

What is Sexual Harassment Under Title IX?



OFFERING A BENEFIT CONDITIONAL ON THE
INDIVIDUAL'S PARTICIPATION IN SEXUAL CONDUCT.



USING THE REJECTION OF SEXUAL CONDUCT AS A
BASIS FOR ACADEMIC DECISIONS AFFECTING THAT
INDIVIDUAL.



THE CONDUCT IS UNWELCOMED AND DETERMINED
TO BE REASONABLY SO SEVERE, PERVASIVE AND
OFFENSIVE THAT IT DENIES EQUAL ACCESS TO
EDUCATION.

Title IX vs. District Student Handbook (Policies 4.18, 4.27, 4.43)

- Student conduct involving sexual discrimination automatically invokes Title IX and must be handled differently than other conduct matters
 - Must involve your Title IX coordinator
 - Must follow are Title IX procedures
-
- *Ex:* Johnny the Bully- if he is teasing students because of their appearance, that can be handled under the bullying/ prohibited conduct policy. However, if Johnny is targeting the appearance of girls, because they are girls, then you need to bring in Title IX procedures.

2024 Updates

- The Investigator and Decision-Maker can now be the same person, but the Title IX Coordinator still must be a separate person. However, this person still needs to be trained and familiar with the procedural requirements for both the investigative and decision-making portions of the grievance process. Other than allowing one person to now act as both investigator and decision-maker, the procedural requirements for these roles have not changed.
- Despite the proposed 2024 Title IX rules that were set to take effect on August 1, 2024, the Districts in our State are to follow Arkansas law. The state law definition of sex discrimination and sex-based harassment does not include discrimination and/or harassment based on sexual orientation, gender identity, and sex characteristics.
- Specifically, the United States District Court for the Eastern District of Missouri issued an Order prohibiting the United States Department of Education and the United States Secretary of Education from implementing, enacting, enforcing, or taking any action on the Final Title IX rules that were set to take effect on August 1, 2024. This Order applies in the following states: Arkansas, Iowa, Missouri, Nebraska, North Dakota, and South Dakota. The Court stated in its Order that these states demonstrated a likelihood of success in showing the United States Department of Education exceeded its authority in expanding definitions contrary to the original language of Title IX.

What is Sexual Harassment?

Anything that constitutes:

- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking

Examples:

- Making Sexual Propositions or pressuring for Sexual activity
- Unwelcome touching
- Telling sexual or crude jokes
- Discussions of sexual experiences
- Name calling in relation to sex or gender roles

What is Sexual Harassment, Continued...

- **Actionable sexual harassment is generally established when an individual is exposed to a pattern of objectionable behaviors or when a single, serious act is committed. What is, or is not, sexual harassment will depend upon all of the surrounding circumstances and may occur regardless of the sex(es) of the individuals involved.**

What is Sexual Harassment- School Setting

- **Sexual harassment in a school setting may look much milder but must still be taken seriously.**
 - **Male student brushing against a female in the hallway**
 - **Male student thrusting himself against a female student**
 - **Student sending unsolicited and unwelcomed “sex pics”**
 - **Male student making suggestive comments to female student**

Bullying or Sexual Harassment??

- **Evaluate every complaint to determine if it can be handled through your bullying policies/procedures, first.**
- **A Title IX investigation will cover all bases (including bullying), but it is more rigorous. An investigation under the bullying policy may be warranted and is preferable, if applicable.**
- ***Ex:* Johnny the Bully- if he is bullying students because of their funny hair, and they are majority female students, that can typically be handled under the bullying policy. If Johnny is targeting girls, because they are girls, then you need to bring in Title IX procedures.**

Who is covered (jurisdiction)?

- The complainant **MUST** be a current student or attempting to enroll (does not cover former employees)
- Covers any school event and any location where a school event was taking place (does not cover actions off campus and not school-related)
 - Includes remote/ virtual learning
- If the respondent is no longer enrolled the school *may* end its investigation
- The complainant may withdrawal the complaint and the school *may* end its investigation. The Title IX Coordinator should confirm withdrawal in writing.

TITLE IX COORDINATOR



Every district must have a title ix coordinator

- **Listed on the website** (including address, email and phone)
- **Trained annually**
- **Should Not be the person doing the investigation, but overseeing it for compliance**
- **Serves as an extra layer of compliance**
- **Has a separate record keeping system**
- **Must be Separate from the investigator and decision maker**

TITLE IX COORDINATOR

The Title IX Coordinator needs to be informed of the harassment claim

- Parents and Students can bring concerns to any employee of the District
- That District employee must take the those concerns to the Title IX coordinator

Title IX Coordinator shall contact Complainant To:

- Discuss the availability of **supportive measures**;
- Consider the complainant's wishes with respect to supportive measures;
- Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and
- Explain to the complainant the process for filing a **formal complaint**.

