

Responding to a Complaint of Sexual Misbehavior after Faith's Law

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Faith's Law & Trailer Legislation: Quick Recap

Faith's Law

- Provides a definition of sexual misconduct
- Expands reporting obligations
- Broadens the definition of grooming and authorizes DCFS to investigate grooming allegations under the Abused and Neglected Child Reporting Act
- Requires each district to develop a professional code of conduct, post it on website and include it in any staff/student/parent handbooks
- Requires annual staff training

Faith's Law & Trailer Legislation: Quick Recap

Trailer Legislation – Effective July, 1, 2023

-Employment History Review – earlier webinar is available at www.iaspa.org under member resources

-Requires Parental Notice of Alleged Act of Sexual Misconduct

-Amends Personnel Record Review Act

-Requires school Superintendent to inform State Supt/Regional when reasonable cause to believe licensed employee committed an act of sexual misconduct resulting in dismissal or resignation

-Allows for license suspension or revocation for cases of sexual misconduct



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Why are we Talking about “Sexual Misbehavior?”

- Sexual Misconduct – Faith’s Law
- Grooming – Criminal Code amended by Faith’s Law
- Sexual Discrimination/Harassment – Title IX
- Sexual Assault/Dating Violence/Domestic Violence/Stalking – Title IX
- Sexual Abuse – Criminal Code
- Sexual Acts – Criminal Code
- Boundary Violations – Board Policy 5:120-AP2, E

There are many types of prohibited behavior – ranging from behaviors that are addressed with a letter of reprimand to behaviors that are addressed with incarceration.

“Many breaches of staff-student boundaries do not rise to the level of criminal behavior but do pose a potential risk to student safety.” (105 ILCS 5/22-85.5)



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Know the Definitions

Faith's Law: Sexual Misconduct, 105 ILCS 5/22-85.5

Any act, including, but not limited to, any verbal, nonverbal, written, or electronic communication or physical activity, by an employee or agent of the school district, charter school, or nonpublic school with direct contact with a student that is directed toward or with a student to establish a romantic or sexual relationship with the student.

Such act includes, but is not limited to, any of the following:

- (1) A sexual or romantic invitation.
- (2) Dating or soliciting a date.
- (3) Engaging in sexualized or romantic dialog.
- (4) Making sexually suggestive comments that are directed toward or with a student.
- (5) Self-disclosure or physical exposure of a sexual, romantic or erotic nature.
- (6) A sexual, indecent, romantic, or erotic contact with the student.



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Know the Definitions

Faith's Law: Amended the Criminal Code definition of Grooming, 720 ILCS 5/11-25

- (a) A person commits grooming when he or she knowingly uses a computer on-line service internet service, local bulletin board service or any other device capable of electronic data storage or transmission, performs an act in person or by conduct through a third party, or uses written communication to seduce, solicit, lure or entice, or attempt to seduce, solicit, lure, or entice a child, a child's guardian, or another person believed by the person to be a child or child's guardian to commit any sex offense as defined in Section 2 of the Sex Offender Registration Act, to distribute photographs depicting the sex organs of the child or to otherwise engage in any unlawful sexual conduct with a child, or with another person believed by the person to be a child. As used in this Section, "child" means a person under 17 years of age.



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Know the Definitions

Title IX – Sexual Harassment, 34 C.F.R. §106.30(a)

- Conduct on the basis of sex that satisfies one or more of the following:
- (1) An employee of the district conditioning the provision of an aid, benefit, or service of the district on an individual's participation in unwelcome sexual conduct (*quid pro quo*);
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies the person equal access to the district's education program or activity (*hostile environment*);
- (3) Sexual assault, dating violence, domestic violence, or stalking as defined under the *Clery Act/Violence Against Women Act*.



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Know the Definitions

Criminal Code – Sexual Abuse, 720 ILCS 5/11 9.1A

(a) A person commits criminal sexual abuse if that person:

- (1) Commits an act of sexual conduct by the use of force or threat of force; or
- (2) Commits an act of sexual conduct and knows that the victim is unable to understand the nature of the act or is unable to give knowing consent.

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Know the Definitions

Criminal Code – Sexual Conduct, 720 ILCS 5/11-0.1

- Sexual conduct means any knowing touching or fondling by the victim or the accused, either directly or through clothing, of the sex organs, anus or breast, of the victim or the accused, or any part of the body of a child under 13 years of age, or any transfer or transmission of semen by the accused upon any part of the clothed or unclothed body of the victim, for the purpose of sexual gratification or arousal of the victim or the accused.



