

Process or has offered the Respondent an informal resolution process. 34 C.F.R. §§106.44(f)(1)(ii), 106.44(g), 106.45(l)(1). See administrative procedure 2:265-AP1, *Title IX Response*, for more on supportive measures. See exhibit 2:265-E, *Title IX Glossary of Terms*, for the definition of *supportive measures*.

6. Timeframe. This Grievance Process shall be concluded within 90 school business days² after receipt of a Complaint. As used in this Grievance Process, *school business days* means days on which the District's main office is open. On a case-by-case basis, this Grievance Process may be temporarily delayed or extended for good cause only if the Complainant and the Respondent, as appropriate, are provided written notice of the delay/extension and the reasons for it. Good cause may include, but is not limited to: the unavailability of a party or a witness; concurrent law enforcement or other agency activity; or the need for language assistance or accommodation of disabilities. 34 C.F.R. §106.45(b)(4).
7. Privacy Protection. The District shall take reasonable steps to protect the privacy of a Complainant and a Respondent and witnesses during the Grievance Process. These steps shall not restrict the ability of a Complainant or a Respondent to obtain and present evidence, including by speaking to witnesses; consulting with their family members, confidential resources, or advisors; or otherwise preparing for or participating in the Grievance Process. 34 C.F.R. §106.45(b)(5).
8. Evidence Considered. The District shall objectively evaluate all relevant evidence – including both inculpatory and exculpatory evidence – that is not otherwise impermissible. Credibility determinations are not based on a person's status as a Complainant, Respondent, or witness. The District shall exclude (not disclose or otherwise use) impermissible evidence and questions seeking that evidence, regardless of whether the evidence is relevant. The District may access or consider impermissible evidence solely to determine whether an exception that would allow its consideration exists. 34 C.F.R. §106.45(b)(6), (7). See exhibit 2:265-E, *Title IX Glossary of Terms*, for the definition of *impermissible evidence*.
9. Standard of Proof. All determinations are based upon the *preponderance of the evidence* standard. 34 C.F.R. §106.45(h)(1). See exhibit 2:265-E, *Title IX Glossary of Terms*, for the definition of *preponderance of the evidence*.
10. Right to Appeal. Each party may appeal any determination or dismissal as described in **Section H. Appeals**, below. 34 C.F.R. §§106.45(d)(3), (i).
11. Remedies and Disciplinary Sanctions. Following a determination that Title IX Sex Discrimination occurred, the District must provide, as appropriate, remedies to a Complainant and other persons the District identifies as having had their equal access to the District's education program or activity limited or denied by Title IX Sex Discrimination. 34 C.F.R. §106.45(h)(3). Additionally, the District may implement, as appropriate, disciplinary sanctions on a Respondent, up to and including: discharge for an employee-Respondent; expulsion for a student-Respondent; and termination of any existing contracts and/or prohibition from District property and activities for a third-party Respondent. The District may not impose discipline on a Respondent for Title IX Sex Discrimination unless there is a determination at the conclusion of the Grievance Process that the Respondent engaged in prohibited Title IX Sex

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² The length of the grievance process and its method of calculation may be customized locally. This sample uses 90 school business days. If the district uses a different length and/or calculation method, e.g., 60 or 90 calendar days, insert it. The Grievance Process must include "reasonably prompt timeframes for the major stages of the grievance procedures," including the evaluation of the complaint of sex discrimination, investigation, determination, and appeal. 34 C.F.R. §106.45(b)(4). Consult the board attorney for advice on the most appropriate timeframe for the district.

Discrimination. 34 C.F.R. §106.45(h)(3), (l)(2). See exhibit 2:265-E, *Title IX Glossary of Terms*, for the definitions of *remedies* and *disciplinary sanctions*.

12. Training Requirements. The District ensures certain training requirements are met at the time of hiring or change of position that alters an employee's Title IX duties and annually thereafter. 34 C.F.R. §106.8(d). See administrative procedures 2:265-AP1, *Title IX Response*, and 2:265-AP3, *Title IX Coordinator*, for details on training requirements.

B. Evaluation of Title IX Complaint

When a Complaint is filed, the Title IX Coordinator shall, within 10 school business days, evaluate whether to investigate or dismiss the Complaint. 34 C.F.R. §106.45(b)(4). In evaluating the Complaint, the Title IX Coordinator shall analyze the allegations to determine whether the conduct as alleged could constitute Title IX Sex Discrimination and whether any of the bases for dismissal apply as set forth in **Section E. Dismissal**, below.

Where the Title IX Coordinator reasonably determines that the conduct as alleged could constitute Title IX Sex Discrimination, this Grievance Process shall be initiated. Where the Title IX Coordinator reasonably determines that the conduct as alleged does not constitute Title IX Sex Discrimination, the Title IX Coordinator shall dismiss the Complaint, or allegation(s) therein, as set forth in **Section E. Dismissal**, below.

C. Notice of Allegations

Upon initiating this Grievance Process, the Title IX Coordinator:

1. Provides written³ notice to all known parties with the following information (34 C.F.R. §106.45(c)(1)):
 - a. This procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*, including any available informal resolution process.
 - b. The allegations of Title IX Sex Discrimination. This includes sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute Title IX Sex Discrimination, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to the District.
 - c. Retaliation is prohibited. See exhibit 2:265-E, *Title IX Glossary of Terms*, for the definition of *retaliation*.
 - d. The parties have an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of the evidence. If the District opts to provide a description of the evidence, the parties have an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.
 - e. The District's behavior policies prohibit knowingly making false statements or knowingly submitting false information during the Grievance Process.
2. Provides a second written notice to all known parties if, during the investigation, the District decides to investigate allegations not included in the first written notice. 34 C.F.R. §106.45(c)(2).

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³ Optional. Title IX regulations only require that the determination of whether sex discrimination occurred be provided in writing. 34 C.F.R. §106.45(h)(2). Many attorneys agree that providing written notice at all stages of the Grievance Process is a best practice. Consult the board attorney for guidance on this issue, especially if the district does not want to provide written notice.

3. Decides whether to personally conduct the investigation or appoint a qualified investigator. If the Title IX Coordinator appoints a qualified investigator, provides written notice of the appointment to the Investigator.

When the Complainant's Identity Is Unknown

If the Complainant's identity is unknown, e.g., where an anonymous person or third-party reports conduct that reasonably may constitute Title IX Sex Discrimination, the Grievance Process may proceed if the Title IX Coordinator determines it is necessary to initiate a Complaint, even though the written notice provided in **Section C.1**, above, will not include the Complainant's identity. If the Complainant's identity is later discovered, the Title IX Coordinator provides another written notice to the parties.

When the Respondent's Identity is Unknown

If the Respondent's identity is unknown, e.g., where a Complainant does not know the Respondent's identity, the Grievance Process shall proceed because an investigation might reveal the Respondent's identity, even though the written notice provided in **Section C.1**, above, will not include the Respondent's identity. If the Respondent's identity is later discovered, the Title IX Coordinator provides another written notice to the parties.

D. Consolidation of Title IX Complaints

When the allegations of Title IX Sex Discrimination arise out of the same facts or circumstances, the Title IX Coordinator may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party. 34 C.F.R. §106.45(e).

E. Dismissal of Title IX Complaint

At any time, the Title IX Coordinator may dismiss a Complaint made under this Grievance Process, or any allegations contained in it, for any of the following reasons (34 C.F.R. §106.45(d)(1)):

1. The District is unable to identify the Respondent after taking reasonable steps to do so.
2. The Respondent is no longer enrolled in or employed by the District.
3. The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a complaint, and the Title IX Coordinator determines any remaining allegations in the Complaint would not constitute Title IX Sex Discrimination even if proven.
4. The District determines the alleged conduct, even if proven, would not constitute Title IX Sex Discrimination. Prior to dismissing the Complaint under this paragraph, the District must make reasonable efforts to clarify the allegations with the Complainant.

Upon dismissal, the Title IX Coordinator must promptly notify the Complainant in writing of the basis for the dismissal and the right to appeal the dismissal on the bases as described in **Section H. Appeals**, below. If the dismissal occurs after the Respondent has been notified of the allegations, the Title IX Coordinator shall simultaneously notify the Respondent in writing of the dismissal, its basis, and the right to appeal the dismissal on the bases as described in **Section H. Appeals**, below. 34 C.F.R. §106.45(d)(2), (3).

Upon dismissal, the Title IX Coordinator also must (34 C.F.R. §106.45(d)(4)):

1. Offer supportive measures to the Complainant, as appropriate;
2. Offer supportive measures to the Respondent, as appropriate, if the dismissal was pursuant to **Section E.3** or **Section E.4**, above, and the Respondent has been notified of the allegations;

3. Take other appropriate prompt and effective steps to ensure that Title IX Sex Discrimination does not continue or recur within the District's education program or activity.

See administrative procedure 2:265-AP1, *Title IX Response*, for more on supportive measures. See exhibit 2:265-E, *Title IX Glossary of Terms*, for the definition of *supportive measures*.

F. Informal Resolution of Title IX Complaint

At any time prior to determining if sex discrimination occurred under this Grievance Process, the District may offer to the Complainant and Respondent an informal resolution process. The District is prohibited from offering an informal resolution process when the Complaint includes allegations that an employee engaged in sex-based harassment of a student, or when such a process would conflict with federal, State, or local law.

The District has discretion to determine whether it is appropriate to offer an informal resolution process when it receives information about conduct that reasonably may constitute Title IX Sex Discrimination or when a Complaint is made, and may decline to offer informal resolution despite one or more of the parties' wishes. Such circumstances may include, but are not limited to, when the District determines the alleged conduct would present a future risk of harm to others. 34 C.F.R. §§106.44(k), 106.45(k)(1).

To offer an informal resolution process, the District must:

1. Provide the parties written notice explaining (34 C.F.R. §106.44(k)(3)):
 - a. The allegations;
 - b. Informal resolution process requirements;
 - c. That at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the Grievance Process;
 - d. That if the parties agree to a resolution at the conclusion of the informal resolution process, the parties' agreement precludes the parties from initiating or resuming the Grievance Process arising from the same allegations;
 - e. The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding; and
 - f. The information that will be maintained and whether and how the information could be disclosed for use in the Grievance Process if the Grievance Process is initiated or resumed.
2. Obtain the parties' voluntary, written consent to the informal resolution process. The District cannot require a waiver by the parties of the right to an investigation and determination of a complaint under the Grievance Process as a condition of enrollment or continuing enrollment in the District or employment or continuing employment in the District, or exercise of any other right. 34 C.F.R. §106.44(k)(2).
3. Assign a facilitator for the informal resolution process who is not the Investigator or Decisionmaker in the Grievance Process. 34 C.F.R. §106.44(k)(4).
4. Require the Title IX Coordinator, to the extent necessary, to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the District's education program or activity. 34 C.F.R. §106.44(k)(1).

Potential Terms for Informal Resolution Agreement

The following are potential terms that an informal resolution agreement may include, but are not limited to (34 C.F.R. §106.44(k)(5)):

1. Restrictions on contact; and

2. Restrictions on the Respondent’s participation in one or more of the District’s programs or activities or attendance at specific events, including restrictions the District could have imposed as remedies or disciplinary sanctions had the District determined at the conclusion of the Grievance Process that Title IX Sex Discrimination occurred.

G. Investigation and Determination of Title IX Complaint

The Investigator/Decisionmaker⁴ follows these steps when investigating the allegations in a Complaint. The Investigator/Decisionmaker shall make all reasonable efforts to complete the investigation and issue a written determination regarding whether Title IX Sex Discrimination occurred under Title IX within 30 school business days. This timeframe can be extended for good cause as provided in **Section A.6**, above.

If the allegations are against the Superintendent or against a Board Member, an independent Investigator/Decisionmaker (e.g., an attorney or retired school administrator) shall be appointed.

Actor	Action
Investigator/ Decisionmaker	<p><u>Investigation</u>⁵</p> <p>During an investigation and throughout the Grievance Process, provides an adequate, reliable, and impartial investigation by (34 C.F.R. §106.45(f)):</p> <ol style="list-style-type: none"> 1. Ensuring the burden of gathering sufficient evidence to determine whether Title IX Sex Discrimination occurred is on the District and not the parties. 34 C.F.R. §106.45(f)(1). 2. Providing an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible. 34 C.F.R. §106.45(f)(2). 3. Reviewing all evidence gathered through the investigation and determining what evidence is relevant and what evidence is impermissible regardless of relevance. 34 C.F.R. §106.45(f)(3).

