

Students

Student Handbook - Gang Activity Prohibited ¹

Students are prohibited from engaging in gang activity.² Gang means any combination, confederation, alliance, network, conspiracy, understanding, or other similar conjoining of three or more persons with an established hierarchy that, through its membership or through the agency of any member, engages in a course or pattern of criminal activity. Drug distribution, burglary, theft, assaults, and weapon-related offenses are typically associated with established gangs. A gang is any group of two or more persons whose purpose includes the commission of illegal acts.

No student shall engage in any gang activity, including but not limited to:

1. Wearing, using, distributing, displaying, or selling any clothing, jewelry, emblem, badge, symbol, sign, or other thing that are evidence of membership or affiliation in any gang;
2. Committing any act or omission, or using any speech, either verbal or non-verbal (such as gestures or hand-shakes) showing membership or affiliation in a gang; and
3. Using any speech or committing any act or omission in furtherance of any gang or gang activity, including but not limited to: (a) soliciting others for membership in any gangs, (b) requesting any person to pay protection or otherwise intimidating or threatening any person, (c) committing any other illegal act or other violation of school district policies, (d) inciting other students to act with physical violence upon any other person.

The footnotes should be removed before the material is used.

¹ State or federal law may impact this student handbook provision; it concerns an area in which the law is unsettled.

~~This sample procedure is based on A school board can create and enforce a comprehensive policy used to prevent and prohibit gang activity by in its the school district, in Olesen v. School Dist. 228, 676 F.Supp. 820 (N.D.Ill. 1987). Administrators supervising buildings with frequent gang activity should be familiar with the laws prohibiting such activity, e.g., 740 ILCS 147/ (Ill. Streetgang Terrorism Omnibus Prevention Act); 720 ILCS 5/12-6.2 (gang intimidation); and 720 ILCS 5/12-6.4 (gang recruitment on school grounds). The definition of gang in this procedure is based on 740 ILCS 147/10 and the Ill. State Board of Education's Criminal Gang Activity Safety Hazard Guidelines at: www.isbe.net/Documents/Criminal-Gang-Act-Safety-Hazard-Guidelines.pdf.~~

² Many types of gang activity are illegal; a district's discipline authority, however, may not extend to every criminal act, or to every act of wrongdoing, committed by a student. Districts must generally find a connection between a student's off-campus misconduct and the school before it may deprive the student of the student's right to attend school. Gendelman v. Glenbrook North High School and Northfield Township School Dist. 225, 2003 WL 21209880 (N.D.Ill. 2003)(student suspensions for hazing at non-school event upheld). School officials may remove students from extra-curricular activities and athletics for non-school-related activities because students do not enjoy a protected property right to such participation. Clements v. Decatur Public School Dist. 61, 133 Ill.App.3d 531 (4th Dist. 1985).

~~This sample procedure assumes that schools have very extensive authority to A district's authority to regulate gang activity because, even if it occurs off school grounds, it may be justified because it severely intimidates students, creates an atmosphere of fear thus impeding student attendance, may lead to violence in school by competing gangs, and may be used to recruit new members from the student body. School boards should seek legal advice on this issue.~~

~~The policy at issue in Olesen v. School Dist. No. 228 used a more limited scope of authority than this policy. Schools that desire to state a more limited scope of authority may substitute the following where indicated:~~

~~[Substitute this sentence for the original policy's first sentence] Gang activity is prohibited on or about school grounds, on school buses, or off school grounds at any school activity. [Continue with original policy]~~

~~[Substitute this sentence for the original policy's first sentence of the second paragraph] No student on or about school grounds, on school buses, or off school grounds at a school activity shall engage in any gang activity, including but not limited to: [continue with original policy]~~

| Students engaging in any gang-related activity ~~may~~^{will} be subject to one or more of the following disciplinary actions:³

- Removal from extracurricular and athletic activities
- Conference with parent(s)/guardian(s)
- Referral to appropriate law enforcement agency
- Suspension for up to 10 days
- Expulsion not to exceed two calendar years

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The footnotes should be removed before the material is used.

³ Schools may state the possible disciplinary consequences in the manner in which they are stated for other acts of misconduct in the student handbook. 105 ILCS 5/10-22.6(b-10) explicitly forbids zero tolerance policies; therefore, disciplinary consequences should not be stated in a manner that requires suspension or expulsion for particular behaviors.

changes as noted.
share w/ Scott, Melissa,
Jessica, Shone, Sue,
and Tasha

Students

Student Handbook - Electronic Devices¹

Electronic Signaling Devices²

Students may not use or possess electronic signaling (paging) devices or two-way radios on school property at any time, unless the Building Principal specifically grants permission.

Cell Phones and Other Electronic Devices³

The possession and use of ~~smartphones~~, cellular phones, including smartphones, and other electronic devices, other than paging devices and two-way radios, are subject to the following rules:

1. They must be kept out of sight and in an inconspicuous location, such as a backpack, purse, or locker, unless use is authorized by the teacher or for the reasons in number two, below. 4
2. They must be turned **off or silenced** during the regular school day unless: (a) ~~the supervising teacher grants permission for them to be used;~~ (b) use of the device is provided in a student's individualized education program (IEP) or Section 504 plan; (c) ~~the device is used during the student's lunch period;~~ or (d) ~~the device is needed during an emergency.~~
3. They may not be used in any manner that will cause disruption to the educational environment or will otherwise violate student conduct rules.

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

¹ 105 ILCS 5/10-20.28, grants school boards the authority to "establish appropriate rules and disciplinary procedures governing the use or possession of cellular radio telecommunication devices by a student while in a school or on school property, during regular school hours, or at any other time." The statute contains no mandates. School boards that adopted policies prohibiting students from using or possessing any cell phones on school property must amend those policies before using this sample student handbook language about cell phones and electronic devices.

Some boards may prefer to maintain their ban on cell phone and pager use and possession on school grounds. With the advent of sexting, bans on cell phone and electronic device usage during school hours are viable sexting prevention options. If so, the administration should not change the student handbook's language with the use of this sample language.

² 105 ILCS 5/10-21.10, amended by P.A. 101-87, still prohibits possession of electronic paging devices unless the school board has expressly authorized use or possession of the device or similar electronic paging device by a student when in a school building or on school property.

³ The School Code does not define *electronic device*, but the Juvenile Court Act provides guidance in its definition of an *electronic communication device*, and the Criminal Code of 2012 provides guidance in its definition of *computer*. Electronic communication device includes, but is not limited to, electronic devices, wireless telephones, personal digital assistants, or portable or mobile computers, that are capable of transmitting images or pictures. 705 ILCS 405/3-40(a). Computer means a device that accepts, processes, stores, retrieves, or outputs data and includes, but is not limited to, auxiliary storage, including cloud-based networks of remote services hosted on the Internet, and telecommunications devices connected to computers. 720 ILCS 5/17-0.5.

Wireless telephone is synonymous with *cellular telephone* (see www.thesaurus.com, listing cellular and wireless telephones as synonyms). Because the terms are synonyms, an electronic communication device also includes a cellular telephone. While the definition of electronic communication device at 705 ILCS 405/3-40(a) appears to make using *cell phone*, *electronic device*, and *computer* redundant, this sample will continue to use *cell phones* and *electronic devices* for simplicity. Change the subhead to *electronic communication devices* if the district wants to use one term.

⁴ Delete this sentence if the board has deleted the *out-of-sight* limitation from board policy 7:190, *Student Behavior*. See [sample](#) policy 7:190, *Student Behavior*, at f/n 16.

4. They may not be used for sexting, as defined in Board policy 7:190, *Student Behavior* ~~creating, sending, sharing, viewing, receiving, or possessing indecent visual depictions⁵ or non-consensual dissemination of private sexual images⁶ as defined in State law, i.e., sexting.⁷~~ Possession is prohibited regardless of whether the depiction violates State law. Any cellular phone or electronic device may be searched upon reasonable suspicion of sexting or other violations of policy. All sexting violations will require school administrators to follow student discipline policies in addition to contacting the police and reporting suspected child abuse or neglect when appropriate.

Electronic study aids may be used during the school day if:

1. Use of the device is provided in the student's IEP, or
2. Permission is received from the student's teacher; e.g., Bring Your Own Technology (BYOT) programs.

Examples of electronic devices that are used as study aids include: devices with audio or video recording, MP3 players, some cellular phones, smartphones, laptop computers, Chromebooks®, and tablet computers or devices, e.g., iPads®.

