

## General Personnel

### Employee Ethics; Code of Professional Conduct; and Conflict of Interest<sup>1</sup>

All District employees are expected to maintain high standards in their job performance, demonstrate integrity and honesty, be considerate and cooperative, and maintain professional and appropriate relationships with students, parents/guardians, staff members, and others.

The Superintendent or designee shall provide this policy to all District employees and students and/or parents/guardians in their respective handbooks, and ensure its posting on the District's website, if any.<sup>2</sup>

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

<sup>1</sup> The State Officials and Employees Ethics Act (SOEEA) (5 ILCS 430/), *Erin's Law* (105 ILCS 5/10-23.13, amended by P.A. 102-610), and *Faith's Law* (105 ILCS 5/22-85.5, added by P.A. 102-676), require a policy on subjects covered in this sample policy; State and federal law controls its content.

This policy contains items on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

This policy largely cites 105 ILCS 5/22-85.5, a small portion of the *Faith's Law* package. *Faith's Law* is the entirety of Public Act 102-676, which closed significant legal loopholes related to combating grooming by: (1) broadening the definition of grooming prohibited by the Criminal Code of 2012 (720 ILCS 5/11-25); (2) authorizing the Ill. Dept. of Children and Family Services to investigate grooming allegations under the Abused and Neglected Child Reporting Act (325 ILCS 5/3); and (3) requiring the Ill. State Board of Education (ISBE) to, by 7-1-23, develop and maintain a resource guide for students, parents/guardians, and teachers about sexual abuse response and prevention resources available in their community (105 ILCS 5/2-3.188). A *Faith's Law* trailer bill, P.A. 102-702, eff. 7-1-23, further combats grooming by amending School Code provisions related to district and third-party contractor hiring practices, suspension and revocation of employee licenses, and criminal history records checks for prospective and current employees.

<sup>2</sup> Required by 105 ILCS 5/22-85.5(e), added by P.A. 102-676. See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*, and 7:190-E2, *Student Handbook Checklist*. The Ill. Principals Association (IPA) maintains a handbook service that coordinates with PRESS material, *Online Model Student Handbook (MSH)*, at: [www.ilprincipals.org/msh](http://www.ilprincipals.org/msh).

## Professional and Appropriate Conduct

Professional and appropriate employee conduct are important Board goals that impact the quality of a safe learning environment and the school community, increasing students' ability to learn and the District's ability to educate. To protect students from sexual misconduct by employees, and employees from the appearance of impropriety, State law also recognizes the importance for District employees to constantly maintain professional and appropriate relationships with students by following established expectations and guidelines for employee-student boundaries. Many breaches of employee-student boundaries do not rise to the level of criminal behavior but do pose a potential risk to student safety and impact the quality of a safe learning environment. Repeated violations of employee-student boundaries may indicate the grooming of a student for sexual abuse. As bystanders, employees may know of concerning behaviors that no one else is aware of, so their training on: (1) preventing, recognizing, reporting, and responding to child sexual abuse and grooming behavior; (2) this policy; and (3) federal and state reporting requirements is essential to maintaining the Board's goal of professional and appropriate conduct.<sup>3</sup>

The Superintendent or designee shall identify employee conduct standards<sup>4</sup> that define appropriate employee-student boundaries, provide training about them, and monitor the District's employees for violations of employee-student boundaries. The employee conduct standards will require that, at a minimum:

1. Employees who are governed by the *Code of Ethics for Illinois Educators*, adopted by the Ill. State Board of Education (ISBE), will comply with its incorporation by reference into this policy.<sup>5</sup>
2. Employees are trained on educator ethics, child abuse, grooming behaviors, and employee-student boundary violations as required by law and policies 2:265, *Title IX Sexual Harassment Grievance Procedure*; 4:165, *Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors*; 5:90, *Abused and Neglected Child Reporting*; and 5:100, *Staff Development Program*.<sup>6</sup>

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<sup>3</sup> See 105 ILCS 5/22-85.5(b), added by P.A. 102-676.

<sup>4</sup> Sample conduct standards are contained in administrative procedure 5:120-AP2, *Employee Conduct Standards*. These items are subjects of mandatory collective bargaining. Consult the board attorney for advice before establishing them.

<sup>5</sup> 105 ILCS 5/22-85.5(d)(1), added by P.A. 102-676; 23 Ill.Admin.Code Part 22. 105 ILCS 5/22-85.5(d)(1) requires boards to incorporate ISBE's *Code of Ethics for Illinois Educators* in their policies. Prior to this law requiring boards to incorporate the *Code* by reference, this policy incorporated it to demonstrate a board's commitment to the *Code's* principles, potentially allowing a board to enforce the *Code* independently from any action taken by the State Superintendent.

<sup>6</sup> 105 ILCS 5/22-85.5(d)(5), added by P.A. 102-676, requires districts to reference required employee training related to child abuse and educator ethics in its employee professional conduct policy.

105 ILCS 5/10-22.39(f) requires each board to conduct in-service training on educator ethics, teacher-student conduct, and school employee-student conduct for all personnel. These expectations will be most effective when the in-service curriculum reflects local conditions and circumstances. While the School Code only requires the in-service, the requirement presents an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Each board may then want to have a conversation with the superintendent and direct him or her to develop a curriculum for the in-service that instructs all district employees to maintain boundaries and act appropriately, professionally, and ethically with students. See discussion in f/n 4 in 5:100, *Staff Development Program*. After its discussion of these issues, the board may have further expectations and may choose to reflect those expectations here.

105 ILCS 5/10-23.13(c), amended by P.A. 102-610, requires districts to provide evidenced-informed training for school personnel on preventing, recognizing, reporting, and responding to child sexual abuse and grooming behavior by no later than January 31 of each year. See sample policy 4:165, *Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors*, for further detail about the training requirements.