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⁴ The Decisionmaker may be the same person as the Title IX Coordinator or Investigator. 34 C.F.R. §106.45(b)(2). As a result, this Grievance Process uses a single investigator/decisionmaker template, whether that person is the Title IX Coordinator or appointed by the Title IX Coordinator. Consult the board attorney if the district wishes to separate the roles of Investigator and Decisionmaker for Title IX Complaints. Additional steps under the Grievance Process are required if different people serve in the Investigator and Decisionmaker roles, and this sample administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*, will need to be amended to reflect those steps. For example, the district must allow the Decisionmaker to question the parties and the witnesses to adequately assess a party’s or witness’s credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination. 34 C.F.R. §106.45(g). Under a single investigator/decisionmaker template, that person will question the parties and witnesses as part of the Grievance Process investigation. If the roles are separated, then an additional opportunity for the parties and witnesses to be questioned by the Decisionmaker, after being questioned by the Investigator, must be provided under the Grievance Process. **Consult the board attorney for guidance.**

⁵ See f/n 4. If the district does not use a single investigator/decisionmaker template, add the following paragraph to the list of investigation requirements:

7. Providing a process that enables the Decisionmaker to question parties and witnesses to adequately assess a party’s or witness’s credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination. 34 C.F.R. §106.45(g).

Actor	Action
	<p>4. Providing the parties an equal opportunity to access the evidence that is relevant to the allegation(s) and not otherwise impermissible, or an accurate description of this evidence. If a description of the evidence is provided, the parties must be provided an equal opportunity to access the relevant and not otherwise impermissible evidence upon request. 34 C.F.R. §106.45(f)(4)(i).</p> <p>5. Providing the parties a reasonable opportunity to respond to the evidence or to the accurate description of the evidence. 34 C.F.R. §106.45(f)(4)(ii).</p> <p>6. Taking reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through this Grievance Process. 34 C.F.R. §106.45(f)(4)(iii).</p> <p><u>Determination and Written Notice of Determination</u></p> <p>Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, does the following (34 C.F.R. §106.45(h)(1), (2)):</p> <ol style="list-style-type: none"> 1. Bases all decisions on the <i>preponderance of evidence</i> standard. 2. Notifies the parties in writing of the determination regarding whether Title IX Sex Discrimination occurred, including the rationale for such determination and permissible bases for the Complainant and the Respondent to appeal as described in Section H. Appeals, below.
Title IX Coordinator or Designee	<p>If there is a determination that Title IX Sex Discrimination occurred (34 C.F.R. §106.45(h)(3)):</p> <ol style="list-style-type: none"> 1. Coordinates the provision and implementation of remedies for the Complainant and other persons identified as having had their equal access to the District's education program or activity limited or denied by Title IX Sex Discrimination. 2. Coordinates the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions. The District may not impose discipline on a Respondent for Title IX Sex Discrimination unless there is a determination at the conclusion of the Grievance Process that the Respondent engaged in prohibited Title IX Sex Discrimination. 3. Takes other appropriate prompt and effective steps to ensure that Title IX Sex Discrimination does not continue or recur within the District's education program or activity.

H. Appeals

The determination regarding whether Title IX Sex Discrimination occurred becomes final either on the date on which an appeal would no longer be considered timely if an appeal is not filed, or the date that the Appeal Decisionmaker provides the parties with the written decision of the result of the appeal if an appeal is filed. 34 C.F.R. §106.45(b)(4).

Complainant or Respondent	<p>Within five (5) school business days⁶ after receiving either (1) notice of the determination of whether Title IX Sex Discrimination occurred, or (2) notice of dismissal of a Complaint, or allegations therein, makes a written request to the Title IX Coordinator appealing the determination/dismissal based on (34 C.F.R. §§106.45(d)(3), 106.46(i)(1)):</p> <ol style="list-style-type: none"> 7. Procedural irregularity that would change the outcome. 8. New evidence now available that would change the outcome but that was not reasonably available at the time of the determination. 9. The Title IX Coordinator or Investigator/Decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.
Title IX Coordinator or Designee	<p>Upon receiving an appeal from one party (34 C.F.R. §106.45(d)(3), (i)):</p> <ol style="list-style-type: none"> 1. Notifies the parties in writing that an appeal has been filed, including notice of the allegations if notice consistent with Section C. Notice of Allegations, above, was not previously provided to the Respondent. 2. Provides both parties five (5) school business days to submit a written statement and/or new evidence in support of, or challenging, the outcome to the Title IX Coordinator. 3. Promptly forwards all materials relative to the appeal to the Appeal Decisionmaker. <p>Ensures that the Appeal Decisionmaker is not the same person as the Investigator/Decisionmaker or the Title IX Coordinator. 34 C.F.R. §106.45(d)(3)(iii).</p> <p>Note: The Board may, but is not required to, hear and decide the appeal; it is a suggestion that aligns with the appeal provisions in policy 2:260, <i>Uniform Grievance Procedure</i>, and with Ill. State Board of Education sex equity regulations requiring districts to “provide for final appeal of grievance decisions made at the system level to the system’s governing board.” 23 Ill.Admin.Code §200.40(c)(1). If the Board acts as the Appeal Decisionmaker, the Board must receive the training in Section A.12, above. Some school attorneys recommend that the appeal not go to the Board, so that the Board’s objectivity is not called into question if it needs to conduct a hearing related to recommended disciplinary sanctions resulting from the Grievance Process. Consult the board attorney regarding these options.</p>

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⁶ These timelines are optional and suggested for ease of use to align with the appeal timelines in sample policy 2:260, *Uniform Grievance Procedure*.

Appeal Decisionmaker	<p>Within 30 school business days, affirms, reverses, or amends the written determination regarding whether Title IX Sex Discrimination occurred or the notice of dismissal.</p> <p>Within five (5) school business days after its decision, notifies the parties in writing of the result of the appeal and the rationale for the result. 34 C.F.R. §106.45(d)(3)(vi).</p>
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I. Recordkeeping

Actor	Action
Title IX Coordinator or Designee	See the Recordkeeping subhead in administrative procedure 2:265-AP1, <i>Title IX Response</i> .

School Board

Administrative Procedure – Title IX Coordinator

*This procedure centralizes all Title IX Coordinator responsibilities that appear throughout the 2:265 suite of **PRM** materials into one document. Use this procedure in conjunction with exhibit 2:265-E, Title IX Glossary of Terms, and administrative procedures 2:265-AP1, Title IX Response, and 2:265-AP2, Formal Title IX Grievance Procedure.*

The Title IX Coordinator directs the District's compliance with Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulations (34 C.F.R. Part 106), and assists the Superintendent in implementing Board policy 2:265, *Title IX Grievance Procedure*. If the District has more than one Title IX Coordinator, it must designate one of its Title IX Coordinators to retain ultimate oversight to ensure the District's consistent compliance with its responsibilities under Title IX and its implementing regulations. 34 C.F.R. §106.8(a)(1). The Title IX Coordinator with ultimate oversight should be listed in Board policy 2:265, *Title IX Grievance Procedure*. The District may delegate, or permit the Title IX Coordinator to delegate, specific duties to one or more designees. 34 C.F.R. §106.8(a)(2).

Title IX Coordinator's General Responsibilities

1. Coordinates the District's efforts to comply with its responsibilities under Title IX and 34 C.F.R. Part 106 to provide educational programs and activities free from sex discrimination. 34 C.F.R. §106.8(a)(1). Includes, as needed, coordinating compliance with Board policies 2:260, *Uniform Grievance Procedure*; 2:265, *Title IX Grievance Procedure*; 5:10, *Equal Employment Opportunity and Minority Recruitment*; 5:20, *Workplace Harassment Prohibited*; 5:90, *Abused and Neglected Child Reporting*; 7:10, *Equal Educational Opportunities*; 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*.
2. Assists the Superintendent in developing and managing a program that notifies all students, parents/guardians, or other authorized legal representatives of students, employees, applicants for employment, and all unions and professional organizations holding collective bargaining or professional agreements with the District about the District's commitment to equal employment and educational opportunities and a discrimination-free environment, including by posting a Notice of Nondiscrimination on the District's website and in each handbook, catalog, announcement, bulletin, and application form that the District makes available to persons entitled to notice, or which are otherwise used in connection with the recruitment of employees. 34 C.F.R. §106.8(c). See the **Notice of Nondiscrimination** subhead of administrative procedure 2:265-AP1, *Title IX Response*.
3. Assists the Superintendent in developing and managing a staff training program (see the **Title IX Coordinator's Responsibilities for Training Staff** subhead, below). 34 C.F.R. §106.8(d).
4. When a Complainant or Respondent is a student with a disability, consults with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team (34 C.F.R. §300.321), if any, or one or more members of the group of persons responsible for the student's placement decision under 34 C.F.R. §104.35(c), if any, to determine how to comply with the requirements of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 *et seq.*) and Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. §794) throughout the implementation of the District's Title IX Complaint Grievance Process (Grievance Process) under administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*. 34 C.F.R. §106.8(e).

5. Maintains, for a period of at least seven (7) years (34 C.F.R. §106.8(f)):
 - a. For each Complaint of Title IX Sex Discrimination, records documenting the informal resolution process or the Grievance Process, and the resulting outcome. Records should include: complaints (formal and informal), supportive measures, the informal resolution process, investigations, final determinations, appeals, remedies, and any other relevant information related to allegations of Title IX Sex Discrimination.
 - b. For each notification the Title IX Coordinator receives about conduct that reasonably may constitute Title IX Sex Discrimination, records documenting the actions the District took to meet its obligations under 34 C.F.R. §106.44.
 - c. All materials used to provide the training outlined in Nos. 1-4 under the **Training** subhead in administrative procedure 2:265-AP1, *Title IX Response*.
Records shall only be destroyed in accordance with Board policies and administrative procedures governing the destruction of records. 34 C.F.R. §106.8(f). See the **Recordkeeping** subhead in administrative procedure 2:265-AP1, *Title IX Response*.
6. Provides ongoing consultation, technical assistance, and information services regarding Title IX compliance requirements and programs.
7. Makes recommendations for action by appropriate decision makers.
8. Establishes a positive climate for nondiscrimination compliance efforts, including by encouraging individuals to come forward with suggestions and complaints.

Title IX Coordinator's Responsibilities for Training Staff

The Title IX Coordinator assists the Superintendent to ensure that upon hiring or a change of position that alters a below-identified person's duties under Title IX, and annually thereafter (34 C.F.R. §106.8(d)):

1. Tier 1: all District employees receive training on:
 - a. The District's obligation to address Title IX Sex Discrimination in its education program or activity;
 - b. The scope of conduct that constitutes Title IX Sex Discrimination, including the definition of sex-based harassment; and
 - c. All applicable notification and information requirements under 34 C.F.R. §§106.40(b)(2) and 106.44.
2. Tier 2: in addition to Tier 1 training above, all designated Investigators, Decisionmakers, Appeal Decisionmakers, and other persons responsible for implementing the Grievance Process, or who have the authority to modify or terminate supportive measures under 34 C.F.R. § 106.44(g)(4) receive training on, to the extent related to their responsibilities:
 - a. The District's obligations under 34 C.F.R. §106.44 (see administrative procedure 2:265-AP1, *Title IX Response*);
 - b. The District's Grievance Process under 34 C.F.R. §106.45 (see administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*);
 - c. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and
 - d. The meaning and application of the term *relevant* in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under 34 C.F.R. §106.45 (see exhibit 2:265-E, *Title IX Glossary of Terms*).
3. Tier 3: in addition to Tier 1 training, above, all facilitators of an informal resolution process under 34 C.F.R. § 106.44(k) receive training on:
4. The rules and practices associated with the District's informal resolution process; and
5. How to serve impartially, including by avoiding conflicts of interest and bias.

6. Tier 4: in addition to Tier 1-3 training, above, the Title IX Coordinator and any designees receive training on:
 - a. Their specific responsibilities under Title IX (see 34 C.F.R. §§106.8(a), 106.40(b)(3), 106.44(f) and (g));
 - b. The District's recordkeeping system and the recordkeeping requirements under 34 C.F.R. §106.8(f); and
 - c. Any other training necessary to coordinate the District's compliance with Title IX and its implementing regulations.

See the **Training** subhead in administrative procedure 2:265-AP1, *Title IX Response*.