Examples of electronic devices that are **not** used as study aids include: hand-held electronic games, MP3 players used for a purpose other than a study aid, global positioning systems (GPS), radios, and cellular phones, including and smartphones (with or without cameras), used for a purpose other than a study aid.

The use of technology as educational material in a curriculum-based program is not a necessity but a privilege, and a student does not have an absolute right to use his or her electronic device while at school. If applicable, using technology as a study aid must always follow the established rules for the BYOT program. Using technology at all other times must always follow the established rules for cellular and smartphones and other electronic devices at school.

The School District is not responsible for the loss or theft of any electronic device brought to school.

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

⁵ ~~705 ILCS 405/3-40(a). See sample administrative procedure 7:190-AP6, *Guidelines for Investigating Sexting Allegations*, for the definition. Indecent visual depiction means a depiction or portrayal in any pose, posture, or setting involving a lewd exhibition of the unclothed or transparently clothed genitals, pubic area, buttocks, or, if such person is female, a fully or partially developed breast of the person. This law was enacted to provide law enforcement officials an alternative to bringing child pornography charges against minors in possession of indecent visual depictions through placing them under the supervision of juvenile courts.~~

⁶ ~~720 ILCS 5/11-23.5, amended by P.A. 103-825, eff. 1-1-25. See sample administrative procedure 7:190-AP6, *Guidelines for Investigating Sexting Allegations*, for the definition. Non-consensual dissemination of private sexual images is a crime. It is committed when a person:~~
(1) ~~intentionally disseminates an image of another person:~~
(A) ~~who is at least 18 years of age; and~~
(B) ~~who is identifiable from the image itself or information displayed in connection with the image; and~~
(C) ~~who is engaged in a sexual act or whose intimate parts are exposed, in whole or in part; and~~
(2) ~~obtains the image under circumstances in which a reasonable person would know or understand that the image was to remain private; and~~
(3) ~~knows or should have known that the person in the image has not consented to the dissemination.~~

⁷ ~~Id. Sexting is a portmanteau word of sex and texting with no clear definition. It is commonly explained as the act of sending sexually explicit photos, images, or messages electronically, primarily by mobile phone or the internet. For purposes of this procedure, it includes the Juvenile Court Act and Criminal Code of 2012 definitions of indecent visual depiction (see f/n 5) and non-consensual dissemination of private sexual images (see f/n 6), respectively.~~

OK as is
Shirley w/Scott,
Melissa, Jessica,
Shonda, Jen, & Lisa

Students

Administrative Procedure - Guidelines for Investigating Sexting Allegations

Establishing procedures with local law enforcement agencies and State's attorneys to investigate allegations of sexting protects the District, its staff and its students from the broad legal implications that sexting allegations present. This administrative procedure contains three sections:

1. Glossary of Terms
2. Preparation of Guidelines for Investigating Sexting Allegations
3. Investigation and Management of Sexting Allegations

Glossary of Terms

Electronic device: any type of electronic communication device, defined in the Juvenile Court Act of 1987 at 705 ILCS 405/3-40(a). It includes, but is not limited to, a wireless telephone, personal digital assistant, or a portable or mobile computer, that is capable of transmitting images or pictures. This includes cellular telephones (see www.thesaurus.com/, listing cellular and wireless telephones as synonyms). For more discussion, see f/n 3 in [sample](#) administrative procedure 7:190-AP5, *Student Handbook - Electronic Devices*.

Sexting:¹ ~~a portmanteau word of sex and texting with no clear definition. It is commonly explained as the act of creating, sending, sharing, viewing, receiving, or possessing sexually explicit photos, images, or messages, images, or videos electronically, regardless of whether they are authentic or computer-generated, through the use of a computer, electronic communication device, or cellular phone. electronically, primarily by mobile phone or the internet. For purposes of this procedure, it~~ also includes:

1. ~~Creating, sending, sharing, viewing, receiving, or possessing an i~~ndecent visual depiction, which under the Juvenile Court Act of 1987 means a depiction or portrayal in any pose, posture, or setting involving a lewd exhibition of the unclothed or transparently clothed genitals, pubic area, buttocks, or, if such person is female,² a fully or partially developed breast of the person (705 ILCS 405/3-40(a) (enacted to provide law enforcement officials an alternative to bringing child pornography charges against minors in possession of indecent visual depictions through placing them under the supervision of juvenile courts)), or
2. *Non-consensual dissemination of private sexual images*, which under the Criminal Code of 2012 ([720 ILCS 5/11-23.5, amended by P.A. 103-825](#)), is a crime that is committed when a person:
 - a. intentionally disseminates an image of another person:
 - i. ~~who is at least 18 years of age; and~~

The footnotes should be removed before the material is used.

¹ [Ensure the definition of sexting in this administrative procedure aligns with the definition that appears in policy 7:190, Student Behavior.](#)

² 705 ILCS 405/3-40(a) assumes sex is binary and does not address transgender females or individuals who identify as nonbinary. Consult the board attorney about this definition if an involved student is transgender or nonbinary.

Actor	Action
	<p>Searching electronic devices involves Fourth Amendment to the U.S. Constitution search and seizure issues, and the The federal Stored Communication Act (SCA) (18 U.S.C. §2701) can also be implicated if the District wants to access information stored on a personal cellular phone from a third-party provider issues. Generally asking for permission, calling the parents to come and look through the phone, or getting a warrant solves these these issues. Note: See <i>Searching and Seizing Computers and Obtaining Electronic Evidence Manual</i> (Sept. 2009), Chapter 3, The Stored Communication Act, at: www.justice.gov/d9/criminal-ccips/legacy/2015/01/14/ssmanual2009_002.pdf https://www.justice.gov/file/442111/download and Orin S. Kerr, <i>A User's Guide to the Stored Communications Act, and a Legislator's Guide to Amending It</i>, <i>George Washington Law Review</i> (Aug. 2004), at: courses.ischool.berkeley.edu/i205/s10/readings/week10/kerr-storedcomm.pdf.</p> <p>Identify and list all State's attorneys and local law enforcement agencies with jurisdiction over the District's boundaries. Provide this list to all Building Principals in the District.</p> <p>Provide the local State's attorney offices and law enforcement agencies with an annual list of school buildings and the names of each building's administrators that are located within their jurisdictions.</p> <p>Invite local State's attorney offices and law enforcement agencies to meet with District school officials to provide input on how the District should manage sexting.</p> <p>Add an agenda item about sexting to a Parent Teacher Advisory Committee meeting (see Board policy 2:150, <i>Committees</i>). Include information from discussions with State's attorneys and local law enforcement about the issue. Discuss local considerations for:</p> <ol style="list-style-type: none"> 1. Disciplinary actions and consequences in response to sexting; and 2. Sexting education and prevention efforts. <p>Consider adding information about the negative consequences of sexting to the District's sex education curriculum. See, U.S. Dept. of Justice (DOJ) Guide titled <i>Citizen's Guide to United States Federal Child Exploitation and Obscenity Laws</i>, at: www.justice.gov/criminal-ceos/citizens-guide-us-federal-child-exploitation-and-obscenity-laws; MTV's four part series titled <i>Sexting in America: When Privates Go Public</i>, available at: www.mtv.com/news/1631123/mtv-news-sexting-in-america-when-privates-go-public-premieres-on-valentines-day.</p>

Actor	Action
	<p>Consider adding the above resources to exhibit 4:170-AP2, E4, Exhibit Letter to Parents/Guardians About Preventing and Reducing Incidences of Sexting.</p> <p>Convene a meeting with Building Principals to inform them of the District's Investigation and Management of Sexting Allegations procedures (see below).</p> <p>Raise awareness of and increase educational opportunities about sexting as necessary. Follow the Parent Teacher Advisory Committee's recommendations for providing sexting education and prevention efforts.⁵</p> <p>Invite the local State's attorney and local law enforcement to participate in the District's education and prevention efforts.</p>
Building Principals	<p>Educate building staff members about the procedures for Investigation and Management of Sexting Allegations (see below).</p> <p>Follow the Investigation and Management of Sexting Allegations.</p>

Investigation and Management of Sexting Allegations

This section relies upon the Building Principal or designee to manage several practical and legal implications when conducting sexting allegation investigations.