3. Employees maintain professional relationships with students, including maintaining employee-student boundaries based upon students' ages, grade levels, and developmental levels and following District-established guidelines for specific situations, including but not limited to: <sup>7</sup>
  - a. Transporting a student;
  - b. Taking or possessing a photo or video of a student; and
  - c. Meeting with a student or contacting a student outside the employee's professional role.
4. Employees report prohibited behaviors and/or boundary violations pursuant to Board policies 2:260, *Uniform Grievance Procedure*; 2:265, *Title IX Sexual Harassment Grievance Procedure*; and 5:90, *Abused and Neglected Child Reporting*. <sup>8</sup>
5. Discipline up to and including dismissal will occur for any employee who violates an employee conduct standard or engages in any of the following: <sup>9</sup>
  - a. Violates expectations and guidelines for employee-student boundaries. <sup>10</sup>
  - b. Sexually harasses a student. <sup>11</sup>
  - c. Willfully or negligently fails to follow reporting requirements of the Abused and Neglected Child Reporting Act (325 ILCS 5/),<sup>12</sup> Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 *et seq.*), or the Elementary and Secondary Education Act (20 U.S.C. § 7926). <sup>13</sup>

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<sup>7</sup> 325 ILCS 5/4(j), amended by P.A.s 101-564 and 102-604, requires district employees to complete mandated reporter training within three months of initial employment and at least every three years thereafter. See f/n 10 in sample policy 5:90, *Abused and Neglected Child Reporting*, for further detail about the training requirements.

<sup>8</sup> 775 ILCS 5/2-109, added by P.A. 101-221, requires districts to provide annual workplace sexual harassment prevention training to all employees. See f/n 4 in sample policy 5:20, *Workplace Harassment Prohibited*, for further detail about the training requirements.

<sup>9</sup> Required by 105 ILCS 5/10-23.13(b), amended by P.A. 102-610; 105 ILCS 5/22-85.5(d)(3), added by P.A. 102-676. Sample expectations and guidelines are contained in administrative procedure 5:120-AP2, E, *Expectations and Guidelines for Employee-Student Boundaries*.

<sup>10</sup> Required by 105 ILCS 5/22-85.5(d)(4), added by P.A. 102-676. See also 105 ILCS 5/10-23.13(b), amended by P.A. 102-610.

<sup>11</sup> Required by 105 ILCS 5/22-85.5(f), added by P.A. 102-676.

<sup>12</sup> Sample expectations and guidelines are contained in administrative procedure 5:120-AP2, E, *Expectations and Guidelines for Employee-Student Boundaries*. These items are subjects of mandatory collective bargaining. Consult the board attorney for advice before establishing them.

<sup>13</sup> The Ill. Human Rights Act makes it a civil rights violation to fail to take remedial action, or to fail to take appropriate disciplinary action, against any employee when the district knows that the employee committed or engaged in sexual harassment of a student. 775 ILCS 5/5A-102. Sexual harassment of a student is also prohibited by 2:265, *Title IX Sexual Harassment Grievance Procedure*, and 7:20, *Harassment of Students Prohibited*. Sexual harassment of an employee is also prohibited by policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, and 5:20, *Workplace Harassment Prohibited*.

<sup>14</sup> 325 ILCS 5/4(a)(4), amended by P.A. 101-564; 105 ILCS 5/10-23.12(c) (all district employees), added by P.A. 101-531; 105 ILCS 5/21B-75(b) (teachers), amended by P.A.s 101-531, 102-552, and 102-702, eff. 7-1-23.

<sup>15</sup> Required by 105 ILCS 5/22-85.5(d)(4), added by P.A. 102-676.

- d. Engages in *grooming* as defined in 720 ILCS 5/11-25.<sup>14</sup>
- e. Engages in grooming behaviors. Prohibited grooming behaviors<sup>15</sup> include, at a minimum, *sexual misconduct*. *Sexual misconduct*<sup>16</sup> is any act, including but not limited to, any verbal, nonverbal, written, or electronic communication or physical activity, by an employee with direct contact with a student, that is directed toward or with a student to establish a romantic or sexual relationship with the student. Examples include, but are not limited to:
  - i. A sexual or romantic invitation.
  - ii. Dating or soliciting a date.
  - iii. Engaging in sexualized or romantic dialog.
  - iv. Making sexually suggestive comments that are directed toward or with a student.
  - v. Self-disclosure or physical exposure of a sexual, romantic, or erotic nature.
  - vi. A sexual, indecent, romantic, or erotic contact with the student.

#### Statement of Economic Interests

The following employees must file a *Statement of Economic Interests* as required by the III. Governmental Ethics Act:<sup>17</sup>

1. Superintendent;
2. Building Principal;
3. Head of any department;

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<sup>14</sup> 720 ILCS 5/11-25(a), amended by P.A. 102-676, defines *grooming* as follows: “A person commits grooming when he or she knowingly uses a computer on-line service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission, performs an act in person or by conduct through a third party, or uses written communication to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child, a child's guardian, or another person believed by the person to be a child or a child's guardian, to commit any sex offense as defined in Section 2 of the Sex Offender Registration Act, to distribute photographs depicting the sex organs of the child, or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child. As used in this Section, ‘child’ means a person under 17 years of age.”

<sup>15</sup> Required by 105 ILCS 5/10-23.13(b), amended by P.A. 102-610.

<sup>16</sup> Required by 105 ILCS 5/22-85.5(d)(2), added by P.A. 102-676. This definition of *sexual misconduct* is adapted from 105 ILCS 5/22-85.5(c), added by P.A. 102-676. It results from collaboration to implement some recommendations of the *Make Sexual and Severe Physical Abuse Fully Extinct (Make S.A.F.E.) Taskforce* and was endorsed by Stop Educator Sexual Abuse Misconduct & Exploitation (S.E.S.A.M.E.), a national organization working to prevent sexual exploitation, abuse, and harassment of students by teachers and other school staff. See [www.sesamenet.org/](http://www.sesamenet.org/) for further information.

