

DOCUMENTING TITLE IX CLAIMS OF SEXUAL HARASSMENT

Under the New Regulations



Holly Boyd Wardell
EICHELBAUM WARDELL
HANSEN POWELL & MUÑOZ, P.C.

Holly Boyd Wardell

October 21, 2020

TITLE IX GRIEVANCE PROCESS SEXUAL HARASSMENT



- Prevent or stop sexual harassment
- Provide equitable process for handling reports/complaints
- Implement supportive measures to individuals
- Document efforts to ensure compliance, have record for future action, identify patterns
- Avoid finding of deliberate indifference



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TITLE IX GRIEVANCE PROCESS SEXUAL HARASSMENT



- New regulations adopted standards from Supreme Court cases (Davis, Gebser).



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LIABILITY

A private damages action may lie against a school board under Title IX in cases of student-on-student sexual harassment but only where the funding recipient acts with **deliberate indifference** and the harassment is so severe that it effectively bars the victim's access to an educational opportunity or benefit.

Davis v. Monroe County Bd. of Educ.,
526 U.S. 629 (1999).



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TITLE IX GRIEVANCE PROCESS SEXUAL HARASSMENT



- A recipient with actual knowledge of sexual harassment in an education program or activity of the recipient against a person in the U.S. must respond promptly in a manner that is not deliberately indifferent.
- A recipient is **deliberately indifferent only if** its response to sexual harassment is clearly unreasonable in light of known circumstances.

34 CFR 106.44(a).

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LIABILITY

A recipient is liable for its own actions in response to known harassment.

Davis v. Monroe County Bd. of Educ.,
526 U.S. 629 (1999).

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LIABILITY

Liability under Title IX does not extend to school officials, teachers, and other individuals.

Plummer v. Univ. of Houston,
860 F.3d 767 (5th Cir. 2017).

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LIABILITY

Remember that Title IX is not the exclusive mechanism for addressing gender discrimination in schools.

For example: 14th Amendment – substantive due process
Right to bodily integrity

Fitzgerald v. Barnstable Sch. Comm., 555
U.S. 246 (2009).

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RECORD KEEPING

- Initial intake report
- Response to sexual harassment report – supportive measures
- Formal complaint
- Notice to parties
- Emergency removal
- Administrative leave
- Informal resolution
- Notice to parties of interviews
- Evidence submitted to parties
- Investigative report
- Notice of opportunity to submit questions
- Questions and submitted answers
- Determination of responsibility
- Documentation of remedies and sanctions
- Appeal documentation
- Decision of appeal

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Hypothetical:

Lashonda, 5th grade cisgender female

Allegations

- Cisgender male classmate repeatedly groped and touched on Lashonda's breast and in her genital area
- Made vulgar statements: *I want to get in bed with you. I want to feel your boobs.*
- Placed a door stop in his pants and proceeded to act in a sexually suggestive manner toward Lashonda in PE class.
- Rubbed his body against her in the hallway
- On campus and the school bus
- Repeatedly over a 5-month period

- Parent says already reported to campus administration and nothing done.
- Calls Director of Student Services office.

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Record of Reports

STUDENT WELFARE FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION		FFH (LOCAL)
Employee Report	Any District employee who suspects or receives direct or indirect notice that a student or group of students has or may have experienced prohibited conduct shall promptly notify the appropriate District <u>official listed in this policy</u> and take any other steps required by this policy.	

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Record of Reports

Definition of District Officials	For the purposes of this policy, District officials are the Title IX coordinator, the ADA/Section 504 coordinator, and the Superintendent.
Title IX Coordinator	Reports of discrimination based on sex, including sexual harassment, gender-based harassment, or dating violence, may be directed to the designated Title IX coordinator for students. [See FFH(EXHIBIT)]

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Intake

Title IX Discrimination Intake Form
 Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on the sex of students in educational institutions that receive federal financial assistance. This form is to be completed by an individual reporting sexual harassment or an individual in the Title IX Coordinator's office when a student, parent, or district employee reports possible sexual harassment to the Title IX Coordinator's office.

REPORTER INFORMATION:

Case Number: 2020-10-2145

Reporter Name: Aurelia Davis (Parent)

Email: adavis@shmail.com

Phone Number: (478) 897-5309

Student ID: 1191661 Campus: Hubbard Elem. Sch.