Actor	Action
Building Principal or designee	<p>Step 1: <u>If the alleged conduct is governed by Board policy 2:265, Title IX Grievance Procedure (Notification and Information subhead):</u></p> <p><u>Skip Step 2 and consult with the Title IX Coordinator regarding Steps 3, 5, and 6. Continue to follow Step 4. Note: The District may not issue discipline for alleged conduct covered by Title IX unless there is a determination at the conclusion of the Title IX Grievance Process that the Respondent engaged in discrimination prohibited by Title IX.</u></p> <p><u>Step 2: If the alleged conduct is not governed by Board policy 2:265, Title IX Grievance Procedure, then investigate.</u></p> <p>Investigate</p> <p>Determine where actions took place.</p> <p>Contact parents/guardians of all students involved.</p> <p>Contact the Superintendent and request permission to contact the Board Attorney.</p> <p>Step <u>32</u>: Isolate Evidence / Confiscate Device</p>

The footnotes should be removed before the material is used.

⁵ If a district offers the National Sex Education Standards (NSES), any recommendations should align with NSES. See sample policy 6:60, *Curriculum Content*, and its f/n 354, and sample administrative procedure 6:60-AP2, *Comprehensive Personal Health and Safety and Sexual Health Education Program (National Sex Education Standards (NSES))*.

Actor	Action
	<p>NEVER transfer or store depictions on personal or school electronic devices to minimize accusations of possession of child pornography. (See 720 ILCS 5/11-20.1 <u>et seq.</u>, 720 ILCS 5/11-23.5(c) (provides an exception on transfer of an image for a lawful purpose), and 18 U.S.C. §§2251, 2252, and 2252A). Also see the DOJ's Child Exploitation and Obscenity Section discussing child pornography issues, available at: www.justice.gov/criminal-ceos.</p> <p>Contact the Board Attorney for guidance to determine whether to involve local law enforcement or manage the situation within the District's disciplinary policy.</p> <p>See Joshua D. Herman, <i>Criminal Law. Sexting: It's No Joke, It's a Crime</i>. Illinois Bar Journal, Volume 98, No. 4, P. 192 at f/n 42 (published April 2010), at: www.isba.org/ibj/2010/04/criminallaw, (quoting an attorney in the Ill. Attorney General's High Tech Crimes Bureau who advises school administrators to immediately confiscate devices with such material on them and report the incident to law enforcement immediately, stating that possession of a sext message that is child pornography is no different than possessing a "kilo of cocaine.")</p> <p>Follow Board policy 7:140, <i>Search and Seizure</i>, and administrative procedure 7:150-AP, <i>Agency and Police Interviews</i>.</p> <p>Follow the Board Attorney's direction regarding searches of student owned technological devices. See Preparation of Guidelines for Investigating Sexting Allegations (above).</p> <p>Step 43: Follow the reporting requirements of Board policy 5:90, <i>Abused and Neglected Child Reporting</i>, when applicable</p> <p>A <i>sexted</i> image may constitute child abuse depending upon the visual depiction or image, the ages of the individuals involved, and other circumstances. See 325 ILCS 5/3 and 705 ILCS 405/2-3(2) which includes sex offenses defined at 720 ILCS 5/1-1 <u>et seq.</u> School personnel are granted broad immunities against civil and criminal claims for filing reports in good faith, even if the report is unfounded. In contrast, school personnel who willfully fail to report may be guilty of a Class A misdemeanor (325 ILCS 5/4(m)) and face suspension or revocation of their licenses, endorsements, or approvals (105 ILCS 5/21B-75, amended by P.A.s 102-552 and 102-702, eff. 7-1-23).</p> <p>Step 54: Determine appropriate disciplinary actions for all students involved in the incident</p> <p>Evaluate disciplinary options. Remember that a student who forwards sexts of himself or herself likely expected the depiction to remain private. As a result, consider the social stigma, bullying, harassment, and severe embarrassment issues involved in the issue.</p>

Actor	Action
	<p>Provide an equivalent discipline to all students involved in the creation, dissemination, and storage of the sexted image, whenever possible.</p> <p>See Sorenen, Vitale, and Haase, <i>Sexting at School: Lessons Learned the Hard Way</i>. National School Board Association, Council of School Attorney's Inquiry & Analysis, f/n 40 (published February 2010), and available at: http://kyess.org/ns/wp-content/uploads/2020/11/SSI-Sexting-Handout-NSBA-Sexting-at-School-Lessons-Learned-the-Hard-Way.pdf. It discusses several sex equality claims against school districts for punishing students differently when they are involved in the same incident.</p> <p>For situations that may require unequal punishment, contact the Superintendent so that he or she may consult the Board Attorney.</p> <p>Step 65: Prepare a plan to prevent harassment and bullying of involved students</p> <p>Remind the students and their parents/guardians of the Board policies 2:265, Title IX Grievance Procedure; 7:20, <i>Harassment of Students Prohibited</i>; 7:180, <i>Prevention of and Response to Bullying, Intimidation, and Harassment</i>; and 7:185, <i>Teen Dating Violence Prohibited</i>.</p> <p>Instruct involved students not to harass anyone involved in the sexting incident and keep the issues confidential.</p> <p>Consider involving the social worker or school counselor, if available, in the process to assist students.</p> <p>Follow Board policy 7:180, <i>Prevention of and Response to Bullying, Intimidation, and Harassment</i>, for students who violate the policy.</p>

Students

Administrative Procedure - Electronic Recordings on School Buses ¹

Review of Electronic Recordings ²

Electronic video and audio recordings are viewed to investigate an incident reported by a bus driver, administrator, law enforcement officer working in the District, supervisor, student, or other person. They are also viewed at random.

Viewing and/or listening to electronic video and/or audio recordings is limited to law enforcement officers working in the District and District personnel. These individuals must have: (1) a law enforcement, security, or safety reason, or (2) a need to investigate and/or monitor student or driver conduct. A written log will be kept of those individuals viewing a video recording stating the time, name of individual viewing it, and date the video recording was viewed.

If the content of an electronic recording becomes the subject of a student disciplinary hearing, it will be treated like other evidence in the proceeding.

An electronic video or audio recording may be reused or erased after 14 days unless it is needed for an educational or administrative purpose. ³

The footnotes should be removed before the material is used.

¹ The superintendent should consult with the board attorney concerning the status of video and/or audio recordings that were made on school buses. This procedure implements the statutory prerequisites for districts using electronic audio and visual recording devices on school buses. 720 ILCS 5/14-3(m). These required prerequisites are contained in an exception to the criminal eavesdropping statute. It prohibits recording a conversation in which someone has a reasonable expectation of privacy without the consent of all parties but allows citizens to record public conversations without obtaining consent.

² Confusion surrounds whether or not electronic video or audio recordings are *education records* for purposes of the federal Family Education Rights and Privacy Act (FERPA)(20 U.S.C. §1232g) and/or *school student records* as defined in the Ill. School Student Records Act (ISSRA)(105 ILCS 10/).

The U.S. Dept. of Education *FAQs on Photos and Videos under FERPA*, at www.studentprivacy.ed.gov/faq/faqs-photos-and-videos-under-ferpa, states that a video of a student is an education record, subject to specific exclusions, when the video is: (1) directly related to a student; and (2) maintained by an educational agency or institution or by a party acting for the agency or institution. *Id.*, citing 20 U.S.C. §1232g(a)(4)(A); 34 C.F.R. §99.3. One such exclusion is for records created and maintained by a law enforcement unit of an educational agency or institution for law enforcement purposes. *Id.*, citing 20 U.S.C. §1232g(a)(4)(B)(ii); 34 C.F.R. §§ 99.3, 99.8. The Ill. State Board of Education (ISBE) considerably reduced the confusion by stating in its rule that *school student records* do not include video or other electronic recordings “created at least in part for law enforcement or security or safety reasons or purposes.” 23 Ill.Admin.Code §375.10. ISBE rules also specify that: (1) electronic recordings made on school buses, as defined in the exemption from the criminal offense of eavesdropping in 720 ILCS 5/14-3, are not *school student records*, (*Id.*) and (2) no image on a school security recording may be designated as directory information (23 Ill.Admin.Code §375.80(a)(2)(B)). This treatment exempts school bus videos from the multiple requirements in ISSRA. When responding to a request under the Freedom of Information Act (5 ILCS 140/) for recordings on school buses, a district will need to find an exemption other than the recording is a *school student record*.