Title IX Coordinator's Responsibilities for Responding to Reports of Sex Discrimination

1. Implements and administers administrative procedure 2:265-AP1, *Title IX Response*.
2. Monitors the District's education program and activity for barriers to reporting information about conduct that may reasonably constitute Title IX Sex Discrimination, and takes steps reasonably calculated to address such barriers. 34 C.F.R. §106.44(b). Strategies to identify barriers may include, for example: conducting regular climate surveys, seeking targeted feedback from students and employees who have reported sex discrimination, participating in public awareness events to receive feedback from student and employee attendees, and regularly publicizing and monitoring an email address designated for receiving anonymous feedback about barriers to reporting sex discrimination. 87 Fed. Reg. 41436.
3. Receives reports of conduct that reasonably may constitute Title IX Sex Discrimination (34 C.F.R. §106.44(c)) and analyzes the allegation(s) to determine whether the conduct as alleged could constitute Title IX Sex Discrimination.
4. Where the Title IX Coordinator reasonably determines that conduct as alleged could constitute Title IX Sex Discrimination, takes the following actions to promptly and effectively end any Title IX Sex Discrimination in the District's education program or activity, prevent its recurrence, and remedy its effects (34 C.F.R. §106.44(f); see the **Response to Allegations** subhead in administrative procedure 2:265-AP1, *Title IX Response*):
 - a. Treats the Complainant and Respondent equitably.
 - b. Offers and coordinates supportive measures, as appropriate, for the Complainant.
 - c. If the District has initiated the Grievance Process, or offered an informal resolution process to the Respondent, offers and coordinates supportive measures, as appropriate, for the Respondent.
 - d. Notifies the Complainant or, if the complainant is unknown, the individual who reported the conduct, of the Grievance Process, and the informal resolution process, if available and appropriate.
 - e. If a Complaint is made, notifies the Respondent of the Grievance Process and the informal resolution process, if available and appropriate.
 - f. In response to a Complaint, initiates the Grievance Process or the informal resolution process, if available and appropriate and requested by all parties.
 - g. In the absence of a Complaint or the withdrawal of any or all the allegations in a Complaint, and in the absence or termination of an informal resolution process, determines whether to initiate a Complaint of Title IX Sex Discrimination under the Grievance Process, considering the factors outlined in the **Initiation of a Title IX Complaint** subhead of administrative procedure 2:265-AP1, *Title IX Response*.
 - h. If initiating a Complaint, notifies the Complainant prior to doing so and appropriately addresses reasonable concerns about the Complainant's safety or the safety of others, including by providing supportive measures.

- i. Regardless of whether a Complaint is initiated, takes other appropriate prompt and effective steps, in addition to steps necessary to effectuate the remedies provided to an individual Complainant, if any, to ensure that Title IX Sex Discrimination does not continue or recur within the District's education program or activity.
5. Offers and coordinates supportive measures, as appropriate, consistent with 34 C.F.R. §106.44(g) and as described in the **Supportive Measures** subhead in 2:265-AP1, *Title IX Response*.
6. In the absence of a Complaint or the withdrawal or any or all of the allegations in a Complaint, and in the absence or termination of an informal resolution process, determines whether to initiate a Complaint of Title IX Sex Discrimination under the Grievance Process, considering, at a minimum, the factors set forth in 34 C.F.R. §106.44(f)(1)(v)(A) and described in the **Title IX Complaint Initiation** subhead in administrative procedure 2:265-AP1, *Title IX Response*.
7. When a Complaint is filed by an eligible person or initiated by the Title IX Coordinator, follows the Grievance Process (34 C.F.R. §106.44(f)(1)(iv)) in 2:265-AP1, *Formal Title IX Complaint Grievance Process*, in conjunction with any response required by administrative procedure 2:265-AP1, *Title IX Response* and applicable District policies.
8. If the Respondent is an identified student, considers whether the student-Respondent should be removed from the District's education program or activity on an emergency basis in accordance with 34 C.F.R. §106.44(h) and the **Consideration of Removal of the Respondent** subhead in administrative procedure 2:265-AP1, *Title IX Response*.
9. If the Respondent is an identified non-student employee, in conjunction with the District's human resources administrator, considers whether the employee-Respondent should be placed on administrative leave in accordance with 34 C.F.R. §106.44(i), relevant District policies and procedures, any applicable collective bargaining agreements, and the **Consideration of Removal of the Respondent** subhead in administrative procedure 2:265-AP1, *Title IX Response*. See Board policies 5:240, *Suspension*, and 5:290, *Employment Termination and Suspensions*.

Title IX Coordinator's Responsibilities for Processing Grievances

1. Implements and administers the Title IX Complaint Grievance Process (Grievance Process) under administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*.
2. Receives Complaints and evaluates whether to investigate or dismiss the Complaint. See **Section B. Evaluation of Title IX Complaint** in administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*.
3. Upon initiating the Grievance Process, provides written notice to all known parties consistent with 34 C.F.R. §106.45(c). See **Section C. Notice of Allegations** in administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*.
4. Considers whether to offer the Complainant and Respondent an informal resolution process. 34 C.F.R. §106.45(k). See **Section F. Informal Resolution of Title IX Complaint** in administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*.
5. Investigates and makes determinations regarding complaints, or appoints a qualified Investigator/Decisionmaker to do so on the Title IX Coordinator's behalf, consistent with 34 C.F.R. §106.45(f) - (h). See **Section G. Investigation and Determination of Title IX Complaint** in administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*.
6. Receives a request from a party to appeal the final determination or dismissal, and appoints an Appeal Decisionmaker to review the appeal. 34 C.F.R. §106.45(i). See **Section H. Appeals** in administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*.

Title IX Coordinator's Responsibilities for Students who are Pregnant or have Pregnancy-Related Conditions

1. Upon notice of a student's pregnancy or related conditions, the Title IX Coordinator (34 C.F.R. §106.40(b)(3)):
 - a. Informs the student and, if applicable, the person who notified the Title IX Coordinator of the student's pregnancy or related conditions and who has a legal right to act on behalf of the student, of the student's right to be free from discrimination based on their status, the District's obligations under 34 C.F.R. §106.40(b)(1) - (5), and the District's Notice of Nondiscrimination. 34 C.F.R. §106.40(b)(3)(i).
 - b. Offers reasonable modifications, based on the student's individualized needs, to the District's policies, practices, or procedures as necessary to prevent Title IX Sex Discrimination and ensure equal access to the District's education program or activity. 34 C.F.R. §106.40(b)(3)(ii). Reasonable modifications may include, but are not limited to: breastfeeding accommodations (see administrative procedure 7:10-AP2, *Accommodating Breastfeeding Students*), breaks during class to attend to health needs associated with pregnancy or related conditions; intermittent absences to attend medical appointments; access to online or homebound education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests or examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or supplies; elevator access; alternative educational programming; voluntary leaves of absence; or other changes to policies, practices, or procedures. 34 C.F.R. §106.40(b)(3)(ii)(C).
2. Ensures the District does not require supporting documentation in order to offer reasonable modifications, unless the documentation is necessary and reasonable for the District to determine the reasonable modifications or whether to take additional specific actions. 34 C.F.R. §106.40(b)(3)(vi).
3. Ensures the District treats pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions with respect to any medical or hospital benefit, service, plan, or policy the District administers, operates, offers, or participates in with respect to students admitted to the District's education program or activity. 34 C.F.R. §106.40(b)(4).
4. Ensures the District does not require a student who is pregnant or has pregnancy related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in the recipient's class, program, or extracurricular activity unless (34 C.F.R. §106.40(b)(5)):
 - a. The certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;
 - b. The District requires such certification of all students participating in the class, program, or extracurricular activity; and
 - c. The information obtained is not used as a basis for discrimination prohibited by Title IX and 34 C.F.R. Part 106.

Students

Administrative Procedure - Accommodating Transgender, Nonbinary, or Gender Nonconforming Students¹

This procedure's accommodation and support guidelines advance the District's goals of: (1) providing all students equal access to a safe, non-hostile learning environment, and (2) implementing risk management controls in a developing and unsettled area of the law in which the federal Office of Civil Rights (OCR) and Dept. of Justice (DOJ) have issued guidance.

While there is no mandate requiring procedures for accommodating transgender, nonbinary, and gender nonconforming students, this procedure guides school officials through the: (1) application of State and federal anti-discrimination laws to this student population, and (2) common needs for which transgender, nonbinary, or gender nonconforming students may request accommodations and support at school. This procedure applies to all school activities, school-provided transportation, and school-sponsored events regardless of where they occur.

The Building Principal, Nondiscrimination Coordinator,² and/or Complaint Manager, with input from others as appropriate, will implement this procedure. They will work with each transgender, nonbinary, or gender nonconforming student, and as appropriate with the student's parent(s)/guardian(s), to manage a student's accommodations and supports on a case-by-case basis. The Board Attorney will be consulted concerning legal compliance.

Gender-Based Discrimination Is Prohibited

School districts must provide equal educational opportunities to transgender, nonbinary, and gender nonconforming students. Under State law, *sex discrimination* extends to claims of discrimination based on *sexual orientation* and *gender identity*. 775 ILCS 5/1-103(O-1); 775 ILCS 5/5-101(11); 23 Ill.Admin.Code §1.240. The Ill. Human Rights Act (IHRA) defines *sexual orientation* as the "actual or perceived heterosexuality, homosexuality, bisexuality, or gender related identity, whether or not traditionally associated with the person's designated sex at birth." 775 ILCS 5/1-103(O-1). IHRA permits schools to maintain single-sex facilities that are distinctly private in nature, e.g., restrooms and locker rooms. 775 ILCS 5/5-103.

Federal law prohibits exclusion and discrimination on the basis of *sex*. 20 U.S.C. §1681(a), Title IX of the Education Amendments of 1972 (Title IX). Updated Title IX regulations explain that discrimination on the basis of sex "includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity." 34 C.F.R. §106.10. The Seventh Circuit U.S. Court of Appeals (which has jurisdiction over the State of Illinois) has ruled that

The footnotes should be removed before the material is used.

¹ Administrative procedures guide the district administration's implementation of board policy. To implement a policy, the purpose and function of the policy must be understood. The purpose and function of 7:10, *Equal Educational Opportunities* is three-fold:

1. to ensure legal compliance with equal educational opportunity (EEO) laws,
2. to direct or authorize the superintendent or staff members to implement EEO laws, and
3. to establish board processes, and/or provide information about EEO laws to staff members and students.

This administrative procedure provides considerations for supports and accommodations that transgender students or gender nonconforming students may need as required by policy 7:10, *Equal Educational Opportunities*.

² If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, insert "Title IX Coordinator," here.

a school's practice of denying a transgender student access to the bathroom that aligned with his gender identify violated Title IX because it was a sex-based classification. See Whitaker by Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ., 858 F.3d 1034 (7th Cir. 2017); A.C. v. Metropolitan Sch. Dist. of Martinsville, 45 F.4th 760 (7th Cir. 2023), *cert. denied*, 2024 WL 156480 (2024).

Board policy 7:10, *Equal Educational Opportunities*, recognizes the legal requirements described above. This procedure's guidance on accommodating transgender, nonbinary, or gender nonconforming students is based on non-regulatory guidance from the Ill. State Board of Education (ISBE) and the Ill. Dept. of Human Rights (IDHR), as well as OCR pronouncements. See the last section, **Resources**.

Gender-Based Discrimination, Harassment, and/or Bullying Prohibited

The laws prohibiting gender discrimination require the District to protect transgender, nonbinary, and gender nonconforming students from sex discrimination, sex-based harassment, and bullying by other students. Under Title IX, discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or other related conditions, sexual orientation, and gender identity. Title IX also makes a school district responsible for damages suffered by a student who was the victim of prohibited sex-based hostile environment harassment: unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the District's education program or activity. 34 C.F.R. §106.2. Board policy 2:265, *Title IX Grievance Procedure*, and its accompanying procedures are used to address sex-based harassment as defined in Title IX.

The School Code prohibits bullying on the basis of actual or perceived sexual orientation, gender-related identity or expression, and/or association with a person or group with one of the aforementioned actual or perceived characteristics. 105 ILCS 5/27-23.7(a). The Board policy on bullying and the District's suite of bullying prevention materials are used to address and resolve peer bullying and harassment of transgender or gender nonconforming students. See Board policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

Terminology and Definitions

The District uses the following terms and definitions when discussing accommodations for a transgender, nonbinary, or gender nonconforming student (from the *Arcadia Resolution Agreement*, 7-24-13, at: www.justice.gov/crt/about/edu/documents/arcadiaagree.pdf and ISBE Non-Regulatory Guidance, *Supporting Transgender, Nonbinary and Gender Nonconforming Students*, at: www.isbe.net/supportallstudents). **Note:** Definitions are not intended to label students, but rather to assist with understanding.