Intake

Type of Prohibited Conduct:

Discrimination based on: (Check all that apply)

Sexual Harassment Sexual Assault Gender Based Harassment Dating Violence

Stalking Retaliation Cyber Bullying Other

Date Incident Occurred:

Earliest Sept, 2020

Latest Oct, 15, 2020

Continuing Action

REPORTER INFORMATION:

Case Number: _____

Reporter Name: _____

Email: _____

Phone Number: _____

Student ID: _____ Campus: _____



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Intake

ALLEGED VICTIM'S INFORMATION:

Name: Lashonda Davis

School/Department: Hubbard E.S. Job Title: NA

Email: NA Employee ID: NA

Student ID: 1191661 Campus: HES

Extra-Curricular Activities: After school chess club

REPORTER INFORMATION:

Case Number: _____

Reporter Name: _____

Email: _____

Phone Number: _____

Student ID: _____ Campus: _____



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Intake

REPORTER INFORMATION:

Case Number: _____

Reporter Name: _____

Email: _____

Phone Number: _____

Student ID: _____ Campus: _____

- Description of prohibited conduct
- Any witnesses
- Previously discussed with witnesses
- Identify any administrators or district employees reported to
- Signature and date of person taking initial report



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Child Abuse Report?

If the incident could be child abuse, the employee(s) receiving the report must report to CPS or law enforcement within 48 hours.



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Promptly contact complainant

The Title IX Coordinator must promptly contact the 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.

34 CFR §106.44(a).

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If Complainant wants to file formal complaint...

Title IX Discrimination 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 the sex of students 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 (FFH - Regulation 2), 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.

COMPLAINANT PERSONAL INFORMATION (Please Print):

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If Complainant does not want to file formal complaint...

DISTRICT LETTERHEAD

**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.*

October 21, 2020

Via email: adaiv@hmail.com
 Original via First Class Mail

Aurelia Davis
 862 Georgia Drive
 Macon, Texas 75457

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

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Dear Ms. Davis:

This letter is to confirm receipt of a report of alleged sexual harassment involving your child. It is our understanding that, at this time, you do not wish to file a Formal Complaint and pursue this matter further. If you change your mind, please contact my office immediately.

Even though you have not filed a Formal Complaint, the District is implementing the following supportive measures for your child, because school board policy FFH prohibits discrimination on the basis of sex, including ~~sexual harassment and other prohibited conduct~~, against students in all of its educational programs. 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.

Supportive Measures: *(Select only those that apply and provide details. 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/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]

If the district does not provide the supportive measures, the Title IX Coordinator must document why not.

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Emergency Removal

Nothing in the Title IX grievance process precludes a recipient from removing a respondent from the recipient's education program or activity on an emergency basis, provided that the recipient undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

34 CFR 106.44(c).

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Removals requiring analysis:

- OSS
- DAEP
- Expulsion
- Change of class/schedule*
- Change of campus*
- Teams
- Clubs
- Organizations
- Student activities (STUCO)

*Could be a supportive measure if doesn't unreasonably burden the respondent.

See p. 770-777 - Commentary

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Emergency Removal Form

Emergency Removal Form

Name of Respondent Student: Gruper Flanders (G.F.)

Title IX Case No. 2020-10-21-45 Current Campus: Hubbard E.S.

**A Respondent may be removed from the district's educational program or activities if the District makes an individualized safety and risk analysis and determines that an immediate threat, arising from the allegations of sexual harassment, to anyone's physical health or safety justifies removal. This analysis may involve the campus/district threat assessment team. A student who is removed on an emergency basis must be provided with notice and an opportunity to challenge the decision. A student with a disability has rights under the Individuals with Disabilities Education Act and/or Section 504 of the Rehabilitation Act and may not be removed without following the procedural safeguards of those laws.*

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Emergency Removal Form

- Does the student receive special education or Section 504 supports? If so, refer to ARD/504 committee. See Texas Education Code § 37.004

If the Respondent has already been removed for behaviors other than sexual harassment, list the basis for the removal from the Student Code of Conduct (e.g., bullying; cyberbullying; use of profanity, lewd or vulgar language on campus or school-related activity; violation of technology acceptable use policy; assault; hazing).

