

School Board

Exhibit - Immediately Available District Public Records and Web-Posted Reports and Records ¹

[For use by only those Districts that have websites.]

The District’s Freedom of Information Officer designates the public records that are listed in this table as being immediately available to the public. The records that are asterisked (*) are posted on the District’s website and may be immediately inspected, downloaded, printed, and/or copied. Any asterisked public record is also immediately available for inspection or copying upon request at the District’s administrative office during its regular business hours, provided any applicable fees are paid. Records not asterisked (*) will be provided within five business days as allowed by the Freedom of Information Act, provided any applicable fees are paid.

Web-posted records and information (use of an * is explained in the paragraph above this table)	Web-posting statutory reference and special instructions
<p>*Annual schedule of regular meetings for the current school year that are posted at the beginning of each calendar or fiscal year</p> <p>*Public notice of each Board meeting that is posted at least 48 hours before the meeting and remains posted until the meeting is concluded</p> <p>*Agenda of each regular meeting that is posted at least 48 hours before a meeting and remains posted until the meeting is concluded</p> <p>Note: For school districts that do not post board meeting notices and/or agendas on a website (because they do not have a website maintained by a full-time staff member), the notice and agenda must be continuously available for</p>	<p>5 ILCS 120/2.02.</p>

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¹ This exhibit has two purposes: (1) to identify the data and documents that must be posted on a district’s website, if the district has a website; and (2) to fulfill the requirement in the Freedom of Information Act (FOIA) for the district’s FOIA officer to designate the public records that are immediately available to the public. 5 ILCS 140/3.5(a). Many attorneys agree that using the required items for web-posting is an easy and practical way for the FOIA Officer to develop a list of public records that are *immediately available*. Some attorneys prefer that the district also retain copies of its web-posted public records for immediate inspection and/or copying upon request at the administrative office. The introductory paragraph manages this issue by indicating that copies of certain identified public records will also be immediately available in the district’s administrative office. This exhibit suggests identifying public records for immediate availability that are easily reproduced and stored, i.e., not voluminous. The FOIA Officer should customize this list as appropriate to the district’s circumstances.

Districts may respond to a FOIA request for a public record published on the district website by directing the requester to the website. However, if the requester is unable to reasonably access the record, the requester may re-submit his or her request, and the district must then make the record available for inspection and copying. See 5 ILCS 140/8.5; see also reference in III. Public Access Counselor binding opinion 10-1. Consult the board attorney for ideas to manage the district’s specific FOIA compliance issues.

Web-posted records and information (use of an * is explained in the paragraph above this table)	Web-posting statutory reference and special instructions
public review during the entire 48-hour period preceding the meeting	
*Official open meeting minutes that are posted within 10 days of the Board's approval and remain posted for at least 60 days (required if the District has a website maintained by a full-time staff member)	5 ILCS 120/2.06(b).
<p>*Description of the District and its records including:</p> <ol style="list-style-type: none"> 1. Summary of the District's purpose 2. Functional subdivisions 3. Total amount of operating budget 4. Number and location of all of its separate offices 5. Approximate number of full- and part-time employees (see also, salary and benefits information report for the Superintendent, administrators, and teachers, District's Statement of Affairs) 6. Identification and membership of the Board 7. Brief description of the methods whereby the public may request information and public records 8. Directory information for the Freedom of Information Officer 9. Address where requests for public records should be directed 10. Fees 	<p>5 ILCS 140/4.</p> <p>The District must prominently post the list at each administrative office and make it available for inspection and copying.</p>
*A hyperlink to an email address(es) for members of the public to communicate with members of the Board	<p>50 ILCS 205/20.</p> <p>The hyperlink must be easily accessible from the District's home page.</p>
Annual budget for current fiscal year, itemized by receipts and expenditures	<p>105 ILCS 5/17-1.2.</p> <p>This may be accomplished using Ill. State Board of Education (ISBE) <i>School District Budget Form</i> (50-36) or the summary pages from it. 2</p> <p>The District must notify its students' parents/guardians when the budget is web-posted along with its website address.</p>

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2 For school officials who are concerned that some of their district's constituents may not have the proper software to access these documents, ISBE provides links to free *viewer* or *reader* products that support the ISBE School District Budget Form (50-36). These products can be downloaded and used to access the budget as posted on the district's website. See www.isbe.net/Pages/School-District-Joint-Agreement.aspx.