<sup>17</sup> 5 ILCS 420/4A-101.5, added by P.A. 101-221. See 5 ILCS 420/4A-102, amended by P.A.s 101-221, 102-664, and 102-813, for economic interests of an employee's spouse or any other party that is considered the employee's interests if the employee constructively controls them. Any county clerk may use a mandatory system of Internet-based filing of economic interest statements; if done, the clerk must post the statements, without the addresses, of the filers, on a publicly accessible website. 5 ILCS 420/4A-108, amended by P.A.s 101-221 and 102-664.

4. Any employee who, as the District's agent, is responsible for negotiating one or more contracts, including collective bargaining agreement(s), in the amount of \$1,000 or greater;
5. Hearing officer;
6. Any employee having supervisory authority for 20 or more employees; and
7. Any employee in a position that requires an administrative or a chief school business official endorsement.

### Ethics and Gift Ban

Board policy 2:105, *Ethics and Gift Ban*, applies to all District employees.<sup>18</sup> Students shall not be used in any manner for promoting a political candidate or issue.

### Prohibited Interests; Conflict of Interest; and Limitation of Authority

In accordance with 105 ILCS 5/22-5, "no school officer or teacher shall be interested in the sale, proceeds, or profits of any book, apparatus, or furniture used or to be used in any school with which such officer or teacher may be connected," except when the employee is the author or developer of instructional materials listed with ISBE and adopted for use by the Board.<sup>19</sup> An employee having an interest in instructional materials must file an annual statement with the Board Secretary.<sup>20</sup>

For the purpose of acquiring profit or personal gain, no employee shall act as an agent of the District nor shall an employee act as an agent of any business in any transaction with the District. This includes participation in the selection, award, or administration of a contract supported by a federal award or State award governed by the Grant Accountability and Transparency Act (GATA) (30 ILCS 708/) when the employee has a real or apparent conflict of interest.<sup>21</sup> A conflict of interest arises when an employee or any of the following individuals has a financial or other interest in or a tangible benefit from the entity selected for the contract:

1. A member of the employee's immediate family;

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<sup>18</sup> The SOEEA prohibits State employees from engaging in certain political activities and accepting certain gifts. 5 ILCS 430/. It requires all school districts to adopt an *ordinance or resolution* "in a manner no less restrictive" than the Act's provisions. See sample policy 2:105, *Ethics and Gift Ban*.

Districts may not inhibit or prohibit employees from petitioning, making public speeches, campaigning for or against political candidates, speaking out on public policy questions, distributing political literature, making campaign contributions, and seeking public office. 50 ILCS 135/, Local Governmental Employees Political Rights Act. An employee may not use his/her position of employment to coerce or inhibit others in the free exercise of their political rights or engage in political activities at work. *Id.*

<sup>19</sup> This sentence quotes 105 ILCS 5/22-5 because the statute does not define important terms making it difficult to paraphrase. No appellate decision defines *school officer* or *apparatus*, or what is meant by *connected*. The statute was enacted in 1961, but earlier versions were in the School Code much longer. A violation of this prohibition is a Class A misdemeanor.

<sup>20</sup> *Id.*

<sup>21</sup> 2 C.F.R. §200.318(c)(1) prohibits employees, officers, or agents of a school district from participating in the selection, award, or administration of a contract supported by a federal award if they have a real or apparent *conflict of interest*. The uniform federal rules on procurement standards in 2 C.F.R. Part 200 also apply to eligible State grants through the Grant Accountability and Transparency Act (GATA) (30 ILCS 708/). Authoritative sources and guidance regarding conflict of interest and financial disclosure are provided through the GATA Resource Library at [www.grants.illinois.gov](http://www.grants.illinois.gov). See also ISBE's *Procurement and Purchasing Checklist* at: [www.isbe.net/Pages/Federal-and-State-Monitoring.aspx](http://www.isbe.net/Pages/Federal-and-State-Monitoring.aspx). See sample policy 2:100, *Board Member Conflict of Interest*, at f/n 6, for further discussion.

2. An employee's partner<sup>22</sup>; or
3. An entity that employs or is about to employ the employee or one of the individuals listed in one or two above.<sup>23</sup>

Employees shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to agreements or subcontracts.<sup>24</sup> Situations in which the interest is not substantial or the gift is an unsolicited item of nominal value must comply with State law and Board policy 2:105, *Ethics and Gift Ban*.<sup>25</sup>

#### Guidance Counselor Gift Ban<sup>26</sup>

Guidance counselors are prohibited from intentionally soliciting or accepting any gift from a *prohibited source* or any gift that would be in violation of any federal or State statute or rule. For guidance counselors, a *prohibited source* is any person who is (1) employed by an institution of higher education, or (2) an agent or spouse of or an immediate family member living with a person employed by an institution of higher education. This prohibition does not apply to:

1. Opportunities, benefits, and services available on the same conditions as for the general public.
2. Anything for which the guidance counselor pays market value.
3. A gift from a relative.
4. Anything provided by an individual on the basis of a personal friendship, unless the guidance counselor believes that it was provided due to the official position or employment of the guidance counselor and not due to the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the guidance counselor must consider the circumstances in which the gift was offered, including any of the following:
  - a. The history of the relationship between the individual giving the gift and the guidance counselor, including any previous exchange of gifts between those individuals.
  - b. Whether, to the actual knowledge of the guidance counselor, the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift.

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<sup>22</sup> See sample policy 2:100, *Board Member Conflict of Interest*, at f/n 7 for a discussion of the term *partner*.

<sup>23</sup> 2 C.F.R. §200.318(c)(1).

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* The rule provides flexibility for school districts to “set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value,” along with “disciplinary actions to be applied for violations.” Referring to sample policy 2:105, *Ethics and Gift Ban*, for these standards provides clarity and consistency. Sample policy 2:105 refers to **Limitations on Receiving Gifts** in the Ethics Act at 5 ILCS 430/10-10 – 10-30, along with discussion of the specific penalties available under the Ethics Act at 5 ILCS 430/50-5 in its **Enforcement** subhead.