Examples of removal include OSS, DAEP, expulsion, change of campus, removal from extracurricular activity.

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Emergency Removal Form

Removal Determination:

- No – Respondent does not pose an immediate threat arising from the allegation of sexual harassment to anyone's physical health or safety.
- Yes – Respondent poses an immediate threat arising from the allegation of sexual harassment to the physical health or safety of the self or others.

Basis for Removal: Due to on-going physical nature of alleged conduct, G.F. is being removed from the after school chess program where there is less student supervision than regular classroom instruction pending the results of the Title IX investigation and grievance process. G.F. is also temporarily suspended from the bus.

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Emergency Removal Form

Length Removal: Semester Year Indefinite Trial Basis Other: pending grievance process

School employees involved in making Emergency Removal Decision:

Threat Assessment Team: B. Query (Principal/Behavior Coordinator); A. Kennedy (School Counselor); Rehnquist (LSSP); C. Thomas (Title IX Coordinator); A. Scalia (Exec. Dir. Special Education)

*The district threat assessment and safe and supportive school team should be notified of removal determination.

*Upon removal, Respondent student must be notified of opportunity to challenge emergency removal: Parent was informed of right to challenge emergency removal under FNG(LOCAL).

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Dismissal of a Formal Complaint

Dismissal Basis: (Check all that apply)

- Does not constitute sexual harassment
- Did not occur in district program or activity
- Did not occur in the U.S.
- Dismissal requested by Complainant
- Respondent no longer enrolled in district
- Circumstances prevent the district from gathering evidence sufficient to reach a determination

Reasoning for Dismissal: Describe the reasoning behind the dismissal of this complaint.

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Written Notice of Interviews

As you are aware, the District has received a Formal Complaint alleging sexual harassment involving your student. I plan to interview your student at [Time] on [Date] regarding this pending complaint. The interview will occur at [Location].

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.

34 CFR §106.45(b)(5).

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Written Notice of Interviews

DISTRICT LETTERHEAD

The Complainant and Respondent are invited to written notice of the time, date, location, and nature of the investigation process with confidentiality.

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 all evidence may be shared with all parties prior to the issuance of my investigative report.

Before the issuance of my investigative report, you and the other party(ies) will have the opportunity to receive a copy of the evidence and an opportunity to submit a written response on behalf of your student.

Responsibility to report a copy of the evidence and an opportunity to submit a written response on behalf of your student.

If you have any questions regarding the interview, please contact me at (XXX) XXX XXXX (Phone).

Sincerely,

The District Investigator

cc: This is Confidential

34 CFR §106.45(b)(5).

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Investigation & Evidence

- Notes = evidence
- Evidence must be provided to both parties prior to completion of investigative report.
- Parties must have 10 days to submit a written response to the evidence before completion of the IR.
- Parties must have an opportunity to review the IR and respond another 10 days before a determination of responsibility is made.

34 CFR §106.45(b)(5).

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Witness Statement Form

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Opportunity to Review Evidence

Letter to Parent of Complainant Letter to Parent of Respondent

You have the right to review any evidence obtained as part of the investigation of sexual harassment involving your student. Please contact me at (XXX) XXX-XXXX or [email] by [date] if you would like the opportunity to inspect and review the evidence.

The evidence may be provided in a format that prevents copying or downloading in order to protect the confidentiality of information in education records for the students involved.

You may submit a written response within 10 days of reviewing the evidence. Your written response will be considered before I draft the investigative report.

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Investigative Report

Investigative Report is a confidential document and should not be shared with anyone other than the Title IX Coordinator and those who have a need to know. The Title IX Coordinator will ensure that the report is kept confidential and that the information is not shared with anyone other than the Title IX Coordinator and those who have a need to know.



- 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: _____
- 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.

Procedural Steps



- *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].*

- *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.*

Procedural Steps



Procedural Steps



- 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 CPS report was necessary*
- VI. *Whether there is a related criminal/juvenile investigation*
- VII. *Evidence from witnesses*
- VIII. *Physical or other evidence*
- IX. *Consideration of written responses to draft investigative report.*

Investigative Report

The new Title IX grievance process does not prohibit the investigator from making recommendations, but the decision maker must make an independent decision based on an objective review of the evidence.