Web-posted records and information (use of an * is explained in the paragraph above this table)	Web-posting statutory reference and special instructions
*District Report Card and a Report Card for each School (the Report Cards will be provided by ISBE by Oct. 31 of each year, unless otherwise provided by law)	<p>105 ILCS 5/10-17a, amended by P.A.s 101-68, 101-654, 102-16, 102-294, 102-539, and 102-594.</p> <p>Annually, no more than 30 calendar days after receiving the Report Cards from the State Superintendent, the District must: (1) present them at a regular Board meeting, (2) post them on the District's website, (3) make them available to a newspaper of general circulation serving the District, and (4) upon request, send them home to parents/guardians. 105 ILCS 5/10-17a(5).</p> <p>The District also must send a written notice home to parents/guardians stating: (1) that the Report Cards are available on the website, (2) the website's address, (3) that a printed copy will be sent upon request, and (4) the telephone number to request a printed copy. <u>Id.</u></p>
*The District's discipline plan and progress on the plan, in the event the District is identified by ISBE to be in the top 20% (for three consecutive years) of districts for out-of-school suspensions, out-of-school expulsions, or racial disproportionality in the use of out-of-school suspensions and expulsions	<p>105 ILCS 5/2-3.162.</p> <p>If the District is required to submit a plan to ISBE, it must be approved at a public board meeting and posted on the District's website. Within one year after being identified by ISBE, the District must submit to ISBE and post on its website a progress report describing implementation of the plan and the results achieved.</p>
*A list of all contracts in excess of \$25,000 and any contracts with an exclusive bargaining representative	<p>105 ILCS 5/10-20.44.</p> <p>There is no statutory timeline for web-posting.</p> <p>Each year, in conjunction with the submission of the Statement of Affairs to ISBE, before Dec. 1, the District must submit to ISBE an annual report on all contracts over \$25,000 awarded during the previous fiscal year.</p>
*Contract(s) with any commercial driver training school(s) for driver education	<p>105 ILCS 5/27-24.2.</p> <p>The District is required to web-post this</p>

Web-posted records and information (use of an * is explained in the paragraph above this table)	Web-posting statutory reference and special instructions
	document if it has a website. If the District has no website, it must make the contract available upon request.
Annual Statement of Affairs	105 ILCS 5/10-17. The District is not required to web-post this document. It must, annually by Dec. 1, submit the Statement to ISBE for posting on ISBE’s website, have copies of the Statement available in the main administrative office, and publish a summary of the Statement in a newspaper of general circulation published in the District.
*Fiscal Efficiency Report, summarizing the District’s attempts to improve fiscal efficiency through shared services or outsourcing in the prior fiscal year	105 ILCS 5/17-1.1, amended by P.A. 102-1088. The report must be: (1) approved by the Board at an open meeting, ³ and (2) primarily in checklist form and approximately one page in length.
Beginning in levy year 2022, if the District has an aggregate property tax levy greater than \$5,000,000, it will make good faith efforts to electronically publish the following data from all vendors and subcontractors doing business with the District: <ol style="list-style-type: none"> 1. Whether the vendor or subcontractor is minority-owned, women-owned, or veteran-owned 2. Whether the vendor or subcontractor holds a certification as a minority-owned, women-owned, or veteran-owned business as defined in 30 ILCS 575/, or if they are self-certifying; and 3. If the vendor self-certifies, whether it qualifies as a small business under federal Small Business Administration standards (See www.sba.gov/federal-contracting/contracting-guide/size-standards). 	35 ILCS 200/18-50.2, added by P.A. 102-265. The law does not define <i>electronically publish</i> ; website posting is a means of compliance. This item is not asterisked should the District choose to electronically publish the information offline.

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³ 105 ILCS 5/17-1.1, amended by P.A. 102-1088, specifies that the report must be approved by the board at an “open meeting that allows for public comment.” The public comment qualification is omitted here because it is redundant; all open meetings must have a period during which the public can offer comments. See sample policy 2:230, *Public Participation at School Board Meetings and Petitions to the Board*. This report is included in a district’s annual financial report as the *Report on Shared Services or Outsourcing*. See www.isbe.net/Pages/Annual-Financial-Report.aspx.

Web-posted records and information (use of an * is explained in the paragraph above this table)	Web-posting statutory reference and special instructions
<p>*Explanation of the data elements of <i>covered information</i>⁴ that the District collects, maintains, or discloses to any person, entity, third party, or governmental agency.</p> <p>*A description of the procedures⁵ that parents/guardians may use to carry out their rights under 105 ILCS 85/33(c)(1), (2), & (3) added by P.A. 101-516, including the right to:</p> <ol style="list-style-type: none"> 1. Inspect and review their child's covered information 2. Request a paper or electronic copy of their child's covered information 3. Request corrections for factual inaccuracies contained in their child's covered information 	<p>105 ILCS 85/27(a)(1), added by P.A. 101-516.</p> <p>The explanation of data elements of covered information must be clear and understandable by a layperson and cover the following: (1) how the District uses the covered information; (2) to whom or what entities the District discloses the covered information; and (3) for what purpose the District discloses the covered information.</p> <p>The explanation of data elements and description of parent rights procedures must be updated by Jan. 31 and July 31 each year, as needed.</p>
<p>*A list of operators with whom the District has written agreements and the following for each operator:</p> <ol style="list-style-type: none"> 1. Copy of the agreement 2. Business address 3. List of any subcontractors to whom covered information may be disclosed or a link to a page on the operator's website that clearly lists the subcontractors 	<p>105 ILCS 85/27(a)(2) & (3), added by P.A. 101-516.</p> <p>The District must post new operator contracts and an explanation of the data elements of covered information disclosed to the operator (see immediate row above) within 10 business days after entering into the contract. 105 ILCS 85/27(c), added by P.A. 101-516.</p> <p>This list must also be updated by Jan. 31 and July 31 each year, as needed.</p>
<p>*A list of <i>breaches</i> of covered information maintained by the school or an operator involving 10% or more of the District's student enrollment. The list must include:</p> <ol style="list-style-type: none"> 1. Number of students whose covered information 	<p>105 ILCS 85/27(a)(5), added by P.A. 101-516.</p> <p>The District must update breach information by Jan. 31 and July 31 each</p>