<sup>26</sup> This section is only for those districts with a high school. 105 ILCS 5/22-93, added by P.A. 102-327 and renumbered by P.A. 102-813. *Guidance counselor* means a person employed by a school district and working in a high school to offer students advice and assistance in making career or college plans. *Id.*

- c. Whether, to the actual knowledge of the guidance counselor, the individual who gave the gift also, at the same time, gave the same or a similar gift to other school district employees.
- 5. Bequests, inheritances, or other transfers at death.
- 6. Any item(s) during any calendar year having a cumulative total value of less than \$100.
- 7. Promotional materials, including, but not limited to, pens, pencils, banners, posters, and pennants.

A guidance counselor does not violate this prohibition if he or she promptly returns the gift to the prohibited source or donates the gift or an amount equal to its value to a 501(c)(3) tax-exempt charity.

Outside Employment

Employees shall not engage in any other employment or in any private business during regular working hours or at such other times as are necessary to fulfill appropriate assigned duties.

Incorporated  
by reference: 5:120-E (Code of Ethics for Ill. Educators)

LEGAL REF.: U.S. Constitution, First Amendment.  
2 C.F.R. §200.318(c)(1).  
5 ILCS 420/4A-101, Ill. Governmental Ethics Act.  
5 ILCS 430/, State Officials and Employee Ethics Act.  
30 ILCS 708/, Grant Accountability and Transparency Act.  
50 ILCS 135/, Local Governmental Employees Political Rights Act.  
105 ILCS 5/10-22.39, 5/10-23.13, 5/22-5, 5/22-85.5, and 5/22-93.  
325 ILCS 5/, Abused and Neglected Child Reporting Act.  
720 ILCS 5/11-25, Criminal Code of 2012.  
775 ILCS 5/5A-102, Ill. Human Rights Act.  
23 Ill.Admin.Code Part 22, Code of Ethics for Ill. Educators.  
Pickering v. Board of Township H.S. Dist. 205, 391 U.S. 563 (1968).  
Garcetti v. Ceballos, 547 U.S. 410 (2006).

CROSS REF.: 2:105 (Ethics and Gift Ban), 2:265 (Title IX Sexual Harassment Grievance Procedure), 4:60 (Purchases and Contracts), 4:165 (Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors), 5:90 (Abused and Neglected Child Reporting), 5:100 (Staff Development Program), 5:125 (Personal Technology and Social Media; Usage and Conduct), 5:200 (Terms and Conditions of Employment and Dismissal), 5:290 (Employment Terminations and Suspensions), 7:20 (Harassment of Students Prohibited)

## General Personnel

### Administrative Procedure - Statement of Economic Interests for Employees

Date	Action
Upon initial employment	All employees who are required to file a statement of economic interests (see Board policy 5:120, <i>Employee Ethics; Code of Professional Conduct; and Conflict of Interest</i> ) must file such a statement upon initial employment if employed by May 1. 5 ILCS 420/4A-105(c).
On or before February 1, annually	Superintendent or designee shall certify to the appropriate county clerks a list of names and addresses of employees who are required to file a statement of economic interests (see policy 5:120, <i>Employee Ethics; Code of Professional Conduct; and Conflict of Interest</i> ). The list shall set out the names in alphabetical order by county of residence. The Superintendent or designee shall send the list to county clerks of the counties in which those employees reside, or if any employee resides outside of Illinois, to the county clerk of the county in which the District's principal office is located. 5 ILCS 420/4A-106.5, added by P.A. 101-221 and amended by P.A. 101-617.
On or before April 1, annually	County clerk of each county shall notify employees whose names have been certified to him or her of the requirements for filing statement of economic interests. 5 ILCS 420/4A-106.5, added by P.A. 101-221.
On or before May 1, annually	All employees who are required to file a statement of economic interests (see policy 5:120, <i>Employee Ethics; Code of Professional Conduct; and Conflict of Interest</i> ) must file a statement of economic interests with the county clerk of the county in which the principal District office is located (5 ILCS 420/4A-106.5), unless the employee has already filed a statement in relation to the District within the calendar year. 5 ILCS 420/4A-105.
After January 1, 2011	<p>Any county clerk who uses a system of Internet-based filing of economic interest statements must: (1) post the contents of statements, <b>without filers' addresses or signatures</b>, that were filed using the Internet on a publicly accessible website, and (2) otherwise comply with 5 ILCS 420/4A-108, amended by P.A. 102-664.</p> <p>The times for the filing of statements of economic interests set forth in Section 4A-105 must be followed in any system of Internet-based filing.</p>



## General Personnel

### Administrative Procedure - Employee Conduct Standards<sup>1</sup>

Professional and appropriate conduct is expected of all District employees. The standards listed below serve as a notice of expected conduct. The standards are intended to protect the health, safety, and general welfare of students and employees, ensure the community a degree of accountability within the School District, and define misconduct justifying disciplinary action, up to and including dismissal. The listed standards are not a complete list of expectations, and depending on the factual context, an employee may be disciplined for conduct that is not specifically listed. The conduct standards apply to all District employees to the extent they do not conflict with an applicable collective bargaining agreement; in the event of a conflict, the provision is severable and the applicable bargaining agreement will control. In addition, all employees who are governed by the *Code of Ethics for Illinois Educators* must comply with 5:120-E, *Code of Ethics for Illinois Educators*, adopted by the Ill. State Board of Education (ISBE) (23 Ill.Admin.Code Part 22).