Gender-based discrimination – a form of sex discrimination, refers to differential treatment or harassment of a student based on the student's sex, including gender identity, gender expression, and nonconformity with gender stereotypes, that results in the denial or limitation of education services, benefits, or opportunities. Conduct may constitute gender-based discrimination regardless of the actual or perceived sex, gender identity, or sexual orientation of the persons experiencing or engaging in the conduct.

Sex assigned at birth and assigned sex – a label a person is given at birth, often based on a medical professional's interpretation of the newborn's physical characteristics. Common examples may be *male* or *female*. This is typically the sex reflected on one's original birth certificate.

Gender expression – an individual's characteristics and behaviors such as appearance, dress, grooming, mannerisms, voice or speech patterns, activities, and social interactions that are perceived as masculine, feminine, both, or neither.

Gender identity – a person’s internal, deeply held sense or psychological knowledge of their own gender that can include being female, male, another gender, nonbinary, gender nonconforming, or no gender, and is unrelated to the person’s sex assigned at birth. Gender identity is an innate part of a person’s identity, and the responsibility for determining an individual’s gender identity rests with the individual. Unlike gender expression, gender identity is not visible to others.

Nonbinary – a term used to describe people whose gender identity is not exclusively male or female, including those who identify as a gender other than male or female, as more than one gender, or as no gender.

Transgender – an individual whose gender identity is different from the individual’s assigned sex at birth. Being transgender is not dependent on appearance, body parts, or medical procedures. Transgender can also be used as an umbrella term that encompasses diversity of gender identities and expressions. For purposes of this procedure, a *transgender student* is a student who consistently and uniformly asserts a gender identity different from the student’s assigned sex, or for whom there is documented legal or medical evidence that the gender identity is sincerely held as part of the student’s core identity.

Intersex – a term used for a variety of conditions in which a person is born with a reproductive and/or sexual anatomy that does not seem to fit the typical, binary definitions of female or male. Intersex conditions are not always discernable at birth or the awareness of internal anatomy present at birth may not be known to the person until puberty, if it is known at all. A derogatory term previously used for intersex individuals is hermaphrodite.

Gender transition – the process whereby people may change their gender expression, bodies, and/or identity documents to match their gender identity. Transition can be social (changing gender expression, using facilities, using a different name/pronouns), medical (hormones and/or surgeries), and/or legal (changing name/gender marker on identity documents), and is different for every individual. It is common for gender transition to be an ongoing process and is unique to each person.

Gender stereotypes – stereotypical notions of masculinity and femininity, including expectations of how boys or girls represent or communicate one’s gender to others, such as behavior, clothing, hairstyles, activities, voice, mannerisms, or body characteristics.

Gender nonconforming or gender expansive – one’s gender expression or gender identity that does not conform to traditional, societal, or stereotyped expectations based on the sex assigned at birth. Gender expansive individuals may identify as male, female, some combination of both, or neither.

Gender pronouns – the set of words used to refer to someone without using their name. Common examples include, but are not limited to, “she/her/hers,” “he/him/his,” “they/them/theirs,” and “ze/zir/zirs.”

Gender support plan – a document that may be used to create a shared understanding about the way in which a student’s gender identity will be accounted for and supported at school.

Facilities – refers to facilities and accommodations used by students at school or during school-sponsored activities and trips, and include, but are not limited to, restrooms, locker rooms, and overnight facilities.

Relevant Board Policies for Accommodations, Supports, and Inclusion of Transgender, Nonbinary, or Gender Nonconforming Students

2:260, *Uniform Grievance Procedure*, contains the process for an individual to seek resolution of a complaint. A student may use this policy to complain about bullying. The District Complaint Manager shall address the complaint promptly and equitably.

2:265, *Title IX Grievance Procedure*, contains the process for an individual to report or complain of sex discrimination in violation of Title IX, including sex-based harassment. The District Title IX Coordinator shall address the report or complaint promptly and equitably.

6:60, *Curriculum Content*, requires the history curriculum to include a study of the roles and contributions of lesbian, gay, bisexual, and transgender (LGBT) people in the history of the U.S. and Illinois and, if offered by the District, requires the implementation of a comprehensive health education program in accordance with State law, which may include the National Sex Education Standards (NSES) sex education curriculum. If NSES is offered, it must be inclusive and sensitive to students' needs on many bases, including based on their status as intersex and based on their gender, gender identity, and gender expression. See 6:60-AP2, *Comprehensive Personal Health and Safety and Sexual Health Education Program (National Sex Education Standards (NSES))*.

6:65, *Student Social and Emotional Development*, requires that social and emotional learning be incorporated into the District's curriculum and other educational programs.

7:10, *Equal Educational Opportunities*, requires that equal educational and extracurricular opportunities be available to all students without regard to, among other protected statuses, sex, sexual orientation, and gender identity.

7:20, *Harassment of Students Prohibited*, prohibits any person from harassing, intimidating, or bullying a student based on an actual or perceived characteristic that is identified in the policy including, among other protected statuses, sex, sexual orientation, and gender identity.

7:130, *Student Rights and Responsibilities*, recognizes that all students are entitled to rights protected by the U.S. and Illinois Constitutions and laws for persons of their age and maturity in a school setting.

7:160, *Student Appearance*, prohibits students from dressing or grooming in such a way as to disrupt the educational process, interfere with a positive teaching/learning climate, or compromise reasonable standards of health, safety, and decency.

7:165, *Student Uniforms*, encourages students to wear school uniforms in order to maintain and promote orderly school functions, school safety, and a positive learning environment, if adopted.

7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, contains the comprehensive structure for the District's bullying prevention program.

7:185, *Teen Dating Violence Prohibited*, prohibits students 13-19 years of age from using or threatening to use physical, mental, or emotional abuse to control an individual in the dating relationship, and from using or threatening to use sexual violence in the dating relationship.

7:250, *Student Support Services*, directs the Superintendent to develop protocols for responding to students' social, emotional, or mental health needs that impact learning.

7:290, *Suicide and Depression Awareness and Prevention*, directs the Superintendent to develop, implement, and maintain a suicide and depression awareness and prevention program.

7:330, *Student Use of Buildings - Equal Access*, grants student-initiated groups or clubs the free use of school premises for their meetings, under specified conditions.

7:340, *Student Records*, contains the comprehensive structure for managing school student records, keeping them confidential, and providing access as allowed or required.

Common Needs for Transgender, Nonbinary, or Gender Nonconforming Students; Accommodations and Supports

The goal of an accommodation is to allow a transgender, nonbinary, or gender nonconforming student to equally participate in educational and extracurricular opportunities. The right of transgender students

to accommodations is generally found in legislation (IHRA and Title IX) but has not been fully interpreted by the courts. Determining appropriate accommodations must be made on a case-by-case basis depending upon the needs expressed by the student.

The Superintendent may establish a gender support team that will identify accommodations for a specific student. Those accommodations may be documented in a gender support plan or other written document. The Board Attorney should be consulted and may be invited to be a member of the team.

This following list of possible accommodation considerations is not exhaustive, and each student's request must be managed on a case-by-case basis. A particular student may not be interested in an accommodation for each item listed. This area of law is rapidly evolving. **Seek the Board Attorney's advice concerning the scope and extent of accommodations.**

1. Gender transition
 2. Names and gender pronouns
 3. School student records

For managing demographic information in the ISBE Student Information System, see www.isbe.net/Documents/student_demographics.pdf. ISBE is not required to collect student sex, sexual orientation, or gender identity data for its major programs, unless required for federal reporting. 20 ILCS 65/20-15(a-5), amended by P.A. 103-175.
 4. Student privacy and confidentiality
 5. Access to gender-segregated areas, e.g., locker rooms and restrooms
 6. Sports and physical education classes - participation in competitive athletic activities and contact sports is resolved pursuant to IHSA policy #34, *Policy and School Recommendations for Transgender Participation* at: www.ihsa.org/About-the-IHSA/Constitution-By-laws-Policies.
 7. Dress codes
 8. Gender segregation in other activities, e.g., class discussions and field trips (including any overnight school trips)
 9. Communication with a new school about gender-specific accommodations upon transfer or graduation

Training for School Staff Members

Professional development for staff members should include regular opportunities to gain a better understanding of equal educational opportunity laws, gender identity, gender expression, and gender diversity; the development of gender identity in children and adolescents; developmentally appropriate strategies for communicating with students and parents/guardians about issues related to gender identity; gender-affirming approaches to ensuring the safety and support of transgender, nonbinary, and gender nonconforming students; developmentally appropriate strategies for preventing and intervening in bullying incidents; and Board policies regarding equal educational opportunities, bullying, discrimination, and student privacy.

Resources

IDHR, *Non-Regulatory Guidance Relating to Protection of Transgender, Nonbinary, and Gender Nonconforming Students Under the Ill. Human Rights Act* (Dec. 2021), at: <https://dhr.illinois.gov/publications/guidance-re-illinois-students-1221.html>.

ISBE, *Supporting Transgender, Nonbinary and Gender Nonconforming Students* (Mar. 2020), at: www.isbe.net/supportallstudents.

Gender Spectrum, an organization whose mission is to create a gender-inclusive world for all children and youth, at: www.genderspectrum.org.

Mass. Dept. of Elementary and Secondary Education, *Guidance for Massachusetts Public Schools Creating a Safe and Supportive School Environment Nondiscrimination on the Basis of Gender Identity* (Oct. 2021), at: www.doe.mass.edu/sfs/lgbtq/GenderIdentity.html.

OCR Resources for LGBTQI+ Students, at: www2.ed.gov/about/offices/list/ocr/lgbt.html

III. Association of School Boards, *Transgender, Nonbinary, and Gender Nonconforming Students: Legal Issues* (Sept. 2023), at: www.iasb.com/policy-services-and-school-law/guidance-and-resources/transgender,-nonbinary,-and-gender-nonconforming-s/.

Students

Administrative Procedure - Accommodating Breastfeeding Students¹

The Superintendent or designee shall ensure that students who choose to breastfeed an infant after returning to school are provided reasonable accommodations. A student who is a nursing mother may take reasonable breaks during the school day to express breast milk or breastfeed an infant. The District's Title IX Coordinator, in consultation with the Building Principal, will implement reasonable accommodations for the nursing mother in a manner that minimizes disruption to the student's education.

Reasonable accommodations for breastfeeding students, include, but are not limited to:

1. Access to a private and secure room, other than a bathroom, to express breast milk or breastfeed an infant child.
2. Permission to bring onto the school campus a breast pump or other equipment used to express breast milk.
3. Access to a power source for a breast pump or any other equipment used to express breast milk.
4. Access to a place to store expressed breast milk safely.
5. Reasonable breaks to accommodate the student's need to express breast milk or breastfeed an infant child, or attend to health needs associated with breastfeeding (including eating, drinking, or using the restroom).²
6. The opportunity to make up work missed to due to the student's use of reasonable accommodations for breastfeeding.

Complaints

The District's Complaint Manager or Nondiscrimination Coordinator or designee will process any complaints regarding reasonable accommodations for breastfeeding students in accordance with Board policies 2:260, *Uniform Grievance Procedure*, and/or 2:265, *Title IX Grievance Procedure*. In those cases where a complainant appeals the Superintendent's decision to the Board, the Superintendent will inform the complainant that he or she may appeal the Board's decision to the Regional Superintendent and, thereafter, to the State Superintendent, in accordance with 23 Ill.Admin.Code §200.40.

LEGAL REF.: 34 C.F.R. §106.40.
105 ILCS 5/10-20.60.

The footnotes should be removed before the material is used.

¹ This procedure is appropriate for inclusion in a student handbook. The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/resources/model-student-handbook. Consult the board attorney for advice regarding what accommodations a school may have to provide to breastfeeding students at off-campus extracurricular activities, such as field trips or recreational trips. There is currently a lack of case law guidance in this area. Protections in the School Code are limited to reasonable accommodations "on a school campus." 105 ILCS 5/10-20.60. However, Title IX regulations generally prohibit fund recipients from applying any rule concerning a student's parental status which treats students differently on the basis of sex. 34 C.F.R. §106.40.