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Boundary Violations – Part 1

Boundary Area	Inappropriate	Appropriate
Emotional	<p>Favoring certain students by inviting them to your classroom to “hang out.”</p> <p>Favoring certain students by giving them special privileges.</p> <p>Engaging in peer-like behavior with students.</p> <p>Discussing personal issues with students.</p>	<p>Inviting students who need additional instructional support to your classroom for such additional support.</p> <p>Conducting one-on-one student conferences in a classroom with the door open.</p>



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Boundary Violations – Part 2

Boundary Area	Inappropriate	Appropriate
Relationship /Power	<p>Meeting with a student off-campus without parent/guardian knowledge and/or permission.</p> <p>Dating, requesting, or participating in a private meeting with a student (in person or virtually) outside your professional role.</p> <p>Transporting a student in a school or private vehicle without administrative authorization.</p> <p>Giving gifts, money, or treats to individual students.</p> <p>Sending students on personal errands.</p> <p>Intervening in serious student problems instead of referring the student to an appropriately trained professional.</p> <p>A sexual or romantic invitation toward or from a student.</p> <p>Taking and using photos/videos of students for non-educational purposes.</p>	<p>Meeting with a student off-campus with parent/guardian knowledge and/or permission, e.g., when providing pre-arranged tutoring or coaching services.</p> <p>Transporting a student in a school or private vehicle with administrative authorization.</p> <p>Taking and using photos/videos of students for educational purposes, with student and parent/guardian consent, while abiding by student records laws, policies, and procedures.</p>



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Boundary Violations – Part 3

Boundary Area	Inappropriate	Appropriate
Physical	<p>Full frontal hugs.</p> <p>Invading personal space.</p> <p>Massages, shoulder rubs, neck rubs, etc.</p> <p>Lingering touches or squeezes.</p> <p>Tickling.</p> <p>Having a student on your lap.</p> <p>Physical exposure of a sexual, romantic, or erotic nature.</p> <p>Sexual, indecent, romantic, or erotic contact with a student.</p> <p>Assisting a young student or a student with special needs with a toileting issue without obtaining parent/guardian permission.</p>	<p>Occasionally patting a student on the back, shoulder, or arm.</p> <p>Momentary physical contact with limited force designed to prevent a student from completing an act that would result in potential physical harm to the student or another person or damage to property; or to remove a disruptive student who is unwilling to leave the area voluntarily.</p> <p>Assisting a young student or student with special needs with a toileting issue when parent/guardian permission has been granted.</p>



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Boundary Violations – Part 4

Boundary Area	Inappropriate	Appropriate
Communication	<p>Initiating or extending contact with a student beyond the school day in a one-on-one or non-group setting.</p> <p>Inviting students to your home.</p> <p>Adding students on personal social networking sites as contacts when unrelated to a legitimate educational purpose.</p> <p>Privately messaging students by any means.</p> <p>Maintaining intense eye contact.</p> <p>Making comments about a student's physical attributes, including excessively flattering comments.</p> <p>Engaging in sexualized or romantic dialog.</p> <p>Making sexually suggestive comments directed toward or with a student.</p> <p>Disclosing confidential information.</p> <p>Self-disclosure of a sexual, romantic, or erotic nature.</p>	<p>Limiting communication to what is necessary for educational and/or extracurricular activities.</p> <p>Using District-approved methods for communicating with students.</p>



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IF YOU RECEIVE A COMPLAINT OF SEXUAL MISBEHAVIOR



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Initial Steps

- Consult with legal counsel
- Review what you know about the allegations
- Attempt to determine if the allegations fit under one of the categories of sexual misbehavior
- Determine whether any further investigation should be conducted
- Determine whether the allegations should be reported to DCFS/Local Law Enforcement
- Notify insurer
- Review applicable Board Policies and collective bargaining agreement provisions



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Overview of Sexual Abuse at Schools 105 ILCS 5/22-85

- Per statute, alleged incidents of sexual abuse are to be reported to DCFS immediately after obtaining the minimal information necessary to make a report.
- If the alleged incident is accepted for investigation, it must be investigated by the local Children's Advocacy Center ("CAC").
- While this process is underway, the school may not interview the alleged victim regarding the details of the alleged incident until after the CAC has completed its forensic interview. The District may request information from the alleged victim and parents/guardians necessary to ensure the safety and well-being of the victim during the investigation.
- The CAC must notify the school after its investigation is complete. If, for some reason, the CAC decides not to conduct a specific interview, it must notify the school. If a forensic interview hasn't been conducted within 15 calendar days after opening an investigation, the school may notify the CAC that it intends to conduct an investigation. No later than 10 calendar days after notification, the CAC may conduct its interview and if it does not, the school may proceed with its interview.



