

STUDENT ANTI-HARASSMENT

Prohibited Harassment

It is the policy of the Board of Education to maintain an educational environment that is free from all forms of harassment, including sexual harassment. This commitment applies to all School District operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of harassment. This policy applies to harassing conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Board will not tolerate any form of harassment and will take all necessary and appropriate actions to eliminate it, including suspension or expulsion of students and disciplinary action against any other individual in the School District community. Additionally, appropriate action will be taken to stop and otherwise deal with any third party who engages in harassment against our students.

The Board will ~~vigorously~~ enforce its prohibition against harassment based on the traits of sex (including transgender status, change of sex, or gender identity), race, color, ethnicity, national origin, creed, ancestry, religion, mental, emotional or learning disability, or any other characteristic that is protected by Federal and State civil rights laws (hereinafter referred to as "Protected Characteristics"), and encourages those within the School District community as well as third parties, who feel aggrieved to seek assistance to rectify such problems. Additionally, the Board prohibits harassing behavior directed at students for any reason, even if not based on one (1) of the Protected Characteristics, through its policies on bullying (See Policy 5600 – Student Discipline).

Harassment may occur student-to-student, student-to-staff, staff-to-student, male-to-female, female-to-male, male-to-male, or female-to-female. The Board will investigate all allegations of harassment and in those cases where harassment is substantiated, the Board will take ~~immediate~~ **appropriate** steps calculated to end the harassment, prevent its reoccurrence, and remedy its effects. Individuals who are found to have engaged in harassment will be subject to appropriate disciplinary action.

For purposes of this policy, "School District community" means students, administrators, teachers, staff, Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on School District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with the District, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off School District property).

Other Violations of the Anti-Harassment Policy

The Board will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of harassment, when responsibility for reporting and/or investigating harassment charges comprises part of one's supervisory duties.

Definitions

Bullying

Bullying is prohibited by Board Policy 5600 – Student Discipline. It includes cyberbullying and is defined as any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a student or students that has or can be reasonable predicted to have the effect of one (1) or more of the following:

- A. placing the student or students in reasonable fear of harm to the student’s person or property;
- B. causing a substantially detrimental effect on the student’s physical or mental health;
- C. substantially interfering with the student’s academic performance;
or
- D. substantially interfering with the student’s ability to participate in or benefit from the services, activities, or privileges provided by a school.

Bullying need not be based on any Protected Characteristic. Bullying behavior rises to the level of harassment when the prohibited conduct is based upon the student’s sex (including transgender status, change of sex, or gender identity expression), age, marital status, military status, sexual orientation, race, color, ethnicity, national origin, creed, ancestry, religion, physical, mental, emotional or learning disability, unfavorable discharge from military or any other characteristic that is protected by Federal and State civil rights laws.

Harassment

Harassment means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal or physical conduct directed against a student based on one (1) or more of the students Protected Characteristics that:

- A. places a student in reasonable fear of harm to his/her person or damage to his/her property;
- B. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or
- C. has the effect of substantially disrupting the orderly operation of a school.

Sexual Harassment

"Sexual harassment" is defined as: unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:

- A. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of access to educational opportunities or programs;
- B. submission or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's education;
- C. that conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's education or creating an intimidating, hostile, or offensive educational environment.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. unwelcome verbal harassment or abuse;
- B. unwelcome pressure for sexual activity;
- C. unwelcome, sexually motivated or inappropriate patting, pinching, or physical contact, other than necessary restraint of students by teachers, administrators, or other school personnel to avoid physical harm to persons or property;
- D. unwelcome sexual behavior or words including demands for sexual favors, accompanied by implied or overt threats concerning an individual's educational status;
- E. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to an individual's educational status;
- F. unwelcome behavior or words directed at an individual because of gender;

Examples are:

- 1. repeatedly asking a person for dates or sexual behavior after the person has indicated no interest;
- 2. rating a person's sexuality or attractiveness;
- 3. staring or leering at various parts of another person's body;
- 4. spreading rumors about a person's sexuality;
- 5. letters, notes, telephones calls, or materials of a sexual nature;
- 6. displaying pictures, calendars, cartoons, or other materials with sexual content.

