

School Board

Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited¹

Discrimination and harassment on the basis of race, color, or national origin negatively affect a student's ability to learn and an employee's ability to work. Providing an educational and workplace environment free from such discrimination and harassment is an important District goal. The District does not discriminate on the basis of actual or perceived race, color, or national origin in any of its education programs or activities, and it complies with federal and State non-discrimination laws.

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

¹ 105 ILCS 5/22-95 (~~final citation pending~~), added by P.A. 103-472, ~~eff. 8-1-24~~, requires districts to have a written policy (or policies) that prohibit discrimination and harassment based on race, color, and national origin, as well as retaliation. The policy must contain the following: (1) descriptions of various forms of discrimination and harassment based on race, color, and national origin, including examples; (2) the district's internal process for filing a complaint regarding a violation of the policy; (3) an overview of the district's prevention and response program that includes procedures for responding to complaints of discrimination and harassment based on race, color, and national origin and retaliation; (4) potential remedies for a violation of the policy; (5) a prohibition on retaliation for making a complaint or participating in the complaint process; (6) the legal recourse available to the Ill. Dept. of Human Rights (IDHR) and federal agencies if a district fails to take corrective action; and (7) directions on how to contact IDHR. *Id.* at (b)(1). Discrimination and harassment based on race, color, and national origin are also covered more generally as protected categories in sample policies 5:10, *Equal Employment Opportunity and Minority Recruitment*, 5:20, *Workplace Harassment Prohibited*, 7:10, *Equal Educational Opportunities*, and 7:20, *Harassment of Students Prohibited*.

Two laws apply to discrimination of students based on race, color, and national origin. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color or national origin in any educational program or activity receiving federal financial assistance. 42 U.S.C. §2000d. The IHRA prohibits any district employee from harassing a student based on certain actual or perceived protected categories, including race, color, and national origin, and it requires schools to take appropriate corrective action to stop harassment if the school knows an employee or agent is engaged (or has engaged) in harassment. 775 ILCS 5/5A-101(F) and 5/5A-102(C)-(D), added by P.A. 103-472, ~~eff. 8-1-24~~. The IHRA defines "harassment in elementary secondary, or higher education," in relevant part, as any unwelcome conduct by a school employee toward a student on the basis of a student's actual or perceived race, color, or national origin "that has the purpose or effect of substantially interfering with a student's educational performance or creating an intimidating, hostile, or offensive educational environment." 775 ILCS 5/5A-101(F), added by P.A. 103-472, ~~eff. 8-1-24~~. The *educational environment* "includes conduct that occurs at school, school-related activities, or events, and may include conduct that occurs off school grounds, subject to applicable State and federal law. *Id.* at (G). See sample policy 7:190, *Student Behavior*, at f/n 3, for a discussion about the ability of schools to discipline for off-campus conduct and consult the board attorney for advice in specific cases.

For a discussion of laws that prohibit discrimination in the employment context, including harassment based on race, color, and national origin, see sample policies 5:10, *Equal Employment Opportunity and Minority Recruitment*, and 5:20, *Workplace Harassment Prohibited*, at f/n 1.

Districts are also required to train all new and existing employees on discrimination and harassment based on race, color, and national origin ~~using a~~. A district may use the free model training program developed by the Ill. Dept. of Human Rights, available at: <https://dhr.illinois.gov/training/racism-free-schools>, or another training program that meets the requirements of 775 ILCS 5/5A-103(b), added by P.A. 103-472. Training for new employees must be provided as part of new employee training and then every two years thereafter. Initial training for existing employees must be completed by 7-31-26 and then every two years thereafter. See sample policy 5:100, *Staff Development Program*, and sample administrative procedure 2:270-AP, *Prevention and Response Program for Complaints of Discrimination and Harassment Based on Race, Color, and National Origin*, for more detail on the training requirements.