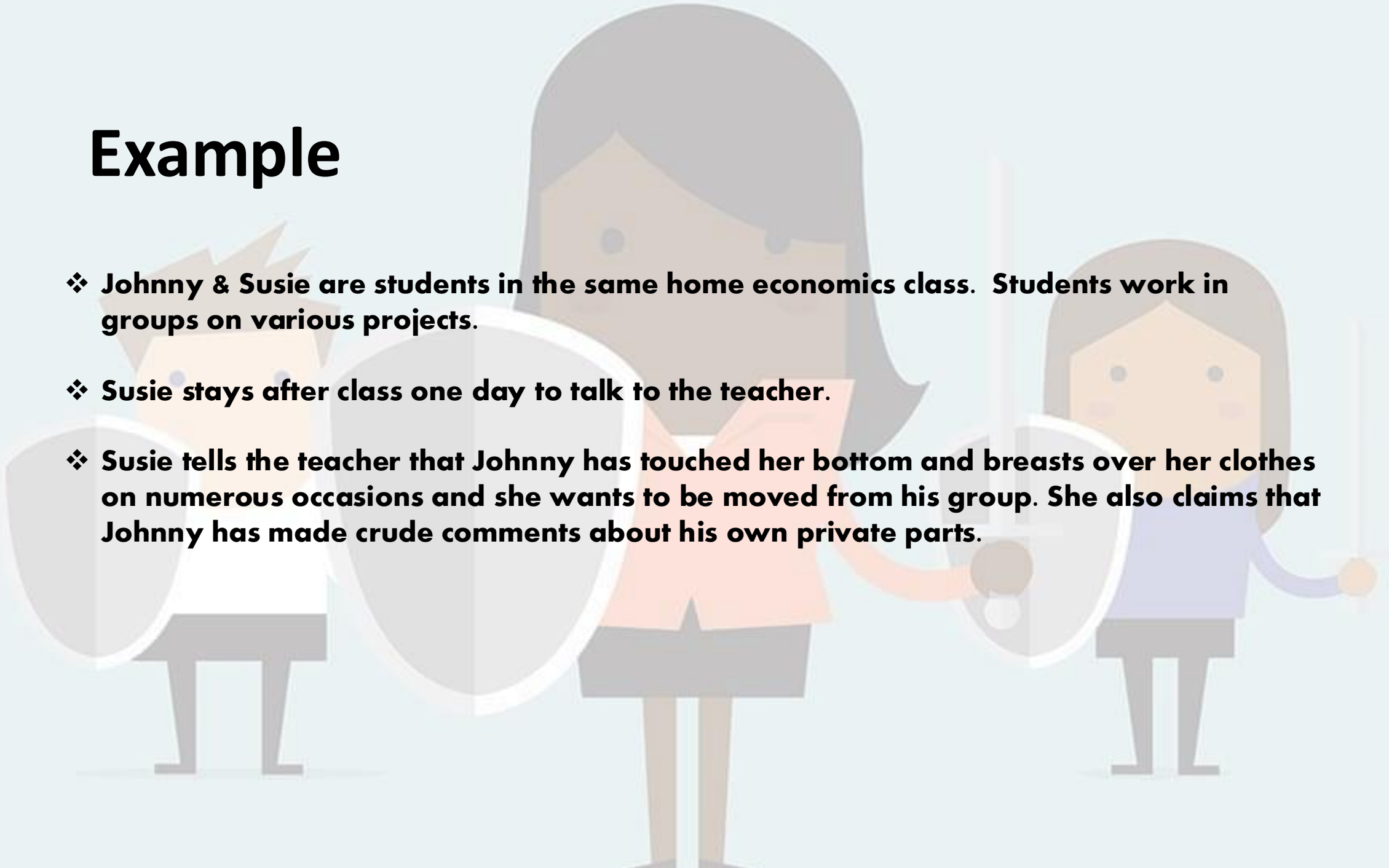
Supportive Measures

- Designed to restore or preserve equal access to the District's education program without unreasonably burdening the other party before or after the filing of a formal complaint, or where no formal complaint has been filed.
- The District shall provide individualized supportive measures to complainant.
- If they choose to deny the measures, a complainant must notify the district in writing that they have declined the supportive measures.
- The complainant can decide later to request supportive measures, and the District shall provide appropriate measures based on the circumstances.
- No punitive measures can be taken against Respondent until the conclusion of the grievance process.
- Supportive measures are to be put in place immediately upon notification of Title IX allegations and remain throughout the grievance process.



Example

- ❖ **Johnny & Susie are students in the same home economics class. Students work in groups on various projects.**
- ❖ **Susie stays after class one day to talk to the teacher.**
- ❖ **Susie tells the teacher that Johnny has touched her bottom and breasts over her clothes on numerous occasions and she wants to be moved from his group. She also claims that Johnny has made crude comments about his own private parts.**



****This letter may be sent to adult students or parents of minor students after initial verbal contact by school officials about a report of alleged sexual harassment involving their child when no Formal Complaint is filed.***

[Date]

Via email: [redacted]
Original via First Class Mail

Name
Address

Re: Title IX Complaint – Response to Sexual Harassment Report
Supportive Measures

Dear [redacted]:

This letter is to confirm receipt of a report of alleged sexual harassment involving your child. At this time, a Formal Complaint has not been filed. You may contact my office immediately if you decided to file a Formal Complaint. If you change your mind, please contact my office immediately.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, without fee or charge to students, when a report of alleged sexual harassment is made. The purpose of supportive measures is to ***restore or preserve equal access to the district's educational programs*** and in according with school board policy that prohibits discrimination on the basis of sex, including sexual harassment and other prohibited conduct, against students in all of its educational programs.

Supportive Measures: ***(Select only those that apply and provide details such as date, time, location. You may attach additional sheets as necessary. Delete the options below that will not be implemented.)***

- Counseling of students regarding appropriate behavior expectations
- Review of district and code of conduct expectations with students by administrator
- Change of class schedule/lunch schedule/locker location
- Campus/class escort
- Increased school monitoring of [location] for [time period e.g., next 9 weeks]
- School counseling
- Stay away agreement/No contact directives
- Limitation on extracurricular activities
- Training
- Other: _____

The District's goal is for you and your child to feel safe and comfortable on campus. If you have questions about the District's Title IX grievance process or supportive measures, please contact the Title IX Coordinator's Office at ***(XXX) XXX-XXXX or [email]***.