All school employees shall:

1. Exhibit positive examples of preparedness, punctuality, attendance, self-control, language, and appearance.
2. Exemplify honesty and integrity. Violations of this standard include, but are not limited to, falsifying, misrepresenting, omitting, or erroneously reporting the professional qualifications of oneself or another individual or information submitted in connection with job duties or during the course of an official inquiry/investigation.
3. Maintain professional and appropriate relationships with students by following established expectations and guidelines for employee-student boundaries, both in and outside the school. Attend all in-service trainings on educator ethics, teacher-student conduct, and school employee-student conduct for all personnel (105 ILCS 5/10-22.39), as well as all required

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<sup>1</sup> This procedure's list of conduct standards is more comprehensive than the list in sample policy 5:120, *Employee Ethics; Code of Professional Conduct; and Conflict of Interest*. This procedure and its exhibit 5:120-AP2, E, *Expectations and Guidelines for Employee-Student Boundaries*, are tools to prompt local conversations related to employee conduct standards, including the prevention of sexual misconduct and grooming. **Do not automatically add them to the district's procedure or personnel manual.** Many districts already have collective bargaining agreements and/or personnel manuals addressing conduct and misconduct. These items are subjects of mandatory collective bargaining. Moreover, an employee conduct code is most effective when it reflects local conversations related to expectations around employee-student boundaries and other professional ethics conditions and circumstances. As employee conduct rules are frequently litigated, consulting the board attorney is a necessary part of their development.

The introductory paragraph recognizes that an applicable collective bargaining agreement will supersede a conflicting provision of the procedure. It also provides coverage for those employees who are not included in a bargaining unit. **This language, however, does not relieve a district from its collective bargaining mandate because the district would still be adopting conduct rules without bargaining.** Use the following alternative when the district intends to use the conduct rules for only those employees who are not represented by an exclusive bargaining agent:

The employee conduct standards apply to only those District employees who are not represented by an exclusive bargaining representative.

Our sample policies contain many personnel conduct rules. The following sample policies authorize the superintendent or designee to develop and implement procedures, e.g., conduct standards: 4:165, *Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors*; 5:120, *Employee Ethics; Code of Professional Conduct, and Conflict of Interest*; and 3:40, *Superintendent*.

trainings on child abuse, grooming behaviors, and employee-student boundary violations (325 ILCS 5/4(j), 105 ILCS 5/10-23.12, and 5/10-23.13 (*Erin's Law*)). Violations of this standard include, but are not limited to: (a) committing any act of child abuse or cruelty to children; (b) willfully or negligently failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act (325 ILCS 5/); (c) engaging in harassing behavior, including but not limited to sexually harassing a student (775 ILCS 5/5A-102); (d) willfully or negligently failing to report an instance of suspected sexual harassment as required by Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 *et seq.*), (e) providing a recommendation of employment for an employee, contractor, or agent that the employee knows, or has probable cause to believe, has engaged in sexual misconduct with a student or minor in violation of the law, as prohibited by the Elementary and Secondary Education Act (20 U.S.C. § 7926), (f) engaging in *grooming* as defined in 720 ILCS 5/11-25; (g) engaging in prohibited grooming behaviors, including *sexual misconduct* as defined in 105 ILCS 5/22-85.5(c) (*Faith's Law*) and Board policy 5:120, *Employee Ethics; Code of Professional Conduct; and Conflict of Interest*; (h) furnishing tobacco, alcohol, cannabis, or any other illegal/unauthorized substance, including e-cigarettes, to any student or allowing a student under his or her supervision to use tobacco, alcohol, cannabis (including medical cannabis unless the student is authorized to be administered a medical cannabis infused product by the school employee pursuant to *Ashley's Law*<sup>2</sup>); and (i) violating expectations and guidelines for employee-student boundaries set forth in 5:120-AP2, E, *Expectations and Guidelines for Employee-Student Boundaries*.

4. Maintain a safe and healthy environment, free from being impaired by and/or under the influence of prohibited substances to ensure high quality performance for the District and its students. The use of illegal drugs and/or abuse and misuse of alcohol, drugs, and other lawful products<sup>3</sup> while on District premises or while performing work for the District diminishes the District's credibility and ability to educate students<sup>4</sup> about drug and substance abuse prevention pursuant to Board policy 6:60, *Curriculum Content*. Violations of this standard include, but are not limited to, engaging in any of the prohibited activities listed in the District's drug- and alcohol-free workplace policy.<sup>5</sup> Examples include using or being impaired by or under the influence of illegal drugs; abusing, misusing, and/or being impaired by or under the influence of alcohol, drugs, and/or other lawful products<sup>6</sup> when performing work for the District when impairment is detectable regardless of when and/or where the use occurred; and/or using or being impaired or under the influence of or possessing medical cannabis<sup>7</sup> in a school bus or on school grounds.
5. Maintain a safe and healthy environment, free from harassment, intimidation, bullying, hazing, and violence, and free from bias and discrimination. Violations of this standard

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<sup>2</sup> See f/n 11 in policy 7:190, *Student Behavior*, for a discussion of medical cannabis and *Ashley's Law*.

<sup>3</sup> The Right to Privacy in the Workplace Act (RPWA) prohibits discrimination based on use of lawful products off premises during non-working and non on-call hours, e.g., alcohol, tobacco, and cannabis. 820 ILCS 55/5, amended by P.A. 101-27. But see f/n 7, below.

<sup>4</sup> 105 ILCS 5/27-13.2, amended by P.A. 102-195, and 5/27-23.4 (provided education of students about drug and substance abuse can be funded by private grants or the federal government).

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

<sup>6</sup> 820 ILCS 55/5(b), amended by P.A. 101-27, allows employers to regulate employees' use of lawful products which impair an employee's ability to perform assigned duties.

<sup>7</sup> An employer may discipline any employee, including one who is a *registered qualifying patient*, for violating a drug-free workplace policy. 410 ILCS 130/50 and 705/10-35(a)(1), added by P.A. 101-27.

include, but are not limited to: (a) unless specifically permitted by the Firearm Concealed Carry Act, carrying a firearm on or into any District controlled building, real property, or parking area, or any transportation vehicle paid for in whole or in part with public funds;<sup>8</sup> (b) willfully or negligently failing to immediately report suspected cases of child abuse or neglect or of gender harassment;<sup>9</sup> (c) knowingly failing to report hazing to supervising educational authorities or, in the event of death or great bodily harm, to law enforcement;<sup>10</sup> and (d) failing to appropriately respond to a witnessed or reported incident of student-on-student bullying, harassment, hazing, or teen dating violence.