² 34 C.F.R. §106.40(b)(3)(ii)(C).

Students

Administrative Procedure - Harassment of Students Prohibited

This procedure informs: (1) the Building Principal of specific steps to prevent harassment of students, and (2) staff members of the appropriate response to allegations of harassment.

Actor	Action
Building Principal or Designee	<p>Informs staff members and students that the District prohibits harassment of students. Distributes or references Board policies 2:260, <i>Uniform Grievance Procedure</i>; 2:265, <i>Title IX Grievance Procedure</i>; 2:270, <i>Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited</i>; and 7:20, <i>Harassment of Students Prohibited</i>, using various methods. Takes measures to prevent harassment of students, which may include:</p> <ol style="list-style-type: none"> 1. Conducts regular harassment awareness training for all school staff, including administrators, teachers, and school counselors, and ensures all new employees are trained. ¹ 2. Conducts regular² age-appropriate harassment awareness training for students. 3. Provides a means for students to learn and discuss what constitutes harassment and how to respond to it in the school setting. 4. Surveys students to determine if harassment is occurring at school. 5. Conducts regular³ harassment awareness training for parents/guardians. 6. Works with parents/guardians and students to develop and implement age-appropriate, effective measures for addressing harassment. 7. Determines when extra supervision and precaution should be taken, such as when: two or more students seem to be in conflict with each other; there have been previous incidents of harassment, sexual assaults, threats, or bullying around perceived sexual orientation; or a specific student has had multiple disciplinary violations. 8. Has a process in place to: (1) inform a staff member when a student that he or she supervises has a history of violent or sexually inappropriate behavior, and (2) keep such a student constantly supervised. 9. Regularly trains staff members regarding: (1) their classroom and non-classroom supervisory responsibilities, e.g., during a school-

The footnotes should be removed before the material is used.

¹ The term *regular* and phrase “ensures all new employees are trained” are a best practice. Amend these terms to reflect the district’s practice. See sample policy 5:100, *Staff Development Program*, for specific harassment prevention training requirements for employees.

² The term *regular* is a best practice.

³ *Id.*

Actor	Action
	<p>sponsored event, before and after school, while students wait for the school bus, between classes, during lunch, and at recess, (2) behaviors that may be an indicator of sexual or physical violence against another student, and (3) what to do when they observe an unusual and disruptive student.</p> <p>10. Identifies areas in the school building that are isolated, e.g., restrooms, locker rooms, hallways while classes are in session, stairwells, and empty rooms, and takes extra steps to make them safe.</p> <p>11. Immediately notifies the police and relevant parents/guardians when an assault or attempted assault has occurred.</p>
<p>Nondiscrimination Coordinator and/or Complaint Manager(s)</p>	<p>Thoroughly and promptly investigates allegations of harassment by:</p> <ol style="list-style-type: none"> 1. Distributing Board policies 2:260, <i>Uniform Grievance Procedure</i>; 2:265, <i>Title IX Grievance Procedure</i>; 2:270, <i>Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited</i>; and 7:20, <i>Harassment of Students Prohibited</i>, to any person upon request; 2. Following Board policies 2:260, <i>Uniform Grievance Procedure</i>; 2:265, <i>Title IX Grievance Procedure</i>; 2:270, <i>Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited</i>; and 7:20, <i>Harassment of Students Prohibited</i>; 3. Keeping the complaining parents/guardians informed of any investigation's progress; and 4. Keeping confidential all information about an investigation and the statements of students and other witnesses. The Superintendent shall be kept informed of an investigation's progress, unless the Superintendent is the subject of the complaint. If a complaint contains allegations involving the Superintendent, the Board President shall be kept informed of an investigation's progress.
<p>All District Staff Members</p>	<p>Immediately reports to the Ill. Dept. of Children and Family Services any situation that provides you with reasonable cause to believe that a child may be an abused child or a neglected child. See Board policy 5:90, <i>Abused and Neglected Child Reporting</i>.</p> <p>Promptly notifies the Superintendent or Building Principal that you made a report. If a report contains allegations involving the Superintendent, only notifies the Building Principal who shall contact the Board President. If a report contains allegations involving the Building Principal, only notifies the Superintendent.</p>

Students

Harassment of Students Prohibited ¹

No person, including a School District employee, agent, or student, shall harass, intimidate, or bully a student on the basis of actual or perceived: race; color; national origin; military status; unfavorable discharge status from military service; sex; sexual orientation; gender identity²; gender-related identity or expression; ancestry; age; religion; physical or mental disability; order of protection status; status of being homeless; actual or potential marital or parental status, including pregnancy; physical appearance; socioeconomic status; academic status; association with a person or group with one or more of the aforementioned actual or perceived characteristics; or any other distinguishing characteristic. The District will not tolerate harassing, intimidating conduct, or bullying whether verbal, physical, sexual, or visual, that affects the tangible benefits of education, that unreasonably interferes with a student's educational performance, or that creates an intimidating, hostile, or offensive educational environment. Examples of prohibited conduct include name-calling, using derogatory slurs, stalking, sexual violence, causing psychological harm, threatening or causing physical harm, threatened

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

¹ State or federal law requires this subject matter be covered by policy, controls this policy's content, and 105 ILCS 5/10-20.71 requires that every two years, each district within an Illinois county served by an accredited Children's Advocacy Center review all its existing sexual abuse investigation policies and procedures to ensure consistency with 105 ILCS 5/22-85. Each district must also have a policy on bullying. 105 ILCS 5/27-23.7, amended by P.A. 103-47; see sample policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

This policy's list of protected classifications aligns with the list in sample policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. The protected classifications are found in 105 ILCS 5/27-23.7(a), amended by P.A. 103-47; 775 ILCS 5/1-103, amended by P.A.s 102-896; 23 Ill.Admin.Code §1.240.

The list of protected classifications in sample policy 7:10, *Equal Educational Opportunities*, is different – it does not contain the classifications that are exclusively identified in the bullying statute. 105 ILCS 5/27-23.7, amended by P.A. 103-47.

The Ill. Human Rights Act (IHRA) and an Ill. State Board of Education (ISBE) rule prohibit schools from discriminating against students on the basis of *sexual orientation* and *gender identity*. 775 ILCS 5/5-101(11); 23 Ill.Admin.Code §1.240. *Sexual orientation* is defined as the "actual or perceived heterosexuality, homosexuality, bisexuality, or gender related identity, whether or not traditionally associated with the person's designated sex at birth." 775 ILCS 5/1-103(O-1). *Gender identity* is included in the definition of sexual orientation in the Act. The Act permits schools to maintain single-sex facilities that are distinctly private in nature, e.g., restrooms and locker rooms. 775 ILCS 5/5-103. Additionally, *race* is defined to include traits associated with race, including, but not limited to, hair texture and protective hairstyles such as braids, locks, and twists. 775 ILCS 5/1-103(M-5), added by P.A. 102-1102. 775 ILCS 5/1-102(A), added *order of protection status* to its list of protected categories. IHRA's jurisdiction regarding schools as a public accommodation is specifically limited to: (1) failing to enroll an individual, (2) denying access to facilities, goods, or services, or (3) failing to take corrective action to stop severe or pervasive harassment of an individual. 775 ILCS 5/5-102.2, amended by P.A. 102-1102. It is also a violation of IHRA if a district is aware of an employee or agent's harassment towards a student but fails to take appropriate action to stop the harassment. 775 ILCS 5/5A-101 and 102, amended by P.A. 103-472.

² See f/n 3 in sample policy 7:10, *Equal Educational Opportunities*, for a discussion about Executive Order (EO) 2019-11 establishing the Affirming and Inclusive Schools Task Force (Task Force) that made policy and administrative procedure recommendations to ISBE that are discussed in its publication *Sample District Policy and Administrative Procedures* at www.isbe.net/supportallstudents.

For boards that want to incorporate ISBE's sample policy recommendation, insert the following in place of "gender identity;": gender; gender identity (whether or not traditionally associated with the student's sex assigned at birth);

If the board inserts this option, it must also insert the options in f/ns 3 and 8 of policy 7:10, *Equal Educational Opportunities*, but note the protected statuses list in this policy is different and should not be copied from here into 7:10, *Equal Educational Opportunities*.

or actual destruction of property, or wearing or possessing items depicting or implying hatred or prejudice of one of the characteristics stated above.³

Sexual Harassment Prohibited

The District shall provide an educational environment free of verbal, physical, or other conduct or communications constituting harassment on the basis of sex as defined and otherwise prohibited by State and federal law.⁴ See Board policies 2:265, *Title IX Grievance Procedure*, and 2:260, *Uniform Grievance Procedure*.

Making a Report or Complaint

Students are encouraged to promptly report claims or incidents of bullying, intimidation, harassment, sexual harassment, or any other prohibited conduct to the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a Complaint Manager, or any employee with whom the student is comfortable speaking.⁵ A student may choose to report to an employee of the student's same gender.

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

³ This list of examples of prohibited conduct is optional. While hate speech is not specifically mentioned in this paragraph, any hate speech used to harass or intimidate is banned. Hate speech without accompanying misconduct may be prohibited in response to actual incidents when hate speech interfered with the educational environment. *West v. Derby Unified Sch. Dist.*, 206 F.3d 1358 (10th Cir. 2000).

⁴ Two laws apply to sexual harassment of students in Illinois. Title IX of the Education Amendments of 1972 (Title IX) and IHRA prohibit discrimination on the basis of sex and sex-based harassment in any educational program or activity receiving federal financial assistance. 20 U.S.C. §1681. Title IX defines sexual harassment as conduct on the basis of sex that meets one or more of the following: (1) a district employee, agent, or other authorized person conditions the provision of an aid, benefit, or service on a person's participation in unwelcome sexual conduct; (2) unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the District's education program or activity; or (3) *sexual assault, dating violence, domestic violence, or stalking* as defined in federal law. 34 C.F.R. §106.2. See sample policy 2:265, *Title IX Grievance Procedure*, and sample exhibit 2:265-E, *Title IX Glossary of Terms*. Consult the board attorney to ensure the nondiscrimination coordinator and complaint managers are trained to appropriately respond to allegations of Title IX sex-based harassment. See sample procedures 2:265-AP1, *Title IX Response*, 2:265-AP2, *Formal Title IX Complaint Grievance Process*, and 2:265-AP3, *Title IX Coordinator*.

IHRA prohibits any district employee or agent from sexually harassing a student, and defines sexual harassment as any unwelcome sexual advances or requests for sexual favors made to a student, or any conduct of a sexual nature toward a student, when: (1) such conduct has the purpose of substantially interfering with the student's educational performance or creating an intimidating, hostile or offensive educational environment; or (2) the district employee or agent either explicitly or implicitly makes the student's submission to or rejection of such conduct as a basis for making various enumerated education-related determinations. 775 ILCS 5/5A-101(E).

School districts are liable for damage awards for an employee's sexual harassment of a student in limited situations. Liability occurs only when a district official who, at a minimum, has authority to institute corrective action, has actual notice of and is deliberately indifferent to the employee's misconduct. *Gebser v. Lago Vista Independent Sch. Dist.*, 524 U.S. 274 (1998). Schools are liable in student-to-student sexual harassment cases when school agents are deliberately indifferent to sexual harassment, of which they have actual knowledge that is so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school. *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629 (1999). The Ill. Dept. of Human Rights investigates charges of sexual harassment in violation of the IHRA, and it is a civil rights violation when a district fails to take remedial or disciplinary action against an employee the district knows engaged in sexual harassment. 775 ILCS 5/5A-102.

⁵ Using "or any employee with whom the student is comfortable speaking" ensures compliance with Title IX regulations providing that "any employee" of an elementary or secondary school who has notice of sexual harassment or allegations of sexual harassment is deemed to have *actual knowledge* which triggers a district's duty to respond. 34 C.F.R. §106.30. By including "any employee" in this list, this policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

Reports under this policy will be considered a report under Board policy 2:260, *Uniform Grievance Procedure*, and/or Board policy 2:265, *Title IX Grievance Procedure*. The Nondiscrimination Coordinator and/or Complaint Manager or designee shall process and review the report according to the appropriate grievance procedure.⁶ The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers.⁷ The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator.⁸

Nondiscrimination Coordinator:

Jessica Miller
Name
14 East Main Street, Pana, IL 62557
Address
jmiller@panaschools.com
Email
(217) 562-1500
Telephone

Complaint Managers:

Kevin McDonald
Name
201 W 8th Street, Pana, IL 62557
Address
kmcDonald@panaschools.com
Email
(217) 562-6600
Telephone

Lisa Mayhall
Name
203 W 8th Street, Pana, IL 62557
Address
lmayhall@panaschools.com
Email
(217) 562-6500
Telephone

The Superintendent shall use reasonable measures to inform staff members and students of this policy by including:

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

⁶ If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, supplement this sentence to state "The Nondiscrimination Coordinator, Title IX Coordinator, and/or Complaint Manager or designee shall process and review the report according to the appropriate grievance procedure."

