

## *Document Status: Draft Update*

### **General Personnel**

#### **5:20 Workplace Harassment Prohibited**

The School District expects the workplace environment to be productive, respectful, and free of unlawful discrimination, including harassment. District employees shall not engage in harassment or abusive conduct on the basis of an individual's actual or perceived race, [PRESSPlus1](#) color, religion, national origin, ancestry, sex, sexual orientation, age, citizenship status, work authorization status, disability, pregnancy, marital status, order of protection status, military status, or unfavorable discharge from military service, nor shall they engage in harassment or abusive conduct on the basis of an individual's other protected status identified in Board policy 5:10, *Equal Employment Opportunity and Minority Recruitment*. Harassment of students, including, but not limited to, sexual harassment, is prohibited by Board policies 2:260, *Uniform Grievance Procedure*; 2:265, *Title IX Sexual Harassment Grievance Procedure*; 7:20, *Harassment of Students Prohibited*; 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*; and 7:185, *Teen Dating Violence Prohibited*.

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

#### **Sexual Harassment Prohibited**

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

District employees shall not make unwelcome sexual advances or request sexual favors or engage in any unwelcome conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting

such individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Sexual harassment prohibited by this policy includes, but is not limited to, verbal, physical, or other conduct. The terms intimidating, hostile, or offensive include, but are not limited to, conduct that has the effect of humiliation, embarrassment, or discomfort. Sexual harassment will be evaluated in light of all the circumstances.

### Age Harassment

Prohibited age based harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's age, being over age forty (40), and when the conduct has the purpose or effect of interfering with the individual's work performance; or of creating an intimidating, hostile, or offensive working environment.

### Race/Color Harassment

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; or creating an intimidating, hostile, or offensive working environment. 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 work or educational performance; or of creating an intimidating, hostile, or offensive working environment. 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 work or educational performance; or of creating an intimidating, hostile, or offensive

working environment. 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 disability, perceived disability, or record of disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; or of creating an intimidating, hostile, or offensive working environment. Such harassment may occur where conduct directed at the characteristics of a person's current or past disabling condition, or a perceived condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

### General Policy Statement

It is the policy of the Board of Education to maintain an education and work 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 enforce its prohibition against harassment based on the traits of sex (including transgender status, change of sex, sexual orientation, or gender identity), race, color, ethnicity, national origin, creed, ancestry, religion, 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 the problems. Additionally, the Board prohibits harassment that affects tangible job benefits, interferes unreasonably with an individual's work performance, or creates an intimidating, hostile, or offensive working environment. Harassment may occur employee-to-employee, student-to-employee, male-to-female, female-to-male, male-to-male, or female-to-female.

The Board or designee will investigate all allegations of harassment and in those

cases where harassment is substantiated, the Board will take appropriate steps calculated to end the harassment, prevent its recurrence, and, if applicable, 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, and all other school personnel, including 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 subject 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 Board, 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).

### Making a Report or Complaint

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

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

Any administrator, supervisor, or other supervising employee who receives such a complaint shall file it with the central office, but no later than two (2) business days. Every effort should be made to file the complaint within thirty (30) days of incident of harassment while facts are known and potential witnesses are available; however there are no express time limits for initiating complaints and grievances under this policy.

### Whom to Contact with a Report or Complaint

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

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

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

### **Nondiscrimination Coordinator:**

Dr. Adam Law

227 North Fourth Street, Geneva, IL 60134

[alaw@geneva304.org](mailto:alaw@geneva304.org)

630.463.3000

### **Complaint Managers:**

Dr. Adam Law

227 North Fourth Street, Geneva, IL 60134

[alaw@geneva304.org](mailto:alaw@geneva304.org)

630.463.3000

Shonette Sims

227 North Fourth Street, Geneva, IL 60134

[ssims@geneva304.org](mailto:ssims@geneva304.org)

630.463.3000

Threatening behavior consisting of any words or deeds that intimidate or cause anxiety concerning his/her physical and/or psychological well-being is strictly forbidden. Any student, parent, visitor, staff member, or agent of this Board who is found to have threatened a member of the staff will be subject to discipline or reported to the authorities.

### Investigation Process

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

Reports and complaints of harassment will be confidential to the greatest extent

practicable, subject to the District's duty to investigate and maintain a workplace environment that is productive, respectful, and free of unlawful discrimination, including harassment.