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⁴ *Covered information* means personally identifiable information or material (PII) or information linked to PII in any media or format that is not publicly available and is any of the following: (1) created by or provided to an operator by a student or the student's parent/guardian in the course of the student's/guardian's use of the operator's site, service or application for K-12 school purposes; (2) created by or provided to an operator by an employee or agent of the District; or (3) gathered by an operator through the operation of its site, service, or application. 105 ILCS 85/5, amended by P.A. 101-516. *Operators* are entities that operate Internet websites, online services, online applications, or mobile applications that are designed, marketed, and used for K-12 school purposes. *Id.* See sample administrative procedure 7:345-AP, *Use of Educational Technologies; Student Data Privacy and Security*, for additional information regarding posting requirements under Student Online Personal Protection Act, 105 ILCS 85/, amended by P.A. 101-516, and exhibit 7:345-AP, E1, *Student Covered Information Reporting Form*, for a sample reporting format.

⁵ See 7:345-AP, E4, *Notice of Parent Rights Regarding Student Covered Information*. Districts may choose to, but are not required to, include a description of these procedures in a student handbook.

Web-posted records and information (use of an * is explained in the paragraph above this table)	Web-posting statutory reference and special instructions
<p>was involved in the breach, unless the breach involved <i>personal information</i> as defined in the Personal Information Protection Act, 815 ILCS 530/5, in which case the number of students involved may not be disclosed</p> <ol style="list-style-type: none"> 2. Date, estimated date, or estimated date range of the breach 3. Name of the operator, if applicable 	<p>year, and it must remain on the District's website for at least five years after the District adds it to the list. Breaches that occurred (or were estimated to have occurred) prior to 7-1-21 or breaches that were posted more than five years prior to updating the current list do not need to be posted. ⁶</p>
<p>*Board policy 7:180, <i>Prevention of and Response to Bullying, Intimidation, and Harassment</i></p> <p>*Information developed as a result of the evaluation and assessment of the bullying policy's outcomes and effectiveness</p>	<p>105 ILCS 5/27-23.7(b)(10) and (11).</p>
<p>*Contact information for the District's Title IX Coordinator(s) and Board policies 2:260, <i>Uniform Grievance Procedure</i>; and 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i></p>	<p>34 C.F.R. §106.8.</p>
<p>*Training materials for any individuals designated as Title IX Coordinator(s), investigators, decision-makers, and informal resolution facilitators</p>	<p>34 C.F.R. §106.45(b)(10)(i)(D). Naming only the training provider and course does not meet this requirement. The U.S. Dept. of Education (DOE) requires training materials be publicly available "so that a district's approach to training Title IX personnel may be transparently viewed by the [district's] educational community and the public, including for the purpose of holding a [district] accountable for using training materials that comply with [Title IX] regulations." 85 Fed. Reg. 30254. Consult the board attorney regarding this requirement; making training materials of third-party consultants publicly available may violate their intellectual property rights. The DOE acknowledged the potential for intellectual property violations, suggesting that districts either</p>

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⁶ 105 ILCS 85/27(d), added by P.A. 101-516, states that individual notification to the parent/guardian of a child whose covered information was breached may be delayed if a law enforcement agency determines that notification will interfere with a criminal investigation and provides the District with a written request for a delay of notice. This basis for delay does not specifically apply to the more general website notification of a breach, however, such a delay may also be warranted depending upon the circumstances. Consult the board attorney for guidance on this issue.

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	“secure permission from the consultant to publish the training materials” or create their own training materials. 85 Fed. Reg. 30412.
*Board policy 7:20, <i>Harassment of Students Prohibited</i> , and age-appropriate explanations of its contents in student handbook(s)	105 ILCS 5/10-20.69, added by P.A. 101-418. The District must have an <i>age-appropriate</i> policy on sexual harassment (1) in the student handbook(s), (2) posted on the District’s website, and (3) posted in any other area where policies, rules and standards of conduct are posted in each school.
*Board policy 7:290, <i>Suicide and Depression Awareness and Prevention</i>	105 ILCS 5/2-3.166, amended by P.A. 102-267.
*Contact information for the National Suicide Prevention Lifeline (1-800-273-8255) and Crisis Text Line (Text 741741), if the District does not issue student identification cards to all students	105 ILCS 5/10-20.76, added by P.A. 102-134 and renumbered by P.A. 102-813.
*Administrator and Teacher Salary and Benefits Report (itemized salary report for the Superintendent and all administrators and teachers); <i>benefits</i> includes, without limitation, vacation days, sick days, bonuses, annuities, and retirement enhancements	105 ILCS 5/10-20.47. 7 Annually on or before Oct. 1: (1) the information must be presented at a regular Board meeting and posted on the District’s website, and (2) after the Board meeting at which the information was presented, the Report must be provided to ISBE.
*All records pertaining to the creation, alteration or revision of school attendance areas shall be open to the public	105 ILCS 5/10-21.3. This law also requires school attendance areas to be periodically revised, if necessary, to prevent or eliminate segregation by color, race, or nationality. See policy 7:30, <i>Student Assignment and Intra-District Transfer</i> .
*Vacancies for teaching positions in a subject shortage	40 ILCS 5/16-150.1, amended by P.A.