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Overview of Sexual Abuse at Schools 105 ILCS 5/22-85

- To the greatest extent possible, considering student safety and Title IX compliance, school personnel may review the recorded forensic interview if the school receives:
 - (i) approval from CAC, and
 - (ii) informed consent by a child over 13 or the child's parent/guardian.
- The Children's Advocacy Center Act further provides that, aside from the review by school personnel, the recorded forensic interview may only be viewed by a court, attorneys, investigators, or experts for the purpose of judicial and administrative hearings and shall not be disseminated except pursuant to a court's protective order.
- Whenever possible, the school's viewing of the recorded forensic interview should be conducted in lieu of the need for additional interviews.
- If a school finds that it must interview a student who is under 18, a child advocate (school social worker, a school or equally qualified psychologist or a person identified by ISBE as an appropriate advocate) must be made available to the student and present during the school's interview.
- DCFS and/or law enforcement must notify the school when an investigation is complete or has been suspended. The notification must include information on the outcome of the investigation.



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Sexual Abuse at Schools, 105 ILCS 5/22-85

The General Assembly finds that:

- (1) Investigation of child regarding an incident of sexual abuse can induce significant trauma for the child;
- (2) It is desirable to prevent multiple interviews of the child at school, and
- (3) It is important to recognize the role of the Children's Advocacy Center in conducting developmentally appropriate investigations.



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Sexual Abuse at Schools 105 ILCS 5/22-85 Cont'd

“Alleged incident of sexual abuse” is limited to an incident of sexual abuse of a child that is alleged to have been perpetrated by school personnel, including a school vendor or volunteer, that occurred

- (1) On school grounds or during a school activity or
- (2) Outside of school grounds or not during a school activity



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Sexual Abuse at Schools 105 ILCS 5/22-85 Cont'd

“Appropriate law enforcement agency” means a law enforcement agency whose employees have been involved, in some capacity, with an investigation of a particular alleged incident of sexual abuse.



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Sexual Abuse at Schools 105 ILCS 5/22-85 Cont'd

If a mandated reporter within a school has knowledge or an alleged incident of sexual abuse, the reporter must call the Department of Children and Family Services' hotline established under Section 7.6 of the Abused and Neglected Child Reporting Act immediately after obtaining the minimal information necessary to make a report, including the names of the affected parties and the allegations.

The State Board of Education must make available materials detailing the information that is necessary to enable notification to the Department of Children and Family Services of an alleged incident of sexual abuse. Each school must ensure that mandated reporters review the State Board of Education's materials and materials developed by the Department of Children and Family Services and distributed in the school building under Section 7 of the Abused and Neglected Child Reporting Act at least once annually.



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Sexual Abuse at Schools 105 ILCS 5/22-85 Cont'd

For schools in a county with an accredited Children's Advocacy Center, every alleged incident of sexual abuse that is reported to the DCFS hotline or a law enforcement agency and is subsequently accepted for investigation must be referred by the entity that received the report to the local CAC pursuant to that county's multidisciplinary team's protocol under the Children's Advocacy Center Act for investigating child sexual abuse allegations.

A county's local CAC must, at a minimum, do both of the following regarding a referred case of an alleged incident of sexual abuse:

(1) Coordinate the investigation of the alleged incident, as governed by the local CAC's existing multidisciplinary team protocol and according to the National Children's Alliance accreditation standards.



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Sexual Abuse at Schools 105 ILCS 5/22-85 Cont'd

(2) Facilitate communication between the multidisciplinary team investigating the alleged incident of sexual abuse and, if applicable, the referring school's (i) Title IX officer, or his or her designee, (ii) school resource officer, or (iii) personnel leading the school's investigation into the alleged incident of sexual abuse. If a school uses a designated entity to investigate a sexual abuse allegation, the multidisciplinary team may correspond only with that entity and any reference in this Section to "school" refers to that designated entity. This facilitation of communication must, at a minimum, ensure that all applicable parties have each other's contact information and must share the county's local CAC's protocol regarding the process of approving the viewing of a forensic interview, as defined under Section 2.5 of the Children's Advocacy Center Act, by school personnel and a contact person for questions relating to the protocol.



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Sexual Abuse at Schools 105 ILCS 5/22-85 Cont'd

After an alleged incident of sexual abuse is accepted for investigation by the DCFS, or a law enforcement agency and while the criminal and child abuse investigations related to that alleged incident are being conducted by the local multidisciplinary team, the school relevant to the alleged incident of sexual abuse must comply with the following: (1) It may not interview the alleged victim regarding details of the alleged incident of sexual abuse until after the completion of the forensic interview of that victim is conducted at a Children's Advocacy Center. This paragraph does not prohibit a school from requesting information from the alleged victim or his or her parent or guardian to ensure the safety and well-being at school during the investigation.