³ The superintendent may change the number of days for keeping a video recording. The Local Records Act (LRA) governs the destruction of public records. 50 ILCS 205/. Unless a record contains informational data appropriate for preservation, the LRA is not triggered and the record may be destroyed. Electronic recordings on school buses may be destroyed because they typically do not contain informational data appropriate for preservation.

Notice of Electronic Recordings 720 ILCS 5/14-3(m).

The Eavesdropping Act exempts electronic recordings on school buses from its coverage when transportation is provided for a school activity, provided the School Board adopted a policy authorizing their use. Notice of the adopted policy regarding video and audio recordings shall be: (1) clearly posted on the front door and interior of the school bus, (2) provided to students and parents/guardians, and (3) included in student handbooks and other documents.

DRAFT

See changes
as noted
Share w/ Jessica

Students

Administrative Procedure - Protocol for Responding to Students with Social, Emotional, or Mental Health Needs¹

Student Support Committee

Each Building Principal shall annually appoint a building-level Student Support Committee that shall have the tasks described in this Administrative Procedure. Committee members must be school staff members who are qualified by professional licensing or experience to address issues concerning students who may have social, emotional, or mental health needs. As needed on a case-by-case basis, the Student Support Committee may request the involvement of the Building Principal, relevant teachers, and the parents/guardians. Records produced and shared among Committee members may be subject to laws governing student records. Confidential information given by a student to a therapist is governed by the Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/.

Children's Mental Health Partnership's Plan and Annual Progress Reports

The Illinois Children's Mental Health Partnership (ICMHP) develops and updates its statewide Children's Mental Health Plan (CMH Plan). The CMH Plan is a statewide strategic blueprint or roadmap to promote and improve the children's mental health system and covers a range of recommendations and strategies necessary to reforming the children's mental health system in Illinois. By Dec. 30 of each year, the ICMHP must submit an annual progress report to the Governor for approval. The Student Support Committee will monitor the annual ICMHP progress report, available at: www.icmhp.org/our-work/our-annual-reports, and The CMH Plan, is both available at: www.dhs.state.il.us/page.aspx?item=68168 <https://dph.illinois.gov/topics-services/life-stages-populations/maternal-child-family-health-services/child-health/icmhp.html>. After reviewing both documents/websites, the Student Support Committee will decide how to implement its recommendations and strategies as appropriate within the resources available in the District.

Referrals

Staff members should refer a student suspected of having social, emotional, or mental health needs to the building-level Student Support Committee. The Student Support Committee will review information about a referred student, including prior interventions, and suggest appropriate steps for referral and follow-up. The Student Support Committee may offer strategies to a referred student's classroom teachers and parents/guardians about ways they can manage, address, and/or enhance the student's social and emotional development and mental health. In addition, the Student Support Committee may recommend coordinated educational, social work, school counseling, student assistance services, and/or a case study evaluation, as well as referrals to outside agencies.

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

¹ The Children's Mental Health Act, 405 ILCS 49/, amended by P.A. 102-899, eff. 1-1-23, requires districts to have a protocol for responding to children with social, emotional, or mental health needs, or a combination of such needs, that impact learning ability. The complexity and scope of such a protocol will vary from district to district. At minimum, the superintendent should consider including the first three sections of this sample procedure.

The Children's Mental Health Act also requires every district to have a policy for incorporating social and emotional development into the district's educational program. See sample policy 6:65, *Student Social and Emotional Development*.

Referrals under this procedure are unrelated to the special education evaluation process and do not trigger the District's timeline for evaluations. However, the use of these procedures shall not circumvent the special education process. See Administrative Procedure 6:120-AP1, *Special Education Procedures Assuring the Implementation of Comprehensive Programming for Children with Disabilities*.

School Counseling, School Social Work, School Psychological, and School Nursing Services²

The Student Support Committee may request school counselors, school social workers, school psychologists, and school nurses to provide support and consultation to teachers and school staff about strategies to promote the social and emotional development and mental health of all students. They may also be requested to provide screening and early detection approaches to identify students with social, emotional, and mental health needs.

School counselors, school social workers, school psychologists, and school nurses will inform parents/guardians of all issues that pose a health and/or safety risk; they will inform the Building Principal of any health or safety risks that are present in the school.

Psycho-Educational Groups³

As appropriate, the Student Support Committee may recommend that a student participate in a variety of psycho-educational groups. These groups are typically led by school counselors, social workers, or psychologists, but are not structured as therapeutic services. Groups are designed to help students better understand issues and develop strategies to manage issues of concern to them that may, if not addressed, interfere significantly with the students' educational progress or school adjustment. Groups have a written curriculum that guides discussion over a set period of time, generally five weeks. A student may participate in a group without parent/guardian permission for one such time period; subsequent enrollment in the same group requires parent/guardian permission.

Students in a group who present significant concern and for whom therapeutic services must be considered will be referred to the social workers, psychologists, or school counselors for individual consultation. (See above description of these services.)

Erin's Law Counseling Options, Assistance, and Intervention⁴

The Student Support Committee shall identify District and community-based counseling options for students who are affected by sexual abuse and grooming behaviors, along with options for victims of sexual abuse to obtain assistance and intervention. Community-based options must include a Children's Advocacy Center⁵ and sexual assault crisis center(s) that serve the District, if any.

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

² See [sample](#) policy 7:250, *Student Support Services*, at f/ns [3-64-7](#), for information about the roles and licensure of school support personnel, including school counselors, school social workers, school psychologists, and school nurses.

³ Omit this section if the school does not have a psycho-educational program in place.

⁴ Required by *Erin's Law*, 105 ILCS 5/10-23.13(b)(2), (3), and (5), ~~amended by P.A. 102-610~~.

⁵ To identify a Children's Advocacy Center (CAC) that may serve the district, see www.childrensadvocacycentersofillinois.org/about/map. For more information on CACs, see [sample](#) policy 5:90, *Abused and Neglected Child Reporting*, and [sample](#) administrative procedure 5:90-AP1, *Coordination with Children's Advocacy Center*.

Article 26A Domestic or Sexual Violence and Parenting Resource Personnel ⁶

The Student Support ~~Committee~~ ^{Team} shall assist the designated resource person (Article 26A Resource Person) for students who are parents, expectant parents, or victims of domestic or sexual violence (Article 26A Students) to identify in-school and non-school-based support service options for such students. Every two years, the Student Support ~~Committee~~ ^{Team} shall assist the Superintendent or designee, Building Principal, and Article 26A Resource Person to review all Board policies and procedures that may act as barriers to the enrollment and re-enrollment, attendance, graduation, and success in school of any Article 26A Student and to recommend any necessary updates. See administrative procedure 7:255-AP1, *Supporting Students Who are Parents, Expectant Parents, or Victims of Domestic or Sexual Violence*.

School and Community Linkages

When possible, the Student Support Committee shall seek to establish linkages and partnerships with diverse community organizations with the goal of providing a coordinated, collaborative early intervention social and emotional development and mental health support system for students that is integrated with community mental health agencies and organizations and other child-serving agencies and systems.

LEGAL REF.: 105 ILCS 5/10-23.13 and 5/26A.
405 ILCS 49/, Children's Mental Health Act.

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

⁶ Required by 105 ILCS 5/26A-35, added by P.A. 102-466, a/k/a *ESS Law*, eff. 7-1-25. See sample policy 7:255, *Students Who are Parents, Expectant Parents, or Victims of Domestic or Sexual Violence*, and sample administrative procedure 7:255-AP1, *Supporting Students Who are Parents, Expectant Parents, or Victims of Domestic or Sexual Violence*.

7:250-AP2

Page 3 of 3

OK as is
Shrew/Jen,
Jessica, Sharon,
NEW Melissa
Scott

Students

Supporting Students Who are Parents, Expectant Parents, or Victims of Domestic or Sexual Violence¹

The District provides accommodations and support services to students who are parents, expectant parents, or victims of domestic or sexual violence (Article 26A Students) to enable them to succeed in school. Use this procedure to implement the District's program for supporting Article 26A students.

The topics outlined in this procedure include: Glossary of Terms; Notification, Roles, and Responsibilities; Training; Initial Response; Article 26A Support Services; Confidentiality; Recordkeeping; and Policy and Procedure Review.

Complaints alleging violations of Article 26A are processed using administrative procedure 7:255-AP2, *Complaint Resolution Procedure for Students Who are Parents, Expectant Parents, or Victims of Domestic or Sexual Violence*.