Sincerely,

/s/

[Name]

Title IX Coordinator

Overview of Grievance Process

- **First, a formal complaint is filed with the district alleging the sexual harassment.**
 - This can be a phone call or email from a parent, student or staff member.
 - Once notification of a potential Title IX complaint has been received, the Title IX Coordinator needs to be informed on the matter.
 - Title IX Coordinator needs to get involved when the District determines the issues raise Title IX (i.e. sex, sex or more sex is at issue)
 - Title IX Coordinator needs to confirm with the Complainant that he/she indeed wants an investigation to occur.
 - SIDE BAR: Office of Civil Rights (OCR) places emphasis on the complainant having right to privacy and decision to move forward or not. However, the District can still investigate if it makes sense. I.e. District has multiple complaints against this same student or District believes the Complaint was withdrawn out of fear.
 - Send the Complainant a copy of the Formal Title IX Complaint form to fill out and return to the Coordinator.
 - Should always provide the Title IX Complaint form to a potential Complainant to show the District did in fact advise on the right to initiate the grievance process.
 - UNDERSTAND THIS: When you get a complaint against Johnny that raises Title IX issues- you can no longer go directly to Johnny to discuss like you may have in the past. Johnny has safeguards, too.

Overview of Grievance Process

- **Formal Complaint and Susie....**
- The teacher needs to report what Susie told her to the Title IX Coordinator.
- It is only an informal complaint at this point. Title IX Coordinator needs to determine if this is a Title IX matter or if it can be handled as bullying/poor conduct.
- If we go the Title IX route, Title IX Coordinator must contact Susie's parent(s) and share the information so the parent(s) can decide if a formal complaint needs to be filed.
 - But still, the District will still need to act regardless...
 - When contacting the parent(s), advise on supportive measures will be put in place from the outset of the investigation.
 - Provide the parent(s) with a copy of the District's Title IX Policy.
- Supportive Measures: These can be put in place during the investigation. I.e. separating Susie and Johnny in the class.

Title IX Sexual Harassment Formal Complaint Form

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on sex in educational institutions that receive federal financial assistance. **When the form has been completed and signed by a Complainant or the Title IX Coordinator, the alleged sexual harassment will be investigated by the District.** A copy of this completed form, as well as information about the District's Title IX grievance process, will be provided to the Complainant and Respondent.

- **Complainant:** An individual who is alleged to be the victim of sexual harassment.
- **Respondent:** An individual who is alleged to be the perpetrator of sexual harassment.
- **Formal Complaint:** A document filed by a Complainant (or parent/guardian) or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the District investigate the allegation.

The purpose of the grievance process is to restore or preserve equal access to the district's education programs or activities.

COMPLAINANT PERSONAL INFORMATION:

Name: _____ Email: _____

Home Address: _____
(Street / Rural Route)

(City) (State) (Zip Code)

Phone Number (cell): _____ Phone Number (work): _____
Format (xxx) xxx-xxxx Format (xxx) xxx-xxxx

School/Work Location: _____

Employee Job Title (if complainant is an employee): _____

TYPE OF COMPLAINT:

Sexual Harassment based on: (Check all that apply)

Sexual Harassment____ Sexual Assault____ Gender-Based Harassment____ Dating Violence____
Stalking____ Cyberbullying____ Retaliation____ Other: _____

DATE INCIDENT OCCURRED:

Earliest: _____ Latest: _____ ____ Continuing Action

RESPONDENT INFORMATION: Please provide the name and contact information, if known, of the individual(s) alleged to have engaged in Title IX sexual harassment: (Please attach additional sheets if necessary.)

1) Name: _____ School/Work Location: _____

Phone Number: _____ Email: _____
Format (xxx) xxx-xxxx

2) Name: _____ School/Work Location: _____

Phone Number: _____ Email: _____
Format (xxx) xxx-xxxx

NATURE OF COMPLAINT: Please specifically describe your complaint against the person(s) named in the previous section, including how the person(s) sexually harassed you, assaulted you, or retaliated against you, or committed the prohibited conduct you identified above.

- Please describe the behavior, comments, or incidents that occurred
- Identify: Who, What, When, and Where

(Please attach additional sheets if necessary)

WITNESSES: Were there any witnesses to this matter? (Please check one.) ___ Yes ___ No

If yes, please list those who witnessed the incident(s) or have knowledge of the incident. Please attach additional names if needed.

1) Name: _____ School/Work Location: _____

School District: _____

FORMAL COMPLAINT Form

Phone Number: _____ Email: _____
Format (xxx) xxx-xxxx

Did you discuss the incident with this witness? (Please check one.) ____ **Yes** ____ **No**

2) Name: _____ School/Work Location: _____

Phone Number: _____ Email: _____
Format (xxx) xxx-xxxx

Did you discuss the incident with this witness? (Please check one.) ____ **Yes** ____ **No**

Please identify any administrators, district employees, or law enforcement agency to whom you have reported your concerns: (Please use additional sheets if needed.)

1) Reported to: _____ Date: _____

Describe how concerns were reported: _____

Results: _____

2) Reported to: _____ Date: _____

Describe how concerns were reported: _____

Results: _____

I certify the information contained in this formal complaint is true and correct.