⁷ 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.

Each district must communicate its bullying policy to students and their parents/guardians. 105 ILCS 5/27-23.7, amended by P.A. 103-47; see sample policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

⁸ Title IX regulations require districts to designate and authorize at least one employee, referred to as the Title IX Coordinator, who is responsible for coordinating the district's compliance efforts. 34 C.F.R. §106.8(a). For further discussion of the Title IX Coordinator, see f/n 11 in sample policy 2:265, *Title IX Grievance Procedure*.

The Nondiscrimination and Title IX Coordinator(s) need not be the same person. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, delete "~~The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator,~~" supplement the previous sentence to state "The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator, Title IX Coordinator, and Complaint Managers." Then, list the Title IX and Nondiscrimination Coordinators' names and contact information separately in this policy.

1. For students, age-appropriate information about the contents of this policy in the District's student handbook(s), on the District's website, and, if applicable, in any other areas where policies, rules, and standards of conduct are otherwise posted in each school.⁹
2. For staff members, this policy in the appropriate employee handbook(s), if applicable, and/or in any other areas where policies, rules, and standards of conduct are otherwise made available to staff.

Investigation Process

Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator or a Complaint Manager.¹⁰ Any employee who fails to promptly comply 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 an educational environment that is productive, respectful, and free of unlawful discrimination, including harassment.

For any report or complaint alleging sex-based harassment that, if true, would implicate Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 *et seq.*), the Nondiscrimination Coordinator or designee¹¹ shall consider whether action under Board policy 2:265, *Title IX Grievance Procedure*, should be initiated.

For any report or complaint alleging harassment on the basis of race, color, or national origin, the Nondiscrimination Coordinator or a Complaint Manager or designee shall investigate under Board policy 2:270, *Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited*.

For any other alleged student harassment that does not require action under Board policies 2:265, *Title IX Grievance Procedure*, or 2:270, *Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited*, the Nondiscrimination Coordinator or a Complaint Manager or designee shall consider whether an investigation under Board policies 2:260, *Uniform Grievance Procedure*, and/or 7:190, *Student Behavior*, should be initiated, regardless of whether a written report or complaint is filed.

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

⁹ In addition to notifying students of policies 2:260, *Uniform Grievance Procedure*, and 2:265, *Title IX Grievance Procedure*, a district must notify them of the name, office address, email address, and telephone number of district's Title IX Coordinator. 34 C.F.R. §106.8(a). 105 ILCS 5/10-20.69 requires districts to maintain and implement an *age-appropriate* policy on sexual harassment that is included in the school district's student handbook, as well as on a district's website and, if applicable, other areas where such information is posted in each school. The law does not expressly state that the age-appropriate policy is for students; however, that is the most logical interpretation. In practice, most districts maintain a student handbook for each building. Because the law only requires one policy, this policy manages the age-appropriate requirement by directing age-appropriate explanations of the policy be included in the building-level student handbook(s). Student handbooks can be developed by the building principals, but should be reviewed and approved by the superintendent and school board. The Ill. Principals Association maintains a handbook service that coordinates with PRESS material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/msh.

¹⁰ If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, supplement this sentence to state "Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator, Title IX Coordinator, or a Complaint Manager."

¹¹ "Nondiscrimination Coordinator or designee" is used where Title IX is potentially implicated. In contrast, if Title IX is likely not implicated then "Nondiscrimination Coordinator or a Complaint Manager or designee" is used (see next paragraph in policy text). If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, delete "Nondiscrimination" and insert "Title IX" in its place.

Reports That Involve Alleged Incidents of Sexual Abuse of a Child by School Personnel ¹²

An *alleged incident of sexual abuse* is an incident of sexual abuse of a child, as defined in 720 ILCS 5/11-9.1A(b), that is alleged to have been perpetrated by school personnel, including a school vendor or volunteer, that occurred: on school grounds during a school activity; or outside of school grounds or not during a school activity.

Any complaint alleging an incident of sexual abuse shall be processed and reviewed according to Board policy 5:90, *Abused and Neglected Child Reporting*. In addition to reporting the suspected abuse, the complaint shall also be processed under Board policy 2:265, *Title IX Grievance Procedure*, or Board policy 2:260, *Uniform Grievance Procedure*.

Enforcement

Any District employee who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to disciplinary action up to and including discharge. 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/guardian, invitee, etc. Any District student who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to disciplinary action, including but not limited to, suspension and expulsion consistent with the behavior policy. Any person making a knowingly false accusation regarding prohibited conduct will likewise be subject to disciplinary action.

Retaliation Prohibited

Retaliation against any person for bringing complaints or providing information about harassment is prohibited (see Board policies 2:260, *Uniform Grievance Procedure*, 2:265, *Title IX Grievance Procedure*, and 2:270, *Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited*).

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

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

¹² Required for districts located within a county served by an accredited Children's Advocacy Center (CAC). Delete this subhead if your school district is within a county not served by an accredited CAC. 105 ILCS 5/22-85 (governing the investigation of an *alleged incident of sexual abuse* of any child within any Illinois counties served by a CAC). For a map of accredited CACs, and to identify a CAC that may serve your district, see www.childrensadvocacycentersofillinois.org/about/map. For further discussion see f/ns 14-16 in sample policy 5:90, *Abused and Neglected Child Reporting*.

- LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Educational Amendments of 1972; 34 C.F.R. Part 106.
29 U.S.C. §791 et seq., Rehabilitation Act of 1973; 34 C.F.R. Part 104.
42 U.S.C. §2000d, Title VI of the Civil Rights Act of 1964; 34 C.F.R. Part 100.
105 ILCS 5/10-20.12, 5/10-22.5, 5/10-23.13, 5/27-1, and 5/27-23.7.
775 ILCS 5/1-101 et seq., Illinois Human Rights Act.
23 Ill.Admin.Code §1.240 and Part 200.
Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999).
Franklin v. Gwinnett Co. Public Schs., 503 U.S. 60 (1992).
Gebser v. Lago Vista Independent Sch. Dist., 524 U.S. 274 (1998).
West v. Derby Unified Sch. Dist. No. 260, 206 F.3d 1358 (10th Cir. 2000).
- CROSS REF.: 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Grievance Procedure), 2:270 (Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited), 4:165 (Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors), 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), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:240 (Conduct Code for Participants in Extracurricular Activities)

General Personnel

Administrative Procedure - Fingerprint-Based Criminal History Record Information Security

The District is required by State law to conduct fingerprint-based criminal history record checks on applicants for employment. See administrative procedure 5:30-AP2, *Investigations*, for the procedures to be followed in carrying out such checks. This procedure outlines the District's responsibility to safeguard applicants' criminal justice information (CJI), including Criminal History Records Information (CHRI), received from the Federal Bureau of Investigation (FBI), whether the information is received directly from the FBI or through the Ill. State Police (ISP) or a live scan vendor pursuant to an existing Outsourcing Management Control Agreement. This procedure is based on the *FBI Criminal Justice Information Services (CJIS) Security Policy* (CJIS Security Policy) available at: <https://le.fbi.gov/cjis-division/cjis-security-policy-resource-center> (see Appendix J, Noncriminal Justice Agency Supplemental Guidance) and ISP's generic template titled *Criminal History Record Information Proper Access, Use, and Dissemination Procedures*.¹ The FBI's CJIS Security Policy provides a minimum set of security requirements for access to FBI CJIS Division systems and information and to protect and safeguard CJI.

Glossary of Terms

These definitions are based on those provided in the FBI CJIS Security Policy.

Criminal Justice Information (CJI) — All data provided through the FBI CJIS, including, but not limited to, biometric, identity history, person, organization, property (when accompanied by any personally identifiable information), and case/incident history data.

Criminal History Records Information (CHRI) — A subset of CJI that includes identifiable descriptions of arrests, detentions, indictments, information, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, and release. For purposes of this procedure, CHRI is interchangeable with CJI.

Authorized Personnel — District employee(s) who have been appropriately vetted through a national fingerprint-based record check and have been granted access to CJI. For purposes of this procedure, Authorized Personnel includes the Superintendent, Human Resources Administrator, Head of Information Technology, and their respective designees.

Electronic Media — Any form of electronic storage media such as a memory device in a laptop or computer (hard drive) or mobile device; and any removable, transportable electronic media, such as magnetic tape or disk, optical disk, flash drive, external hard drive, or digital memory card.

Physical Media — Media in printed form, including, but is not limited to, printed documents, printed imagery, and printed facsimile.

The footnotes should be removed before the material is used.

¹ The Ill. State Police (ISP) generic template can be requested through ISP.BOI.Customer.Support@illinois.gov. Requests for technical assistance from the ISP can also be made through the same email address.

Remote Access — Any temporary access to the District's information system by a user (or an information system) communicating temporarily through an external, non-District controlled network (e.g., the Internet).

Actor	Action
<p>Superintendent or Human Resources Administrator</p>	<p>If the District utilizes a live scan vendor, ensures the District has entered in an outsourcing agreement with the vendor that incorporates appropriate FBI security and management control outsourcing standards to protect CHRI. See https://www.fbi.gov/file-repository/compact-council-security-and-management-control-outsourcing-standard-for-non-channelers.pdf/view or www.fbi.gov/file-repository/compact-council-security-and-management-control-outsourcing-standard-for-channelers.pdf/view, depending on the status of the vendor (channelers are contractors selected by the FBI that have a direct connection to the FBI's identification system, see www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/compact-council/list-of-approved-channelers). For a list of live scan vendors in Illinois, see https://idfprapps.illinois.gov/licenselookup/fingerprintlist.asp.</p> <p><u>Point of Contact</u></p> <p>Designates employee(s) to serve as the District's Point of Contact (POC), who serves as the primary point of contact with the ISP regarding the District's handling of CJJ.</p> <p>Ensures the District has applicable agreement(s) in place necessary to access CJJ, e.g., an interagency user agreement with the ISP.</p> <p><u>Physical Security</u></p> <p>Designates a secure location within the District with physical and personnel security controls sufficient to protect CHRI and associated information system(s), including the following:</p> <ol style="list-style-type: none"> 1. The location shall be prominently posted and physically separate from non-secure locations. 2. Only Authorized Personnel will have access to the physically secure location. 3. The District is able to control all access points and verify individual access authorizations before granting access. 4. The device(s) that displays CHRI is positioned in such a way as to prevent unauthorized individuals from accessing and/or viewing it. 5. CHRI on physical media is always stored in a locked cabinet/drawer/container at the District Office which is only accessible to Authorized Personnel. Physical media is not removed from the secure location area except for purposes of sanitization/disposal.