6. Comply with the Professional Testing Practices for Educators, prepared and published by ISBE for educators who administer any standardized test (at [www.isbe.net/Documents/prof-test-prac.pdf](http://www.isbe.net/Documents/prof-test-prac.pdf)). This document contains numerous examples of actions that violate test security; actions that must not be part of test preparation; actions that must not occur during test administration; and actions that must be avoided when reporting test results.
7. Honor the public trust when entrusted with public funds and property by acting with a high level of honesty, accuracy, and responsibility. Violations of this standard include, but are not limited to: (a) misusing public or school-related funds; (b) failing to account for funds collected from students or parents/guardians; (c) submitting fraudulent requests for reimbursement of expenses or for pay; (d) co-mingling District or school funds with personal funds or checking accounts; and (e) using school property without the approval of the supervising school official.
8. Maintain integrity with students, colleagues, parents/guardians, community members, and businesses concerning business dealings and when accepting gifts and favors. Violations of this standard include, but are not limited to, soliciting students or parents/guardians to purchase supplies or services from the employee or to participate in activities that financially benefit the employee without fully disclosing the interest.
9. Respect the confidentiality of student and personnel records, standardized test material, and other information covered by confidentiality agreements. Violations of this standard include, but are not limited to: (a) disclosing confidential information concerning student academic and disciplinary records, health and medical information, family status and/or income, and assessment/testing results, unless disclosure is required or permitted by law; and (b) disclosing confidential information restricted by State or federal law.
10. Demonstrate conduct that follows generally recognized professional standards and attend all in-service trainings on educator ethics, teacher-student conduct, and school employee-student conduct for all personnel (105 ILCS 5/10-22.39(f)). Unethical conduct is any conduct that impairs the employee's ability to function professionally in his or her employment position or a pattern of behavior or conduct that is detrimental to the health, welfare, discipline, or morals of students.
11. Comply with all State and federal laws and rules regulating public schools and Board policies, including but not limited to: 2:105 (*Ethics and Gift Ban*), 4:165 (*Awareness and Prevention of Child Sexual Abuse and Prohibited Grooming Behaviors*), 5:10 (*Equal*

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<sup>8</sup> Firearm Concealed Carry Act, 430 ILCS 66/65(a)(1), (2), and (8).

<sup>9</sup> 325 ILCS 5/4(a)(4), amended by P.A. 101-564; 105 ILCS 5/10-23.12(c) (all district employees), added by P.A. 101-531; 105 ILCS 5/21B-75(b) (teachers), amended by P.A.s 101-531, 102-552, and 102-702, eff. 7-1-23.

<sup>10</sup> 720 ILCS 5/12C-50.1.

*Employment Opportunity and Minority Recruitment*), 5:20 (*Workplace Harassment Prohibited*), 5:30 (*Hiring Process and Criteria*), 5:50 (*Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition*), 5:60 (*Expenses*), 5:90 (*Abused and Neglected Child Reporting*), 5:100 (*Staff Development Program*), 5:120 (*Employee Ethics; Code of Professional Conduct; and Conflict of Interest*), 5:130 (*Responsibilities Concerning Internal Information*), 5:140 (*Solicitations By or From Staff*), 5:170 (*Copyright*), 5:180 (*Temporary Illness or Temporary Incapacity*), 5:200 (*Terms and Conditions of Employment and Dismissal*), 5:230 (*Maintaining Student Discipline*), 5:280 (*Duties and Qualifications*), 5:290 (*Employment Termination and Suspensions*), 6:235 (*Access to Electronic Networks*), 7:20 (*Harassment of Students Prohibited*), 7:180 (*Prevention of and Response to Bullying, Intimidation, and Harassment*), 7:190 (*Student Behavior*), 7:340 (*Student Records*), and 8:30 (*Visitors to and Conduct on School Property*).

Conviction of any employment disqualifying criminal offense listed in 105 ILCS 5/10-21.9 or 5/21B-80 will result in dismissal. <sup>11</sup>

Before disciplinary action is taken, the supervisor will conduct a fair and objective investigation to determine whether the employee violated a standard or other work rule and the extent that any violation impacts educational or operational activities, effectiveness, or efficiency. Discipline must be appropriate and reasonably related to the seriousness of the misconduct and the employee's record. Any applicable provision in a contract, bargaining agreement, or State law will control the disciplinary process.

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<sup>11</sup> See also sample policy 5:10, *Equal Employment Opportunity and Minority Recruitment*, at f/n 19, for requirements of the Ill. Human Rights Act related to adverse employment actions based on conviction records. 775 ILCS 5/2-103.1, added by P.A. 101-656.

## General Personnel

### Exhibit – Expectations and Guidelines for Employee-Student Boundaries<sup>1</sup>

*105 ILCS 5/10-23.13, Erin's Law, requires this exhibit's discussion. Use this exhibit to structure local conversations around what the District will include for its examples of expectations and guidelines about professional boundaries in employee-student relationships. Finalization of this exhibit requires a conversation among district administrators and employees to customize it based upon the ages, grade levels, and developmental levels of the students served, as well as local conditions.*

All District employees must maintain professional employee-student boundaries and relationships with students. This includes meeting expectations and following guidelines established by the District for employee-student boundaries. These expectations and guidelines apply to all professional, educational support, and contracted District employees. If they conflict with an applicable collective bargaining agreement, the provision is severable and the applicable bargaining agreement will control.

