX regulations do not require written notice to the Respondent, most attorneys agree providing written notice is a best practice. If the district does not want to provide written notice, consult the board attorney.

	Rehabilitation Act of 1973, the Americans with Disabilities Act, and 105 ILCS 5/10-22.6.
--	--

Recordkeeping

<b>Actor</b>	<b>Action</b>
Title IX Coordinator or Designee	<p>Maintains, for a period of at least seven (7) years (34 C.F.R. §106.8(f)):</p> <ol style="list-style-type: none"> <li>1. For each Complaint of Title IX Sex Discrimination, records documenting the informal resolution process or the Grievance Process, and the resulting outcome. Records should include: complaints (formal and informal), supportive measures, the informal resolution process, investigations, final determinations, appeals, remedies, and any other relevant information related to allegations of Title IX Sex Discrimination.</li> <li>2. For each notification the Title IX Coordinator receives about conduct that reasonably may constitute Title IX sex discrimination, records documenting the actions the District took to meet its obligations under 34 C.F.R. §106.44.</li> <li>3. All materials used to provide the training outlined in Nos. 1-4 under the <b>Training</b> subhead, above.</li> </ol> <p>See Board policy 5:150, <i>Personnel Records</i>, and administrative procedure 5:150-AP, <i>Personnel Records</i>, addressing the identification, storage, and access to personnel records.</p> <p>See Board policy 7:340, <i>Student Records</i>, along with administrative procedures 7:340-AP1, <i>School Student Records</i>, and 7:340-AP2, <i>Storage and Destruction of School Student Records</i>, addressing the District’s legal obligations regarding the identification, confidentiality, safeguarding, access, and disposal of school student records.</p>

## School Board

### Administrative Procedure – Formal Title IX Complaint Grievance Process <sup>1</sup>

This procedure implements the District’s grievance process for a Title IX Complaint after a decision to pursue one has been made using administrative procedure 2:265-AP1, *Title IX Response*. See 34 C.F.R. Part 106. Use this procedure to comply with 34 C.F.R. §106.45, *Grievance procedures for complaints of sex discrimination*. Use exhibit 2:265-E, *Title IX Glossary of Terms*, and administrative procedure 2:265-AP3, *Title IX Coordinator*, in conjunction with this procedure. **Consult the Board Attorney as needed throughout the grievance process.**

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

#### Table of Contents

- A. Overview of Title IX Complaint Grievance Process
- B. Evaluation of Title IX Complaint
- C. Notice of Allegations
- D. Consolidation of Title IX Complaints
- E. Dismissal of Title IX Complaint
- F. Informal Resolution of Title IX Complaint
- G. Investigation and Determination of Title IX Complaint
- H. Appeals
- I. Recordkeeping

#### Sections

##### **A. Overview of Title IX Complaint Grievance Process**

The District’s Title IX Complaint Grievance Process (Grievance Process) adheres to the following guidelines:

1. Treat Parties Equitably. The District shall treat Complainants and Respondents equitably. 34 C.F.R. §106.45(b)(1).
2. No Conflict of Interest or Bias. The District shall require that any person designated as a Title IX Coordinator, Investigator, or Decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent. 34 C.F.R. §106.45(b)(2).
3. Presumption of Non-Responsibility. The Respondent is presumed not responsible for the alleged Title IX Sex Discrimination until a determination is made at the conclusion of the Grievance Process. 34 C.F.R. §106.45(b)(3).
4. Grievance Process Required Before Imposing Sanctions. The District shall comply with this Grievance Process before imposing any disciplinary sanctions against a Respondent for Title IX Sex Discrimination. 34 C.F.R. §106.45(h)(3), (h)(4).
5. Supportive Measures. The District shall offer and coordinate supportive measures, as appropriate, for a Complainant upon being notified of conduct that reasonably may constitute

**The footnotes should be removed before the material is used.**

<sup>1</sup> Ensure that this sample Title IX sex discrimination grievance process is aligned with the district’s policies, procedures, and practices.

Title IX Sex Discrimination and for a Respondent if the District has initiated the Grievance Process or has offered the Respondent an informal resolution process. 34 C.F.R. §§106.44(f)(1)(ii), 106.44(g), 106.45(l)(1). See administrative procedure 2:265-AP1, *Title IX Response*, for more on supportive measures. See exhibit 2:265-E, *Title IX Glossary of Terms*, for the definition of *supportive measures*.

6. Timeframe. This Grievance Process shall be concluded within 90 school business days<sup>2</sup> after receipt of a Complaint. As used in this Grievance Process, *school business days* means days on which the District's main office is open. On a case-by-case basis, this Grievance Process may be temporarily delayed or extended for good cause only if the Complainant and the Respondent, as appropriate, are provided written notice of the delay/extension and the reasons for it. Good cause may include, but is not limited to: the unavailability of a party or a witness; concurrent law enforcement or other agency activity; or the need for language assistance or accommodation of disabilities. 34 C.F.R. §106.45(b)(4).
7. Privacy Protection. The District shall take reasonable steps to protect the privacy of a Complainant and a Respondent and witnesses during the Grievance Process. These steps shall not restrict the ability of a Complainant or a Respondent to obtain and present evidence, including by speaking to witnesses; consulting with their family members, confidential resources, or advisors; or otherwise preparing for or participating in the Grievance Process. 34 C.F.R. §106.45(b)(5).
8. Evidence Considered. The District shall objectively evaluate all relevant evidence – including both inculpatory and exculpatory evidence – that is not otherwise impermissible. Credibility determinations are not based on a person's status as a Complainant, Respondent, or witness. The District shall exclude (not disclose or otherwise use) impermissible evidence and questions seeking that evidence, regardless of whether the evidence is relevant. The District may access or consider impermissible evidence solely to determine whether an exception that would allow its consideration exists. 34 C.F.R. §106.45(b)(6), (7). See exhibit 2:265-E, *Title IX Glossary of Terms*, for the definition of *impermissible evidence*.
9. Standard of Proof. All determinations are based upon the *preponderance of the evidence* standard. 34 C.F.R. §106.45(h)(1). See exhibit 2:265-E, *Title IX Glossary of Terms*, for the definition of *preponderance of the evidence*.
10. Right to Appeal. Each party may appeal any determination or dismissal as described in **Section H. Appeals**, below. 34 C.F.R. §§106.45(d)(3), (i).
11. Remedies and Disciplinary Sanctions. Following a determination that Title IX Sex Discrimination occurred, the District must provide, as appropriate, remedies to a Complainant and other persons the District identifies as having had their equal access to the District's education program or activity limited or denied by Title IX Sex Discrimination. 34 C.F.R. §106.45(h)(3). Additionally, the District may implement, as appropriate, disciplinary sanctions on a Respondent, up to and including: discharge for an employee-Respondent; expulsion for a student-Respondent; and termination of any existing contracts and/or prohibition from District property and activities for a third-party Respondent. The District

---

The footnotes should be removed before the material is used.