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Sexual Abuse at Schools 105 ILCS 5/22-85 Cont'd

To the greatest extent possible considering student safety and Title IX compliance, school personnel may view the electronic recordings of a forensic interview of an alleged victim of an incident of sexual abuse. As a means to avoid additional interviews of an alleged victim, school personnel must be granted viewing access to the electronic recording of a forensic interview conducted at an accredited Children's Advocacy Center for an alleged incident of sexual abuse only if the school receives (i) approval from the multidisciplinary team investigating the case and (ii) informed consent by a child over the age of 13 or the child's parent or guardian. Each county's local CAC and multidisciplinary team must establish an internal protocol regarding the process of approving the viewing of the forensic interview, and this process and the contact person must be shared with the school contact at the time of the initial facilitation. Whenever possible, the school's viewing of the electronic recording or forensic interview should be conducted in lieu of the need for additional interviews.



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Sexual Abuse at Schools 105 ILCS 5/22-85 Cont'd

(2) If asked by a law enforcement agency or an investigator of the DCFS who is conducting the investigation, it must inform those individuals of any evidence the school has gathered pertaining to an alleged incident of sexual abuse, as permissible by federal or state law.

After completion of a forensic interview, the multidisciplinary team must notify the school relevant to the alleged incident of sexual abuse of its completion. If, for any reason a multidisciplinary team determines it will not conduct a forensic interview in a specific investigation, the multidisciplinary team must notify the school as soon as the determination is made. If a forensic interview has not been conducted within 15 calendar days after opening an investigation, the school may notify the multidisciplinary team that it intends to interview the alleged victim. No later than 10 calendar days after this notification, the multidisciplinary team may conduct the forensic interview and, if the multidisciplinary team does not conduct the interview, the school may proceed with its interview.



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Sexual Abuse at Schools 105 ILCS 5/22-85 Cont'd

To the greatest extent possible, considering student safety and Title IX compliance, school personnel may view the electronic recording of a forensic interview of an alleged victim of an incident of sexual abuse. As a means to avoid additional interviews of an alleged victim, school personnel must be granted viewing access to the electronic recording of a forensic interview conducted at an accredited Children's Advocacy Center for an alleged incident of sexual abuse only if the school receives (i) approval from the multidisciplinary team investigating the case and (ii) informed consent by a child over the age of 13 or the child's parent or guardian. Each county's local Children's Advocacy Center and multidisciplinary team must establish an internal protocol regarding the process for approving the viewing of the forensic interview, and this process and the contact person must be shared with the school contact at the time of the initial facilitation. Whenever possible, the school's viewing of the electronic recording of a forensic interview should be conducted in lieu of the need for additional interviews.



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Sexual Abuse at Schools 105 ILCS 5/22-85 Cont'd

(i) For an alleged incident of sexual abuse that as been accepted for investigation by a multidisciplinary team, if, during the course of its internal investigation and at any point during or after the multidisciplinary team's investigation, the school determines that it must interview the alleged victim to successfully complete its investigation and the victim is under 18 years of age, a child advocate must be made available to the student and may be present during the school's interview. A child advocate may be a social worker, a school or equally qualified psychologist, or a person in a position the State Board of Education has identified as an appropriate advocate for the student during a school's investigation into an alleged incident of sexual abuse.



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Sexual Abuse at Schools 105 ILCS 5/22-85 Cont'd

- (j) The Department of Children and Family Services must notify the relevant school when an agency investigation or an alleged incident of sexual abuse is complete. The notification must include information on the outcome of that investigation.
- (k) The appropriate law enforcement agency must notify the relevant school when an agency investigation of an alleged incident of sexual abuse is complete or has been suspended. The notification must include information on the outcome of that investigation.



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Sexual Abuse at Schools - Take Aways and Practice Tips

- Direct every staff member and building administrator to immediately report suspected sexual misbehavior to the Title IX coordinator.
- Establish and maintain contact with your county's Children's Advocacy Center if you have one.
- Help to ensure DCFS, local law enforcement and the CAC understand these rules and any obligations faced by the District.
- If the CAC will interview one or more of your students, ask to speak to the interviewer beforehand and offer to provide applicable Board policies (Code of Ethics, Boundary Violations, Sexual Misconduct, etc.)



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Sexual Abuse at Schools - Take Aways and Practice Tips

- Work directly with law enforcement/DCFS/CAC to determine whether there are any actions to take immediately and any that should await further direction. Explain any urgencies, contractual requirements, etc. about which you are concerned.
- With permission of law enforcement/DCFS/CAC explain the process that is underway to the accused, parents, union and other relevant stakeholders.
- Assume every letter you write, email you send and note you take will be subject to discovery, or some form of information request.