The District understands that employees may have pre-existing relationships with families of students outside of school. These expectations and guidelines do not apply to employee-student relationships based in pre-existing relationships, including nuclear or extended families. These expectations and guidelines are not intended to prohibit such interactions, provided that an awareness of employee-student boundaries is maintained at all times. This document is not exhaustive, and an employee may be disciplined for boundary violations that are not specifically listed.

#### Employee-Student Boundaries<sup>2</sup>

The relationship between students and school employees is an inherently unequal imbalance of power because school employees are in a unique position of trust, care, authority, and influence in relation to students. District employees breach employee-student boundaries when they misuse their position of power over a student in a way that compromises the student's health, safety, or general welfare. Employee-student boundaries are categorized into four areas that are not mutually exclusive:

- **Emotional Boundaries** – both the employee's own emotional state and self-regulation as well as students' emotional states and developmental abilities to self-regulate.
- **Relationship/Power Boundaries** – recognizing, as noted above, that the employee-student relationship is unequal and employees must safeguard against misusing positions of power.
- **Communication Boundaries** – how and what employees communicate to students, including communication that is verbal, nonverbal, in person, or via electronic means.
- **Physical Boundaries** – physical contact between employees and students.

While some employee-student boundaries are clear and easy to recognize, there are some unclear, *grey* areas that employees must plan for and respond to with sound judgment. This means recognizing

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<sup>1</sup> Follow the discussion related to subjects of mandatory collective bargaining in f/n 1 of this exhibit's procedure 5:120-AP2, *Employee Conduct Standards*.

<sup>2</sup> Adapted with permission from *Teacher-Student Professional Boundaries: A Resource for WA Teachers*, Revised Edition (2019), Teacher Registration Board of Western Australia, at: [www.trb.wa.gov.au/Professional-Conduct/Teacher-Student-Professional-Boundaries](http://www.trb.wa.gov.au/Professional-Conduct/Teacher-Student-Professional-Boundaries).

the potential negative consequences for students and/or employees engaging in certain behaviors with students or allowing inappropriate conduct to continue. Employees may use *time, place, and circumstances* as a guiding principle by asking themselves:

- Is this the appropriate *time* for my planned action?
- Have I chosen the appropriate *place* for the planned action?
- Are these appropriate *circumstances* for me to take my planned action?

To avoid behavior or conduct which may lead to a breach in employee-student boundaries, employees should also recognize their own unique vulnerabilities. Examples of vulnerabilities that employees may experience include, but are not limited to:

- Employees regarding students as peers
- Employees who too closely identify with students and their issues
- Employees experiencing adult relationship issues
- Immature employees, or employees with an under-developed moral compass
- Employees feeling a need for attention
- Employees who abuse alcohol or other substances
- Employees who lack personal crisis management skills

Employees experiencing difficulties in their personal lives may be particularly susceptible to engaging in at-risk behavior or conduct with students. Employees must be alert to such risks and ensure they maintain professional boundaries at all times. The Markkula Center for Applied Ethics' Framework for Ethical Decision-Making may help employees evaluate and address conduct that concerns them. See [www.scu.edu/ethics/ethics-resources/ethical-decision-making/](http://www.scu.edu/ethics/ethics-resources/ethical-decision-making/).

#### Guidelines for Specific Boundary Areas

*Customize based upon the ages, grade levels, and developmental levels of the students served.*

<b>Boundary Area</b>	<b>Inappropriate</b>	<b>Appropriate</b>
Emotional	Favoring certain students by inviting them to your classroom at non-instructional times to "hang out."  Favoring certain students by giving them special privileges.  Engaging in peer-like behavior with students.  Discussing personal issues with students.	Inviting students who need additional instructional support to your classroom for such additional support.  Conducting one-on-one student conferences in a classroom with the door open.
Relationship/Power	Meeting with a student off-campus without parent/guardian knowledge and/or permission.  Dating, requesting, or	Meeting with a student off-campus with parent/guardian knowledge and/or permission, e.g., when providing pre-arranged tutoring or coaching

Boundary Area	Inappropriate	Appropriate
	<p>participating in a private meeting with a student (in person or virtually) outside your professional role.</p> <p>Transporting a student in a school or private vehicle without administrative authorization.</p> <p>Giving gifts, money, or treats to individual students.</p> <p>Sending students on personal errands.</p> <p>Intervening in serious student problems instead of referring the student to an appropriately trained professional.</p> <p>A sexual or romantic invitation toward or from a student.</p> <p>Taking and using photos/videos of students for non-educational purposes.</p>	<p>services.</p> <p>Transporting a student in a school or private vehicle with administrative authorization.</p> <p>Taking and using photos/videos of students for educational purposes, with student and parent/guardian consent, while abiding by student records laws, policies, and procedures.</p>
Communication	<p>Initiating or extending contact with a student beyond the school day in a one-on-one or non-group setting.</p> <p>Inviting students to your home.</p> <p>Adding students on personal social networking sites as contacts when unrelated to a legitimate educational purpose.</p> <p>Privately messaging students by any means.</p> <p>Maintaining intense eye contact.</p> <p>Making comments about a student's physical attributes, including excessively flattering comments.</p> <p>Engaging in sexualized or romantic dialog.</p> <p>Making sexually suggestive comments directed toward or</p>	<p>Limiting communication to what is necessary for educational and/or extracurricular activities.</p> <p>Using District-approved methods for communicating with students.</p>

Boundary Area	Inappropriate	Appropriate
	<p>with a student.</p> <p>Disclosing confidential information.</p> <p>Self-disclosure of a sexual, romantic, or erotic nature.</p>	
Physical	<p>Full frontal hugs.</p> <p>Invading personal space.</p> <p>Massages, shoulder rubs, neck rubs, etc.</p> <p>Lingering touches or squeezes.</p> <p>Tickling.</p> <p>Having a student on your lap.</p> <p>Physical exposure of a sexual, romantic, or erotic nature.</p> <p>Sexual, indecent, romantic, or erotic contact with a student.</p> <p>Assisting a young student or a student with special needs with a toileting issue without obtaining parent/guardian permission.</p>	<p>Occasionally patting a student on the back, shoulder, or arm.</p> <p>Momentary physical contact with limited force designed to prevent a student from completing an act that would result in potential physical harm to the student or another person or damage to property; or to remove a disruptive student who is unwilling to leave the area voluntarily.</p> <p>Assisting a young student or a student with special needs with a toileting issue when parent/guardian permission has been granted.</p>