Findings of Fact



This is the final investigative report in this matter. The Decision Maker will allow the parties to submit relevant questions for the other party(ies) or witnesses before making a determination of responsibility for sexual harassment.

Title IX Investigator

Date

Opportunity to Submit Questions



Determination of Responsibility

The new Title IX grievance process does not prohibit the investigator from making recommendations, but the decision maker must make an independent decision based on an objective review of the evidence.



Determination of Responsibility

- Nature of allegations
- Procedural steps
- Findings of fact
- Determinations based on preponderance of evidence/beyond reasonable doubt
- Remedies provided
 - Supportive measures to complainant
 - Supportive measures/sanctions to respondent
- Appeal information



SUPREME COURT:

Whether gender-oriented conduct rises to the level of actionable “harassment” under Title IX depends on a constellation of surrounding circumstances, expectations, and relationships, including, but not limited to, the ages of the harasser and the victim and the number of individuals involved, and courts must bear in mind that children may regularly interact in a manner that would be unacceptable among adults; damages are not available for simple acts of teasing and name-calling, even where these comments target differences in gender, and the behavior must be serious enough to have the systemic effect of denying the victim equal access to an educational program or activity.

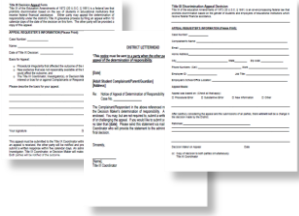
Davis v. Monroe County Bd. of Educ.,
526 U.S. 629, 651 (1999).

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APPEAL FORMS

- Appeal form
- Letter – Notice to Other Party
- Decision on Appeal



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OFFICE FOR CIVIL RIGHTS

Thirty-two (32) times in the commentary to the new Title IX regulations, OCR promises to not second guess the substantive decisions of recipients, so long as procedures are followed.

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FFH (REGULATION)

- Remember the purposes for documenting.
- Consider the ultimate audience.
- As educational experts, an administrator must ensure that errors in writing do not undermine his/her credibility.
- Date and sign final reports.
- Make sure Title IX Coordinator gets a copy of all related documents and evidence.

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DISTRICT LETTERHEAD

Title IX Record Keeping Cover Sheet

*All records related to a report of sexual harassment must be kept for a period of seven (7) years from the date of conclusion of the grievance process.

Date of Initial Complaint: _____

Date of Final Decision: _____

- Initial Intake Report
- Response to Sexual Harassment Report – Supportive Measures
- Formal Complaint, if any
- Notice to Parties
- Emergency Removal, if applicable
- Administrative Leave – Personnel, if applicable
- Informal Resolution Paperwork
- Notices to Parties of Interviews
- Evidence Submitted to Parties, including witness statements, photographs, electronic communications
- Draft Investigative Report and Notice of Opportunity to Submit Response Sent to Parties
- Final Investigation Report
- Notice of Opportunity to Submit Questions
- Questions Submitted and Answers
- Determination of Responsibility
- Documentation of Supportive and Other Measures Imposed After Determination of Responsibility
- Appeals Documentation, if any
- Decision on Appeal

* The Title IX Coordinator must also retain copies of materials used to train the Title IX Coordinator, investigators, decision makers, and facilitators for seven (7) years.

Title IX Discrimination Intake Form

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on the sex of students in educational institutions that receive federal financial assistance. This form is to be completed by an individual reporting sexual harassment or an individual in the Title IX Coordinator's office when a student, parent, or district employee reports possible sexual harassment to the Title IX Coordinator's office.

REPORTER INFORMATION:

Case Number: 2020-10-21:45

Reporter Name: Aurelia Davis (Parent)

Email: adavis@shmail.com

Phone Number: (478) 867-5309

Student ID: 1191661

Campus: Hubbard Elem. Sch.