Actor	Action
	<p><u>Media Protection and Transport</u></p> <p>Ensures controls are in place to protect electronic and physical media containing CHRI while at rest, stored, or actively being accessed, as well as during transport outside of secure areas to prevent inadvertent or inappropriate disclosure and use. Only Authorized Personnel may transport electronic media or physical media containing CHRI.</p> <p>If physical and personnel restrictions are not feasible, directs the Head of Information Technology to ensure CHRI is encrypted per the CJIS Security Policy (pg. 160, see SC-13).</p> <p><u>Sanitization and Disposal of CHRI</u></p> <p>Properly sanitizes or disposes of (or designates Authorized Personnel to sanitize or dispose of) physical or electronic media containing CHRI in accordance with the District's record retention schedule. Physical media will be destroyed by one of the following methods:</p> <ol style="list-style-type: none"> 1. Shredding using District-issue shredders. 2. Placement in locked shredding bins for a private District contractor to come on-site and shred, witnessed by Authorized Personnel. 3. Incineration using District incinerators or witnessed by Authorized Personnel onsite at a District or contractor incineration site, if conducted by non-authorized personnel. <p>Electronic media will be disposed of by one of the following methods:</p> <ol style="list-style-type: none"> 1. Overwriting at least three times (using a program to write onto the location of the media where the file to be sanitized is located) 2. Degaussing (magnetic erasure of data from magnetic media) 3. Physical destruction. (crushing, disassembling, etc., ensuring that the platters have been physically destroyed so that no data can be pulled). <p><u>Misuse of CHRI</u></p> <p>In the event of misuse of CHRI by a District employee, issues discipline to the employee (such as loss of access privileges) or recommends discipline to the Board up to and including termination and/or refers the matter to law enforcement. See Board policies 5:200, <i>Terms and Conditions of Employment and Dismissal</i>, 5:240, <i>Suspensions</i>, and 5:290, <i>Employment Termination and Suspensions</i>.</p>
Head of Information Technology	<p>Assists the Superintendent and Human Resources Administrator as requested to implement appropriate controls for access to CHRI within the District.</p> <p><u>Account Management</u></p> <p>Manages information system accounts, including establishing, activating, modifying, reviewing, disabling, and removing accounts.</p>

Actor	Action
	<p>Validates information system accounts at least annually and documents the validation process.</p> <p>Monitors electronic system log access to CHRI on a weekly basis for indications of inappropriate or unusual activity.</p> <p><u>Remote Access and Personally Owned Devices</u> Authorizes, monitors, and controls all methods of remote access to the information systems that can access, process, transmit, and/or store CJI.</p> <p>Employs automated mechanisms to facilitate the monitoring and control of remote access methods and control all remote accesses through managed access control points.</p> <p>Permits remote access for privileged functions only for compelling operational needs and documents the rationale for such access in the security plan for the information system.</p> <p>If the District permits Authorized Personnel to use personal devices to access, process, store, or transmit CHRI, establishes and documents the specific terms and conditions for personal device use consistent with the requirements in Section 5.13 of the CJIS Security Policy (pg. 173-179).</p> <p><u>Sanitization and Disposal of CHRI</u> Ensures that Information Technology systems that have been used to process, store, or transmit CHRI may not be released from the District's control until the equipment and has been sanitized and all stored information has been cleared using one of the methods authorized in this procedure.</p> <p><u>Security Incidents</u> Assists the POC with the reporting of any security incidents to ISP.</p> <p>When feasible, employs automated mechanisms to assist in the reporting of security incidents.</p>
District Point of Contact (POC)	<p>Communicates as needed with the ISP regarding audits, District personnel changes, training, and security.</p> <p>Disseminates information security alerts and other communications from ISP to all Authorized Personnel.</p> <p>If applicable, identifies who is using live scan hardware, software, and firmware and ensures no unauthorized individuals or processes have access to the same. Identifies and documents how the equipment is connected to the ISP system.</p>

Actor	Action
	<p>Ensures appropriate security measures to protect CHRI are in place and working as expected.</p> <p>Maintains a list of Authorized Personnel that is updated annually and when new users are registered or off boarded.</p> <p>Annually reviews all information system accounts to ensure that access and account privileges align with job functions, need-to-know, and employment status on systems that contain CHRI.</p> <p>Maintains a log for access to any physical files containing CHRI and monitors the log on a weekly basis for indications of inappropriate or unusual activity.</p> <p>Maintains Security Awareness Training Certificates for all Authorized Personnel.</p> <p>Informs all Authorized Personnel of the procedures for reporting security events and weaknesses that might have an impact on the security of CHRI. Ensures the ISP's Information Security Officer is promptly informed of any security incidents by contacting ISP.LEADSISO@illinois.gov.</p> <p>Upon an Authorized Person's separation from District employment, terminates that individual's access to systems or physical areas where CHRI is accessible.</p>
Authorized Personnel	<p>Completes Basic Security Awareness Training within six months of initial assignment and every two years thereafter as required under Section 5.2 of the CJIS Security Policy, as well as any other role-based training that may be required under the CJIS Security Policy (pgs. 11-16). Security Awareness Training is available at: https://www.cjisonline.com/. Submits Security Awareness Training Certificates to the POC.</p> <p>Complies with the District's established controls for access and handling of CHRI.</p> <p>Positions documents or other physical media containing CHRI and any devices through which CHRI is viewed in such a manner to prevent authorized persons from accessing or viewing the CHRI.</p> <p>Only communicates CHRI in secure, private areas. Takes extreme care to prevent overhearing or interception of communication.</p> <p>Unless authorized by the District under specific terms and conditions, never uses a personal device (computer, smartphone, tablet, flash drive, etc.) to access, view, process, store or transmit CHRI.</p> <p>Never uses a publicly accessible computer to access, process, store, or transmit CHRI.</p>

Actor	Action
	Promptly reports to the POC any security incidents or weaknesses associated with the District's information systems of which he or she becomes aware.

Students

Prevention of and Response to Bullying, Intimidation, and Harassment¹

Bullying, intimidation, and harassment diminish a student's ability to learn and a school's ability to educate. Preventing students from engaging in these disruptive behaviors and providing all students equal access to a safe, non-hostile learning environment are important District goals.

Bullying on the basis of actual or perceived race, color, religion, sex, national origin, ancestry, physical appearance, socioeconomic status, academic status, pregnancy, parenting status, homelessness, age, marital status, physical or mental disability, military status, sexual orientation, gender-related identity or expression, unfavorable discharge from military service, order of protection status, association with a person or group with one or more of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic **is prohibited** in each of the following situations:²

1. During any school-sponsored education program or activity.

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

¹ All districts must have a policy on bullying, monitor it, review and re-evaluate it, and file it with the Ill. State Board of Education (ISBE) every two years, no later than September 30 of the review year. 105 ILCS 5/27-23.7, amended by P.A.s 102-894 and 103-47; 23 Ill.Admin.Code §1.295. The policy must be based on ISBE's template for a model bullying prevention policy (available at www.isbe.net/Documents/Model-Bullying-Prevention-Policy.pdf), contain all requirements of 105 ILCS 5/27-23.7, indicate the date of adoption (by month, day, and year), and be filed electronically each review year through ISBE's IWAS system. 105 ILCS 5/27-23.7(d), amended by P.A. 103-47; 23 Ill.Admin.Code §1.295(b), (c). If a district fails to file its policy by the deadline or submits a deficient policy, ISBE will provide a written request for filing and provide the district with technical assistance and resources to assist it in meeting bullying policy requirements and, as appropriate, notify the district's regional office of education or intermediate service center. 105 ILCS 5/27-23.7(d), amended by P.A. 102-894; 23 Ill.Admin.Code §1.295(e). If the district still fails to file its policy within 14 days of receipt of ISBE's written request, ISBE shall issue a letter of non-compliance (23 Ill.Admin.Code §1.295(e)(3)) and publish notice of non-compliance on its website (105 ILCS 5/27-23.7(d)).

This sample policy's first paragraph allows a school board to consider its goals for preventing bullying and remedying its consequences; it may be amended.

In addition to a bullying prevention policy, all districts must have a policy on student behavior. 105 ILCS 5/10-20.14; 23 Ill.Admin.Code §1.280. Boards must, in consultation with their parent-teacher advisory committees and other community-based organizations, address aggressive behavior, including bullying, in their student behavior policy. See sample policy 7:190, *Student Behavior*, and sample exhibit 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. See f/n 9, below.

Additionally, 105 ILCS 5/27-23.7(f), added by P.A. 103-47, requires districts to collect non-identifiable data regarding verified allegations of bullying within the District and submit it in an annual report to ISBE by no later than August 15 of each year, beginning with the 2024-25 school year through the 2030-31 school year. ISBE must adopt rules for data submission that include but are not limited to: (1) a record of each verified allegation of bullying and action taken; and (2) whether the instance of bullying was based on actual or perceived characteristics identified in 105 ILCS 5/27-23.7(a) and, if so, lists the relevant characteristics. *Id.*

² This paragraph and its subparts 1-4 are from the bullying prevention statute. 105 ILCS 5/27-23.7(a); see also 775 ILCS 5/1-103 and 23 Ill.Admin.Code §1.240. With the exception of order of protection status, the protected statuses are mandated by the bullying prevention statute. *Order of protection status* is not a basis for bullying in 105 ILCS 5/27-23.7, amended by P.A.s 102-894 and 103-47, but it is listed here because the Ill. Human Rights Act (IHRA) prohibits harassment based on *order of protection status*. 775 ILCS 5/1-103(K-5), (Q). Including *order of protection status* in the list of protected statuses aligns with the protected statuses listed in sample policy 7:20, *Harassment of Students Prohibited*.

2. While in school, on school property, on school buses or other school vehicles, at designated school bus stops waiting for the school bus, or at school-sponsored or school-sanctioned events or activities.
3. Through the transmission of information from a school computer, a school computer network, or other similar electronic school equipment.
4. Through the transmission of information from a computer that is accessed at a nonschool-related location, activity, function, or program or from the use of technology or an electronic device that is not owned, leased, or used by the School District or school if the bullying causes a substantial disruption to the educational process or orderly operation of a school. This paragraph (item #4) applies only when a school administrator or teacher receives a report that bullying through this means has occurred; it does not require staff members to monitor any nonschool-related activity, function, or program.

Definitions from 105 ILCS 5/27-23.7³

Bullying includes *cyberbullying* and means any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a student or students that has or can be reasonably predicted to have the effect of one or more of the following:

1. Placing the student or students in reasonable fear of harm to the student's or students' person or property;
2. Causing a substantially detrimental effect on the student's or students' physical or mental health;
3. Substantially interfering with the student's or students' academic performance; or
4. Substantially interfering with the student's or students' ability to participate in or benefit from the services, activities, or privileges provided by a school.

Bullying may take various forms, including without limitation one or more of the following: harassment, threats, intimidation, stalking, physical violence, sexual harassment, sexual violence, theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying. This list is meant to be illustrative and non-exhaustive.

Cyberbullying means bullying through the use of technology or any electronic communication, including without limitation any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic system, photo-electronic system, or photo-optical system, including without limitation electronic mail, Internet communications, instant messages, or facsimile communications. *Cyberbullying* includes the creation of a webpage or weblog in which the creator assumes the identity of another person or the knowing impersonation of another person as the author of posted content or messages if the creation or impersonation creates any of the effects enumerated in the definition of bullying. *Cyberbullying* also includes the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons if the distribution or posting creates any of the effects enumerated in the definition of *bullying*.

Restorative measures means a continuum of school-based alternatives to exclusionary discipline, such as suspensions and expulsions, that: (i) are adapted to the particular needs of the school and community, (ii) contribute to maintaining school safety, (iii) protect the integrity of a positive and productive

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³ All definitions are directly from 105 ILCS 5/27-23.7. See also resources from Cyberbullying Research Center, available at: www.cyberbullying.org/, and the U.S. School Safety Clearinghouse website at: www.SchoolSafety.gov, discussed in f/n 1, para. 3 of sample policy 4:170, *Safety*.

learning climate, (iv) teach students the personal and interpersonal skills they will need to be successful in school and society, (v) serve to build and restore relationships among students, families, schools, and communities, (vi) reduce the likelihood of future disruption by balancing accountability with an understanding of students' behavioral health needs in order to keep students in school, and (vii) increase student accountability if the incident of bullying is based on religion, race, ethnicity, or any other category that is identified in the Ill. Human Rights Act.⁴

School personnel means persons employed by, on contract with, or who volunteer in a school district, including without limitation school and school district administrators, teachers, school social workers, school counselors, school psychologists, school nurses, cafeteria workers, custodians, bus drivers, school resource officers, and security guards.⁵

Bullying Prevention and Response Plan

The Superintendent or designee shall develop and maintain a bullying prevention and response plan that advances the District's goal of providing all students with a safe learning environment free of bullying and harassment. This plan must be consistent with the requirements listed below.⁶

1. The District uses the definition of *bullying* as provided in this policy.⁷
2. Bullying is contrary to State law and the policy of this District. However, nothing in the District's bullying prevention and response plan is intended to infringe upon any right to exercise free expression or the free exercise of religion or religiously based views protected under the First Amendment to the U.S. Constitution or under Section 3 of Article I of the Illinois Constitution.
3. Students are encouraged to immediately report bullying. A report may be made orally or in writing to the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a Complaint Manager, or any staff member with whom the student is comfortable speaking.⁸ Anyone, including staff members and parents/guardians, who has information about actual or threatened bullying is encouraged to report it to the District named officials or any staff member. The District named officials and all staff members are available

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⁴ 105 ILCS 5/27-23.7(b), amended by P.A. 102-241.

⁵ 105 ILCS 5/27-23.7(b), amended by P.A. 102-197.