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7 105 ILCS 5/10-20.47 does not specify whether a district must provide employee names as part of its salary and benefits report. The general practice of districts has been to include names in the report. Consult the board attorney for guidance on this issue.

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area, before hiring a retired teacher to any such position	<p>102-440.</p> <p>The District must, on an ongoing basis, post the vacancy for a period of at least 90 days during the six months preceding either the fall or spring term for which it seeks to employ a retired teacher in a subject shortage area. This posting requirement is in effect for employment ending no later than June 30, 2024.</p>
*Information regarding a Severance Agreement entered into because an employee or contractor was found to have engaged in sexual harassment or sexual discrimination	<p>50 ILCS 205/3c.</p> <p>Within 72 hours of Board approval, the District must post: (1) the name/title of person receiving payment under the severance agreement, (2) the amount of payment, (3) that the employee or contractor was found to have engaged in sexual harassment or sexual discrimination, as applicable, and (4) the date, time, and location of the meeting at which the agreement was approved.</p> <p>Note: The Government Severance Pay Act (GSPA), 5 ILCS 415/10(a)(2), prohibits an employee of a school district with contract provisions for severance pay from receiving any severance if the employee is fired by the board for <i>misconduct</i>, which includes sexual harassment and/or discrimination. <i>Id.</i> at 415/5. For more discussion about the reconciling these laws, see f/n 6 in policy 2:260, <i>Uniform Grievance Procedure</i>.</p>
*As an employer that participates in the III. Municipal Retirement Fund (IMRF), a compensation report for employees who have a total compensation package that exceeds \$75,000 per year; <i>total compensation package</i> means salary, health insurance, a housing allowance, a vehicle allowance, a clothing allowance, bonuses, loans, vacation days granted, and sick days granted	<p>5 ILCS 120/7.3.</p> <p>The report must be posted within six business days after the District approves a budget. The District may choose to post a physical copy of this information at its principal office in lieu of posting the information directly on the website in which case it must post directions on the website for accessing that information.</p> <p>The III. Attorney General's office has not provided guidance concerning whether</p>

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	this requirement applies to employees who do not participate in IMRF, e.g., Teachers' Retirement System (TRS) participants.
*As an employer that participates in the IMRF, a compensation report for employees who have a total compensation package that is equal to or in excess of \$150,000 per year; <i>total compensation package</i> means payment by the employer to the employee for salary, health insurance, a housing allowance, a vehicle allowance, a clothing allowance, bonuses, loans, vacation days granted, and sick days granted	5 ILCS 120/7.3. The report must be posted at least six days before the District approves an employee's total compensation package that is equal to or in excess of \$150,000. The District may choose to post a physical copy of this information at its principal office in lieu of posting the information directly on the website in which case it must post directions on the website for accessing that information. The Ill. Attorney General's office has not provided guidance concerning whether this requirement applies to employees who do not participate in IMRF, e.g., TRS participants.
*As an employer that participates in IMRF, a link to information posted on the IMRF website at: www.imrf.org/en/about-imrf/transparency/employer-cost-and-participation-information	40 ILCS 5/7-135.5, added by P.A. 101-504.
*Board policy 5:120, <i>Employee Ethics; Code of Professional Conduct; and Conflict of Interest</i>	105 ILCS 5/22-85.5(e), added by P.A. 102-676.
A description of activities to address intergroup conflict (an optional program authorized by Sec. 27-23.6)	105 ILCS 5/27-23.6(c).
The total number of personnel with a school support personnel endorsement, and for each endorsement area: 1. Those actively employed by the District on a full-time basis; 2. Those actively employed by the District on a part-time basis; and 3. Those actively employed by a special education cooperative providing services to students in the District	105 ILCS 5/10-20.80, added by P.A. 102-302 and renumbered by P.A. 102-813. Annually by Dec. 1st, the District must report its school support personnel information as of Oct. 1 to ISBE and web-post it.
The total number of students enrolled in the District and of that total, the number of students with an individualized	105 ILCS 5/2-3.182, added by P.A. 102-