Signature of Complainant

Date: _____

Relationship to Complainant: ____ Self ____ Parent/Guardian

Name: _____
Title IX Coordinator

Date: _____

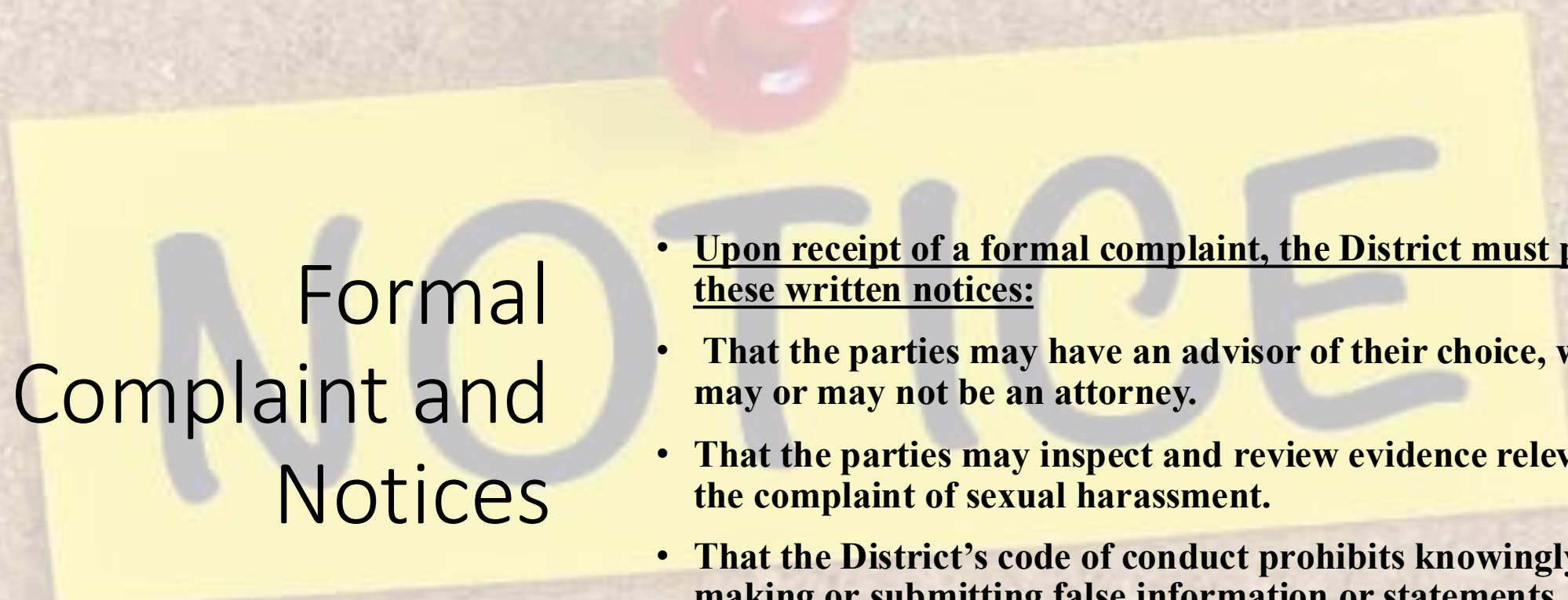
Grievance Process & Investigating Sexual Harassment

- The District Shall:
 - Ensure that the burden of proof and evidence gathering rests with the District and not on the parties;
 - The burden of proof is a preponderance of the evidence (i.e., 50.01% or more likely than not sexual harassment did or did not occur)
 - Not use information or evidence that constitutes legally privileged information without consent of the party or the party's legal guardian;
 - Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses as part of the grievance process;
 - Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.



Formal Complaint and Notices

- **Upon receipt of a formal complaint, the District must provide these written notices:**
- **Notice of Complaint**
 - **Once the Title IX Formal Complaint has been received by the Coordinator, both Complainant and Respondent are to be simultaneously sent Notice of Formal Complaint, a copy of the Complaint, and a copy of the District's Title IX Grievance Procedures;**
 - **The Complaint must provide notice of the allegations of sexual harassment including sufficient details known at the time and with sufficient time to prepare a response before any initial interview;**
- **Details will include all party identities, the alleged conduct constituting sexual harassment, and the date and location of the alleged incident;**
 - **A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process**
- **Notice of Interview**
 - **Title IX Coordinator or Investigator needs to send out Notice of Interview prior to conducting the investigative interviews.**
 - **The Notice should advise the parent(s) that each party has a right to an advisor.**



Formal Complaint and Notices

- **Upon receipt of a formal complaint, the District must provide these written notices:**
- **That the parties may have an advisor of their choice, who may or may not be an attorney.**
- **That the parties may inspect and review evidence relevant to the complaint of sexual harassment.**
- **That the District's code of conduct prohibits knowingly making or submitting false information or statements.**

NOTICE TO PARTIES

Rev.

10.22.20

Copy the language below onto District Letterhead.

****This notice must be sent separately and simultaneously to the Complainant and Respondent and before investigation of the Formal Complaint begins, including before student interviews occur.***

[Date]

[Name of Party]

[Party's Address]

Re: Notice to Parties of Formal Complaint of Title IX Sexual Harassment

Dear [Mr. / Mrs. / Ms. _____]:

This letter is to notify you of the filing of a Formal Complaint of sexual harassment involving [name of accused and name of student]. The details of the allegations are included on the enclosed Formal Complaint form. Sexual harassment is prohibited by and defined in Board Policy _____. The grievance process for handling this complaint can be found in _____. The policies and procedures are enclosed for your reference.

During the grievance process, the filer of the complaint is called the Complainant, and the accused is called the Respondent.

The first step in the grievance process is an investigation. I have appointed the following person to serve as investigator, and he/she will be in contact with you:

Name: _____ Title: Title IX Investigator

Please be aware that, by law, the Respondent is presumed not responsible for the alleged conduct and a determination regarding responsibility is made only at the conclusion of the grievance process by a decision-maker other than the investigator. I have appointed the following person as the decision-maker in this complaint:

Name: _____ Title: _____

You are allowed an advisor to assist you in this process. This may be any adult whom you wish to help you through the process or represent your student. This person may be an attorney but does not have to be. If you would prefer, you may proceed without an advisor. You are also entitled to inspect and review all evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that you can meaningfully respond to the evidence prior to conclusion of the investigation.