⁶ Each numbered requirement, 1-12, corresponds with the same number in 5/27-23.7(b)(1) - (b)(12), and the requirements of 105 ILCS 5/27-23.7(b)(13) are included in numbered requirement 4. As a result, there are no reference citations in footnotes. All non-statutory requirements, plus alternatives and optional provisions, are described in footnotes.

⁷ 105 ILCS 5/27-23.7(b), para. 3(1). See f/n 4, above and ISBE's *School Policies for Bullying Prevention* at: www.isbe.net/Documents/Bullying-Prev-Policy-Req.pdf.

A board may augment the School Code requirement by using this alternative:

Using the definition of *bullying* as provided in this policy, the Superintendent or designee shall emphasize to the school community that: (a) the District prohibits bullying; and (b) all students should conduct themselves with a proper regard for the rights and welfare of other students. This may include a process for commending or acknowledging students for demonstrating appropriate behavior.

⁸ The statute requires that the policy contain the email address and telephone number for the staff person(s) responsible for receiving bullying reports. Using the district Nondiscrimination Coordinator and Complaint Managers is consistent with 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. A telephone number for making anonymous reports may also be added.

for help with a bully or to make a report about bullying.⁹ Anonymous reports are also accepted; however, this shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.

Nondiscrimination Coordinator: ¹⁰

Jessica Miller

Name

14 East Main Street, Pana, IL 62557

Address

jmiller@panaschools.com

Email

(217) 562-1500

Telephone

Complaint Managers:

Kevin McDonald

Name

201 W 8th Street, Pana, IL 62557

Address

kmcdonald@panaschools.com

Email

(217) 562-6600

Telephone

Lisa Mayhall

Name

203 W 8th Street, Pana, IL 62557

Address

lmayhall@panaschools.com

Email

(217) 562-6500

Telephone

4. Consistent with federal and State laws and rules governing student privacy rights, the parents/guardians of all students involved in an alleged incident of bullying will be notified of such, along with threats, suggestions, or instances of self-harm determined to be the result of bullying, within 24 hours after the school's administration is made aware of the student's involvement in the incident. As appropriate, the school's administration shall also discuss the availability of social work services, counseling, school psychological services, other interventions, and restorative measures. The school shall make diligent efforts to notify a parent

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⁹ 105 ILCS 5/27-23.7(d), requires that “[s]chool personnel available for help with a bully or to make a report about bullying” be made known to parents/guardians, students, and school personnel.

¹⁰ Sample policy 2:260, *Uniform Grievance Procedure*, states that a district’s Nondiscrimination Coordinator also serves as its Title IX Coordinator. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, list the Title IX and Nondiscrimination Coordinators’ names separately in this policy. Best practice is that throughout the district’s board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

or legal guardian, utilizing all contact information the school has available or that can be reasonably obtained within the 24-hour period. ¹¹

5. The Superintendent or designee shall promptly investigate and address reports of bullying, by, among other things:
 - a. Making all reasonable efforts to complete the investigation within 10 school days after the date the report of a bullying incident was received and taking into consideration additional relevant information received during the course of the investigation about the reported bullying incident.
 - b. Involving appropriate school support personnel and other staff persons with knowledge, experience, and training on bullying prevention, as deemed appropriate, in the investigation process.
 - c. Notifying the Building Principal or school administrator or designee of the reported incident of bullying as soon as possible after the report is received.
 - d. Consistent with federal and State laws and rules governing student privacy rights, providing parents/guardians of the students who are parties to the investigation information about the investigation and an opportunity to meet with the Building Principal or school administrator or his or her designee to discuss the investigation, the findings of the investigation, and the actions taken to address the reported incident of bullying.

The Superintendent or designee shall investigate whether a reported incident of bullying is within the permissible scope of the District's jurisdiction and shall require that the District provide the victim with information regarding services that are available within the District and community, such as counseling, support services, and other programs. ¹²

6. The Superintendent or designee shall use interventions to address bullying, that may include, but are not limited to, school social work services, restorative measures, social-emotional skill building, counseling, school psychological services, and community-based services. ¹³
7. A reprisal or retaliation against any person who reports an act of bullying **is prohibited**. Any person's act of reprisal or retaliation will be subject to disciplinary action, up to and including discharge with regard to employees, or suspension and/or expulsion¹⁴ with regard to students.
8. A student will not be punished for reporting bullying or supplying information, even if the District's investigation concludes that no bullying occurred. However, a person who is found to have falsely accused another of bullying, as a means of retaliation, as a means of bullying, or provided false information will be treated as either: (a) *bullying*, (b) student discipline up to and including suspension and/or expulsion, and/or (c) both (a) and (b) for purposes of determining any consequences or other appropriate remedial actions.

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¹¹ 105 ILCS 5/10-20.14 contains a similar requirement. See sample exhibit 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

¹² This sentence contains requirements found in 105 ILCS 5/27-23.7(d), amended by P.A. 102-894.

¹³ A grant may be available from ISBE for the promotion of a safe and healthy learning environment. 105 ILCS 5/2-3.180 and 3.181, added by P.A. 101-438 and renumbered by P.A. 102-558. A list of grant funding opportunities is available at: www.isbe.net/Pages/Grants.aspx. ISBE is also directed to create the Illinois Bullying and Cyberbullying Prevention Fund, through which a grant may be available to support anti-bullying programming. 30 ILCS 105/5.990 and 105 ILCS 5/27-23.7(i)-(j), all added by P.A. 103-47.

¹⁴ Consult the board attorney about the potential conflict of 105 ILCS 5/27-23.7(b)(7) (allowance of suspension and/or expulsion of students for reprisal/retaliation against reports of bullying) with 105 ILCS 5/10-22.6(b-20) (districts must resolve threats, address disruptions, and minimize the length (and implementation of) suspensions and expulsions to the greatest extent practicable). See sample policies 7:200, *Suspension Procedures*, at f/n 8 and 7:210, *Expulsion Procedures*, at f/ns 11 and 13.

9. The District’s bullying prevention and response plan is based on the engagement of a range of school stakeholders, including students and parents/guardians.
10. The Superintendent or designee shall post this policy on the District’s publicly accessible website, if any, and include it in the student handbook, and, where applicable, post it where other policies, rules, and standards of conduct are currently posted. The policy must be distributed annually to parents/guardians, students, and school personnel (including new employees when hired), and must also be provided periodically throughout the school year to students and faculty. ¹⁵
11. Pursuant to State law and Board policy 2:240, *Board Policy Development*, the Board monitors this policy every two years by conducting a review and re-evaluation of this policy to make any necessary and appropriate revisions. The Superintendent or designee shall assist the Board with its re-evaluation and assessment of this policy’s outcomes and effectiveness. Updates to this policy will reflect any necessary and appropriate revisions. This process shall include, without limitation: ¹⁶
 - a. The frequency of victimization;
 - b. Student, staff, and family observations of safety at a school;
 - c. Identification of areas of a school where bullying occurs;
 - d. The types of bullying utilized; and
 - e. Bystander intervention or participation.

The evaluation process may use relevant data and information that the District already collects for other purposes. Acceptable documentation to satisfy the re-evaluated policy submission include one of the following:

- i. An updated version of the policy with the amendment/modification date included in the reference portion of the policy;
- ii. If no revisions are deemed necessary, a copy of board minutes indicating that the policy was re-evaluated and no changes were deemed to be necessary; or
- iii. A signed statement from the Board President indicating that the Board re-evaluated the policy and no changes to it were necessary.

The Superintendent or designee must post the information developed as a result of the policy re-evaluation on the District’s website, or if a website is not available, the information must be provided to school administrators, Board members, school personnel, parents/guardians, and students. Reviews and re-evaluations in years they are due must be submitted to ISBE by September 30.

12. The Superintendent or designee shall fully implement the Board policies, including without limitation, the following: ¹⁷

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¹⁵ 105 ILCS 5/27-23.7(b)(10), amended by P.A. 103-47.

¹⁶ 105 ILCS 5/27-23.7. See the ISBE guidance document that is cited in f/n 7, above.

¹⁷ The statute requires that the bullying policy *be consistent with* other board policies. The list of policies may be deleted and the following alternative used: “12. The District’s bullying prevention plan must be consistent with other Board policies.” If a policy list is included, be sure the referenced policies were adopted locally and amend the list accordingly.

The bullying statute does not identify staff member duties regarding the prevention of or response to student bullying. The following optional provision addresses staff member responsibilities and may be added as a new paragraph 13:

13. The Superintendent or designee shall fully inform staff members of the District’s goal to prevent students from engaging in bullying and the measures being used to accomplish it. This includes each of the following:

- a. Communicating the District’s expectation and State law requirement that teachers and other certificated or licensed employees maintain discipline.

- a. 2:260, *Uniform Grievance Procedure*. A student may use this policy to complain about bullying.
- b. 2:265, *Title IX Grievance Procedure*. Any person may use this policy to complain about sexual harassment in violation of Title IX of the Education Amendments of 1972.
- c. 2:270, *Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited*. Any person may use this policy to complain about discrimination or harassment on the basis of race, color, or national origin in violation of Title VI of the Civil Rights Act of 1964 and/or the Illinois Human Rights Act.
- d. 6:60, *Curriculum Content*. Bullying prevention and character instruction is provided in all grades in accordance with State law.
- e. 6:65, *Student Social and Emotional Development*. Student social and emotional development is incorporated into the District's educational program as required by State law.
- f. 6:235, *Access to Electronic Networks*. This policy states that the use of the District's electronic networks is limited to: (1) support of education and/or research, or (2) a legitimate business use.
- g. 7:20, *Harassment of Students Prohibited*. This policy prohibits any person from harassing, intimidating, or bullying a student based on an identified actual or perceived characteristic (the list of characteristics in 7:20 is the same as the list in this policy).
- h. 7:185, *Teen Dating Violence Prohibited*. This policy prohibits teen dating violence on school property, at school sponsored activities, and in vehicles used for school-provided transportation.
- i. 7:190, *Student Behavior*. This policy prohibits, and provides consequences for, hazing, bullying, or other aggressive behaviors, or urging other students to engage in such conduct.
- j. 7:310, *Restrictions on Publications; Elementary Schools*, and 7:315, *Restrictions on Publications; High Schools*. These policies prohibit students from and provide consequences for: (1) accessing and/or distributing at school any written, printed, or electronic material, including material from the Internet, that will cause substantial disruption of the proper and orderly operation and discipline of the school or school activities, and (2) creating and/or distributing written, printed, or electronic material, including photographic material and blogs, that causes substantial disruption to school operations or interferes with the rights of other students or staff members. ¹⁸

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- b. Establishing the expectation that staff members: (1) intervene immediately to stop a bullying incident that they witness or immediately contact building security and/or law enforcement if the incident involves a weapon or other illegal activity, (2) report bullying, whether they witness it or not, to an administrator, and (3) inform the administration of locations on school grounds where additional supervision or monitoring may be needed to prevent bullying.
- c. Where appropriate in the staff development program, providing strategies to staff members to effectively prevent bullying and intervene when it occurs.
- d. Establishing a process for staff members to fulfill their obligation to report alleged acts of bullying.

¹⁸ For elementary districts, delete: ~~and 7:315, *Restrictions on Publications; High Schools*~~ and delete the Cross Reference to 7:315, *Restrictions on Publications; High Schools*. For high school districts, delete ~~7:310, *Restrictions on Publications; Elementary Schools*~~, and delete the Cross Reference to 7:310, *Restrictions on Publications; Elementary Schools*. In both cases, revise the beginning of the sentence to read: "Thesese policyies prohibits students from and provides."

LEGAL REF.: 105 ILCS 5/10-20.14, 5/10-22.6(b-20), 5/24-24, and 5/27-23.7.
405 ILCS 49/, Children’s Mental Health Act.
775 ILCS 5/1-103, Ill. Human Rights Act.
23 Ill.Admin.Code §§1.240, 1.280, and 1.295.

CROSS REF.: 2:240 (Board Policy Development), 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Grievance Procedure), 2:270 (Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited), 4:170 (Safety), 5:230 (Maintaining Student Discipline), 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development), 6:235 (Access to Electronic Networks), 7:20 (Harassment of Students Prohibited), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:220 (Bus Conduct), 7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for Participants in Extracurricular Activities), 7:285 (Anaphylaxis Prevention, Response, and Management Program), 7:310 (Restrictions on Publications; Elementary Schools), 7:315 (Restrictions on Publications; High Schools)