Web-posted records and information (use of an * is explained in the paragraph above this table)	Web-posting statutory reference and special instructions
education program (IEP) or Section 504 plan	302 and renumbered by P.A. 102-813. Annually by Dec. 1st, the District must report its enrollment information as of Oct. 1 to ISBE and web-post it.
*Notice that students with disabilities who do not qualify for an IEP may qualify for services under Section 504	105 ILCS 5/14-6.01, amended by P.A. 102-1072. The notice shall: (1) identify the location and phone number of the District office or employee to whom inquiries about the identification, assessment, and placement of children with disabilities should be directed, and (2) inform parents who are deaf or do not typically communicate using spoken English that they are entitled to the services of an interpreter when participating in a Section 504 meeting.
*Names of Board members who have completed professional development leadership training	105 ILCS 5/10-16a, amended by P.A. 102-638, eff. 1-1-23, requires the District to post on its website the names of all Board members who have completed professional development leadership training. The web-posting may be expanded to log all Board members' training and development activities. 5 ILCS 120/1.05(b) and (c) require each Board member to complete training on the Open Meetings Act. After completing the training, each Board member must file a copy of their certificate of completion with the Board. 105 ILCS 5/24-16.5 requires each Board member to complete a training program on performance evaluations before voting on a dismissal based on a performance evaluation pursuant to the Performance Evaluation Reform Act.
Immunization data reported to ISBE by each Nov. 15	105 ILCS 5/27-8.1(6). By Dec. 1, the District must annually make the immunization <i>data</i> that it must report to ISBE each year publicly

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	available. The data, not its format, must be identical to the data reported to ISBE. Boards have control over the method(s) used to make this data publicly available. One method is to instruct the reader to ask for the data directly from ISBE.
Information on mental health issues and local treatment resources	The Ill. House of Representatives encouraged this in HR 478 (99th General Assembly, 5-31-15).
All reliable assessments, scored by entities other than the District that are administered in each of the District's schools	105 ILCS 5/22-82(b). These must be made available to parents and/or guardians through the District's website or paper handouts.
*The District's Remote and/or Blended Remote Learning Day Plan	105 ILCS 5/10-30(6), added by P.A. 101-643.
<p>*When the Board allows for student participation in registered apprenticeship programs:</p> <ol style="list-style-type: none"> 1. Notification to students and parents of the opportunities for registered apprenticeships, which includes the following statements: <ol style="list-style-type: none"> a. Students may participate in any registered apprenticeship program listed by the District, and b. Students may find a registered, but not listed, apprenticeship program with a business or organization if a registered apprenticeship program is not offered in the District. 2. Board policy 6:310, <i>High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students</i> (specifically, the section titled Registered Apprenticeship Program) 3. A form for a parent/guardian to request that when their child successfully completes a registered apprenticeship program, it be substituted for a course 	23 Ill.Admin.Code §255.200(b)(4) and (c).
*If offered by the District, identification of the curriculum the District uses to provide comprehensive personal health and safety and comprehensive sexual health education (National Sex Education Standards	105 ILCS 5/27-9.1a, added by P.A. 102-522.

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(NSES)), the scope and sequence of these instructional materials, and the name and contact information, including an email address, of a school staff member who can respond to inquiries about instruction and materials	
*Board policy 6:135, <i>Accelerated Placement Program</i>	23 Ill.Admin.Code §227.60(a).

School Board

Title IX Sexual Harassment Grievance Procedure¹

Sexual harassment affects a student's ability to learn and an employee's ability to work. Providing an educational and workplace environment free from sexual harassment is an important District goal. The District does not discriminate on the basis of sex in any of its education programs or activities, and it complies with Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulations (34 C.F.R. Part 106) concerning everyone in the District's education programs and activities, including applicants for employment, students, parents/guardians, employees, and third parties.

Title IX Sexual Harassment Prohibited

Sexual harassment as defined in Title IX (Title IX Sexual Harassment) is prohibited. Any person, including a District employee or agent, or student, engages in Title IX Sexual Harassment whenever that person engages in conduct on the basis of an individual's sex that satisfies one or more of the following:²

1. A District employee conditions the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct;³ or

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¹ Title IX of the Education Amendments of 1972 (Title IX) (20 U.S.C. §1681 *et seq.*) requires this subject matter be covered by policy and controls this policy's 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. Employee grievance procedures are a mandatory subject of bargaining and cannot be changed without the employee exclusive representative's consent. This policy and its companion policy 2:260, *Uniform Grievance Procedure*, are in addition to, and not a substitute for, the employee grievance procedure contained in a collective bargaining agreement.

For the sake of consistency and ease of administration, this policy addresses only Title IX sexual harassment grievances, except those contained in collective bargaining agreements. See the cross references for the policies referring to this Title IX sexual harassment grievance procedure policy.

A district must have at least one policy explicitly stating it does not discriminate on the basis of sex in its education programs or activities under Title IX and its implementation regulations (34 C.F.R. Part 106). 34 C.F.R. §106.8(b)(1). Title IX jurisdiction is geographically limited to discrimination against a person in the United States. 34 C.F.R. §106.8(d). Though all complaints of sexual harassment may not constitute sexual harassment under Title IX, Title IX's reach is broad because an alleged complainant or alleged respondent may be *anyone* in the District's educational program or activity in the United States – including applicants for employment, students, parents/guardians, any employee, and third parties.