<sup>2</sup> The length of the grievance process and its method of calculation may be customized locally. This sample uses 90 school business days. If the district uses a different length and/or calculation method, e.g., 60 or 90 calendar days, insert it. The Grievance Process must include "reasonably prompt timeframes for the major stages of the grievance procedures," including the evaluation of the complaint of sex discrimination, investigation, determination, and appeal. 34 C.F.R. §106.45(b)(4). **Consult the board attorney for advice on the most appropriate timeframe for the district.**

may not impose discipline on a Respondent for Title IX Sex Discrimination unless there is a determination at the conclusion of the Grievance Process that the Respondent engaged in prohibited Title IX Sex Discrimination. 34 C.F.R. §106.45(h)(3), (l)(2). See exhibit 2:265-E, *Title IX Glossary of Terms*, for the definitions of *remedies* and *disciplinary sanctions*.

12. **Training Requirements.** The District ensures certain training requirements are met at the time of hiring or change of position that alters an employee's Title IX duties and annually thereafter. 34 C.F.R. §106.8(d). See administrative procedures 2:265-AP1, *Title IX Response*, and 2:265-AP3, *Title IX Coordinator*, for details on training requirements.

## **B. Evaluation of Title IX Complaint**

When a Complaint is filed, the Title IX Coordinator shall, within 10 school business days, evaluate whether to investigate or dismiss the Complaint. 34 C.F.R. §106.45(b)(4). In evaluating the Complaint, the Title IX Coordinator shall analyze the allegations to determine whether the conduct as alleged could constitute Title IX Sex Discrimination and whether any of the bases for dismissal apply as set forth in **Section E. Dismissal**, below.

Where the Title IX Coordinator reasonably determines that the conduct as alleged could constitute Title IX Sex Discrimination, this Grievance Process shall be initiated. Where the Title IX Coordinator reasonably determines that the conduct as alleged does not constitute Title IX Sex Discrimination, the Title IX Coordinator shall dismiss the Complaint, or allegation(s) therein, as set forth in **Section E. Dismissal**, below.

## **C. Notice of Allegations**

Upon initiating this Grievance Process, the Title IX Coordinator:

1. Provides written<sup>3</sup> notice to all known parties with the following information (34 C.F.R. §106.45(c)(1)):
  - a. This procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*, including any available informal resolution process.
  - b. The allegations of Title IX Sex Discrimination. This includes sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute Title IX Sex Discrimination, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to the District.
  - c. Retaliation is prohibited. See exhibit 2:265-E, *Title IX Glossary of Terms*, for the definition of *retaliation*.
  - d. The parties have an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of the evidence. If the District opts to provide a description of the evidence, the parties have an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.
  - e. The District's behavior policies prohibit knowingly making false statements or knowingly submitting false information during the Grievance Process.

---

The footnotes should be removed before the material is used.

<sup>3</sup> Optional. Title IX regulations only require that the determination of whether sex discrimination occurred be provided in writing. 34 C.F.R. §106.45(h)(2). Many attorneys agree that providing written notice at all stages of the Grievance Process is a best practice. **Consult the board attorney for guidance on this issue, especially if the district does not want to provide written notice.**

2. Provides a second written notice to all known parties if, during the investigation, the District decides to investigate allegations not included in the first written notice. 34 C.F.R. §106.45(c)(2).
3. Decides whether to personally conduct the investigation or appoint a qualified investigator. If the Title IX Coordinator appoints a qualified investigator, provides written notice of the appointment to the Investigator.

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

If the Complainant's identity is unknown, e.g., where an anonymous person or third-party reports conduct that reasonably may constitute Title IX Sex Discrimination, the Grievance Process may proceed if the Title IX Coordinator determines it is necessary to initiate a Complaint, even though the written notice provided in **Section C.1**, above, will not include the Complainant's identity. If the Complainant's identity is later discovered, the Title IX Coordinator provides another written notice to the parties.

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

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

### **D. Consolidation of Title IX Complaints**

When the allegations of Title IX Sex Discrimination arise out of the same facts or circumstances, the Title IX Coordinator may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party. 34 C.F.R. §106.45(e).

### **E. Dismissal of Title IX Complaint**

At any time, the Title IX Coordinator may dismiss a Complaint made under this Grievance Process, or any allegations contained in it, for any of the following reasons (34 C.F.R. §106.45(d)(1)):

1. The District is unable to identify the Respondent after taking reasonable steps to do so.
2. The Respondent is no longer enrolled in or employed by the District.
3. The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a complaint, and the Title IX Coordinator determines any remaining allegations in the Complaint would not constitute Title IX Sex Discrimination even if proven.
4. The District determines the alleged conduct, even if proven, would not constitute Title IX Sex Discrimination. Prior to dismissing the Complaint under this paragraph, the District must make reasonable efforts to clarify the allegations with the Complainant.

Upon dismissal, the Title IX Coordinator must promptly notify the Complainant in writing of the basis for the dismissal and the right to appeal the dismissal on the bases as described in **Section H. Appeals**, below. If the dismissal occurs after the Respondent has been notified of the allegations, the Title IX Coordinator shall simultaneously notify the Respondent in writing of the dismissal, its basis, and the right to appeal the dismissal on the bases as described in **Section H. Appeals**, below. 34 C.F.R. §106.45(d)(2), (3).

Upon dismissal, the Title IX Coordinator also must (34 C.F.R. §106.45(d)(4)):

1. Offer supportive measures to the Complainant, as appropriate;

2. Offer supportive measures to the Respondent, as appropriate, if the dismissal was pursuant to **Section E.3** or **Section E.4**, above, and the Respondent has been notified of the allegations;
3. Take other appropriate prompt and effective steps to ensure that Title IX Sex Discrimination does not continue or recur within the District's education program or activity.

See administrative procedure 2:265-AP1, *Title IX Response*, for more on supportive measures. See exhibit 2:265-E, *Title IX Glossary of Terms*, for the definition of *supportive measures*.

#### **F. Informal Resolution of Title IX Complaint**

At any time prior to determining if sex discrimination occurred under this Grievance Process, the District may offer to the Complainant and Respondent an informal resolution process. The District is prohibited from offering an informal resolution process when the Complaint includes allegations that an employee engaged in sex-based harassment of a student, or when such a process would conflict with federal, State, or local law.

The District has discretion to determine whether it is appropriate to offer an informal resolution process when it receives information about conduct that reasonably may constitute Title IX Sex Discrimination or when a Complaint is made, and may decline to offer informal resolution despite one or more of the parties' wishes. Such circumstances may include, but are not limited to, when the District determines the alleged conduct would present a future risk of harm to others. 34 C.F.R. §§106.44(k), 106.45(k)(1).