Please also be aware that provision _____ of the District's code of conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

The District's Title IX sexual harassment grievance process includes an opportunity to voluntarily participate in an informal resolution process at any time prior to a determination regarding responsibility.

School District: _____

NOTICE OF FORMAL COMPLAINT Form

If you have any questions regarding this information, please let me know. Thank you for your cooperation during this grievance process to ensure that our students experience an education environment that is free from discrimination on the basis of sex.

Sincerely,

[Name],

Title IX Coordinator

Enclosures: Formal Complaint Form (Informal Resolution Agreement Form?)

[list the policies enclosed]

Overview of Grievance Process

- **Next, the District begins an evidence gathering investigation.**
 - The Title IX Coordinator cannot investigate.
 - Title IX Coordinator alerts the Complainant that the District will be investigating the matter—simple email to confirm the allegations.
 - Attach the sexual harassment policy and copy of the Title IX Formal Complaint form.
 - The evidence gathering will include statements from parties and witnesses.
 - The Investigator should also gather other relevant evidence such as video footage, attendance records, grades, etc.
 - The respondent (Johnny) has several additional rights in the process:
 - He/ she gets a right to an advisor, copy of the policy, statement that he is presumed not responsible until otherwise, etc.
 - The Respondent cannot be punished prior to the conclusion of the grievance process.
 - The Respondent gets to submit evidence, witnesses and respond to the allegations.
 - Parties will be given the opportunity to present relevant evidence.
 - Parties will be notified of relevant evidence so to have an opportunity to assess and respond.

DATE

NAME

ADDRESS

ADDRESS

By regular mail and email to: [EMAIL](#)

Re: Notice of Title IX Investigative Interview

Dear **SALUTATION**:

As you are aware, the District has received a Formal Complaint alleging a Title IX sexual harassment involving your student. I plan to interview your student at the time and place provided below:

Date:

Time:

Location:

Participants:

You and/or an advisor for the student may accompany the student to the interview to observe the process. However, the student will be expected to respond to questions directly, as developmentally appropriate. While an advisor may attend the meeting, he/she may not question the student, others, or the investigator.

If any person attending the interview has a need for a disability accommodation, please let me know before the date of the interview.

You have the right to submit evidence for consideration. You may submit evidence to me via email, flash-drive, or hard-copy. For all evidence you submit, please retain the original and provide only a copy. Include your student's name and the date on all information submitted. Please keep in mind that before the issuance of my investigative report, both the Complainant and the Respondent will have the opportunity to review all related evidence and an opportunity to submit a written response.

If you have any questions regarding the interview, please contact me at **PHONE** or **EMAIL**.

Sincerely,

INVESTIGATOR NAME

Title IX Investigator

cc: Title IX Coordinator

Overview of Grievance Process

- **Next, both parties get ALL the relevant evidence collected before a decision.**
- This may feel uncomfortable, but Title IX requires transparency and overrules FERPA concerns
 - Very tricky to navigate
 - Best Practice
 - Use initials when possible
 - Redact student witness names from final report, but witness NEVER get confidentiality
 - Provide adult witness names
 - Notify parents when their student is involved in a Title IX investigation (if under 18)
- Once the investigative interviews have concluded, the Investigator shall provide copies of the interview summaries and evidence gathered to both parties (complainant and respondent) allowing 10 days to review and provide a Response.

School District: _____

NOTICE TO REVIEW EVIDENCE Letter

[Date]

[Adult Student Complainant/Parent/Guardian]

[Address]

Re: Title IX Complaint – Opportunity to Review Evidence

Dear **Mr./Ms.**_____:

You have the right to review any evidence obtained as part of the investigation of a Title IX sexual harassment allegation involving your student. I have enclosed the evidence obtained for your review.

The evidence shall not be copied or downloaded in order to protect the confidentiality of information in education records for any student involved.

You may submit a written response within 10 days of **reviewing the evidence**. I will consider your written response before I draft the investigative report.

Sincerely,

[Name]

Title IX Investigator

cc: Title IX Coordinator

Grievance Proceedings Continued...

- **The District Shall:**

- **Provide the parties with equal opportunities to present at the grievance proceeding, including the opportunity to be accompanied by the advisor of their choice;**
- **Provide written notice to all parties expected to participate in the Grievance proceeding;**
- **Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that related to the formal complaint, giving each party a meaningful opportunity to respond to the evidence.**

Investigative Report

A dark silhouette of a person in a suit running towards the left, carrying a briefcase. A trail of footprints follows their path across the bottom of the slide.

- The District shall create an investigative report that fairly summarizes relevant evidence.
- At least ten (10) days prior to completion of the investigative report, the District shall send each party and the party's advisor, the evidence subject to inspection and review in an electronic format or hard copy.
- The parties will have approximately ten (10) days to submit a written response to the evidence.
- The Investigator will consider the written responses prior to completion of the investigative report.
- The District may hire an individual or individuals to conduct the investigation or to act as the decision-maker when necessary.

TITLE IX FINAL INVESTIGATION REPORT TEMPLATE

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on sex in educational institutions that receive federal financial assistance. The Complainant and Respondent may submit relevant questions that they would like asked of a party or witness to the Decision Maker.

Questions regarding a Complainant's sexual predisposition or prior sexual behavior are not allowed, unless the responses are needed to prove that someone other than the Respondent committed the alleged conduct or to prove consent.

FINAL INVESTIGATION REPORT

A Formal Complaint was filed on [date] by [Name of Complainant or Title IX Coordinator]. This report contains a summary of the relevant evidence gathered through the District's investigation of the Formal Complaint, as part of the District's Title IX grievance process.

This investigation was conducted by [name of investigator] from [date] to [date]. The parties have been given the opportunity to inspect, review and provide a written response to the evidence gathered in this investigation that was related to the allegation.