² 34 C.F.R. §106.30. The definition of *sexual harassment* in the policy and in Title IX includes *unwelcome* conduct. *Id.* However, case law does not always distinguish between *welcome* and *unwelcome* conduct. See *Mary M. v. North Lawrence Community Sch. Corp.*, 131 F.3d 1220 (7th Cir. 1997) (8th grade student did not need to show that a school employee's sexual advances were *unwelcome* in order to prove sexual harassment).

³ 34 C.F.R. §106.30. This behavior is commonly called *quid pro quo* sexual harassment. See 85 Fed. Reg. 30036, f/n 94. By using the term *individual*, Title IX regulations do not limit *quid pro quo* sexual harassment to situations where the provision of an aid, benefit or service by an employee is conditioned on a current *student's* participation in unwelcome sexual conduct. By way of example, *quid pro quo* Title IX sexual harassment involving an employee and an individual other than a current student may be implicated when: an employee tells a former student she can only get a letter of recommendation if she participates in unwelcome sexual conduct; an employee selects a volunteer for a coveted field trip chaperone position if he participates in unwelcome sexual conduct; or a supervisory employee subjects a subordinate employee to unwelcome sexual conduct in exchange for a promotion.

2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's educational program or activity; or
3. *Sexual assault* as defined in 20 U.S.C. §1092(f)(6)(A)(v), *dating violence* as defined in 34 U.S.C. §12291(a)(11), *domestic violence* as defined in 34 U.S.C. §12291(a)(12), or *stalking* as defined in 34 U.S.C. §12291(a)(36).⁴

Examples of sexual harassment include, but are not limited to, touching, crude jokes or pictures, discussions of sexual experiences, teasing related to sexual characteristics, spreading rumors related to a person's alleged sexual activities, rape, sexual battery, sexual abuse, and sexual coercion.

Definitions from 34 C.F.R. §106.30

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.⁵

Education program or activity includes locations, events, or circumstances where the District has substantial control over both the *Respondent* and the context in which alleged sexual harassment occurs.⁶

Formal Title IX Sexual Harassment Complaint means a document filed by a *Complainant* or signed by the Title IX Coordinator⁷ alleging sexual harassment against a *Respondent* and requesting that the District investigate the allegation.⁸

Respondent means an individual who has been reported to be the perpetrator of the conduct that could constitute sexual harassment.⁹

Supportive measures mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the *Complainant* or the *Respondent* before or after the filing of a *Formal Title IX Sexual Harassment Complaint* or where no *Formal Title IX Sexual Harassment Complaint* has been filed.¹⁰

Title IX Sexual Harassment Prevention and Response

The Superintendent or designee will ensure that the District prevents and responds to allegations of Title IX Sexual Harassment as follows:

1. Ensures that the District's comprehensive health education program in Board policy 6:60, *Curriculum Content*, incorporates (a) age-appropriate sexual abuse and assault awareness and

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⁴ See sample exhibit 2:265-E, *Title IX Sexual Harassment Glossary of Terms*, for these definitions and other definitions of italicized terms in this policy. Title IX regulations at 34 C.F.R. §106.30 contain pinpoint citations to the Violence Against Women Act (VAWA), 34 U.S.C. §12291 *et seq.*, for the definitions of *dating violence*, *domestic violence*, and *stalking*. VAWA was reauthorized in 2022 and the citations changed; however, 34 C.F.R. §106.30 has not been updated. This policy uses the updated VAWA citations.

⁵ 34 C.F.R. §106.30.

⁶ 34 C.F.R. §106.44(a).

⁷ See f/n 19 in sample policy 2:260, *Uniform Grievance Procedure*.

⁸ 34 C.F.R. §106.30.

⁹ *Id.*

¹⁰ *Id.* See sample administrative procedure 2:265-AP1, *Title IX Sexual Harassment Response*, for further discussion of supportive measures.

prevention programs in grades pre-K through 12,¹¹ and (b) age-appropriate education about the warning signs, recognition, dangers, and prevention of teen dating violence in grades 7-12.¹² This includes incorporating student social and emotional development into the District's educational program as required by State law and in alignment with Board policy 6:65, *Student Social and Emotional Development*.

2. Incorporates education and training for school staff¹³ as recommended by the Superintendent, Title IX Coordinator, Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, or a Complaint Manager. ¹⁴
3. Notifies applicants for employment,¹⁵ students, parents/guardians, employees, and collective bargaining units of this policy and contact information for the Title IX Coordinator by, at a minimum, prominently displaying them on the District's website, if any, and in each handbook made available to such persons. ¹⁶

Making a Report

A person who wishes to make a report under this Title IX Sexual Harassment grievance procedure may make a report to the Title IX Coordinator, Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a Complaint Manager, or any employee with whom the person is comfortable speaking.¹⁷ A person who wishes to make a report may choose to report to a person of the same gender.

