

Document Status: Draft Update

General Personnel

5:20 Workplace Harassment Prohibited

The School District expects the workplace environment to be productive, respectful, and free of unlawful discrimination, including harassment. District employees shall not engage in harassment or abusive conduct on the basis of an individual's race, religion, national origin, sex, sexual orientation, age, citizenship status, disability, or other protected status identified in Board policy 5:10, *Equal Employment Opportunity and Minority Recruitment*. Harassment of students, including, but not limited to, sexual harassment, is prohibited by Board policy 7:20, *Harassment of Students Prohibited*.

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

Sexual Harassment Prohibited [PRESSPlus1](#)

The School District shall provide a workplace environment free of ~~unwelcome sexual advances, requests for sexual favors, and other verbal, or physical, or other~~ conduct or communications constituting harassment on the basis of sex as defined and otherwise prohibited by State and federal law.

District employees shall not make unwelcome sexual advances or request sexual favors or engage in any unwelcome conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Sexual harassment prohibited by this policy includes, but is not limited to, verbal, ~~or physical, or other~~ conduct. The terms intimidating, hostile, or offensive include, but are not limited to, conduct that has the effect of humiliation, embarrassment, or discomfort. Sexual harassment will be evaluated in light of all the circumstances.

Making a Complaint ~~Enforcement~~ [PRESSPlus2](#)

~~A violation of this policy may result in discipline, up to and including discharge. Any person making a knowingly false accusation regarding harassment will likewise be subject to disciplinary action, up to and including discharge. An employee's employment, compensation, or work assignment shall not be adversely affected by complaining or providing information about harassment. Retaliation against employees for bringing bona fide complaints or providing information about harassment is prohibited (see Board policy 2:260, Uniform Grievance Procedure).~~

Employees are encouraged to promptly report information regarding violations of this policy. Employees may choose to report to a person of the employee's same gender. Every effort should be made to file such complaints as soon as possible, while facts are known and potential witnesses are available.

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

~~Employees should report claims of harassment to the Nondiscrimination Coordinator and/or use the Board policy 2:260, Uniform Grievance Procedure. Employees may choose to report to a person of the employee's same sex. There are no express time limits for initiating complaints and grievances under this policy; however, every effort should be made to file such complaints as soon as possible, while facts are known and potential witnesses are available.~~

Whom to Contact with a Report or Complaint [PRESSPlus3](#)

An employee should report claims of harassment, including making a confidential report, to any of the following: his/her immediate supervisor, the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager. Employees may also report claims using Board policy 2:260, *Uniform Grievance Procedure*. If a claim is reported using Board policy 2:260, then the Complaint Manager shall process and review the complaint according to that policy, in addition to any response required by this policy 5:20, *Workplace Harassment Prohibited*

Nondiscrimination Coordinator and Complaint Managers:

Please refer to either the student handbook or faculty handbook to obtain the names and contact information for the current district discrimination coordinator and complaint Managers.

Investigation Process

Supervisors, Building Principals, or administrators who receive a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator or a Complaint Manager. A supervisor or administrator who fails to promptly forward a report or complaint may be disciplined, up to and including discharge.

Reports and complaints of harassment will be confidential to the greatest extent practicable, subject to the District's duty to investigate and maintain a workplace environment that is productive, respectful, and free of unlawful discrimination, including harassment. The District shall investigate alleged workplace harassment when a Complaint Manager becomes aware of an allegation, regardless of whether a written report or complaint is filed.

Enforcement

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

Retaliation Prohibited

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

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

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

Recourse to State and Federal Fair Employment Practice Agencies [PRESSPlus4](#)

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

LEGAL REF.:

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

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

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

Ill. Human Rights Act, [775 ILCS 5/2-101\(E\)](#), [5/2-102\(D\)](#), [5/2-102\(E-5\)](#), [5/5-102](#), and [5/5-102.2](#).

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

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

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

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

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

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

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

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

[Oncale v. Sundown Offshore Services](#), 523 U.S. 75 (1998).

Porter v. Erie Foods International, Inc., 576 F.3d 629 (7th Cir. 2009).

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

[Vance v. Ball State University](#), 133 S. Ct. 2434 (2013).

ADOPTED: February 14, 2018

PRESSPlus Comments

PRESSPlus 1. The State Officials and Employees Ethics Act, 5 ILCS 430/70-5(a), amended by P.A. 100-554, requires school districts to adopt an ordinance or resolution establishing a policy to prohibit sexual harassment by January 15, 2018. Though that date has passed, there are no penalties in the law for failing to pass the resolution by that date. The policy must include, at a minimum: (1) a prohibition on sexual harassment; (2) details on how an individual can report an allegation of sexual harassment, including options for making a confidential report to a supervisor, ethics officer, Inspector General, or the Ill. Dept. of Human Rights; (3) a prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under the State Officials and Employees Ethics Act, the Whistleblower Act (740 ILCS 174/), and the Ill. Human Rights Act (775 ILCS 5/); and (4) the consequences of a violation of the prohibition on sexual harassment and the consequences for knowingly making a false report.

For more information, please see the footnotes available by logging into PRESS Online at www.iasb.com. **Issue 97, January/February 2018**

PRESSPlus 2. School districts are not required to train employees regarding workplace harassment, including sexual harassment; however, it is best practice. For districts that wish to provide such trainings, best practices suggest annual trainings work best, including on applicable board policies and procedures, what constitutes workplace harassment, complaint and enforcement mechanisms, and employees' legal rights. **Issue 97, January/February 2018**

PRESSPlus 3. 5 ILCS 430/70-5(a), amended by P.A. 100-554, requires that a school board policy prohibiting sexual harassment include details for reporting an allegation of sexual harassment, including options for making a confidential report to a supervisor and an ethics officer. 5 ILCS 430/20-23 defines *ethics officers* as being designated by State agencies under the jurisdiction of the Executive Ethics Commission. School districts are not State agencies (5 ILCS 430/1-5) and do not have ethics officers; thus, this sample policy substitutes Complaint Manager for ethics officer. **Issue 97, January/February 2018**

PRESSPlus 4. 5 ILCS 430/70-5(a), amended by P.A. 100-554, (how an individual can report an allegation of sexual harassment, including options for making a confidential report to the Inspector General or the Ill. Dept. of Human Rights). This sample policy does not reference the Inspector General because the Inspector General does not have jurisdiction over public school districts (5 ILCS 430/1). **Issue 97, January/February 2018**