Allegations

The allegations potentially constituting Title IX sexual harassment are as follows:

[identify the allegations]

Procedural Steps

The procedural steps taken from the receipt of the Formal Complaint to date are as follows:

- A report of alleged sexual harassment was received by the campus/Title IX Coordinator's office on [date]
- The alleged victim was contacted by the Title IX Coordinator's office and provided with information about the grievance process and supportive measures
- A Formal Complaint was filed on [date]
- The Title IX Coordinator provided the Complainant and Respondent with written notice of their rights in the grievance process and information about the availability of supportive measures.
- The following supportive measures were implemented: [list]
- Campus administration and the Title IX Coordinator made a determination regarding Emergency Removal of the Respondent. [or] The Title IX Coordinator and Human Resources made a determination regarding Administrative Leave for the Respondent.
- The Title IX Coordinator sent notices of the Formal Complaint to all parties on [date].
- The Title IX Coordinator appointed the undersigned to investigate the Formal Complaint Investigator.
- The Investigator reviewed the Formal Complaint and relevant district policy and student code of conduct provisions beginning [date].
- The Investigator sent written notice of interviews and right to an advisor on [date].
- The Investigator interviewed the Complainant on [date].

- The Investigator interviewed witnesses provided by Complainant on [dates].
- The Investigator interviewed the Respondent on [date].
- The Investigator interviewed witnesses provided by the Respondent on [dates].
- The Investigator [add other steps taken during investigation, review of physical evidence, location, etc.].
- The parties were given the opportunity to submit evidence, which was reviewed by the Investigator.
- The Investigator completed secondary interviews with Complainants, witnesses, additional witnesses, or Respondent.
- The parties were given the opportunity to inspect and review evidence and submit a written response.
- The draft investigation report written was sent to all parties with an opportunity to respond within 10 calendar days.
- The parties did/did not submit written responses that were considered by the Investigator.

Summary of Relevant Evidence

I. Information about the parties

II. The allegations in the Formal Complaint

III. Timeline/dates of allegations and procedural steps

IV. Relevant sections of board policy and the student of code of conduct

V. Whether a Child Abuse Hotline report was necessary

VI. Whether there is a related criminal/juvenile investigation

VII. Evidence from interviews

VIII. Physical or other evidence

IX. Consideration of written responses to draft investigative report (relevant evidence only)

This is the final investigative report in this matter. The decision-maker will allow the parties to at least 10 days submit relevant questions for the other party(ies) or witnesses and allow additional limited time for the parties to respond to the new questions and responses before making a determination of responsibility for a Title IX violation.

Signed: _____ Date: _____

Title IX Investigator

Printed Name: _____

Decision Maker



Following the completion of the investigation period, the Decision Maker shall issue a written determination regarding responsibility including the following:

- Outline the allegations constituting sexual harassment;
- Outline of the procedural steps taken, beginning with the formal complaint and ending with this written determination;
- What and How the parties were notified;
- Site visits and methods used to gather evidence;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the District's code of conduct, applicable to the facts found;
- Statement of results regarding each allegation alleged;
 - Who was responsible
 - Disciplinary sanction imposed on respondent
 - What remedies will be provided to the complainant, by the District, to restore or preserve equal access to education

Title IX Sexual Harassment Determination of Responsibility Template

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on sex in educational institutions that receive federal financial assistance. This decision must be issued simultaneously to the Complainant and Respondent.

DETERMINATION OF RESPONSIBILITY

COMPLAINANT PERSONAL INFORMATION:

Complainant: _____ School/Work Location:

Respondent: _____ School/Work Location:

TYPE OF COMPLAINT AND NATURE OF ALLEGATIONS:

Complaint is based on discrimination due to: (Check all that apply)

- ☐ Sexual Harassment
- ☐ Gender-Based Harassment
- ☐ Sexual Assault
- ☐ Dating or Domestic Violence
- ☐ Stalking
- ☐ Cyberbullying
- ☐ Retaliation
- ☐ Other unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District’s education programs or activities

SPECIFIC ALLEGATIONS:

[fully set out the specific allegations]

PROCEDURAL STEPS TAKEN:

- A report of alleged Title IX sexual harassment was received by the campus/Title IX Coordinator’s office on [date]
- The alleged victim was contacted by the Title IX Coordinator’s office and provided with information about the grievance process and offered supportive measures
- A Formal Complaint was filed on [date]
- The Title IX Coordinator sent notices of the Formal Complaint to all parties on [date] and provided the Complainant and Respondent with written notice of their rights in the grievance process.
- [list]
- Campus administration and the Title IX Coordinator made a determination regarding Emergency Removal of the Respondent. [or] The Title IX Coordinator and Human Resources made a determination regarding Administrative Leave for the Respondent.

- The Title IX Coordinator appointed the undersigned to investigate the Formal Complaint Investigator.
- The Investigator reviewed the Formal Complaint and relevant district policy and student code of conduct provisions beginning [date].
- The Investigator sent written notice of interviews and right to an advisor on [date].
- The Investigator interviewed the Complainant on [date].
- The Investigator interviewed witnesses provided by Complainant on [dates].
- The Investigator interviewed the Respondent on [date].
- The Investigator interviewed witnesses provided by the Respondent on [dates].
- The Investigator [add other steps taken during investigation, review of physical evidence, location, etc.].
- The parties were given the opportunity to submit evidence, which was reviewed by the Investigator.
- The Investigator completed secondary interviews with Complainants, witnesses, additional witnesses, or Respondent.
- The parties were given the opportunity to inspect and review all related evidence and were allowed 10 days to submit a written response.
- "The investigator considered the written responses received by the parties as listed below. <line break> Complainant - [date received/did not submit] <line break> Respondent - [date received/did not submit]"