- G. inappropriate boundary invasions by a District employee or other adult member of the District community into a student's personal space and personal life;
- H. remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history; and
- I. verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature
- J. unwelcome sexual propositions, invitations, solicitations, and flirtations;
- K. physical and/or sexual assault;
- L. threats or insinuations that a person's academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of education may be adversely affected by not submitting to sexual advances;
- M. unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes unwelcome, suggestive or insulting sounds or whistles; obscene telephone calls.

It is further the policy of the Board that a sexual relationship between staff and students is not permissible in any form or under any circumstances, in or out of the work place, in that it interferes with the educational process and may involve elements of coercion by reason of the relative status of a staff member to a student.

Not all behavior with sexual connotations constitutes sexual harassment. Sex-based or gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's education, or such that it creates a hostile or abusive educational environment, or such that it is intended to, or has the effect of, denying or limiting a student's ability to participate in or benefit from the educational program or activities.

Race/Color Harassment

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race, color or ethnicity and when the conduct has the purpose or effect of interfering with the individual's educational performance; of creating an intimidating, hostile, or offensive learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

Religious (Creed) Harassment

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's educational performance; of creating an intimidating, hostile, or offensive learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

National Origin Harassment

Prohibited national origin harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin and when the conduct has the purpose or effect of interfering with the individual's educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

Disability Harassment

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's physical, mental, emotional or learning disability perceived disability or record of disability and when the conduct has the purpose or effect of interfering with the individual's educational performance; of creating an intimidating, hostile, or offensive learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like.

Reporting Procedures

Students and all other members of the School District community, as well as third parties, are encouraged to promptly report incidents of unlawful harassing conduct to a teacher, administrator, supervisor, or District employee or official so that the Board may address the conduct before it becomes severe, pervasive, or persistent. Any teacher, administrator, supervisor, or other District employee or official who receives such a complaint shall file it with the District's Anti-Harassment Compliance Officer at his/her first opportunity.

Students who believe they have been harassed are entitled to utilize the Board's complaint process that is set forth below. Initiating a complaint will not adversely affect the complaining individual's participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with knowledge that it is false.

If, during an investigation of a reported act of bullying and/or harassment in accordance with Policy 5600 - Student Discipline, the Principal determines that the reported misconduct may have created a hostile learning environment and may have constituted harassment based on Protected Characteristics. The Principal will report the act of bullying and/or harassment to one (1) of the Compliance Officers who shall assume responsibility to investigate the allegation in accordance with this policy.

Reporting procedures are as follows:

- A. Any student who believes s/he has been the victim of harassment prohibited under this policy will be encouraged to report the alleged harassment to any School District employee, such as a teacher, administrator or other employee.
- B. Any parent of a student who believes the student has been the victim of harassment prohibited under this policy will be encouraged to report the alleged harassment to the student's teacher, building administrator or Superintendent.
- C. Teachers, administrators, and other school officials who have knowledge or received notice that a student has or may have been the victim of harassment prohibited under this policy shall immediately report the alleged harassment to the Compliance Officer **(X)** and the Building Principal or Superintendent.
- D. Any other person with knowledge or belief that a student has or may have been the victim of harassment prohibited by this policy shall be encouraged to immediately report the alleged acts to any School District employee, such as a teacher, administrator or other employee.
- E. The reporting party or complainant shall be encouraged to use a report form available from the Principal of each building or available from the District office, but oral reports shall be considered complaints as well. Use of formal reporting forms shall not be mandated. However, all oral complaints shall be reduced to writing.

- F. To provide individuals with options for reporting harassment to an individual of the gender with which they feel most comfortable, each school's Building Principal shall be advised to designate both a male and a female Anti-Harassment Compliance Officer for receiving reports of harassment prohibited by this policy. At least one (1) Anti-Harassment Compliance Officer or other individual shall be available outside regular school hours to address complaints of harassment that may require immediate attention.

District Compliance Officers

The Board designates the following individuals to serve as the District's "Compliance Officers" (also known as "Civil Rights Coordinator") (hereinafter referred to as the "COs").

[NOTE: School Districts may want to consider appointing both a male and a female CO in order to provide complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. Additionally, by appointing two (2) COs, there should always be a CO available to investigate a claim that pertains to the other CO.]

(Name)

(Name)

(School District Title)

(School District Title)

(Telephone Number)

(Telephone Number)

(Office Address)

(Office Address)

(E-mail Address)

(E-mail Address)

The names, titles, and contact information of these individuals will be published annually: **[NOTE: Select more than one (1) option.]**

- in the parent and student handbooks.
- in the School District Annual Report to the public.
- on the School District's web site.
- on each individual school's web site.
- in the School District's calendar.
- __Staff Newsletter_____.