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

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

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

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

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

### Enforcement

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

## Retaliation Prohibited

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

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

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

## Recourse to State and Federal Fair Employment Practice Agencies

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

The Superintendent shall also use reasonable measures to inform staff members, applicants, and nonemployees of this policy, which shall include posting on the District website and/or making this policy available in the District's administrative office, and including this policy in the appropriate handbooks.

### LEGAL REF.:

[42 U.S.C. §2000e](#) *et seq.*, Title VII of the Civil Rights Act of 1964; [29 C.F.R. §1604.11](#).

[20 U.S.C. §1681](#) *et seq.*, Title IX of the Education Amendments of 1972; [34 C.F.R. Part 106](#).

[5 ILCS 430/70-5\(a\)](#), State Officials and Employees Ethics Act.

[775 ILCS 5/2-101\(E\)](#) and (E-1), [5/2-102\(A\)](#), (A-10), (D-5), [5/2-102\(E-5\)](#), [5/2-](#)

[109](#), [5/5-102](#), and [5/5-102.2](#), III. Human Rights Act.

[56 III. Admin.Code Parts 2500](#), [2510](#), [5210](#), and [5220](#).

[Burlington Indus. v. Ellerth, 524 U.S. 742 \(1998\)](#). [Vance v. Ball State Univ., 570 U.S. 421 \(2013\)](#). [PRESSPlus2](#)

[Crawford v. Metro. Gov't of Nashville & Davidson Cnty., 555 U.S. 271 \(2009\)](#).

[Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 \(2005\)](#).

[Oncale v. Sundowner Offshore Servs., 523 U.S. 75 \(1998\)](#).

[Burlington Indus. v. Ellerth, 524 U.S. 742 \(1998\)](#).

[Faragher v. City of Boca Raton, 524 U.S. 775 \(1998\)](#).

[Harris v. Forklift Systems, 510 U.S. 17 \(1993\)](#).

[Franklin v. Gwinnett Co. Public Schools, 503 U.S. 60 \(1992\)](#).

[Meritor Savings Bank v. Vinson, 477 U.S. 57 \(1986\)](#).

[Porter v. Erie Foods Int, Inc., 576 F.3d 629 \(7th Cir. 2009\)](#).

[Williams v. Waste Mgmt., 361 F.3d 1021 \(7th Cir. 2004\)](#).

[Berry v. Delta Airlines, 260 F.3d 803 \(7th Cir. 2001\)](#).

[Crawford v. Metro. Gov't of Nashville & Davidson Cnty., 555 U.S. 271 \(2009\)](#).

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[Oncale v. Sundowner Offshore Servs., 523 U.S. 75 \(1998\)](#).

[Porter v. Erie Foods Int, Inc., 576 F.3d 629 \(7th Cir. 2009\)](#).



Sangamon Cnty. Sheriff's Dept. v. Ill. Human Rights Com'n, 233 Ill.2d 125 (Ill. 2009).

Vance v. Ball State Univ., 133 S. Ct. 2434 (2013).

Williams v. Waste Mgmt., 361 F.3d 1021 (7th Cir. 2004). Sangamon Cnty. Sheriff's Dept. v. Ill. Human Rights Com'n, 233 Ill.2d 125 (Ill. 2009).

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

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## **PRESSPlus Comments**

PRESSPlus 1. The Ill. Human Rights Act defines race to include traits associated with race, including, but not limited to, hair texture and protective hairstyles such as braids, locks, and twists. 775 ILCS 5/1-103(M-5), added by P.A. 102-1102, eff. 1-1-23. The law allows employers to implement dress codes or adopt grooming policies that include restrictions on attire, clothing, or facial hair to maintain workplace safety or food sanitation. 775 ILCS 5/2-102(E-5). Title VII does not have a definition of race, but U.S. Equal Employment Opportunity Commission (EEOC) guidance provides that “[r]ace discrimination includes discrimination on the basis of ancestry or physical or cultural characteristics associated with a certain race, such as skin color, hair texture or styles, or certain facial features.” See the EEOC’s *Questions and Answers about Race and Color Discrimination in Employment*, at: [www.eeoc.gov/laws/guidance/questions-and-answers-about-race-and-color-discrimination-employment](http://www.eeoc.gov/laws/guidance/questions-and-answers-about-race-and-color-discrimination-employment). **Issue 110, October 2022**

PRESSPlus 2. The Legal References are updated. **Issue 110, October 2022**