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Title IX

20 U.S.C.A. § 1681

- Title IX may be triggered as well, in which case the district will have to work closely with legal counsel to navigate through the CAC process and a Title IX investigation.
- This may require close logistical coordination with law enforcement/DCFS/CAC, especially if it appears there was any criminal conduct that may be prosecuted.
- Remember, you must be careful when questioning an employee about any workplace allegations that are also the subject of a police investigation.



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Title IX Sexual Harassment Grievance Process Board Policy 2:265

Up to 9 Steps:

Initial Report & Meeting with Complainant

Formal Complaint & Written Notice

Emergency Removal

Dismissal

Informal Resolution (for student on student)

Investigation

“Cross Exam” Question and Answer

Determination of Responsibility

Appeal



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Title IX Sexual Harassment Grievance Process

Board Policy 2:265

- (1) Upon “actual knowledge” of allegation (report to *any* district employee):
 - Title IX Coordinator promptly contacts the Complainant to discuss the availability of supportive measures and explain the process for filing a Formal Title IX Sexual Harassment Complaint
- (2) Upon receiving/filing Formal Complaint:
 - Title IX Coordinator initiates Formal Title IX Sexual Harassment Complaint grievance process.



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Title IX Sexual Harassment Grievance Process

Board Policy 2:265

- Initial Report and Meeting with Complainant
 - Availability of supportive measures with or without the filing of a complaint
 - Explain the process for filing a Formal Complaint
- Formal Complaint – hard or electronic copy with Complainant’s physical/digital signature
 - Title IX Coordinator may sign a complaint to trigger investigation
- Written notice of Formal Complaint to all known parties in sufficient time to give the Respondent time to prepare a response before any initial interview
 - Notice of grievance process, including any informal resolution process
 - Notice of allegations, including sufficient detail to allow Respondent to prepare a response:
 - Identities of the parties, if known
 - Conduct alleged to be sexual harassment
 - Date and location of conduct, if known



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Title IX Sexual Harassment Grievance Process

Board Policy 2:265

- Written Notice
 - Statement that the Respondent is presumed not responsible for the conduct and that responsibility will be determined at the conclusion of the grievance process;
 - Notice of the parties' right to have an advisor of their choice (may be an attorney) and to inspect and review the evidence
 - Notice of any provision in the District's Code of Conduct that prohibits knowingly making false statements or providing false information in the grievance process
 - District must provide additional written notice(s) to all parties if, during the investigation the district decides to investigate allegations not included in the first written notice
 - Decide whether the district will conduct investigation or appoint a qualified investigator (*best practice*: provide written notice of investigator if appointed).



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Title IX Sexual Harassment Grievance Process

Board Policy 2:265

- Emergency Removal
 - The district *may* remove Respondent from the education program or activity on an emergency basis to protect a student or other individual from “an immediate threat to physical health or safety” **after** an individualized safety and risk analysis.
 - Must provide Respondent with notice and opportunity to challenge the decision immediately following the removal.



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Title IX Sexual Harassment Grievance Process

Board Policy 2:265

- Dismissal
 - The Complaint must be dismissed if:
 - The conduct would not constitute sexual harassment as defined by the Title IX regulations even if proved.
 - The conduct did not occur in the district's program or activity.
 - The allegations did not occur against a person in the United States.
 - The Complaint may be dismissed if:
 - Complainant notifies the Title IX Coordinator at any time that s/he wishes to withdraw the Formal Complaint or any allegation therein.
 - Respondent is no longer employed by the District.
 - Specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the Formal Complaint.



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Title IX Sexual Harassment Grievance Process

Board Policy 2:265

- Dismissal Cont'd
 - If Formal Complaint or allegations dismissed, written notice must be provided to both parties simultaneously
 - Must include the reason(s) for mandatory or discretionary dismissal, and the right to appeal the dismissal.
 - If dismissing a Formal Complaint, but investigating allegation(s) under different process (e.g., Board Policies 2:260 or 7:180), include in the written notice.
 - The District must document its rationale for dismissal to show that it is not acting in a deliberately indifferent manner



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Title IX Sexual Harassment Grievance Process

Board Policy 2:265

- Investigation
 - Provide the parties with the same opportunities to have others present during interviews and other parts of the grievance process including an advisor/attorney of their choice
 - Provide, to a party who is expected to attend written notice of the date, time, participants, purpose and location of any investigative interviews or other meetings with sufficient time to allow the party to prepare to participate.
 - Provide the parties (and their advisors/attorneys, if any) an equal opportunity to inspect and review any evidence obtained during investigation that is directly related to the allegations in the Formal Complaint, including evidence the district does not intend to rely on in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence.
 - Prior to the completion of the investigation report, send to each party (and the party's advisor/attorney, if any) the evidence subject to inspection and review in an electronic format or a hard copy
 - Provide each party with 10 days to submit a written response
 - Upon receipt of a party's written response to the evidence, review the response and send a copy to the other party.