To offer an informal resolution process, the District must:

1. Provide the parties written notice explaining (34 C.F.R. §106.44(k)(3)):
  - a. The allegations;
  - b. Informal resolution process requirements;
  - c. That at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the Grievance Process;
  - d. That if the parties agree to a resolution at the conclusion of the informal resolution process, the parties' agreement precludes the parties from initiating or resuming the Grievance Process arising from the same allegations;
  - e. The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding; and
  - f. The information that will be maintained and whether and how the information could be disclosed for use in the Grievance Process if the Grievance Process is initiated or resumed.
2. Obtain the parties' voluntary, written consent to the informal resolution process. The District cannot require a waiver by the parties of the right to an investigation and determination of a complaint under the Grievance Process as a condition of enrollment or continuing enrollment in the District or employment or continuing employment in the District, or exercise of any other right. 34 C.F.R. §106.44(k)(2).
3. Assign a facilitator for the informal resolution process who is not the Investigator or Decisionmaker in the Grievance Process. 34 C.F.R. §106.44(k)(4).
4. Require the Title IX Coordinator, to the extent necessary, to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the District's education program or activity. 34 C.F.R. §106.44(k)(1).

#### Potential Terms for Informal Resolution Agreement



The following are potential terms that an informal resolution agreement may include, but are not limited to (34 C.F.R. §106.44(k)(5)):

1. Restrictions on contact; and
2. Restrictions on the Respondent’s participation in one or more of the District’s programs or activities or attendance at specific events, including restrictions the District could have imposed as remedies or disciplinary sanctions had the District determined at the conclusion of the Grievance Process that Title IX Sex Discrimination occurred.

**G. Investigation and Determination of Title IX Complaint**

The Investigator/Decisionmaker<sup>4</sup> follows these steps when investigating the allegations in a Complaint. The Investigator/Decisionmaker shall make all reasonable efforts to complete the investigation and issue a written determination regarding whether Title IX Sex Discrimination occurred under Title IX within 30 school business days. This timeframe can be extended for good cause as provided in **Section A.6**, above.

If the allegations are against the Superintendent or against a Board Member, an independent Investigator/Decisionmaker (e.g., an attorney or retired school administrator) shall be appointed.

Actor	Action
Investigator/ Decisionmaker	<p><b><u>Investigation</u></b> <sup>5</sup></p> <p>During an investigation and throughout the Grievance Process, provides an adequate, reliable, and impartial investigation by (34 C.F.R. §106.45(f)):</p> <ol style="list-style-type: none"> <li>1. Ensuring the burden of gathering sufficient evidence to determine whether Title IX Sex Discrimination occurred is on the District and not the parties. 34 C.F.R. §106.45(f)(1).</li> <li>2. Providing an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible. 34 C.F.R. §106.45(f)(2).</li> </ol>

The footnotes should be removed before the material is used.

<sup>4</sup> The Decisionmaker may be the same person as the Title IX Coordinator or Investigator. 34 C.F.R. §106.45(b)(2). As a result, this Grievance Process uses a single investigator/decisionmaker template, whether that person is the Title IX Coordinator or appointed by the Title IX Coordinator. Consult the board attorney if the district wishes to separate the roles of Investigator and Decisionmaker for Title IX Complaints. Additional steps under the Grievance Process are required if different people serve in the Investigator and Decisionmaker roles, and this sample administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*, will need to be amended to reflect those steps. For example, the district must allow the Decisionmaker to question the parties and the witnesses to adequately assess a party’s or witness’s credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination. 34 C.F.R. §106.45(g). Under a single investigator/decisionmaker template, that person will question the parties and witnesses as part of the Grievance Process investigation. If the roles are separated, then an additional opportunity for the parties and witnesses to be questioned by the Decisionmaker, after being questioned by the Investigator, must be provided under the Grievance Process. **Consult the board attorney for guidance.**

<sup>5</sup> See f/n 4. If the district does not use a single investigator/decisionmaker template, add the following paragraph to the list of investigation requirements:

7. Providing a process that enables the Decisionmaker to question parties and witnesses to adequately assess a party’s or witness’s credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination. 34 C.F.R. §106.45(g).

Actor	Action
	<p>3. Reviewing all evidence gathered through the investigation and determining what evidence is relevant and what evidence is impermissible regardless of relevance. 34 C.F.R. §106.45(f)(3).</p> <p>4. Providing the parties an equal opportunity to access the evidence that is relevant to the allegation(s) and not otherwise impermissible, or an accurate description of this evidence. If a description of the evidence is provided, the parties must be provided an equal opportunity to access the relevant and not otherwise impermissible evidence upon request. 34 C.F.R. §106.45(f)(4)(i).</p> <p>5. Providing the parties a reasonable opportunity to respond to the evidence or to the accurate description of the evidence. 34 C.F.R. §106.45(f)(4)(ii).</p> <p>6. Taking reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through this Grievance Process. 34 C.F.R. §106.45(f)(4)(iii).</p> <p><b><u>Determination and Written Notice of Determination</u></b></p> <p>Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, does the following (34 C.F.R. §106.45(h)(1), (2)):</p> <ol style="list-style-type: none"> <li>1. Bases all decisions on the <i>preponderance of evidence</i> standard.</li> <li>2. Notifies the parties in writing of the determination regarding whether Title IX Sex Discrimination occurred, including the rationale for such determination and permissible bases for the Complainant and the Respondent to appeal as described in <b>Section H. Appeals</b>, below.</li> </ol>
Title IX Coordinator or Designee	<p>If there is a determination that Title IX Sex Discrimination occurred (34 C.F.R. §106.45(h)(3)):</p> <ol style="list-style-type: none"> <li>1. Coordinates the provision and implementation of remedies for the Complainant and other persons identified as having had their equal access to the District's education program or activity limited or denied by Title IX Sex Discrimination.</li> <li>2. Coordinates the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions. The District may not impose discipline on a Respondent for Title IX Sex Discrimination unless there is a determination at the conclusion of the Grievance Process that the Respondent engaged in prohibited Title IX Sex Discrimination.</li> <li>3. Takes other appropriate prompt and effective steps to ensure that Title IX Sex Discrimination does not continue or recur within the District's education program or activity.</li> </ol>

## H. Appeals

The determination regarding whether Title IX Sex Discrimination occurred becomes final either on the date on which an appeal would no longer be considered timely if an appeal is not filed, or

the date that the Appeal Decisionmaker provides the parties with the written decision of the result of the appeal if an appeal is filed. 34 C.F.R. §106.45(b)(4).