Glossary of Terms²

Confidential – Information or facts expected and intended to be kept private or protected by an existing privilege in the Ill. Code of Civil Procedure, 735 ILCS 5/. The District may disclose confidential information if disclosure is required by State or federal law or is necessary to complete proceedings relevant to 105 ILCS 5/26A. Designation of student information as confidential applies to the District and does not limit a student's right to speak about the student's experiences.

Consent – Includes, at a minimum, a recognition that (i) consent is a freely given agreement to sexual activity, (ii) an individual's lack of verbal or physical resistance, or submission resulting from the use of threat of force does not constitute consent, (iii) an individual's manner of dress does not constitute consent, (iv) an individual's consent to past sexual activity does not constitute consent to future sexual activity, (v) an individual's consent to engage in one type of sexual activity with one person does not constitute consent to engage in any other type of sexual activity with that person or any sexual activity with another person, (vi) an individual can withdraw consent at any time, and (vii) an individual cannot consent to sexual activity if that individual is unable to understand the nature of the activity or give knowing consent due to the circumstances that include, but are not limited to, all the following:

1. The individual is incapacitated due to the use or influence of alcohol or drugs.
2. The individual is asleep or unconscious.
3. The individual is under the age of consent.
4. The individual is incapacitated due to a mental disability.

Complainant³ – A student who is a survivor of domestic or sexual violence and/or a student who is a parent or expectant parent who is alleged to be the victim of conduct that could constitute a violation

The footnotes should be removed before the material is used.

¹ Required by 105 ILCS 5/26A-25, added by P.A. 102-466, a/k/a *Ensuring Success in School (ESS) Law*, eff. 7-1-25. Ensure that this sample administrative procedure is aligned with the district's policies, procedures, and practices.

² Unless otherwise noted, all defined terms are based on definitions in 105 ILCS 5/26A-10, added by P.A. 102-466, a/k/a *ESS Law*, eff. 7-1-25.

³ The definition of *complainant* is based on a recommended definition from the second ESS Task Force. See p. 17 of the June 2024 ESS Task Force final report, at: www.isbe.net/Documents_ESSTaskForce/Final-Report-ESS-Report-June-2024.pdf.

of 105 ILCS 5/26A (Article 26A). To the extent that the complainant is a minor student, the student's parent/guardian may be a complainant on behalf of their child.

Domestic or Sexual Violence – Domestic violence, gender-based harassment, sexual activity without consent, sexual assault, sexual violence, or stalking. Domestic or sexual violence may occur through electronic communication. Domestic or sexual violence exists regardless of when or where the violence occurred, whether or not the violence is the subject of a criminal investigation or the perpetrator has been criminally charged or convicted of a crime, whether or not an order of protection or a no-contact order is pending before or has been issued by a court, or whether or not any domestic or sexual violence took place on school grounds, during regular school hours, or during a school-sponsored event.

Domestic or Sexual Violence Organization – A nonprofit, nongovernmental organization that provides assistance to victims of domestic or sexual violence or advocates for those victims, including an organization carrying out a domestic or sexual violence program, an organization operating a shelter or a rape crisis center or providing counseling services, an accredited Children's Advocacy Center, an organization that provides services to or advocates on behalf of children and students who are gay, lesbian, bisexual, transgender, or gender nonconforming, an organization that provides services to or advocates on behalf of children and students who are parents or expectant parents, or an organization seeking to eliminate domestic or sexual violence or to address the consequences of that violence for its victims through legislative advocacy or policy change, public education, or service collaboration.

Domestic Violence – Abuse by family or household members, as those terms are defined in the Ill. Domestic Violence Act of 1986, 750 ILCS 60/. See 750 ILCS 60/103(1) and (6).

Electronic Communication – Communications via telephone, mobile phone, computer, email, video recorder, fax machine, telex, pager, apps or applications, or any other electronic communication, or cyberstalking as defined in 720 ILCS 5/12-7.5.

Expectant Parent – A student who (i) is pregnant and (ii) has not yet received a diploma for completion of a secondary education as defined in 105 ILCS 5/22-22.

Gender-based Harassment – Any harassment or discrimination on the basis of an individual's actual or perceived sex or gender, including unwelcome sexual advances, requests for sexual favors, other verbal or physical conduct of a sexual nature, or unwelcome conduct, including verbal, nonverbal, or physical conduct that is not sexual in nature but is related to a student's status as a parent, expectant parent, or victim of domestic or sexual violence.

Harassment – Any unwelcome conduct on the basis of a student's actual or perceived race, gender, color, religion, national origin, ancestry, sex, marital status, order of protection status, disability, sexual orientation, gender identity, pregnancy, or citizenship status that has the purpose or effect of substantially interfering with the individual's academic performance or creating an intimidating, hostile, or offensive learning environment.

Perpetrator – An individual who commits or is alleged to have committed any act of domestic or sexual violence. This term must be used with caution when applied to children, particularly young children.

Poor Academic Performance – A student who has (i) scored in the 50th percentile or below on a school district-administered standardized test, (ii) received a score on a State assessment that does not meet standards in one or more of the fundamental learning areas under 105 ILCS 5/27-1, as applicable for the student's grade level, or (iii) not met grade-level expectations on a school district-designated assessment.

Representative – An adult who is authorized to act on behalf of a student during a proceeding, including an attorney, parent, or guardian.

Respondent – The District, school, or school personnel allegedly having violated 105 ILCS 5/26A.

Sexual Activity – Any knowingly touching or fondling by one person, either directly or through clothing, of the sex organs, anus, mouth, or breast of another person for the purpose of sexual gratification or arousal.

Sexual Assault/Sexual Violence – Any conduct of an adult or minor child proscribed in 720 ILCS 5/11, except for Sections 11-35, 11-40, and 11-45, including conduct committed by a perpetrator who is a stranger to the victim and/or conduct committed by a perpetrator who is known or related by blood or marriage to the victim.

Stalking – Any conduct proscribed in 720 ILCS 5/12-7.3, 5/12-7.4, or 5/12-7.5, including stalking committed by a perpetrator who is a stranger to the victim and/or stalking committed by a perpetrator who is known or related by blood or marriage to the victim.

Student – Any child who has not yet received a diploma for completion of a secondary education. A student includes, but is not limited to, an unaccompanied minor not in the physical custody of a parent or guardian.

Student at Risk of Academic Failure – A student who is at risk of failing to meet the Ill. Learning Standards or failing to graduate from elementary or high school and who demonstrates a need for educational support or social services beyond those provided by the regular school program.

Student Parent – A student who is a custodial or noncustodial parent taking an active role in the care and supervision of a child and who has not yet received a diploma for completion of a secondary education.

Support Person – Any person whom the victim has chosen to include in proceedings for emotional support or safety. A support person does not participate in proceedings but is permitted to observe and support the victim with parent/guardian approval. A support person may include, but is not limited to, an advocate, clergy, a counselor, or a parent/guardian. If a student is age 18 years or older, or emancipated, the student has the right to choose a support person without parent/guardian approval.

Survivor-centered – A systematic focus on the needs and concerns of a survivor of sexual violence, domestic violence, dating violence, or stalking that (i) ensures the compassionate and sensitive delivery of services in a nonjudgmental manner, (ii) ensures an understanding of how trauma affects survivor behavior, (iii) maintains survivor safety, privacy, and, if possible, confidentiality, and (iv) recognizes that a survivor is not responsible for the sexual violence, domestic violence, dating violence, or stalking.

Trauma-informed Response – A response involving an understanding of the complexities of sexual violence, domestic violence, dating violence, or stalking through training centered on the neurobiological impact of trauma, the influence of societal myths and stereotypes surrounding sexual violence, domestic violence, dating violence, or stalking, and understanding the behavior of perpetrators.

Victim – An individual who has been subjected to one or more acts of domestic or sexual violence.