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Title IX Sexual Harassment Grievance Process

Board Policy 2:265

- Investigation Cont'd
 - Prepare an investigation report that fairly summarizes all relevant evidence.
 - Send the investigation report to each party (and the party's advisor/attorney, if any) the investigation report, in an electronic format or hard copy, for their review and written response.
 - The investigation report must be sent to the parties *10 days* before the Initial Decision-Maker's determination regarding responsibility.
- At the conclusion of the investigation, Investigator sends to the Initial Decision-Maker in an electronic format or hard copy:
 - Formal Complaint;
 - All evidence gathered during the investigation that is directly related to the Formal Complaint's allegations (including evidence the district does not intend to rely on in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence); and
 - Investigation report with any written response received from the parties.



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Title IX Sexual Harassment Grievance Process

Board Policy 2:265

- Cross Exam – Question and Answer
 - The Initial Decision-Maker reviews the information sent from the investigator and facilitates “cross examination” questions and answers among the parties.
 - Provides the parties written notice of the opportunity to submit written, relevant questions that a party wants asked of any party or witness; include descriptions of the process and timelines.
 - Determines which questions to forward to any party or witness for answers.
 - If any proposed questions are excluded as not relevant, provides the proposing parties with a written explanation of the decision to exclude a question as not relevant.
 - Forwards relevant questions to any party or witness with instructions to submit answers to the Initial Decision-Maker.
 - Follows the same process for the additional, limited follow-up questions from each party.
 - Timelines are not specified in the Title IX regulations, PRESS 2:265-AP2 uses 5 school business days for each step.



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Title IX Sexual Harassment Grievance Process

Board Policy 2:265

- Determination of Responsibility
 - The Initial Decision-Maker must apply the district's standard of evidence and issue a written determination of responsibility simultaneously to the parties that includes:
 - Allegations that potentially constitute sexual harassment as defined in Title IX regulations.
 - Description of the procedural steps taken from the receipt of the Formal Complaint to the determination (including notifications, interviews, methods of gathering evidence, etc.).
 - Conclusions regarding application of the code of conduct to the facts
 - Statement of, and a rationale for, the result as to each allegation, including:
 - A determination of responsibility;
 - Any disciplinary sanctions imposed on the Respondent; and
 - Whether remedies to restore or preserve equal access to the district's education program or activity will be provided to the Complainant.
 - Procedures and permissible bases for the Complainant or Respondent to appeal.



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Title IX Sexual Harassment Grievance Process

Board Policy 2:265

- Appeal
 - Must offer to both parties for dismissal of Formal Complaint, or allegations therein and determinations of responsibility in specified circumstances:
 - Procedural irregularity.
 - New evidence now available that could affect the outcome and was not reasonably available at the time of the determination.
 - Conflict of interest or bias of the Title IX Coordinator, Investigator or Decision-Maker.
 - The District may offer other bases for appeal.
 - Upon receipt of an appeal, the Title IX Coordinator:
 - Issues written notice to both parties:
 - Informing the parties that an appeal has been filed
 - Provides both parties a specified amount of time to submit a written statement in support of, or challenging, the outcome
 - Promptly forwards all materials relevant to the appeal to the Appellate Decision-Maker
 - Appellate Decision-Maker (cannot be Title IX Coordinator, Investigator or Initial Decision-Maker) :
 - Decides whether to affirm, reverse, or amend the Initial Decision-Maker's written determination regarding responsibility or dismissal
 - Issues written decision describing the result of the appeal and the rationale for the result.



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Investigations – Other Considerations

- In addition to, or in lieu of the CAC Model and/or a Title IX investigation, you should also give consideration to the applicability of your Uniform Grievance Procedure, other Board Policies addressing sexual abuse, harassment or misconduct, and any contractual provisions in a collective bargaining agreement.



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Faith's Law: Parental Notification of Sexual Misconduct, 105 ILCS 5/22-85.10

Notice of Alleged Sexual Misconduct

The governing body of each school district, charter school or nonpublic school shall implement a procedure under which notice is provided to the parents or guardians of an enrolled student, unless the student is at least 18 years of age or emancipated, with whom an employee, agent of the school, or a contractor of the school is alleged to have engaged in sexual misconduct.

Notice provided to the parent or guardian of a student with a disability must not conflict with the student's individualized education plan or a Section 504 plan.