<p>Complainant or Respondent</p>	<p>Within five (5) school business days<sup>6</sup> after receiving either (1) notice of the determination of whether Title IX Sex Discrimination occurred, or (2) notice of dismissal of a Complaint, or allegations therein, makes a written request to the Title IX Coordinator appealing the determination/dismissal based on (34 C.F.R. §§106.45(d)(3), 106.46(i)(1)):</p> <ol style="list-style-type: none"> <li>7. Procedural irregularity that would change the outcome.</li> <li>8. New evidence now available that would change the outcome but that was not reasonably available at the time of the determination.</li> <li>9. The Title IX Coordinator or Investigator/Decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.</li> </ol>
<p>Title IX Coordinator or Designee</p>	<p>Upon receiving an appeal from one party (34 C.F.R. §106.45(d)(3), (i)):</p> <ol style="list-style-type: none"> <li>1. Notifies the parties in writing that an appeal has been filed, including notice of the allegations if notice consistent with <b>Section C. Notice of Allegations</b>, above, was not previously provided to the Respondent.</li> <li>2. Provides both parties five (5) school business days to submit a written statement and/or new evidence in support of, or challenging, the outcome to the Title IX Coordinator.</li> <li>3. Promptly forwards all materials relative to the appeal to the Appeal Decisionmaker.</li> </ol> <p>Ensures that the Appeal Decisionmaker is not the same person as the Investigator/Decisionmaker or the Title IX Coordinator. 34 C.F.R. §106.45(d)(3)(iii).</p> <p><b>Note:</b> The Board may, but is not required to, hear and decide the appeal; it is a suggestion that aligns with the appeal provisions in policy 2:260, <i>Uniform Grievance Procedure</i>, and with Ill. State Board of Education sex equity regulations requiring districts to “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). If the Board acts as the Appeal Decisionmaker, the Board must receive the training in <b>Section A.12</b>, above. Some school attorneys recommend that the appeal not go to the Board, so that the Board’s objectivity is not called into question if it needs to conduct a hearing related to recommended disciplinary sanctions resulting from the Grievance Process. <b>Consult the board attorney</b></p>

The footnotes should be removed before the material is used.

<sup>6</sup> These timelines are optional and suggested for ease of use to align with the appeal timelines in sample policy 2:260, *Uniform Grievance Procedure*.

	<b>regarding these options.</b>
Appeal Decisionmaker	<p>Within 30 school business days, affirms, reverses, or amends the written determination regarding whether Title IX Sex Discrimination occurred or the notice of dismissal.</p> <p>Within five (5) school business days after its decision, notifies the parties in writing of the result of the appeal and the rationale for the result. 34 C.F.R. §106.45(d)(3)(vi).</p>

**I. Recordkeeping**

<b>Actor</b>	<b>Action</b>
Title IX Coordinator or Designee	See the Recordkeeping subhead in administrative procedure 2:265-AP1, <i>Title IX Response</i> .

## School Board

### Administrative Procedure – Title IX Coordinator

*This procedure centralizes all Title IX Coordinator responsibilities that appear throughout the 2:265 suite of **PRM** materials into one document. Use this procedure in conjunction with exhibit 2:265-E, Title IX Glossary of Terms, and administrative procedures 2:265-AP1, Title IX Response, and 2:265-AP2, Formal Title IX Grievance Procedure.*

The Title IX Coordinator directs the District's compliance with Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulations (34 C.F.R. Part 106), and assists the Superintendent in implementing Board policy 2:265, *Title IX Grievance Procedure*. If the 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 Board policy 2:265, *Title IX Grievance Procedure*. The District may delegate, or permit the Title IX Coordinator to delegate, specific duties to one or more designees. 34 C.F.R. §106.8(a)(2).

#### Title IX Coordinator's General Responsibilities

1. Coordinates the District's efforts to comply with its responsibilities under Title IX and 34 C.F.R. Part 106 to provide educational programs and activities free from sex discrimination. 34 C.F.R. §106.8(a)(1). Includes, as needed, coordinating compliance with Board policies 2:260, *Uniform Grievance Procedure*; 2:265, *Title IX Grievance Procedure*; 5:10, *Equal Employment Opportunity and Minority Recruitment*; 5:20, *Workplace Harassment Prohibited*; 5:90, *Abused and Neglected Child Reporting*; 7:10, *Equal Educational Opportunities*; 7:20, *Harassment of Students Prohibited*; 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*; 7:185, *Teen Dating Violence Prohibited*; and 7:190, *Student Behavior*.
2. Assists the Superintendent in developing and managing a program that notifies all students, parents/guardians, or other authorized legal representatives of students, employees, applicants for employment, and all unions and professional organizations holding collective bargaining or professional agreements with the District about the District's commitment to equal employment and educational opportunities and a discrimination-free environment, including by posting a Notice of Nondiscrimination on the District's website and in each handbook, catalog, announcement, bulletin, and application form that the District makes available to persons entitled to notice, or which are otherwise used in connection with the recruitment of employees. 34 C.F.R. §106.8(c). See the **Notice of Nondiscrimination** subhead of administrative procedure 2:265-AP1, *Title IX Response*.
3. Assists the Superintendent in developing and managing a staff training program (see the **Title IX Coordinator's Responsibilities for Training Staff** subhead, below). 34 C.F.R. §106.8(d).
4. When a Complainant or Respondent is a student with a disability, consults with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team (34 C.F.R. §300.321), if any, or one or more members of the group of persons responsible for the student's placement decision under 34 C.F.R. §104.35(c), if any, to determine how to comply with the requirements of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 *et seq.*) and Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. §794) throughout the implementation of the District's Title IX Complaint Grievance Process (Grievance

- Process) under administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*. 34 C.F.R. §106.8(e).
5. Maintains, for a period of at least seven (7) years (34 C.F.R. §106.8(f)):
    - a. For each Complaint of Title IX Sex Discrimination, records documenting the informal resolution process or the Grievance Process, and the resulting outcome. Records should include: complaints (formal and informal), supportive measures, the informal resolution process, investigations, final determinations, appeals, remedies, and any other relevant information related to allegations of Title IX Sex Discrimination.
    - b. For each notification the Title IX Coordinator receives about conduct that reasonably may constitute Title IX Sex Discrimination, records documenting the actions the District took to meet its obligations under 34 C.F.R. §106.44.
    - c. All materials used to provide the training outlined in Nos. 1-4 under the **Training** subhead in administrative procedure 2:265-AP1, *Title IX Response*.  
Records shall only be destroyed in accordance with Board policies and administrative procedures governing the destruction of records. 34 C.F.R. §106.8(f). See the **Recordkeeping** subhead in administrative procedure 2:265-AP1, *Title IX Response*.
  6. Provides ongoing consultation, technical assistance, and information services regarding Title IX compliance requirements and programs.
  7. Makes recommendations for action by appropriate decision makers.
  8. Establishes a positive climate for nondiscrimination compliance efforts, including by encouraging individuals to come forward with suggestions and complaints.