School employees shall respond to incidents of sexual harassment by promptly making or forwarding the report to the Title IX Coordinator. An employee who fails to promptly make or forward a report may be disciplined, up to and including discharge.

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¹¹ Required by 105 ILCS 110/3 and 105 ILCS 5/10-23.13 (*Erin's Law*).

¹² Required by *Id.* at 110/3.

¹³ For boards that insert optional paragraphs listing trainings in f/n 4 of policy 5:100, *Staff Development Program*, insert "pursuant to policy 5:100, *Staff Development Program*, and" after the word staff.

¹⁴ 105 ILCS 110/3. Detailed training requirements exist for Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. 34 C.F.R. §106.45(b)(1)(iii). Title IX rules "[leave districts] discretion to determine the kind of training to other employees that will best enable the [district], and its Title IX Coordinator, to meet Title IX obligations." 85 Fed. Reg. 30114. Many attorneys agree the best practice is to train all district staff about the definition of sexual harassment, the scope of the district's education program or activity, all relevant district policies and procedures, and the necessity to promptly forward all reports of sexual harassment to the Title IX coordinator. See sample procedure 2:265-AP1, *Title IX Sexual Harassment Response*.

¹⁵ Most school districts are not covered by Subpart C of Title IX, which "applies only to institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education." 34 C.F.R. §106.15(d). If your district is covered by Subpart C, amend this to state "applicants for admission or employment."

¹⁶ 34 C.F.R. §106.8. See paragraph 2 of f/n 21 in sample policy 2:260, *Uniform Grievance Procedure*. See also sample exhibit 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*.

¹⁷ Using "or any employee with whom the Complainant is comfortable speaking" ensures Title IX compliance because Title IX deems "any employee" of an elementary or secondary school who has notice of sexual harassment or allegations of sexual harassment to have *actual knowledge*. Therefore, a report to any employee triggers a district's duty to respond. 34 C.F.R. §106.30. This policy contains an item upon which collective bargaining may be required. Any policy that impacts 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.

The Superintendent shall insert into this policy and keep current the name, office address, email address, and telephone number of the Title IX Coordinator. ¹⁸

Title IX Coordinator:

Name

Address

Email

Telephone

Processing and Reviewing a Report or Complaint

Upon receipt of a report, the Title IX Coordinator and/or designee will promptly contact the *Complainant* to: (1) discuss the availability of supportive measures, (2) consider the *Complainant's* wishes with respect to *supportive measures*, (3) inform the *Complainant* of the availability of *supportive measures* with or without the filing of a *Formal Title IX Sexual Harassment Complaint*, and (4) explain to the *Complainant* the process for filing a *Formal Title IX Sexual Harassment Complaint*.¹⁹

Further, the Title IX Coordinator will analyze the report to identify and determine whether there is another or an additional appropriate method(s) for processing and reviewing it.²⁰ For any report received, the Title IX Coordinator shall review Board policies 2:260, *Uniform Grievance Procedure*; 5:20, *Workplace Harassment Prohibited*; 5:90, *Abused and Neglected Child Reporting*; 5:120, *Employee Ethics; Code of Professional Conduct; and Conflict of Interest*;²¹ 7:20, *Harassment of Students Prohibited*; 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*; 7:185, *Teen Dating Violence Prohibited*; and 7:190, *Student Behavior*, to determine if the allegations in the report require further action.

Reports of alleged sexual harassment will be confidential to the greatest extent practicable, subject to the District's duty to investigate and maintain an educational program or activity that is productive, respectful, and free of sexual harassment.

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¹⁸ Title IX regulations require districts to designate and authorize at least one employee to coordinate its efforts to comply with Title IX and to refer to that employee as the *Title IX Coordinator*. 34 C.F.R. §106.8(a). Districts must identify the Title IX coordinator by name, office address, email address, and telephone number. Id. A district's nondiscrimination coordinator often also serves as its Title IX coordinator. See sample policy 2:260, *Uniform Grievance Procedure*.

While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

¹⁹ Required by 34 C.F.R. §106.44(a) and (b) regardless of whether a formal Title IX sexual harassment complaint is filed.

²⁰ See sample exhibit 2:265-E, *Title IX Sexual Harassment Glossary of Terms*, for a discussion of Title IX sexual harassment and non-Title IX sexual harassment. Consult the board attorney for further guidance.

²¹ See sample administrative procedure 5:120-AP2, *Employee Conduct Standards*.

