

General Personnel

Workplace Harassment Prohibited ¹

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

Sexual Harassment Prohibited ²

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

District employees shall not make unwelcome sexual advances or request sexual favors or engage in any unwelcome conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working

¹ State or federal law controls this policy's content. Federal law requires districts to take action to eliminate sexual harassment (29 C.F.R. §1604.11(f); 34 C.F.R. §106.9). Harassment based on a protected status is a form of discrimination that violates many State and federal laws (see the policy's Legal References).

Workplace harassment policies have typically focused on *sexual* harassment since it receives the most attention. However, the broad prohibitions against discrimination in State and federal civil rights laws will cover harassing conduct that is motivated by animus against any protected status. See Porter v. Erie Foods International, Inc., 576 F.3d 629 (7th Cir. 2009)(recognizing a cause of action for race harassment). For a list of protected statuses, see policy 5:10, *Equal Employment Opportunity and Minority Recruitment*. This policy prohibiting harassment has a separate section on sexual harassment because of the extensive statutory and case law regarding it.

If the perpetrator is a supervisor and s/he demotes, discharges, or takes other negative job action against the victim, the employer is liable. When no job injury occurs, the employer may raise the existence of an anti-harassment policy as a defense. Lack of knowledge of a supervisor's misconduct is no defense. See, Burlington Industries v. Ellerth, 118 S.Ct. 2257 (1998); Faragher v. City of Boca Raton, 118 S.Ct. 2275 (1998) and Sangamon County Sheriff's Dept. v. Ill. Human Rights Com'n, 908 N.E.2d 39 (Ill., 2009)(holding the Ill. Human Rights Act, 775 ILCS 5/2-102(D), imposes strict liability on the employer, regardless of whether the employer knew of the offending conduct, when an employee has been sexually harassed by supervisory personnel regardless of whether the harasser has any authority over the complainant). Lack of knowledge may, however, be a defense when the perpetrator and victim are co-workers.

Not all harassing conduct is unlawful discrimination, even if it is disruptive and hurtful. If a board wants to include language in this policy prohibiting employees from engaging in intimidating or offensive conduct that is *not* a civil rights violation, it should consult the board attorney.

² The Ill. Human Rights Act (775 ILCS 5/2-102(D) provides that sexual harassment is a civil rights violation:

For any employer, employee, agent of any employer, employment agency or labor organization to engage in sexual harassment; provided, that an employer shall be responsible for sexual harassment of the employer's employees by non-employees or non-managerial and non-supervisory employees only if the employer becomes aware of the conduct and fails to take reasonable corrective measures.

environment. ³ Sexual harassment prohibited by this policy includes verbal or physical conduct. The terms intimidating, hostile, or offensive include, but are not limited to, conduct that has the effect of humiliation, embarrassment, or discomfort. Sexual harassment will be evaluated in light of all the circumstances.

Making a Complaint; Enforcement ⁴

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

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

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

Whom to Contact with a Report or Complaint ⁵

The Superintendent shall insert into this policy the names, addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers.

Nondiscrimination Coordinator:

AMJES Principal

Name

16W 631—91st Street

Address

Willowbrook, IL 60527

630-325-8186

Telephone

³ This definition is from State and federal law (775 ILCS 5/2-101(E) and 29 C.F.R. §1604.11). The harassing conduct must be severe or pervasive so as to alter the conditions of the employee's work environment by creating a hostile or abusive situation. *Williams v. Waste Management*, 361 F.3d 1021 (7th Cir. 2004). The surrounding circumstances, expectations, and relationships will distinguish between teasing or rough-housing and conduct that a reasonable person would find severely hostile or abusive. In addition, while same-sex gender harassment claims are actionable, the victim must show that s/he suffered disadvantageous employment conditions to which members of the other sex were not exposed. *Oncale v. Sundown Offshore Services*, 118 S.Ct. 998 (1998).

⁴ See *Berry v. Delta Airlines*, 260 F.3d 803, 811 (7th Cir.2001) ("If an employer takes reasonable steps to discover and rectify the harassment of its employees ... it has discharged its legal duty.")

In addition to violating other civil rights laws, a school district violates the *public accommodations* article in the Ill. Human Rights Act if it fails to take corrective action to stop severe or pervasive harassment (775 ILCS 5/5-102 and 5/5-102.2, amended by P.A. 96-814).

⁵ Title IX regulations require districts to identify the name, address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. A policy should not be adopted with a person's name in it; rather, the identifying information can be added and amended as necessary.

Complaint Managers:

BRMS Principal	
Name	Name
15W451—91 st Street	
Address	Address
Burr Ridge, IL	
630-734-6600	
Telephone	Telephone

The Superintendent shall also use reasonable measures to inform staff members and applicants of this policy, which shall include reprinting this policy in the appropriate handbooks. ⁶

LEGAL REF.: Title VII of the Civil Rights Act, 42 U.S.C. §2000e et seq., 29 C.F.R. §1604.11.
Title IX of the Education Amendments, 20 U.S.C. §1681 et seq.; 34 C.F.R. §1604.11.
Ill. Human Rights Act, 775 ILCS 5/2-101(E), 5/2-102(D), 5/5-102, and 5/5-102.2.
56 Ill. Admin.Code Parts 2500, 2510, 5210, and 5220.
Burlington Industries v. Ellerth, 118 S.Ct. 2257 (1998).
Faragher v. City of Boca Raton, 118 S.Ct. 2275 (1998).
Franklin v. Gwinnett Co. Public Schools, 112 S.Ct. 1028 (1992).
Harris v. Forklift Systems, 114 S.Ct. 367 (1993).
Jackson v. Birmingham Board of Education, 125 S.Ct. 1497 (2005).
Meritor Savings Bank v. Vinson, 106 S.Ct. 2399 (1986).
Oncale v. Sundown Offshore Services, 118 S.Ct. 998 (1998).
Porter v. Erie Foods International, Inc., 576 F.3d 629 (7th Cir. 2009).
Sangamon County Sheriff’s Dept. v. Ill. Human Rights Com’n, 908 N.E.2d 39 (Ill., 2009).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 5:10 (Equal Employment Opportunity and Minority Recruitment), 7:20 (Harassment of Students Prohibited)

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The Collective Bargaining Agreement will supersede any personnel policy that is contradictory to the Collective Bargaining Agreement between the CCSD 180 Board of Education and the Teachers’ Organization of Palisades – IEA/NEA

⁶ A district must notify employees of the grievance procedure and the person(s) designated to coordinate the district’s compliance with Title IX (34 C.F.R. §§106.8(a)). The Nondiscrimination Coordinator can be the same individual for both this policy and policy 7:10, *Equal Educational Opportunities*, as well as the Complaint Manager in policy 2:260, *Uniform Grievance Procedure*. A comprehensive faculty handbook can provide required notices, along with other important information to recipients. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board. Any “working conditions” contained in the handbook may be subject to mandatory collective bargaining.