## Professional Personnel

### Teacher Qualifications<sup>1</sup>

A teacher, as the term is used in this policy, refers to a District employee who is required to be licensed under State law.<sup>2</sup> The following qualifications apply:

1. Each teacher must:<sup>3</sup>
  - a. Have a valid Illinois Professional Educator License issued by the State Superintendent of Education with the required endorsements as provided in the School Code.
  - b. Provide the District Office with a complete transcript of credits earned in institutions of higher education.
  - c. On or before September 1 of each year, unless otherwise provided in an applicable collective bargaining agreement, provide the District Office with a transcript of any credits earned since the date the last transcript was filed.
  - d. Notify the Superintendent of any change in the teacher's transcript.
2. All teachers working in a program supported with federal funds under Title I, Part A must meet applicable State certification and licensure requirements.<sup>4</sup>

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<sup>1</sup> State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. This policy concerns an area in which the law is unsettled.

<sup>2</sup> 105 ILCS 5/21B et seq., amended by P.A. 102-894; 23 Ill.Admin.Code §§1.610, 1.705, and Part 25 (educator licensure); 105 ILCS 5/27-24.2, amended by P.A. 101-450; and 23 Ill.Admin.Code Part 252 (contracted driver education teacher).

School boards may participate in the Illinois Teacher Corps; however as of 9-1-11 individuals may no longer be admitted to Illinois Teacher Corps programs. 105 ILCS 5/21-11.4, repealed in 2013.

<sup>3</sup> Subparagraph 1a is required for all teachers by 105 ILCS 5/21B-15 (qualifications of educators). Four types of educator licenses are listed in 105 ILCS 5/21B-20, amended by P.A.s 101-643 and 102-894: (1) Professional Educator License; (2) Educator License with Stipulations (including endorsements for alternative provisional educator, alternative provisional superintendent, career and technical educator, transitional bilingual educator, language, visiting international educator, paraprofessional educator, chief school business official, provisional in-state educator, school support personnel intern, and special education area); (3) Substitute Teaching License; and (4) until 6-30-23, Short-Term Substitute Teaching License. Districts may not require an individual who holds a valid Professional Educator License or Educator License with Stipulations to seek or hold a Substitute Teaching License to teach as a substitute teacher. 105 ILCS 5/21B-20(3). See also 23 Ill.Admin.Code §§1.610, 1.705, and Part 25 (per §25.100, teachers are no longer endorsed in any course subjects in which they earn grades lower than a "C-" or equivalent in college). The Ill. State Board of Education's (ISBE) *Educator Licensure Information System* (ELIS) is a web-based system that allows educators, administrators, and the public to access licensure information. See [www.isbe.net/Pages/Educator-Licensure-Information-System.aspx](http://www.isbe.net/Pages/Educator-Licensure-Information-System.aspx).

Subparagraph 1b and 1c are required of all teachers by 105 ILCS 5/24-23. Some boards add the word "official" to the phrase, "complete official transcript of credits."

Subparagraph 1d is optional but informs the superintendent when a teacher may be eligible to change lanes on the salary schedule.

<sup>4</sup> The *highly qualified* teacher requirement of the No Child Left Behind Act, formerly found in §6319 of the Elementary and Secondary Education Act (ESEA, 20 U.S.C. §6319), was repealed by the Every Student Succeeds Act (ESSA, Pub. L. 114-95, eff. 12-10-15). ESEA federal implementing regulation 34 C.F.R. §200.55 was updated on 7-7-17 (82 Fed. Reg. 31706), and State implementing regulations at 23 Ill. Admin.Code Part 25, Appendix D (criteria for identification of teachers as *highly qualified*) were finally repealed on 6-3-21. Information on State implementation of ESSA is available at: [www.isbe.net/essa](http://www.isbe.net/essa).

The Superintendent or designee shall:

1. Monitor compliance with State and federal law requirements that teachers be appropriately licensed;<sup>5</sup>
2. Through incentives for voluntary transfers, professional development, recruiting programs, or other effective strategies, ensure that minority students and students from low-income families are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers; and
3. Ensure parents/guardians of students in schools receiving Title I funds are notified of their right to request their students' classroom teachers' professional qualifications.<sup>6</sup>

LEGAL REF.: 20 U.S.C. §6312(e)(1)(A).  
105 ILCS 5/10-20.15, 5/21-11.4, 5/21B-15, 5/21B-20, 5/21B-25, and 5/24-23.  
23 Ill.Admin.Code §1.610 et seq., §1.705 et seq., and Part 25.

CROSS REF.: 6:170 (Title I Programs)

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ESEA, as amended by ESSA, requires that each state plan contain assurances that the state educational agency will ensure that all teachers and paraprofessionals meet state certification/licensure requirements. 20 U.S.C. §6311(g)(2)(J).

<sup>5</sup> See the ISBE webpage on educator licensure approval requirements at [www.isbe.net/Pages/educator-licensure-approvals.aspx](http://www.isbe.net/Pages/educator-licensure-approvals.aspx).

ESEA, as amended by ESSA, requires districts to provide parents timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable State certification or licensure requirements at the grade level and subject area in which the teacher has been assigned. 20 U.S.C. §6312(e)(1)(B)(ii). For a sample notice, see 5:190-E2, *Notice to Parents When Their Child Is Assigned To or Has Been Taught for at Least Four Straight Weeks By a Teacher Who Does Not Meet Applicable State Certification/Licensure Requirements*.

<sup>6</sup> 20 U.S.C. §6312(e)(1)(A).