Notification, Roles, and Responsibilities

Actor	Action
Superintendent or Designee	Ensures that Board policy 7:255, <i>Students Who are Parents, Expectant Parents, or Victims of Domestic or Sexual Violence</i> , and procedures for

Actor	Action
	<p>requesting supportive services or filing a complaint are (105 ILCS 5/26A-20(d), added by P.A. 102-466, a/k/a <i>ESS Law</i>, eff. 7-1-25):</p> <ol style="list-style-type: none"> 1. Posted on the District's website, if any (see exhibit 2:250-E2, <i>Immediately Available District Public Records and Web-Posted Reports and Records</i>); 2. Distributed to each student at the beginning of each school year; and 3. Available for inspection and copying at no cost to students and parents/guardians at each school. <p>Ensures that each Building Principal designates at least one staff member in each school building as a resource person for Article 26A Students (Article 26A Resource Person). 105 ILCS 5/26A-35(a), added by P.A. 102-466, a/k/a <i>ESS Law</i>, eff. 7-1-25.</p> <p>Identifies all individuals who will resolve complaints of Article 26A violations. 105 ILCS 5/26A-25(b), added by P.A. 102-466, a/k/a <i>ESS Law</i>, eff. 7-1-25. Such individuals will include the District's Nondiscrimination Coordinator, Title IX Coordinator, and Complaint Manager(s).⁴ See administrative procedure 7:255-AP2, <i>Complaint Resolution Procedure for Students Who are Parents, Expectant Parents, or Victims of Domestic or Sexual Violence</i>.</p> <p>The District must have enough individuals trained to resolve complaints so that (1) a substitution can occur in the case of a conflict of interest or recusal, (2) an individual with no prior involvement in the initial determination may hear an appeal, and (3) the complaint resolution procedure proceeds in a timely manner. <i>Id.</i></p> <p>Notifies all District employees and agents that, upon learning or suspecting that a student is a parent, expectant parent, or victim of domestic or sexual violence, they must refer the student to a designated Article 26A Resource Person. 105 ILCS 5/26A-40(e), added by P.A. 102-466, a/k/a <i>ESS Law</i>, eff. 7-1-25.</p> <p>Annually notifies all District personnel and students 12 years of age or older, in writing, of the availability of counseling without parent/guardian consent under 405 ILCS 5/3-550. See Board policy 7:250, <i>Student Support Services</i>.</p> <p>Every two years, along with the Building Principal(s), building-level Student Support Committee(s), and building-level Article 26A Resource Person(s), reviews all Board policies and procedures that may act as barriers to the enrollment and re-enrollment, attendance, graduation, and success in school of any Article 26A Student and recommends any</p>

The footnotes should be removed before the material is used.

⁴ Optional. Ensure the individuals identified here align with those stated in board policy 7:255, *Students Who are Parents, Expectant Parents, or Victims of Domestic or Sexual Violence*, and administrative procedure 7:255-AP2, *Complaint Resolution Procedure for Students Who are Parents, Expectant Parents, or Victims of Domestic or Sexual Violence*.

Actor	Action
	<p>necessary updates. 105 ILCS 5/26A-20(a), added by P.A. 102-466, a/k/a <i>ESS Law</i>, eff. 7-1-25. See the Policy and Procedure Review subhead below for a suggested list. Based upon that review, recommends to the Board on any necessary updates to Board policy 7:255, <i>Students Who are Parents, Expectant Parents, or Victims of Domestic or Sexual Violence</i>, and any other relevant Board policies.</p>
Building Principal(s)	<p>Designates at least one staff member as a resource person for Article 26A Students (Article 26A Resource Person). Note: add lines for Resource Persons for each building, as needed.</p> <p>Article 26A Resource Person for [insert school name]:</p> <p>_____</p> <p>Name</p> <p>_____</p> <p>Address</p> <p>_____</p> <p>Email</p> <p>_____</p> <p>Telephone</p> <p>The Article 26A Resource Person must be employed at least part-time and be a licensed school social worker, school psychologist, school counselor, school nurse, or school administrator. 105 ILCS 5/26A-35(a), added by P.A. 102-466, a/k/a <i>ESS Law</i>, eff. 7-1-25.</p> <p>The Article 26A Resource Person may be a member of the building-level Student Support Committee as established under administrative procedure 7:250-AP2, <i>Protocol for Responding to Students with Social, Emotional, or Mental Health Needs</i>.</p> <p>Ensures the building-level Student Support Committee performs the duties listed in the Student Support Committee row, below.</p> <p>Annually distributes the name and contact information of the building-level Article 26A Resource Person to all employees, students, and parents/guardians by including it in any building-specific website and student handbook.⁵ See exhibits 2:250-E2, <i>Immediately Available District Public Records and Web-Posted Reports and Records</i>, and 7:190-E2, <i>Student Handbook Checklist</i>.</p> <p>Every two years, assists the Superintendent or designee, Student Support Committee, and Article 26A Resource Person to review all Board policies and procedures that may act as barriers to the enrollment and re-enrollment, attendance, graduation, and success in school of any Article</p>

The footnotes should be removed before the material is used.

⁵ These methods of distribution are optional. Ensure the methods of distribution here align with those stated in exhibits 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*, and 7:190-E2, *Student Handbook Checklist*.

Actor	Action
	26A Student and to recommend any necessary updates. 105 ILCS 5/26A-20(a), added by P.A. 102-466, a/k/a <i>ESS Law</i> , eff. 7-1-25.
Student Support Committee	<p>Assists the building-level Article 26A Resource Person to identify in-school and non-school-based support service options for Article 26A Students.</p> <p>Every two years, assists the Superintendent or designee, Building Principal, and Article 26A Resource Person to review all Board policies and procedures that may act as barriers to the enrollment and re-enrollment, attendance, graduation, and success in school of any Article 26A Student and to recommend any necessary updates. <u>Id.</u></p>
Article 26A Resource Person	<p>With the assistance of the Student Support Committee, identifies in-school and non-school-based support service options for Article 26A Students.</p> <p>Connects Article 26A Students to appropriate in-school services or other agencies, programs, or services as needed. 105 ILCS 5/26A-35(a), added by P.A. 102-466, a/k/a <i>ESS Law</i>, eff. 7-1-25.</p> <p>Coordinates the implementation of the District's policies, procedures, and protocols in cases involving student allegations of domestic or sexual violence. <u>Id.</u></p> <p>Coordinates the implementation of the District's policies, procedures, and protocols concerning Article 26A Students. <u>Id.</u></p> <p>Assists Article 26A Students in their efforts to exercise and preserve their rights as set forth in 105 ILCS 5/26A. <u>Id.</u></p> <p>Assists in providing staff development to establish a positive and trauma-sensitive learning environment for Article 26A Students. <u>Id.</u></p> <p>Every two years, assists the Superintendent or designee, Building Principal, and Student Support Committee to review all Board policies and procedures that may act as barriers to the enrollment and re-enrollment, attendance, graduation, and success in school of any Article 26A Student and to recommend any necessary updates. 105 ILCS 5/26A-20(a), added by P.A. 102-466, a/k/a <i>ESS Law</i>, eff. 7-1-25. See Policy and Procedure Review subhead, below.</p>
All District employees and agents	Upon learning or suspecting that a student is a parent, expectant parent, or victim of domestic or sexual violence, refers the student to a designated Article 26A Resource Person. 105 ILCS 5/26A-40(e), added by P.A. 102-466, a/k/a <i>ESS Law</i> , eff. 7-1-25.

Training

Actor	Action
Superintendent or Designee	Ensures that (105 ILCS 5/26A-35, added by P.A. 102-466, a/k/a <i>ESS Law</i> , eff. 7-1-25):

Actor	Action
	<ol style="list-style-type: none"> 1. All designated Article 26A Resource Persons are trained to understand, provide information and referrals, and address issues pertaining to students who are parents, expectant parents, or victims of domestic or sexual violence in a survivor-centered, trauma responsive, culturally responsive, confidential, and sensitive manner. Training must include: <ol style="list-style-type: none"> a. Theories and dynamics of domestic and sexual violence; b. The necessity for confidentiality and the law, policy, procedures, and protocols implementing confidentiality; c. Notification of the student's parent/guardian regarding the student's Article 26A status or the enforcement of the student's Article 26A rights, if notifying the student's parents/guardian may put the health or safety of the student at risk (see the Confidentiality subhead, below); and d. The rights of minors to consent to counseling services and psychotherapy on an outpatient basis under the Mental Health and Developmental Disabilities Code, 405 ILCS 5/3-550.⁶ 2. All individuals who will be resolving complaints of violations of Article 26A must complete at least eight hours of initial training on issues related to domestic and sexual violence and how to conduct the District's complaint resolution procedure under administrative procedure 7:255-AP2, <i>Complaint Resolution Procedure for Students Who are Parents, Expectant Parents, or Victims of Domestic or Sexual Violence</i>; and at least six hours of training annually thereafter. 105 ILCS 5/26A-25(b)(1), added by P.A. 102-466, a/k/a <i>ESS Law</i>, eff. 7-1-25. Training must be conducted by individuals with expertise in domestic or sexual violence among youth and expertise in developmentally appropriate communications with K-12 students regarding topics of a sexual, violent, or sensitive nature. <u>Id.</u>
Article 26A Resource Person	Assists the Superintendent or designee in providing staff development to establish a positive and trauma-sensitive learning environment for Article 26A Students. 105 ILCS 5/26A-35(a)(5), added by P.A. 102-466, a/k/a <i>ESS Law</i> , eff. 7-1-25.