Formal Title IX Sexual Harassment Complaint Grievance Process

When a *Formal Title IX Sexual Harassment Complaint* is filed, the Title IX Coordinator will investigate it or appoint a qualified person to undertake the investigation. ²²

The Superintendent or designee shall implement procedures to ensure that all *Formal Title IX Sexual Harassment Complaints* are processed and reviewed according to a Title IX grievance process that fully complies with 34 C.F.R. §106.45.²³ The District's grievance process shall, at a minimum: ²⁴

1. Treat *Complainants* and *Respondents* equitably by providing remedies to a *Complainant* where the *Respondent* is determined to be responsible for sexual harassment, and by following a grievance process that complies with 34 C.F.R. §106.45 before the imposition of any disciplinary sanctions or other actions against a *Respondent*.
2. Require an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations may not be based on a person's status as a *Complainant*, *Respondent*, or witness.
3. Require that any individual designated by the District as a Title IX Coordinator, investigator, decision-maker, or any person designated by the District to facilitate an informal resolution process:
 - a. Not have a conflict of interest or bias for or against complainants or respondents generally or an individual *Complainant* or *Respondent*.
 - b. Receive training on the definition of sexual harassment, the scope of the District's *education program or activity*, how to conduct an investigation and grievance process (including hearings, appeals, and informal resolution processes, as applicable), and how to serve impartially. ²⁵

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²² This policy gives Title IX coordinators the flexibility to appoint another qualified individual to conduct an investigation. This may be appropriate when the neutrality or efficacy of the Title IX coordinator is an issue, and/or where the district wishes to have the expertise that an in-house or outside attorney may afford to an investigation. Alternative appointments are often made in consultation with the superintendent or other district-level administrator (except in cases involving complaints about those individuals) and the board attorney. If a complaint involves the superintendent or other district-level administrator, alternative appointments are often made in consultation with the board and the board attorney.

²³ 34 C.F.R. §106.45(b). See sample administrative procedures 2:265-AP1, *Title IX Sexual Harassment Response*, and 2:265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*.

²⁴ 34 C.F.R. §106.45(b)(1) lists the basic requirements for a grievance process. While live hearings are only required for postsecondary institutions, elementary and secondary schools may choose to offer them as part of their grievance process. **Consult the board attorney if the board wants the district to use a live hearing in its grievance process.**

If using a live hearing during the grievance process, amend #5 by inserting the following underscored text: "Require that any individual designated by the District as a decision-maker receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant."

²⁵ Aside from the general training requirements of 34 C.F.R. §106.45(b)(1)(iii), the DOE gives districts flexibility to determine certain training practices or techniques to best meet training requirements based upon their unique local conditions and resources within their educational community. 85 Fed. Reg. 30120. See also 85 Fed. Reg. 30084 (declining to specify that training of Title IX personnel must include implicit bias training, so long as training provides instruction on how to serve impartially and avoid prejudgment of the facts at issue, conflicts of interest, and bias, and that training materials avoid sex stereotypes).

4. Require that any individual designated by the District as an investigator receiving training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
5. Require that any individual designated by the District as a decision-maker receive training on issues of relevance of questions and evidence, including when questions and evidence about the *Complainant's* sexual predisposition or prior sexual behavior are not relevant.
6. Include a presumption that the *Respondent* is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
7. Include reasonably prompt timeframes for conclusion of the grievance process.
8. Describe the range of possible disciplinary sanctions and remedies the District may implement following any determination of responsibility.
9. Base all decisions upon the *preponderance of evidence* standard.²⁶
10. Include the procedures and permissible bases for the *Complainant* and *Respondent* to appeal.
11. Describe the range of *supportive measures* available to *Complainants* and *Respondents*.
12. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.²⁷

Enforcement

Any District employee who is determined, at the conclusion of the grievance process, to have engaged in sexual harassment will be subject to disciplinary action up to and including discharge. Any third party who is determined, at the conclusion of the grievance process, to have engaged in sexual harassment will be addressed in accordance with the authority of the Board in the context of the relationship of the third party to the District, e.g., vendor, parent, invitee, etc. Any District student who is determined, at the conclusion of the grievance process, to have engaged in sexual harassment will be subject to disciplinary action, including, but not limited to, suspension and expulsion

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²⁶ 34 C.F.R. §106.45(b)(1)(vii) requires the Title IX sexual harassment grievance process to state the standard of evidence it will use to determine responsibility of the respondent. The standard of evidence selected must be applied “consistently to formal complaints alleging Title IX sexual harassment regardless of whether the respondent is a student or an employee.” 85 Fed. Reg. 30373. This sample policy uses the *preponderance of the evidence* standard, not the *clear and convincing evidence* standard. *Preponderance of evidence* is a standard used in civil cases. It means “the greater weight of the evidence, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force.” See *Black’s Law Dictionary, 11th ed. 2019*. *Preponderance of the evidence* is the standard used in sample policy 2:260, *Uniform Grievance Procedure*. *Clear and convincing* is a higher standard, requiring more than *preponderance of the evidence* but less than proof beyond a reasonable doubt. It means “evidence indicating that the thing to be proved is highly probable or reasonably certain.” See *Black’s Law Dictionary, 11th ed. 2019*. **Consult the board attorney regarding the appropriate standard for the district, as well as implications if a different standard is used in this policy than in 2:260, *Uniform Grievance Procedure*.** For boards that choose the *clear and convincing evidence* standard, delete “*preponderance of*” and insert “*clear and convincing*.” Ensure the same standard of evidence is used in 2:265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*.

²⁷ Examples of legally-recognized privileges include attorney-client privilege, doctor-patient privilege, and spousal privilege. See 85 Fed. Reg. 30277.