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Parental Notification of Sexual Misconduct, 105 ILCS 5/22-85.10

The procedure shall include:

- (1) Consideration of the time frame for providing notice to the student and the student's parents or guardians if the alleged sexual misconduct is also being investigated by the Illinois Department of Children and Family Services or law enforcement.
- (2) Prior to notification of the student's parents or guardians, notification must first be provided to the student in a developmentally appropriate manner and include:
 - (A) that notice will be given to the student's parents or guardians;
 - (B) what information will be included in the notice to the parents or guardians;
 - (C) available resources for the student within the school and community in accordance with 26A of the School Code and available counseling services under Section 3-550 of the Mental Health and Developmental Code; and
 - (D) beginning July 1, 2025, the name and contact information for the domestic and sexual violence and parenting resource coordinator under Section 26A-35 of the School Code.



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Parental Notification of Sexual Misconduct, 105 ILCS 5/22-85.10

After notification of the student, the student's parents or guardians shall be notified in writing:

- (1) of the alleged misconduct; and
- (2) of available resources for the student within the school and community in accordance with Article 26A of the School Code and, beginning on July 1, 2025, the name and contact information for the domestic an sexual violence and parenting resource coordinator under Section 26A-35 of the School Code.

Notification must be provided as soon as feasible after the employing entity becomes aware that alleged misconduct may have occurred, subject to the requirements of subsection (f) of Section 22-85 of the School Code.



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Parental Notification of Sexual Misconduct, 105 ILCS 5/22-85.10

Notice of Action Taken

The governing body of each school district, charter school or nonpublic school shall implement a procedure under which notice is provided to the parents or guardians of a student, subject to Subsection A, when any formal action has been taken by the governing body relating to the investigation of sexual misconduct, including whether employment was terminated or whether the governing body accepted the resignation of the employee.

Notice provided to the parent or guardian of a student with a disability must not conflict with the student's individualized education plan or a Section 504 plan.



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Parental Notification of Sexual Misconduct, 105 ILCS 5/22-85.10

The procedure shall include:

- (1) Consideration of the time frame for providing notice to the student and the student's parents or guardians if the alleged sexual misconduct is also being investigated by the Illinois Department of Children and Family Services or law enforcement.
- (2) Prior to notification of the student's parents or guardians, notification must first be provided to the student in a developmentally appropriate manner and include:
 - (A) that notice will be given to the student's parents or guardians of the governing body's actions;
 - (B) what information will be included in the notice to the student's or guardians;
 - (C) available resources for the student within the school and community in accordance with 26A of the School Code and available counseling services under Section 3-550 of the Mental Health and Developmental Code; and
 - (D) beginning July 1, 2025, the name and contact information for the domestic and sexual violence and parenting resource coordinator under Section 26A-35 of the School Code.



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Parental Notification of Sexual Misconduct, 105 ILCS 5/22-85.10

After notification of the student, the student's parents or guardians shall be notified in writing:

- (1) of the governing body's actions; and
- (2) whether a report concerning the alleged sexual misconduct was or will be submitted to the State Superintendent of Education and the applicable regional superintendent of schools pursuant to Section 10-21.9 of the School Code; and
- (3) of available resources for the student within the school and community in accordance with Article 26A of the School Code and, beginning on July 1, 2025, the name and contact information for the domestic an sexual violence and parenting resource coordinator under Section 26A-35 of the School Code.

Notification must be provided as soon as feasible after the board action is taken, subject to the requirements of subsection (f) of Section 22-85 of the School Code. If the student is no longer enrolled at the time formal action is taken, sending written notice to the last known address in the student's file fulfills the notification requirements.



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Parental Notification of Sexual Misconduct, 105 ILCS 5/22-85.10

Notification to the student prior to notification to the parents or guardians shall not be required to the extent an employee or agent of the school district, charter school or nonpublic school deems it necessary to address an imminent risk or serious physical injury or death of a student or another person, including the victim. If prior notification to the student is not given, notification to the student shall be provided as soon as practicable and without delay following notification to the student's parents or guardians.

The notification requirements do not apply if the student's parent or guardian is the alleged perpetrator of the misconduct.



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Takeaways and Practice Tips

- Preparing a written communication to notify parents/guardians that a school employee, agent of the school or a contractor of the school is alleged to have engaged in sexual misconduct with their child takes an abundance of care. Put yourself in the shoes of the parent/guardian; how would you react?
- Although written notice is required, consider whether to first call or arrange a meeting with the parent.
- Be as transparent as possible. Expect there to be some tension between the goals of transparency and risk management.
- Consider the possible audience(s) for the notice (student, parent/guardian, social media, judicial system, union, the accused, other staff members, other parents). If meeting or speaking with parents/guardians, you can politely ask them to keep the matter confidential at least until an investigation is completed. In all likelihood, this is best for their child.