Examples of Prohibited Conduct ²

Examples of conduct that may constitute discrimination on the basis of race, color, or national origin include: disciplining students more harshly and frequently because of their race, color, or national origin; denying students access to high-rigor academic courses, extracurricular activities, or other educational opportunities based on their race, color, or national origin; denying language services or other educational opportunities to English learners; and assigning students special education services based on a student's race, color, or national origin.

Harassment is a form of prohibited discrimination. Examples of conduct that may constitute harassment on the basis of race, color, or national origin include: the use of racial, ethnic or ancestral slurs or stereotypes; taunts; name-calling; offensive or derogatory remarks about a person's actual or perceived race, color, or national origin; the display of racially-offensive symbols; racially-motivated physical threats and attacks; or other hateful conduct.

Making a Report or Complaint; Investigation Process ³

Individuals are encouraged to promptly report claims or incidents of discrimination or harassment based on race, color, or national origin to the Nondiscrimination Coordinator, a Complaint Manager, or any employee with whom the student is comfortable speaking. Reports under this policy will be processed under Board policy 2:260, *Uniform Grievance Procedure*.

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

Reports and complaints of discrimination or harassment will be confidential to the greatest extent practicable, subject to the District's duty to investigate and maintain an educational environment that is productive, respectful, and free of unlawful discrimination, including harassment.

This policy does not impair or otherwise diminish the existing rights of unionized employees to request an exclusive bargaining representative to be present during any investigatory interviews, nor does this policy diminish any rights available under an applicable collective bargaining agreement, including, but not limited to, a grievance procedure. ⁴

Federal and State Agencies

If the District fails to take necessary corrective action to stop harassment based on race, color, or national origin, further relief may be available through the Ill. Dept. of Human Rights (IDHR) or the U.S. Dept. of Education's Office for Civil Rights.⁵ To contact IDHR, go to:

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² Required by 105 ILCS 5/22-95(b)(1)(A) (~~final citation pending~~), added by P.A. 103-472, ~~eff. 8-1-24~~. The examples of discrimination and harassment under this subhead are based on definitions provided by the U.S. Dept. of Education's Office for Civil Rights, see www.ed.gov/laws-and-policy/civil-rights-laws/race-color-and-national-origin-discrimination/education-and-title-vi and www2.ed.gov/about/offices/list/ocr/frontpage/faq/race-origin.html#raceharl and www2.ed.gov/about/offices/list/ocr/docs/ocr-factsheet-shared-ancestry-202301.pdf, and the U.S. Equal Opportunity Employment Commission, see www.eeoc.gov/racecolor-discrimination.

³ Required by 105 ILCS 5/22-95(b)(1)(B) (~~final citation pending~~), added by P.A. 103-472, ~~eff. 8-1-24~~.

⁴ Required by *Id.* at (b). The U.S. Supreme Court case of *National Labor Relations Board v. Weingarten*, 420 U.S. 251 (1975), established the right of unionized employees to request and have union representation at investigatory interviews if the employee reasonably believes discipline may result.

⁵ Required by 105 ILCS 5/22-95(b)(1)(F).

<https://dhr.illinois.gov/about-us/contact-idhr.html> or call (312) 814-6200 (Chicago) or (217) 785-5100 (Springfield).⁶

Prevention and Response Program⁷

The Superintendent or designee shall establish a prevention and response program to respond to complaints of discrimination based on race, color, and national origin, including harassment, and retaliation. The program shall include procedures for responding to complaints which:

1. Reduce or remove, to the extent practicable, barriers to reporting discrimination, harassment, and retaliation;
2. Permit any person who reports or is the victim of an incident of alleged discrimination, harassment, or retaliation to be accompanied when making a report by a support individual of the person's choice who complies with the District's policies and rules;
3. Permit anonymous reporting, except that an anonymous report may not be the sole basis of any disciplinary action;
4. Offer remedial interventions or take such disciplinary action as may be appropriate on a case-by-case basis;
5. Offer, but do not require or unduly influence, a person who reports or is the victim of an incident of harassment or retaliation the option to resolve allegations directly with the accused; and
6. Protects a person who reports or is the victim of an incident of harassment or retaliation from suffering adverse consequences as a result of a report of, investigation of, or a response to the incident.