The footnotes should be removed before the material is used.

⁶ Including the phrase "on an outpatient basis" and the citation to 405 ILCS 5/3-550 are optional but recommended by the second ESS Task Force. See p. 26 of the June 2024 ESS Task Force final report, at: www.isbe.net/Documents/ESSTaskForce/Final-Report-ESS-Report-June-2024.pdf.

105 ILCS 5/26A-35, added by P.A. 102-466, a/k/a *Ensuring Success in School (ESS) Law*, eff. 7-1-25, requires each designated Article 26A Resource Person to either (1) be trained as set forth above, or (2) have participated in an in-service training program under 105 ILCS 5/10-22.39(d) that includes training on the rights of minors to consent to counseling services and psychotherapy under the Mental Health and Developmental Disabilities Code within 12 months prior to designation. Id. However, 105 ILCS 5/10-22.39(d) was deleted by P.A. 103-542 and its training contents are in 105 ILCS 5/10-22.39(b-25).

Actor	Action
	<p>Informs all building staff that any Article 26A Student who is unable to participate in classes on a particular day or days or at a particular time of day due to circumstances related to their Article 26A status must (105 ILCS 5/26A-40(d), added by P.A. 102-466, a/k/a <i>ESS Law</i>, eff. 7-1-25):</p> <ol style="list-style-type: none"> 1. Be excused; and 2. Upon request of the Article 26A Student or his or her parent/guardian, be given a meaningful opportunity to make up any examination, study, or work requirement that the student missed.

Initial Response

Upon learning or suspecting that a student is a parent, expectant parent, or victim of domestic or sexual violence, the Article 26A Resource Person will contact the student to:

1. Connect the student with appropriate in-school services or other agencies, programs, or services, as needed. 105 ILCS 5/26A-35, added by P.A. 102-466, a/k/a *ESS Law*, eff. 7-1-25. See the **Article 26A Support Services** subhead, below.
2. Assist the student to exercise and preserve their Article 26A rights. *Id.*
3. Provide the student, if 12 years of age or older, with written notice of the availability of counseling without parent/guardian consent under 405 ILCS 5/3-550. 105 ILCS 5/26A-40(h), added by P.A. 102-466, a/k/a *ESS Law*, eff. 7-1-25.

If the student claims Article 26A status as a victim of domestic or sexual violence, the Article 26A Resource Person will then request verification of this status from the student or their parent/guardian as follows (105 ILCS 5/26A-45, added by P.A. 102-466, a/k/a *ESS Law*, eff. 7-1-25):

1. Notifies the student or parent/guardian that they must provide one of the following forms of verification of their choosing:
 - a. A written statement from the student, or anyone who has knowledge of the circumstances, that supports the student's claim. This may be in the form of a complaint.
 - b. A police report, governmental agency record, or court order.
 - c. A statement or other documentation from a domestic or sexual violence organization or any other organization from which the student sought services or advice.
 - d. Documentation from a lawyer, clergy person, medical professional, or other professional from whom the student sought services or advice related to domestic or sexual violence.
 - e. Any other evidence, such as physical evidence of violence, which supports the claim.
2. Reviews verification submitted by the student or their parent/guardian to determine whether it is acceptable.
 - a. If the verification provided is acceptable, informs the student that their status has been verified.
 - b. If the verification provided is not acceptable, informs the student that verification is insufficient and requests additional verification in one of the forms identified above.
 - c. Once the student's status has been verified, the District cannot request additional verification for a status claim involving the same perpetrator or same incident of violence. *Id.*

To verify domestic or sexual violence, the District **cannot** contact the person named to be the perpetrator, the perpetrator's family, or any other person named by the student or the student's

parent/guardian to be unsafe to contact. The only exception is if the District determines it has an obligation to do so under State or federal law, or due to safety concerns for the school community, including the victim. In such cases, before making contact, the District must provide prior written notice to the student and their parent/guardian in a developmentally appropriate manner, and meet with the student and parent/guardian to discuss and address any safety concerns related to making such contact. **Id.** **Contact the board attorney for guidance in such circumstances.**

Article 26A Support Services

To facilitate the full participation of Article 26A Students, the Article 26A Resource Person must offer⁷ those students in-school support services, information regarding non-school-based support services, and the ability to make up work that was missed due to circumstances related to the student's Article 26A status. 105 ILCS 5/26A-40, added by P.A. 102-466, a/k/a *ESS Law*, eff. 7-1-25. Each of these support service areas are described in further detail below.

In addition:

1. The building-level Student Support Committee will assist the Article 26A Resource Person to identify in-school and non-school-based support service options for Article 26A Students.
2. Victims of domestic or sexual violence must have access to support services regardless of when or where the violence occurred. 105 ILCS 5/26A-40(a), added by P.A. 102-466, a/k/a *ESS Law*, eff. 7-1-25.
3. The Article 26A Resource Person may periodically check on Article 26A Students receiving support services to determine whether each support service continues to be necessary to maintain the student's mental and physical well-being and safety or whether termination is appropriate. **Id.**
4. The District will honor the decision of an Article 26A Student and/or their parent/guardian to obtain, terminate, or decline to participate in support services. 105 ILCS 5/26A-40(f), added by P.A. 102-466, a/k/a *ESS Law*, eff. 7-1-25.
5. Article 26A Students are not obligated to use offered support services and may decline or terminate support services at any time. **Id.**

In-School Support Services

In-school support services for Article 26A Students must include but are not limited to (105 ILCS 5/26A-40(b), added by P.A. 102-466, a/k/a *ESS Law*, eff. 7-1-25):

1. Enabling a student to meet with counselors or other service providers by providing the student with a private setting sufficient to ensure confidentiality and time off from class.
2. Assisting the student with a student success plan.
 - a. For a student *at risk of academic failure* or who displays *poor academic performance* as defined above, this may include providing the student with or referring the student to education and support services designed to assist the student in meeting Ill. Learning Standards. 105 ILCS 5/26A-40(c), added by P.A. 102-466, a/k/a *ESS Law*, eff. 7-1-25.
3. Transferring a victim of domestic or sexual violence or the student perpetrator to a different classroom or school, if available.
4. Changing a seating assignment.

The footnotes should be removed before the material is used.

⁷ 105 ILCS 5/26A-40, added by P.A. 102-466, a/k/a *ESS Law*, eff. 7-1-25, uses the term *provide* but this sample procedure uses *offer* because students are not required to accept support services.

5. Implementing safety procedures in school, on school grounds, and on school buses.
6. Honoring court orders, including orders of protection and no-contact orders, to the fullest extent possible.
7. Providing any other supports that may facilitate the student's full participation in the education program, including but not limited to those available via the following Board policies:
 - a. 6:110, *Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program*. This policy sets eligibility requirements for pregnant or parenting students to enroll in a graduation incentives program. It also provides that any Article 26A Student at risk of academic failure may request in-school support services and information about non-school-based support services designed to assist the student in meeting learning standards by using Board policy 7:255, *Students Who are Parents, Expectant Parents, or Victims of Domestic or Sexual Violence*.
 - b. 6:120, *Education of Children with Disabilities*. This policy provides all students with disabilities a free appropriate public education in the least restrictive environment as required by the Individuals with Disabilities Education Act and implementing provisions of the School Code, Section 504 of the Rehabilitation Act of 1973, and the Americans With Disabilities Act.⁸
 - c. 6:150, *Home and Hospital Instruction*. This policy permits home instruction for students who are unable to attend school due to pregnancy or pregnancy-related conditions, the fulfillment of parenting obligations related to the health of the child, or health and safety concerns arising from domestic or sexual violence.
 - d. 7:10, *Equal Educational Opportunities*. This policy requires equal educational opportunities for students without regard to sex, physical or mental disability, and actual or potential parental status, including pregnancy.
 - e. 7:60, *Residence*. This policy states that nonresident students may attend District schools pursuant to an intergovernmental agreement, which may include an agreement for interdistrict transfer of Article 26A Students.
 - f. 7:70, *Attendance and Truancy*. This policy specifies that valid cause for absence includes attendance at a verified medical or therapeutic appointment (including a victim services provider) and, for Article 26A Students, also includes the fulfillment of a parenting responsibility and addressing circumstances resulting from domestic or sexual violence.
 - i. *Fulfillment of a parenting responsibility* includes, but is not limited to, arranging and providing childcare, caring for a sick child, attending prenatal or other medical appointments for the expectant student, and attending medical appointments for a child. 105 ILCS 5/26-2a, amended by P.A. 102-466, a/k/a *ESS Law*, eff. 7-1-25.
 - ii. *Circumstances resulting from domestic or sexual violence* includes, but is not limited to, experiencing domestic or sexual violence, recovering from physical or psychological injuries, seeking medical attention, seeking services from a domestic or sexual violence organization as defined in 105 ILCS 5/26A-10, seeking psychological or other counseling, participating in safety planning, temporarily or permanently relocating, seeking legal assistance or remedies,

The footnotes should be removed before the material is used.