A CO will be available during regular school/work hours to discuss concerns related to harassment, to assist students, other members of the School District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the student.

Any Board employee who directly observes harassment of a student is obligated, in accordance with this policy, to report such observations to one (1) of the COs within two (2) business days. Thereafter, the CO must contact the student, if over age eighteen (18) or the student's parents if under the age eighteen (18), within two (2) business days to advise s/he/them of the Board's intent to investigate the alleged misconduct, including the obligation of the CO to conduct an investigation following all the procedures outlined in the complaint procedures.

The COs are assigned to accept complaints of harassment directly from any member of the School District community or a visitor to the District, or to receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, a CO will begin review and investigation or the CO will designate a specific individual to conduct such a process. The CO will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of harassment that are reported to them to the CO as soon as possible, but always within no more than two (2) calendar days of learning of the incident.

Investigation and Complaint Procedure

Any student who believes that s/he has been subjected to harassment may seek resolution of his/her complaint through the procedures described below. Further, a process for investigating claims of harassment and a process for rendering a decision regarding whether the claim of harassment was substantiated are set forth below.

Due to the sensitivity surrounding complaints of harassment, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available. Once the complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) calendar days of the complaint being received).

If at any time during the investigation process the investigator determines that the complaint is properly defined as Bullying, under Policy 5600 – Student Discipline and not harassment under this policy, because the conduct at issue is not based on a student’s Protected Characteristics, the investigator shall transfer the investigation to the appropriate building principal.

Complaint Procedure

A student who believes s/he has been subjected to harassment hereinafter referred to as the "complainant", may file a complaint, either orally or in writing with a teacher, Principal, or other District employee at the student’s school, the CO, Superintendent, or other District employee who works at another school or at the District level. If a complainant informs a teacher, Principal, or other District employee at the student’s school, the CO, Superintendent, or other District employee, either orally or in writing, about any complaint of harassment, that employee must report such information to the CO within two (2) business days.

Throughout the course of the process as described herein, the CO should keep the parties informed of the status of the investigation and the decision making process.

All complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or to be actively engaging in, harassment; a detailed description of the facts upon which the complaint is based; and a list of potential witnesses.

If the complainant is unwilling or unable to provide a written statement including the information set forth above, the CO shall ask for such details in an oral interview. Thereafter the CO will prepare a written summary of the oral interview, and the complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a complaint, the CO will consider whether any action should be taken in the investigatory phase to protect the complainant from further harassment or retaliation including but not limited to a change of class schedule for the complainant or the alleged harasser, or possibly a change of school for either or both of the parties. In making such a determination, the Compliance Officer should consult the **(X)** Principal **(X)** Superintendent **(X)** School Board Attorney prior to any action being taken. The Complainant should be notified of any proposed action prior to such action being taken.

As soon as appropriate in the investigation process, the CO will inform the individual alleged to have engaged in the harassing conduct, hereinafter referred to as the "respondent", that a complaint has been received. The respondent will be informed about the nature of the allegations and a copy of these administrative procedures and the Board's anti-harassment policy shall be provided to the respondent at that time. The respondent must also be provided an opportunity to respond to the complaint.

Within five (5) business days of receiving the complaint, the CO will initiate a formal investigation to determine whether the complainant has been subject to harassment. A Principal will not conduct an investigation unless directed to do so by the Compliance Officer.

Although certain cases may require additional time, the CO or a designee will attempt to complete an investigation into the allegations of harassment within fifteen (15) calendar days of receiving the formal complaint. The investigation will include:

- A. interviews with the complainant;
- B. interviews with the respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;
- D. consideration of any documentation or other evidence presented by the complainant, respondent, or any other witness which is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the CO shall prepare and deliver a written report to the Superintendent which summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of harassment as provided in Board policy and State and Federal law as to whether the complainant has been subject to harassment. The CO's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. The CO may consult with the School Board Attorney before finalizing the report to the Superintendent.

Absent extenuating circumstances, within ten (10) business days of receiving the report of the CO, the Superintendent must either issue a final decision regarding whether or not the complaint of harassment has been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to both the complainant and the respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within ten (10) business days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above.

The decision of the Superintendent shall be final.