#### Title IX Coordinator's Responsibilities for Training Staff

The Title IX Coordinator assists the Superintendent to ensure that upon hiring or a change of position that alters a below-identified person's duties under Title IX, and annually thereafter (34 C.F.R. §106.8(d)):

1. Tier 1: all District employees receive training on:
  - a. The District's obligation to address Title IX Sex Discrimination in its education program or activity;
  - b. The scope of conduct that constitutes Title IX Sex Discrimination, including the definition of sex-based harassment; and
  - c. All applicable notification and information requirements under 34 C.F.R. §§106.40(b)(2) and 106.44.
2. Tier 2: in addition to Tier 1 training above, all designated Investigators, Decisionmakers, Appeal Decisionmakers, and other persons responsible for implementing the Grievance Process, or who have the authority to modify or terminate supportive measures under 34 C.F.R. § 106.44(g)(4) receive training on, to the extent related to their responsibilities:
  - a. The District's obligations under 34 C.F.R. §106.44 (see administrative procedure 2:265-AP1, *Title IX Response*);
  - b. The District's Grievance Process under 34 C.F.R. §106.45 (see administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*);
  - c. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and
  - d. The meaning and application of the term *relevant* in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under 34 C.F.R. §106.45 (see exhibit 2:265-E, *Title IX Glossary of Terms*).
3. Tier 3: in addition to Tier 1 training, above, all facilitators of an informal resolution process under 34 C.F.R. § 106.44(k) receive training on:

4. The rules and practices associated with the District's informal resolution process; and
5. How to serve impartially, including by avoiding conflicts of interest and bias.
6. **Tier 4:** in addition to Tier 1-3 training, above, the Title IX Coordinator and any designees receive training on:
  - a. Their specific responsibilities under Title IX (see 34 C.F.R. §§106.8(a), 106.40(b)(3), 106.44(f) and (g));
  - b. The District's recordkeeping system and the recordkeeping requirements under 34 C.F.R. §106.8(f); and
  - c. Any other training necessary to coordinate the District's compliance with Title IX and its implementing regulations.

See the **Training** subhead in administrative procedure 2:265-AP1, *Title IX Response*.

Title IX Coordinator's Responsibilities for Responding to Reports of Sex Discrimination

1. Implements and administers administrative procedure 2:265-AP1, *Title IX Response*.
2. Monitors the District's education program and activity for barriers to reporting information about conduct that may reasonably constitute Title IX Sex Discrimination, and takes steps reasonably calculated to address such barriers. 34 C.F.R. §106.44(b). Strategies to identify barriers may include, for example: conducting regular climate surveys, seeking targeted feedback from students and employees who have reported sex discrimination, participating in public awareness events to receive feedback from student and employee attendees, and regularly publicizing and monitoring an email address designated for receiving anonymous feedback about barriers to reporting sex discrimination. 87 Fed. Reg. 41436.
3. Receives reports of conduct that reasonably may constitute Title IX Sex Discrimination (34 C.F.R. §106.44(c)) and analyzes the allegation(s) to determine whether the conduct as alleged could constitute Title IX Sex Discrimination.
4. Where the Title IX Coordinator reasonably determines that conduct as alleged could constitute Title IX Sex Discrimination, takes the following actions to promptly and effectively end any Title IX Sex Discrimination in the District's education program or activity, prevent its recurrence, and remedy its effects (34 C.F.R. §106.44(f); see the **Response to Allegations** subhead in administrative procedure 2:265-AP1, *Title IX Response*):
  - a. Treats the Complainant and Respondent equitably.
  - b. Offers and coordinates supportive measures, as appropriate, for the Complainant.
  - c. If the District has initiated the Grievance Process, or offered an informal resolution process to the Respondent, offers and coordinates supportive measures, as appropriate, for the Respondent.
  - d. Notifies the Complainant or, if the complainant is unknown, the individual who reported the conduct, of the Grievance Process, and the informal resolution process, if available and appropriate.
  - e. If a Complaint is made, notifies the Respondent of the Grievance Process and the informal resolution process, if available and appropriate.
  - f. In response to a Complaint, initiates the Grievance Process or the informal resolution process, if available and appropriate and requested by all parties.
  - g. In the absence of a Complaint or the withdrawal of any or all the allegations in a Complaint, and in the absence or termination of an informal resolution process, determines whether to initiate a Complaint of Title IX Sex Discrimination under the Grievance Process, considering the factors outlined in the **Initiation of a Title IX Complaint** subhead of administrative procedure 2:265-AP1, *Title IX Response*.

- h. If initiating a Complaint, notifies the Complainant prior to doing so and appropriately addresses reasonable concerns about the Complainant's safety or the safety of others, including by providing supportive measures.
  - i. Regardless of whether a Complaint is initiated, takes other appropriate prompt and effective steps, in addition to steps necessary to effectuate the remedies provided to an individual Complainant, if any, to ensure that Title IX Sex Discrimination does not continue or recur within the District's education program or activity.
5. Offers and coordinates supportive measures, as appropriate, consistent with 34 C.F.R. §106.44(g) and as described in the **Supportive Measures** subhead in 2:265-AP1, *Title IX Response*.
  6. In the absence of a Complaint or the withdrawal or any or all of the allegations in a Complaint, and in the absence or termination of an informal resolution process, determines whether to initiate a Complaint of Title IX Sex Discrimination under the Grievance Process, considering, at a minimum, the factors set forth in 34 C.F.R. §106.44(f)(1)(v)(A) and described in the **Title IX Complaint Initiation** subhead in administrative procedure 2:265-AP1, *Title IX Response*.
  7. When a Complaint is filed by an eligible person or initiated by the Title IX Coordinator, follows the Grievance Process (34 C.F.R. §106.44(f)(1)(iv)) in 2:265-AP1, *Formal Title IX Complaint Grievance Process*, in conjunction with any response required by administrative procedure 2:265-AP1, *Title IX Response* and applicable District policies.
  8. If the Respondent is an identified student, considers whether the student-Respondent should be removed from the District's education program or activity on an emergency basis in accordance with 34 C.F.R. §106.44(h) and the **Consideration of Removal of the Respondent** subhead in administrative procedure 2:265-AP1, *Title IX Response*.
  9. If the Respondent is an identified non-student employee, in conjunction with the District's human resources administrator, considers whether the employee-Respondent should be placed on administrative leave in accordance with 34 C.F.R. §106.44(i), relevant District policies and procedures, any applicable collective bargaining agreements, and the **Consideration of Removal of the Respondent** subhead in administrative procedure 2:265-AP1, *Title IX Response*. See Board policies 5:240, *Suspension*, and 5:290, *Employment Termination and Suspensions*.