FINDING OF FACTS:

- I. Factual information about the parties**
- II. The allegations in the Formal Complaint**
- III. Timeline/dates**
- IV. Relevant sections of board policy and the student of code of conduct**
- V. Whether a Child Abuse Hotline report was necessary**
- VI. Whether there is a related criminal/juvenile investigation**
- VII. Evidence from interviews**
- VIII. Physical or other evidence**
- IX. Consideration of written responses to draft investigative report.**

CONCLUSION REGARDING THE CODE OF CONDUCT AND RATIONALE:

Based on a preponderance of the evidence, it is determined that:

Allegation 1. [Fully listed]

- a. The Respondent has been determined to have/have not been responsible for the alleged Title IX sexual harassment.
The conduct is prohibited in [redacted] of the district's policy and/or student code of conduct.
- b. The reasoning for the finding, ...

Allegation 2. [Fully listed]

- a. The Respondent has been determined to have/have not been responsible for the alleged Title IX sexual harassment.
The conduct is prohibited in [redacted] of the district's policy and/or student code of conduct
- b. The reasoning for the finding, ...

Allegation 3. [Fully listed]

- a. The Respondent has been determined to have/have not been responsible for the alleged Title IX sexual harassment.
The conduct is prohibited in [redacted] of the district's policy and/or student code of conduct
- b. The reasoning for the finding, ...

ACTIONS TO BE TAKEN

Disciplinary Sanctions

The following disciplinary sanctions are to be imposed upon the Respondent:

- Sanction 1
- Sanction 2
- Etc.

Remedies will/will not be provided to Complainant:

The remedies and measures listed above are designed to restore or preserve equal access to the district's educational programs.

APPEAL:

Either party may appeal this determination of responsibility on a form provided by the District within 10 calendar days of issuance of this decision. The only allowable bases for appeal are:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time of the decision that could affect the outcome;
and
3. The Title IX Coordinator, Investigator, or Decision-Maker has a conflict of interest or bias for or against for or against complainants or respondents in general or for or against the specific complainant and respondent that affected the outcome of the matter.

Reasons to Dismiss the Formal Complaint:



- The Complainant notifies the Title IX coordinator in writing that they would like to withdraw the formal complaint;
- The respondent is no longer enrolled at the District;
- Specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or its allegations;
- If the district determines that the formal complaint would not constitute sexual harassment as defined in the Title IX policy; Did not occur in the District's program; Did not occur against a person in the US;
- Upon Dismissal, all parties shall be notified by written notice, simultaneously.

Appeals

- Either party may appeal a determination regarding responsibility or from a dismissal of a formal complaint, or any allegation therein, on the following bases:
- The existence of a procedural irregularity that affected the outcome of the matter;
- Discovery of new evidence that was not reasonably available at the time of the determination or dismissal that could affect the outcome of the matter;
- The Title IX coordinator, investigator, or decision-maker had a conflict of interest or bias that could have affected the outcome of the matter;
- An appeal of the disciplinary sanctions from the initial determination.

Title IX Sexual Harassment Decision Appeal Form

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on sex in educational institutions that receive federal financial assistance. Either party may appeal the determination of responsibility under the district's Title IX grievance process by filing an appeal within 10 calendar days of the date of the decision on this form. The other party will be provided a copy of this appeal within 5 calendar days of its receipt.

Printed Name of Person Requesting Appeal: _____

Appeal requested on behalf of: (Check one) _____ Complainant _____ Respondent

Date of Title IX Decision: _____

BASIS FOR APPEAL: (Check one)

_____ Procedural irregularity that affected the outcome of the matter

_____ New evidence that was not reasonably available at the time of the decision that could affect the outcome

_____ The Title IX Coordinator, Investigator(s), or Decision-Maker has a conflict of interest or bias for or against complainants or respondents in general or for or against the specific complainant and respondent that affected the outcome of the matter.

Please describe the information supporting the basis for your appeal:

Signed: _____ Date: _____

Submit this request for appeal within 10 calendar days of the date of the final decision, to:

Name: _____, Title IX Coordinator

Physical address: _____
Street City State Zip

Email address: _____

DISTRICT LETTERHEAD

****This notice must be sent to a party when the other party has filed an appeal of the determination of responsibility.***

[Date]

[Complainant/Parent/Guardian or Respondent/Parent/Guardian]

[Address]

Re: Notice of Appeal of Determination of Responsibility

The **Complainant/Respondent** in the above referenced matter filed an appeal of the Decision-Maker's determination of responsibility. A copy of the appeal request is enclosed. You may, but are not required to, submit a written statement in support of or challenging the appeal. If you would like to submit a response, please do so no later than **[date]**. Please send the written statement via mail or email to the Title IX Coordinator who will provide the statement to the **[administrator / board]** who will issue a final decision.

Sincerely,

[Name],

Title IX Coordinator

Title IX Sexual Harassment Discrimination Appeal Decision

Title IX of the education Amendments of 1972 (20 U.S.C. § 1681) is an all-encompassing federal law that prohibits discrimination based on the gender of students and employees of educational institutions which receive federal financial assistance.