The Board reserves the right to investigate and resolve a complaint or report of harassment regardless of whether the member of the School District community or third party alleging the harassment pursues the complaint. The Board also reserves the right to have the complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

The Complaint process set forth above is not intended to interfere with the rights of a member of the School District community or a third party to pursue a complaint of harassment with the United States Department of Education, Office for Civil Rights, the Illinois Department of Human Rights, or Illinois Human Rights Commission. To obtain further information and/or assistance you may contact:

U.S. Department of Education

Office of Civil Rights
Chicago Office, Citigroup Center
500 W. Madison St., Suite 1475
Chicago, Illinois 60661
(312) 730-1560
Fax: (312) 730-1576
TTY: (877) 521-2172

Illinois Department of Human Rights

100 West Randolph Street
Suite 10-100
Chicago, Illinois 60601
(312) 814-6200

222 South College
Floor 1
Springfield, Illinois 62704
(217) 785-5100

Illinois Human Rights Commission

100 West Randolph
Suite 5-100
Chicago, Illinois 60601
(312) 814-6269

Stratton Office Building
Suite 404
Springfield, Illinois 62706
(217) 785-4350

Additional School District Action

If the evidence suggests that the harassment at issue is a crime or requires mandatory reporting Policy 8462, the Superintendent shall report the harassment to the appropriate social service and/or law enforcement agency charged with responsibility for handling such investigations and crimes.

Any reports made to the local child protections service or to local law enforcement shall not terminate the CO's obligation and responsibility to continue to investigate a complaint of harassment. While the COs may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies without good cause after consultation with the Superintendent.

Confidentiality

The School District will employ all reasonable efforts to protect the rights of the complainant, the respondent(s) and all the witnesses ~~as much as possible~~, consistent with the School District's legal obligations under State and Federal law. Confidentiality cannot be guaranteed, however, all complainants proceeding through the investigation process should be advised that as a result of the investigation, their identities may be disclosed to the respondent.

The School District and Board will respect the privacy of the complainant, the individuals against whom the complaint is filed, and the witnesses as much as practicable, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery, disclosure, or other legal obligations.

During the course of an investigation, the CO will instruct all members of the School District community and third parties who are interviewed about the importance of maintaining confidentiality.

Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation.

All public records created as a part of an investigation of a complaint of harassment will be maintained by the CO in accordance with the School Board's records retention policy. Any records which are considered student records in accordance with the State or Federal law will be maintained in a manner consistent with the provisions of the law.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against harassment by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable law. When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies.

All sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its reoccurrence, and remedy its effects.

Retaliation

Any act of retaliation against a person who has made a report or filed a complaint alleging harassment, or who has participated as a witness in a harassment investigation is prohibited. The District will discipline or take appropriate action against any member of the School District community who retaliates against any person who reports an incident of harassment prohibited by this policy or participates in a proceeding, investigation, or hearing relating to such harassment. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

Education and Training

In support of this policy the Board promotes preventative educational measures to create greater awareness of discriminatory practices. The Board will develop a method of discussing this policy with the School District community. Training on the requirements of non-discrimination and the appropriate responses to issues of harassment will be provided to the School District community at such times as the Board in consultation with the Superintendent determines is necessary or appropriate.

This policy shall be reviewed at least annually for compliance with local, State, and Federal law.

The District shall conspicuously post a notice including this policy against harassment in each school in a place accessible to the School District community and members of the public. This notice shall also include the name, mailing address and telephone number of the COs, the name, mailing address and telephone number of the State agency responsible for investigating allegations of discrimination in educational opportunities, and the mailing address and telephone number of the United States Department of Education, Office for Civil Rights.

105 ILCS 5/10-20.14, 5/27-23.7

23 Ill. Admin. Code Part 200

20 U.S.C. 1400 et seq., The Individuals with Disabilities Improvement Act of 2004, as amended (commonly known as The Individuals with Disabilities Act)

42 U.S.C. 2000d et seq.

42 U.S.C. 2000e et seq.

29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967

29 U.S.C. 794, Rehabilitation Act of 1973

42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended

20 U.S.C. 1681 et seq., Title IX of Education Amendments Act

42 U.S.C. 1983

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

29 C.F.R. Part 1635

29 U.S.C. 6101, The Age Discrimination Act of 1975

National School Boards Association Inquiry and Analysis – May 2008