⁸ Ill. State Board of Education (ISBE) sex equity regulation 23 Ill.Admin.Code §200.50(e) states that "pregnancy shall be treated as any other temporary disability." Article 26A Students may also have concomitant (naturally accompanying) or comorbid (coexisting) social, emotional, or mental or physical health needs that make them eligible for services under various disability laws. **Consult the board attorney for guidance.**

or taking any other action to increase the safety or health of the student or to protect the student from future domestic or sexual violence. *Id.*

- g. 7:250, *Student Support Services*. This policy provides that annually, students 12 years of age and older will be notified, in writing, of the availability of counseling without parent/guardian consent under 405 ILCS 5/3-550. It also requires the designation of at least one staff member in each building as the Article 26A Resource Person and outlines their duties.

Information Regarding Non-School-Based Support Services

The Article 26A Resource Person will provide each Article 26A Student with information regarding any available non-school-based support service options. For Article 26A Students at risk of academic failure or who display *poor academic performance* as defined above, service options shall include any non-school-based organizations and agencies from which at-risk students typically receive services in the community. 105 ILCS 5/26A-40(c), added by P.A. 102-466, a/k/a *ESS Law*, eff. 7-1-25.

Ability to Make Up Work

Any Article 26A Student who is unable to participate in classes on a particular day or days or at a particular time of day due to circumstances related to their Article 26A status must be excused. Upon request of the Article 26A Student or their parent/guardian, the student must be given a meaningful opportunity to make up any examination, study, or work requirement that the student missed. 105 ILCS 5/26A-40(d), added by P.A. 102-466, a/k/a *ESS Law*, eff. 7-1-25. The Article 26A Resource Person will notify all building staff members and Article 26A Students of this requirement.

Confidentiality⁹

Information concerning a student's Article 26A status and related experiences is confidential and must be retained in a confidential temporary file in accordance with 105 ILCS 10/2(f). 105 ILCS 5/26A-45(a), added by P.A. 102-466, a/k/a *ESS Law*, eff. 7-1-25. This includes information concerning a student who is a named perpetrator of domestic or sexual violence that is provided to or otherwise obtained by the District or its employees or agents pursuant to 105 ILCS 5/26A or otherwise, including a statement of the Article 26A Student or any other documentation, record, or corroborating evidence that the Article 26A Student has requested or obtained assistance, support, or services pursuant to 105 ILCS 5/26A. 105 ILCS 5/26A-30(a), added by P.A. 102-466, a/k/a *ESS Law*, eff. 7-1-25.

Confidential information may not be disclosed to any other individual outside of the District, including any other employee,¹⁰ except if such disclosure is (*Id.*):

1. Permitted by the Ill. School Student Records Act (105 ILCS 10/), the federal Family Educational Rights and Privacy Act (20 U.S.C. §1232g), or other applicable State or federal laws; or

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⁹ Language in this subhead is partially based on recommendations of the second ESS Task Force. See p. 14 of the June 2024 ESS Task Force final report, at: www.isbe.net/Documents/ESSTaskForce/Final-Report-ESS-Report-June-2024.pdf.

¹⁰ The phrase "including any other employee" comes directly from 105 ILCS 5/26A-30(a) and is confusing because it is unclear whose employee is being referenced. ISSRA permits student records to be disclosed to any district employees with a "current demonstrable educational or administrative interest" in a student if disclosure is "in furtherance of such interest." 105 ILCS 10/6(a)(2). **Consult the board attorney for guidance.**

2. Requested or consented to, in writing, by the Article 26A Student or their parent/guardian (if it is safe to obtain written consent from the parent/guardian).

In addition:

3. Prior to disclosing information about an Article 26A Student, the Article 26A Resource Person will notify the Article 26A Student about the pending disclosure and will discuss and address any safety concerns related to the disclosure. This notice and discussion requirement applies to instances in which the Article 26A Student or the District or its employees or agents are otherwise aware that the Article 26A Student's health or safety may be at risk if their Article 26A status is disclosed to the student's parent/guardian, except as otherwise permitted by applicable law and professional ethics policies that govern school personnel. 105 ILCS 5/26A-30(b), added by P.A. 102-466, a/k/a *ESS Law*, eff. 7-1-25.
 4. No Article 26A Student may be required to testify publicly concerning their Article 26A status, allegations of domestic or sexual violence, or their efforts to enforce any rights under 105 ILCS 5/26A. 105 ILCS 5/26A-30(c), added by P.A. 102-466, a/k/a *ESS Law*, eff. 7-1-25.
 5. In the case of domestic or sexual violence, the District cannot contact the person named as the perpetrator, the perpetrator's family, or any other person named by the Article 26A Student or the student's parent/guardian as unsafe without providing prior written notice to the student's parent/guardian. 105 ILCS 5/26A-30(d), added by P.A. 102-466, a/k/a *ESS Law*, eff. 7-1-25.
- Contact the board attorney for guidance in such circumstances.**

Nothing in this subhead prohibits the District from taking reasonable steps to protect students. If reasonable steps involve conduct that is prohibited under this subhead, the Article 26A Resource Person notify the Article 26A Student, in writing and in a developmentally appropriate communication format, of the District's intent to contact an individual named by the Article 26A Student to be unsafe. *Id.*

This subhead does not apply to notification of parents/guardians if the perpetrator of alleged sexual misconduct is an employee, agent, or contractor of the District who has direct contact with children or students. 105 ILCS 5/26A-30(e), added by P.A. 102-466, a/k/a *ESS Law*, eff. 7-1-25.

Recordkeeping

See Board policy 7:340, *Student Records*, along with administrative procedures 7:340-AP1, *School Student Records*, and 7:340-AP2, *Storage and Destruction of School Student Records*, addressing the District's legal obligations regarding the identification, confidentiality, safeguarding, access, and disposal of school student records.

Policy and Procedure Review

Every two years, the Superintendent or designee, along with the Building Principal(s), building-level Student Support Committee(s), and building-level Article 26A Resource Person(s), must review all Board policies and procedures that may act as barriers to the enrollment and re-enrollment, attendance, graduation, and success in school of any Article 26A Student and recommend any necessary updates. The review may include, but is not limited to, the following Board policies and administrative procedures:

- 6:110, *Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program*
- 6:120, *Education of Children with Disabilities*
- 6:150, *Home and Hospital Instruction*
- 7:10, *Equal Educational Opportunities*
- 7:10-AP2, *Accommodating Breastfeeding Students*
- 7:50, *School Admissions and Student Transfers To and From Non-District Schools*

- 7:50-AP, *School Admissions and Student Transfers To and From Non-District Schools*
- 7:60, *Residence*
- 7:70, *Attendance and Truancy*
- 7:190, *Student Behavior*
- 7:200, *Suspension Procedures*
- 7:210, *Expulsion Procedures*
- 7:250, *Student Support Services*
 - 7:250-AP, *Protocol for Responding to Students with Social, Emotional, or Mental Health Needs*
- 7:255, *Students Who are Parents, Expectant Parents, or Victims of Domestic or Sexual Violence*
 - 7:255-AP1, *Supporting Students Who are Parents, Expectant Parents, or Victims of Domestic or Sexual Violence*
 - 7:255-AP2, *Complaint Resolution Procedure for Students Who are Parents, Expectant Parents, or Victims of Domestic or Sexual Violence*
- 7:340, *Student Records*
 - 7:340-AP1, *School Student Records*

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