Title IX Coordinator's Responsibilities for Processing Grievances

1. Implements and administers the Title IX Complaint Grievance Process (Grievance Process) under administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*.
2. Receives Complaints and evaluates whether to investigate or dismiss the Complaint. See **Section B. Evaluation of Title IX Complaint** in administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*.
3. Upon initiating the Grievance Process, provides written notice to all known parties consistent with 34 C.F.R. §106.45(c). See **Section C. Notice of Allegations** in administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*.
4. Considers whether to offer the Complainant and Respondent an informal resolution process. 34 C.F.R. §106.45(k). See **Section F. Informal Resolution of Title IX Complaint** in administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*.
5. Investigates and makes determinations regarding complaints, or appoints a qualified Investigator/Decisionmaker to do so on the Title IX Coordinator's behalf, consistent with 34 C.F.R. §106.45(f) - (h). See **Section G. Investigation and Determination of Title IX Complaint** in administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*.
6. Receives a request from a party to appeal the final determination or dismissal, and appoints an Appeal Decisionmaker to review the appeal. 34 C.F.R. §106.45(i). See **Section H. Appeals** in administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*.



Title IX Coordinator's Responsibilities for Students who are Pregnant or have Pregnancy-Related Conditions

1. Upon notice of a student's pregnancy or related conditions, the Title IX Coordinator (34 C.F.R. §106.40(b)(3)):
  - a. Informs the student and, if applicable, the person who notified the Title IX Coordinator of the student's pregnancy or related conditions and who has a legal right to act on behalf of the student, of the student's right to be free from discrimination based on their status, the District's obligations under 34 C.F.R. §106.40(b)(1) - (5), and the District's Notice of Nondiscrimination. 34 C.F.R. §106.40(b)(3)(i).
  - b. Offers reasonable modifications, based on the student's individualized needs, to the District's policies, practices, or procedures as necessary to prevent Title IX Sex Discrimination and ensure equal access to the District's education program or activity. 34 C.F.R. §106.40(b)(3)(ii). Reasonable modifications may include, but are not limited to: breastfeeding accommodations (see administrative procedure 7:10-AP2, *Accommodating Breastfeeding Students*), breaks during class to attend to health needs associated with pregnancy or related conditions; intermittent absences to attend medical appointments; access to online or homebound education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests or examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or supplies; elevator access; alternative educational programming; voluntary leaves of absence; or other changes to policies, practices, or procedures. 34 C.F.R. §106.40(b)(3)(ii)(C).
2. Ensures the District does not require supporting documentation in order to offer reasonable modifications, unless the documentation is necessary and reasonable for the District to determine the reasonable modifications or whether to take additional specific actions. 34 C.F.R. §106.40(b)(3)(vi).
3. Ensures the District treats pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions with respect to any medical or hospital benefit, service, plan, or policy the District administers, operates, offers, or participates in with respect to students admitted to the District's education program or activity. 34 C.F.R. §106.40(b)(4).
4. Ensures the District does not require a student who is pregnant or has pregnancy related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in the recipient's class, program, or extracurricular activity unless (34 C.F.R. §106.40(b)(5)):
  - a. The certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;
  - b. The District requires such certification of all students participating in the class, program, or extracurricular activity; and
  - c. The information obtained is not used as a basis for discrimination prohibited by Title IX and 34 C.F.R. Part 106.

## Students

### Administrative Procedure - Accommodating Transgender, Nonbinary, or Gender Nonconforming Students<sup>1</sup>

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

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

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

#### Gender-Based Discrimination Is Prohibited

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

Federal law prohibits exclusion and discrimination on the basis of *sex*. 20 U.S.C. §1681(a), Title IX of the Education Amendments of 1972 (Title IX). Updated Title IX regulations explain that discrimination on the basis of sex "includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity." 34 C.F.R.

**The footnotes should be removed before the material is used.**

<sup>1</sup> Administrative procedures guide the district administration's implementation of board policy. To implement a policy, the purpose and function of the policy must be understood. The purpose and function of 7:10, *Equal Educational Opportunities* is three-fold:

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

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

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

§106.10. The Seventh Circuit U.S. Court of Appeals (which has jurisdiction over the State of Illinois) has ruled that a school's practice of denying a transgender student access to the bathroom that aligned with his gender identify violated Title IX because it was a sex-based classification. See Whitaker by Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ., 858 F.3d 1034 (7th Cir. 2017); A.C. v. Metropolitan Sch. Dist. of Martinsville, 45 F.4th 760 (7th Cir. 2023), *cert. denied*, 2024 WL 156480 (2024).

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

#### Gender-Based Discrimination, Harassment, and/or Bullying Prohibited

The laws prohibiting gender discrimination require the District to protect transgender, nonbinary, and gender nonconforming students from sex discrimination, sex-based harassment, and bullying by other students. Under Title IX, discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or other related conditions, sexual orientation, and gender identity. Title IX also makes a school district responsible for damages suffered by a student who was the victim of prohibited sex-based hostile environment harassment: 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. 34 C.F.R. §106.2. Board policy 2:265, *Title IX Grievance Procedure*, and its accompanying procedures are used to address sex-based harassment as defined in Title IX.

The School Code prohibits bullying on the basis of actual or perceived sexual orientation, gender-related identity or expression, and/or association with a person or group with one of the aforementioned actual or perceived characteristics. 105 ILCS 5/27-23.7(a). The Board policy on bullying and the District's suite of bullying prevention materials are used to address and resolve peer bullying and harassment of transgender or gender nonconforming students. See Board policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

#### Terminology and Definitions

The District uses the following terms and definitions when discussing accommodations for a transgender, nonbinary, or gender nonconforming student (from the *Arcadia Resolution Agreement*, 7-24-13, at: [www.justice.gov/crt/about/edu/documents/arcadiaagree.pdf](http://www.justice.gov/crt/about/edu/documents/arcadiaagree.pdf) and ISBE Non-Regulatory Guidance, *Supporting Transgender, Nonbinary and Gender Nonconforming Students*, at: [www.isbe.net/supportallstudents](http://www.isbe.net/supportallstudents)). **Note:** Definitions are not intended to label students, but rather to assist with understanding.

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

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

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

*Gender identity* – a person’s internal, deeply held sense or psychological knowledge of their own gender that can include being female, male, another gender, nonbinary, gender nonconforming, or no gender, and is unrelated to the person’s sex assigned at birth. Gender identity is an innate part of a person’s identity, and the responsibility for determining an individual’s gender identity rests with the individual. Unlike gender expression, gender identity is not visible to others.

*Nonbinary* – a term used to describe people whose gender identity is not exclusively male or female, including those who identify as a gender other than male or female, as more than one gender, or as no gender.