Complainant: _____

Respondent: _____

Appeal requested on behalf of: (Check one) ___ Complainant ___ Respondent

Date of Title IX Decision: _____

BASIS FOR APPEAL: (Check one)

___ Procedural Error ___ New Information ___ Conflict of interest

After carefully considering the appeal and the submissions of all parties:

___ there is **no change** in the decision made by the District.

___ the decision of the District **is changed** as follows:

Rationale:

Signed: _____ Date: _____

Name of decision-maker on appeal: _____

Title: _____

Copy to: Complainant, Respondent, Title IX Coordinator



An Appeal is NOT a Do-Over, but only opportunity to correct the Appealable Issue

- For all appeals, the District Shall:
- As always, notify all parties in writing;
- Provide all parties a written copy of the District's procedures governing the appeal process;
- Implement appeal procedures equally for both parties;
- Use a different decision-maker for the appeal;
- If the investigator or Title IX coordinator had a conflict, or contributed to the appealable issue, ensure you have different individuals to inherit those roles.
- Provide parties a reasonable, equal opportunity to submit a written statement in support of, or challenging the outcome;
- Issue a written decision, to both parties, describing the result of the appeal and the rationale for the result.

Reports of sexual harassment, both informal reports and formal complaints, will be treated in a confidential manner to the extent possible. Limited disclosure may be provided to:

- Investigators and decision-makers involved in the determination of the Districts grievance process;



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- Submission of a report to the child maltreatment hotline;
- Submission of a report to the Professional Licensure Standards Board for reports alleging sexual harassment by an employee towards a student;
- The extent necessary to provide either party due process during the grievance process.

Important Information

Emergency Removal

- **The District may remove a respondent from the District's education program on an emergency basis only after the completion of an individualized safety and risk analysis that determines that there is an immediate threat to the physical health or safety of any student or individual.**

Retaliation prohibited

- **Any student or parent that submits a formal complaint, or participates in a grievance process, shall not be subject to retaliation or reprisal in any form.**
- **The District shall be responsible to take steps to prevent all forms of retaliation.**

Important Information Continued...

Disciplinary Sanctions

- No disciplinary action, other than supportive measures, may be taken against a respondent until the conclusion of the grievance process;
 - Any student who is found by the evidence to have “more likely than not” engaged in sexual harassment may be subject to expulsion, or any other disciplinary action up to expulsion;
 - A student who knowingly fabricates allegations of sexual harassment or purposely provides inaccurate facts shall be subject to disciplinary action up to and including expulsion;
 - A finding that the allegations to don't rise to sexual harassment is not in itself sufficient evidence to conclude an allegation is false or in bad faith.
-

Important Information Continued...

The District shall maintain the following records for a minimum of seven (7) years:

- Each sexual harassment investigation;
 - Any determination regarding responsibility;
 - Any disciplinary sanctions imposed on the respondent;
 - Any remedies provided to the complainant designed to restore or preserve equal access to the District's education program or activity.
 - Any appeal and the result therefrom;
 - All materials used to train Title IX coordinators, investigators, and decision-makers;
 - Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, which must include:
 - The basis for the District's conclusion that its response was not deliberately indifferent
 - Document the supportive measures provided to restore or preserve equal access to education
 - If no supportive measures taken, document why it was not clearly unreasonable to do so, in light of the circumstances.
-

The U.S. Department of Education recently released new Title IX requirements that will become effective Friday, August 14, 2020. The Final Rule defines sexual harassment (including sexual assault, dating violence, domestic violence, and stalking) as unlawful sex discrimination, and imposes important legal obligations on school districts and charter schools.

TITLE IX SEXUAL HARASSMENT: GETTING STARTED CHECKLIST

This non-exhaustive list serves as a starting point for school districts and charter schools.

Superintendent and Principal:

Develop

- Process for responding to sexual harassment
- Process for filing a formal complaint
- Process for responding to formal complaints
- Grievance process
- Appeal process

Determine

- The supportive measures the school will use
- If school will conduct hearings
- Standard of Evidence
- If school will offer informal resolution option

Schools must determine whether they will use the preponderance of evidence standard or the clear and convincing standard for all formal complaints of sexual harassment.

Title IX Coordinator:

Appoint a Title IX Coordinator

Display the Title IX Coordinator's contact information on School's Website

Notify the following groups of the Title IX Coordinator's contact information

- Students
- Parents or Legal Guardians
- Employees
- Applicants for Admission and Employment
- Unions

The Title IX Coordinator's contact information needs to include name or title, office address, e-mail address, and telephone number.

Title IX Personnel Team:

Appoint a Title IX Personnel Team

- Title IX Coordinator
- Investigators
- Decision-Makers

Train the Title IX Personnel Team

- Definition of Sexual Harassment
- Scope of school's education program or activity
- "How to" of school's processes
- How to serve impartially
- Confidentiality Training

Train Decision-Makers and Investigators on issues of relevance

Post materials used to train the Title IX Personnel Team on the school's website

The Title IX Coordinator and the Investigator cannot be Decision-Makers.

Overview

Notice

- Once a teacher, administrator or school personnel has NOTICE of allegations of potential Title IX violation, the Title IX Coordinator must be notified.
- Do not investigate until involving the Title IX Coordinator in the matter.

Supportive Measures

- Supportive measures **MUST** be offered at the beginning of the process.
- Supportive measures can be an option even if a Complaint is not filed.
- If a Complaint is submitted, supportive measures must be offered at the beginning of the grievance process.

Overview

Important time-frames

- Investigation- must give both parties ten days to review all evidence and the opportunity to submit a Response BEFORE issuing the final investigative report
- Decision-Maker- must give both parties ten days to submit relevant questions to any witness or party BEFORE submitting the decision-maker report

Personnel

- If a teacher is accused of a Title IX violation, the District must investigate the matter.
- Personnel are expected to notify the Title IX Coordinator of any potential Title IX violations.

Examples

Students

- A student shows another student an explicit picture during lunchtime.
- A student continually uses sexual jokes to another student throughout the school day.
- A student purposefully touches another student after being asked to stop on multiple occasions.

personnel

- A teacher sends another teacher suggestive text messages after work.
- A teacher sends another teacher suggestive text messages on campus during school hours.
- A teacher makes inappropriate jokes of sexual nature on campus.

THE END