Policy Posting and Distribution

This policy shall be posted on the District's website.⁸ The Superintendent shall annually inform staff members of this policy by posting it in a prominent and accessible location such as the District website, employee handbook, staff intranet site, and/or in other areas where policies and rules of conduct are made available to staff.⁹ The Superintendent shall annually inform students and their parents/guardians

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⁶ Required by Id. at (b)(1)(G).

⁷ Required by Id. at (b)(1)(C). Items 1-6 must be addressed in a district's procedures for responding to complaints of discrimination and harassment based on race, color, and national origin. Id. at (c). See sample administrative procedure 2:270-AP, *Prevention and Response Program for Complaints of Discrimination and Harassment Based on Race, Color, and National Origin*.

⁸ 105 ILCS 5/22-95(b)(3) (~~final citation pending~~), added by P.A. 103-472, ~~eff. 8-1-24~~, requires districts to post this policy in their website if one exists. If a district does not maintain a website, delete this sentence.

⁹ Id. at (b)(2) requires this policy to be "posted in a prominent and accessible location and distributed in such a manner as to ensure notice of the policy to all employees." A district website or staff intranet site qualifies as a prominent and accessible location under 105 ILCS 5/22-95(b)(2) (~~final citation pending~~), added by P.A. 103-472, ~~eff. 8-1-24~~. If a district does not maintain a website and/or staff intranet, delete ~~District website and/or staff intranet site~~ from this sentence, as applicable.

of this policy by posting it on the District's website and including an age-appropriate summary of the policy in the student handbook(s). ¹⁰

Enforcement ¹¹

Any District employee who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to remedial action and/or disciplinary action, up to and including discharge.

Any District student who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to remedial action and/or disciplinary action, including but not limited to, suspension and expulsion consistent with Board policy 7:190, *Student Behavior*.

Any third party who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be addressed in accordance with the authority of the Board in the context of the relationship of the third party to the District, e.g., vendor, parent, invitee, etc. Any person making a knowingly false accusation regarding prohibited conduct will likewise be subject to remedial and/or disciplinary action.

Retaliation Prohibited ¹²

Retaliation against any person for bringing complaints, participating in the complaint process, or otherwise providing information about discrimination or harassment based on race, color, or national origin is prohibited (see Board policy 2:260, *Uniform Grievance Procedure*).

Individuals should report allegations of retaliation to the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager.

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¹⁰ Id. at (b)(3) requires a district to publish the policy on its website, if one exists, and in a student handbook. If the district does not maintain a website, delete ~~posting it on the District's website and~~ from the sentence. The law also requires a district to annually distribute a "summary of the policy in accessible, age-appropriate language" to students and parents/guardians. The summary may, but does not have to be, included in a student handbook to satisfy the annual distribution requirement. For ease of administration, this sample policy refers to inclusion in the student handbook(s). Districts may find it cumbersome to include both the policy and an age-appropriate summary of the same policy in a handbook. Consult the board attorney for guidance if the district would like to include a hyperlink to the policy, rather than the full text of the policy in the handbook. The Ill. Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/msh.

¹¹ Required by Id. at (b)(1)(D).

¹² Required by Id. at (b)(1)(E).

LEGAL REF.: 42 U.S.C. §2000d, Title VI of the Civil Rights Act of 1964; 34 C.F.R. Part 100.
42 U.S.C. §2000e et seq., Title VII of the Civil Rights Act of 1964; 29 C.F.R. Part 1601.
105 ILCS 5/22-95 (~~final citation pending~~).
775 ILCS 5/1-101 et seq., Illinois Human Rights Act.

CROSS REF.: 2:260 (Uniform Grievance Procedure), 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:20 (Workplace Harassment Prohibited), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; Code of Professional Conduct; and Conflict of Interest), 7:10 (Equal Educational Opportunities), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:190 (Student Behavior), 7:240 (Conduct Code for Participants in Extracurricular Activities)

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