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Takeaways and Practice Tips

- Be consistent across the board with all communications. Don't make light of the allegations in the notice to the parents and then describe the allegations in a more severe manner in an email to the principal.
- Sexual misconduct is a legal term. Most parents/guardians will not know how the term is defined. If you use the term, take care to explain.
- If the allegations are being investigated by police or DCFS, you may be asked not to communicate with parents/guardians immediately, as an immediate communication could interfere with or compromise an investigation. If you are delayed for this or any reason, consider explaining to parents why they weren't notified immediately.



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Other Provisions in Faith's Law



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Faith's Law: Resource Guide, 105 ILCS 5/2-3.188

By July 1, 2023, the State Board of Education, in consultation with relevant stakeholders, as needed, shall develop and maintain a resource guide that shall be made available on the State Board's Internet website. The resource guide shall provide guidance for pupils, parents or guardians, and teachers about sexual abuse response and prevention resources available in their community. The resource guide shall, at a minimum, provide all the following information:

- (1) Contact information, the location, and a list of the services provided by or available through accredited children's advocacy centers.
- (2) Contact information and a list of the services offered by organizations that provide medical evaluations and treatments to victims of sexual abuse.
- (3) Contact information and a list of the services offered by organizations that provide mental health evaluations and services to victims and the families of victims of child sexual abuse.
- (4) Contact information of organizations that offer legal assistance to and provide advocacy on behalf of victims of sexual abuse.

At the beginning of each school year, each school district, charter school, or nonpublic school shall notify the parents or guardians of enrolled students of the availability of the resource guide. Each school district, charter school, or nonpublic school shall furnish the resource guide to a student's parent or guardian at the request of the parent or guardian and may also make the resource guide available on its Internet website.



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Faith's Law: Criminal History Checks, 105 ILCS 5/10-21.9

Amends the “Criminal History Records Checks and Checks of the Statewide Sex Offender Database and Statewide Murderer and Violent Offender Against Youth Database” to require school superintendents to , in writing, notify the State Superintendent of Education and the applicable regional superintendent of schools of any license holder whom he or she has reasonable cause to believe has committed an intentional act of abuse or neglect with the result of making a child an abused or neglected child, as defined in Section 3 of the Abused and Neglected Child Reporting Act or (ii) an act of sexual misconduct, as defined in Section 22-85.5 of this Code, and that act resulted in the license holder’s dismissal or resignation from the school district.



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Faith's Law: Criminal History Checks - continued

This notification must be submitted within 30 days after the dismissal or resignation and must include the Illinois Educator Identification Number (IEIN) of the license holder and a brief description of the misconduct alleged. The license holder must also be contemporaneously sent a copy of the notice by the superintendent. All correspondence, documentation, and other information so received by the regional superintendent of schools, the State Superintendent of Education, the State Board of Education, or the State Educator Preparation and Licensure Board under this subsection (e-5) is confidential and must not be disclosed to third parties of this Code, except (i) as necessary for the State Superintendent of Education or his or her designee to investigate and prosecute pursuant to Article 21B of this Code, (ii) pursuant to a court order, (iii) for disclosure to the license holder or his or her representative, or (iv) as otherwise provided in this Article and provided that any such information admitted into evidence in a hearing is exempt from this confidentiality and non-disclosure requirement. Except for an act of willful or wanton misconduct, any superintendent who provides notification as required in this subsection (e-5) shall have immunity from any liability whether civil or criminal or that otherwise might result by reason of such action.



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Faith's Law: Suspension or Revocation of License, Endorsement or Approval, 105 ILCS 5/21B-75

Amends the School Code to add "sexual misconduct" to the list of offenses for which the State Superintendent of Education has the exclusive authority to initiate suspension or revocation proceedings.



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Faith's Law: Personnel Record Review Act, 820 ILCS 40/8

An employer shall review a personnel record before releasing information to a third party and, except when the release is ordered to a party in a legal action or arbitration, delete disciplinary reports, letters or reprimand, or other records of disciplinary action which are more than 4 years old. This section does not apply to a school district or an authorized employee or agent of a school district who is sharing information related to an incident or an attempted incident of sexual abuse, or severe physical abuse, or sexual misconduct as defined in subsection (c) of Section 22-85.5 of this Code.



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Questions?



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What's coming up?

Still need an AA for the year? Join IASPA June 20 from 9-1:30 in Glen Ellyn for **Efficiencies in the School HR Office**

AASPA

June 15-16 AASPA Boot Camp in Kansas City, MO

October 3-6 AASPA Annual Conference in Anaheim, CA



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