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

*Intersex* – a term used for a variety of conditions in which a person is born with a reproductive and/or sexual anatomy that does not seem to fit the typical, binary definitions of female or male. Intersex conditions are not always discernable at birth or the awareness of internal anatomy present at birth may not be known to the person until puberty, if it is known at all. A derogatory term previously used for intersex individuals is hermaphrodite.

*Gender transition* – the process whereby people may change their gender expression, bodies, and/or identity documents to match their gender identity. Transition can be social (changing gender expression, using facilities, using a different name/pronouns), medical (hormones and/or surgeries), and/or legal (changing name/gender marker on identity documents), and is different for every individual. It is common for gender transition to be an ongoing process and is unique to each person.

*Gender stereotypes* – stereotypical notions of masculinity and femininity, including expectations of how boys or girls represent or communicate one’s gender to others, such as behavior, clothing, hairstyles, activities, voice, mannerisms, or body characteristics.

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

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

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

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

Relevant Board Policies for Accommodations, Supports, and Inclusion of Transgender, Nonbinary, or Gender Nonconforming Students

- 2:260, *Uniform Grievance Procedure*, contains the process for an individual to seek resolution of a complaint. A student may use this policy to complain about bullying. The District Complaint Manager shall address the complaint promptly and equitably.
- 2:265, *Title IX Grievance Procedure*, contains the process for an individual to report or complain of sex discrimination in violation of Title IX, including sex-based harassment. The District Title IX Coordinator shall address the report or complaint promptly and equitably.
- 6:60, *Curriculum Content*, requires the history curriculum to include a study of the roles and contributions of lesbian, gay, bisexual, and transgender (LGBT) people in the history of the U.S. and Illinois and, if offered by the District, requires the implementation of a comprehensive health education program in accordance with State law, which may include the National Sex Education Standards (NSES) sex education curriculum. If NSES is offered, it must be inclusive and sensitive to students' needs on many bases, including based on their status as intersex and based on their gender, gender identity, and gender expression. See 6:60-AP2, *Comprehensive Personal Health and Safety and Sexual Health Education Program (National Sex Education Standards (NSES))*.
- 6:65, *Student Social and Emotional Development*, requires that social and emotional learning be incorporated into the District's curriculum and other educational programs.
- 7:10, *Equal Educational Opportunities*, requires that equal educational and extracurricular opportunities be available to all students without regard to, among other protected statuses, sex, sexual orientation, and gender identity.
- 7:20, *Harassment of Students Prohibited*, prohibits any person from harassing, intimidating, or bullying a student based on an actual or perceived characteristic that is identified in the policy including, among other protected statuses, sex, sexual orientation, and gender identity.
- 7:130, *Student Rights and Responsibilities*, recognizes that all students are entitled to rights protected by the U.S. and Illinois Constitutions and laws for persons of their age and maturity in a school setting.
- 7:160, *Student Appearance*, prohibits students from dressing or grooming in such a way as to disrupt the educational process, interfere with a positive teaching/learning climate, or compromise reasonable standards of health, safety, and decency.
- 7:165, *Student Uniforms*, encourages students to wear school uniforms in order to maintain and promote orderly school functions, school safety, and a positive learning environment, if adopted.
- 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, contains the comprehensive structure for the District's bullying prevention program.
- 7:185, *Teen Dating Violence Prohibited*, prohibits students 13-19 years of age from using or threatening to use physical, mental, or emotional abuse to control an individual in the dating relationship, and from using or threatening to use sexual violence in the dating relationship.
- 7:250, *Student Support Services*, directs the Superintendent to develop protocols for responding to students' social, emotional, or mental health needs that impact learning.
- 7:290, *Suicide and Depression Awareness and Prevention*, directs the Superintendent to develop, implement, and maintain a suicide and depression awareness and prevention program.
- 7:330, *Student Use of Buildings - Equal Access*, grants student-initiated groups or clubs the free use of school premises for their meetings, under specified conditions.

7:340, *Student Records*, contains the comprehensive structure for managing school student records, keeping them confidential, and providing access as allowed or required.

#### Common Needs for Transgender, Nonbinary, or Gender Nonconforming Students; Accommodations and Supports

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

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

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

1. Gender transition
  2. Names and gender pronouns
  3. School student records

For managing demographic information in the ISBE Student Information System, see [www.isbe.net/Documents/student\\_demographics.pdf](http://www.isbe.net/Documents/student_demographics.pdf). ISBE is not required to collect student sex, sexual orientation, or gender identity data for its major programs, unless required for federal reporting. 20 ILCS 65/20-15(a-5), amended by P.A. 103-175.
  4. Student privacy and confidentiality
  5. Access to gender-segregated areas, e.g., locker rooms and restrooms
  6. Sports and physical education classes - participation in competitive athletic activities and contact sports is resolved pursuant to IHSA policy #34, *Policy and School Recommendations for Transgender Participation* at: [www.ihsa.org/About-the-IHSA/Constitution-By-laws-Policies](http://www.ihsa.org/About-the-IHSA/Constitution-By-laws-Policies).
  7. Dress codes
  8. Gender segregation in other activities, e.g., class discussions and field trips (including any overnight school trips)
  9. Communication with a new school about gender-specific accommodations upon transfer or graduation

#### Training for School Staff Members

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

## Resources

IDHR, *Non-Regulatory Guidance Relating to Protection of Transgender, Nonbinary, and Gender Nonconforming Students Under the Ill. Human Rights Act* (Dec. 2021), at:

<https://dhr.illinois.gov/publications/guidance-re-illinois-students-1221.html>.

ISBE, *Supporting Transgender, Nonbinary and Gender Nonconforming Students* (Mar. 2020), at:

[www.isbe.net/supportallstudents](http://www.isbe.net/supportallstudents).

*Gender Spectrum*, an organization whose mission is to create a gender-inclusive world for all children and youth, at: [www.genderspectrum.org](http://www.genderspectrum.org).

Mass. Dept. of Elementary and Secondary Education, *Guidance for Massachusetts Public Schools Creating a Safe and Supportive School Environment Nondiscrimination on the Basis of Gender Identity* (Oct. 2021), at: [www.doe.mass.edu/sfs/lgbtq/GenderIdentity.html](http://www.doe.mass.edu/sfs/lgbtq/GenderIdentity.html).

OCR Resources for LGBTQI+ Students, at: [www2.ed.gov/about/offices/list/ocr/lgbt.html](http://www2.ed.gov/about/offices/list/ocr/lgbt.html)

Ill. Association of School Boards, *Transgender, Nonbinary, and Gender Nonconforming Students: Legal Issues* (Sept. 2023), at: [www.iasb.com/policy-services-and-school-law/guidance-and-resources/transgender,-nonbinary,-and-gender-nonconforming-s/](http://www.iasb.com/policy-services-and-school-law/guidance-and-resources/transgender,-nonbinary,-and-gender-nonconforming-s/).

## Students

### Administrative Procedure - Accommodating Breastfeeding Students<sup>1</sup>

The Superintendent or designee shall ensure that students who choose to breastfeed an infant after returning to school are provided reasonable accommodations. A student who is a nursing mother may take reasonable breaks during the school day to express breast milk or breastfeed an infant. The District's Title IX Coordinator, in consultation with the Building Principal, will implement reasonable accommodations for the nursing mother in a manner that minimizes disruption to the student's education.

Reasonable accommodations for breastfeeding students, include, but are not limited to:

1. Access to a private and secure room, other than a bathroom, to express breast milk or breastfeed an infant child.
2. Permission to bring onto the school campus a breast pump or other equipment used to express breast milk.
3. Access to a power source for a breast pump or any other equipment used to express breast milk.
4. Access to a place to store expressed breast milk safely.
5. Reasonable breaks to accommodate the student's need to express breast milk or breastfeed an infant child, or attend to health needs associated with breastfeeding (including eating, drinking, or using the restroom).<sup>2</sup>
6. The opportunity to make up work missed to due to the student's use of reasonable accommodations for breastfeeding.

### Complaints

The District's Complaint Manager or Nondiscrimination Coordinator or designee will process any complaints regarding reasonable accommodations for breastfeeding students in accordance with Board policies 2:260, *Uniform Grievance Procedure*, and/or 2:265, *Title IX Grievance Procedure*. In those cases where a complainant appeals the Superintendent's decision to the Board, the Superintendent will inform the complainant that he or she may appeal the Board's decision to the Regional Superintendent and, thereafter, to the State Superintendent, in accordance with 23 Ill.Admin.Code §200.40.

LEGAL REF.:       34 C.F.R. §106.40.  
                          105 ILCS 5/10-20.60.

**The footnotes should be removed before the material is used.**

<sup>1</sup> This procedure is appropriate for inclusion in a student handbook. The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook). Consult the board attorney for advice regarding what accommodations a school may have to provide to breastfeeding students at off-campus extracurricular activities, such as field trips or recreational trips. There is currently a lack of case law guidance in this area. Protections in the School Code are limited to reasonable accommodations "on a school campus." 105 ILCS 5/10-20.60. However, Title IX regulations generally prohibit fund recipients from applying any rule concerning a student's parental status which treats students differently on the basis of sex. 34 C.F.R. §106.40.

<sup>2</sup> 34 C.F.R. §106.40(b)(3)(ii)(C).



## Students

### **Administrative Procedure - Harassment of Students Prohibited**

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

Actor	Action
Building Principal or Designee	<p>Informs staff members and students that the District prohibits harassment of students. Distributes or references Board policies 2:260, <i>Uniform Grievance Procedure</i>; 2:265, <i>Title IX Grievance Procedure</i>; 2:270, <i>Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited</i>; and 7:20, <i>Harassment of Students Prohibited</i>, using various methods. Takes measures to prevent harassment of students, which may include:</p> <ol style="list-style-type: none"> <li>1. Conducts regular harassment awareness training for all school staff, including administrators, teachers, and school counselors, and ensures all new employees are trained.<sup>1</sup></li> <li>2. Conducts regular<sup>2</sup> age-appropriate harassment awareness training for students.</li> <li>3. Provides a means for students to learn and discuss what constitutes harassment and how to respond to it in the school setting.</li> <li>4. Surveys students to determine if harassment is occurring at school.</li> <li>5. Conducts regular<sup>3</sup> harassment awareness training for parents/guardians.</li> <li>6. Works with parents/guardians and students to develop and implement age-appropriate, effective measures for addressing harassment.</li> <li>7. Determines when extra supervision and precaution should be taken, such as when: two or more students seem to be in conflict with each other; there have been previous incidents of harassment, sexual assaults, threats, or bullying around perceived sexual orientation; or a specific student has had multiple disciplinary violations.</li> <li>8. Has a process in place to: (1) inform a staff member when a student that he or she supervises has a history of violent or sexually inappropriate behavior, and (2) keep such a student constantly supervised.</li> </ol>

The footnotes should be removed before the material is used.

<sup>1</sup> The term *regular* and phrase “ensures all new employees are trained” are a best practice. Amend these terms to reflect the district’s practice. See sample policy 5:100, *Staff Development Program*, for specific harassment prevention training requirements for employees.

<sup>2</sup> The term *regular* is a best practice.

<sup>3</sup> *Id.*

Actor	Action
	<p>9. Regularly trains staff members regarding: (1) their classroom and non-classroom supervisory responsibilities, e.g., during a school-sponsored event, before and after school, while students wait for the school bus, between classes, during lunch, and at recess, (2) behaviors that may be an indicator of sexual or physical violence against another student, and (3) what to do when they observe an unusual and disruptive student.</p> <p>10. Identifies areas in the school building that are isolated, e.g., restrooms, locker rooms, hallways while classes are in session, stairwells, and empty rooms, and takes extra steps to make them safe.</p> <p>11. Immediately notifies the police and relevant parents/guardians when an assault or attempted assault has occurred.</p>
<p>Nondiscrimination Coordinator and/or Complaint Manager(s)</p>	<p>Thoroughly and promptly investigates allegations of harassment by:</p> <ol style="list-style-type: none"> <li>1. Distributing Board policies 2:260, <i>Uniform Grievance Procedure</i>; 2:265, <i>Title IX Grievance Procedure</i>; 2:270, <i>Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited</i>; and 7:20, <i>Harassment of Students Prohibited</i>, to any person upon request;</li> <li>2. Following Board policies 2:260, <i>Uniform Grievance Procedure</i>; 2:265, <i>Title IX Grievance Procedure</i>; 2:270, <i>Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited</i>; and 7:20, <i>Harassment of Students Prohibited</i>;</li> <li>3. Keeping the complaining parents/guardians informed of any investigation's progress; and</li> <li>4. Keeping confidential all information about an investigation and the statements of students and other witnesses. The Superintendent shall be kept informed of an investigation's progress, unless the Superintendent is the subject of the complaint. If a complaint contains allegations involving the Superintendent, the Board President shall be kept informed of an investigation's progress.</li> </ol>
<p>All District Staff Members</p>	<p>Immediately reports to the Ill. Dept. of Children and Family Services any situation that provides you with reasonable cause to believe that a child may be an abused child or a neglected child. See Board policy 5:90, <i>Abused and Neglected Child Reporting</i>.</p> <p>Promptly notifies the Superintendent or Building Principal that you made a report. If a report contains allegations involving the Superintendent, only notifies the Building Principal who shall contact the Board President. If a report contains allegations involving the Building Principal, only notifies the Superintendent.</p>