Employee ID: NA

Job Title: NA

Employee's School/Office Location: NA

Type of Prohibited Conduct:

Discrimination based on: (Check all that apply)

- Sexual Harassment Sexual Assault Gender Based Harassment Dating Violence
 Stalking Retaliation Cyber Bullying Other

Date Incident Occurred:

Earliest Sept. 2020

Latest Oct. 15, 2020

Continuing Action

ALLEGED VICTIM'S INFORMATION:

Name: Lashonda Davis

School/Department: Hubbard E.S. Job Title NA

Email: NA Employee ID: NA

Student ID: 1191661 Campus: HES

Extra-Curricular Activities: After school chess club

Describe the prohibited conduct:

In September, 2020, G.F. (male classmate at HES) attempted to touch Lashonda's breast and genital area and made vulgar statements such as "I want to get in bed with you." and "I want to touch your boobs." Similar conduct allegedly occurred on October 4 and 9, 2020. Lashonda reported each of these incidents to her mother (Ms. Davis) and to her classroom teacher, Diane Fort. Ms. Davis contacted Ms. Fort who assured her the principal, Mr. Query, had been informed of the incidents. Ms. Davis alleges that no disciplinary action was taken against G.F. Last Friday (10/15/20), G.F. put a door stop in his pants and acted in a sexually suggestive manner toward Lashonda in PE class and he rubbed his body against Lashonda in the hallway. Ms. Davis has reported this to Ms. Fort. Ms. Fort will not let Lashonda talk to Mr. Query about all this. Ms. Davis reports that she is going to sue the district and Mr. Query if this behavior is not stopped.

Please attach additional sheets, if necessary.

Were there any witnesses to this matter? (Please circle) Yes No

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

Name: Sophia (student) School/Department: HES

Phone Number: _____ Email: _____

Name: PE Teacher School/Department: HES

Phone Number: _____ Email: _____

Name: Bus Aide School/Department: Transportation/HES

Phone Number: _____ Email: _____

Did the reporter discuss the incident with any witnesses previously identified? (Please circle) Yes

No

Name: _____ Date: _____

Method or Communication: _____

Please identify any administrators, district employees, or law enforcement agency to whom a report has been made:

Reported to (Name): Mr. Query, Ms. Fort Date: 10/5/20 & 10/10/20

Describe how concerns were reported: called them

Results: nothing

Reported to (Name): _____ Date: _____

Describe how concerns were reported:

Results:

Report taken by:

Sandy O'Connor
Title IX Coordinator/designee

October 21, 2020
Date

Title IX Discrimination 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 the sex of students 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 (FFH – Regulation 2), 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.

COMPLAINANT PERSONAL INFORMATION (Please Print):

Name: _____

Email: _____

Home Address _____

City _____ State _____ Zip code _____

Phone Numbers: (Cell) _____ Work _____

Student ID: _____ Campus: _____

Employee ID: _____ Job Title: _____

Employee's School/Office Location: _____

Type of Complaint:

Discrimination based on: (Check all that apply)

Sexual Harassment Sexual Assault Gender Based Harassment Dating Violence

Stalking Retaliation Cyber Bullying Other

Date Incident Occurred:

Earliest _____

Latest _____

Continuing Action

RESPONDENT INFORMATION: Please list the individual(s) alleged to have engaged in sexual harassment/prohibited conduct:

Name: _____

School/Department: _____

Name: _____

School/Department: _____

Name: _____

School/Department: _____

Name: _____

School/Department: _____

Informal Resolution: Are you interested in the district's voluntary resolution process? (Please Circle)

Yes or No

Were there any witnesses to this matter? (Please Circle) Yes No

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

Name: _____ Relationship to you: _____

Phone Number: _____ Email: _____

Name: _____ Relationship to you: _____

Phone Number: _____ Email: _____

Name: _____ Relationship to you: _____

Phone Number: _____ Email: _____

Name: _____ Relationship to you: _____

Phone Number: _____ Email: _____

Did you discuss this matter with any of the witnesses previously identified? (Please circle) Yes No

Name: _____ Date: _____

Method of Communication: _____

Please identify any administrators, District employees, or law enforcement agency to whom you have reported your concerns:

Reported to (Name): _____ Date: _____

Describe how concerns were reported:

Results:

Reported to (Name): _____ Date: _____

Describe how concerns were reported:

Results:

I certify the aforementioned is true and correct.

Your signature

Date

Complaint taken by:

Title IX Coordinator/designee

Date

DISTRICT LETTERHEAD

****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.***

October 21, 2020

Via email: adavis@shmail.com
Original via First Class Mail

Aurelia Davis
862 Georgia Drive
Macon, Texas 75457

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

Dear Ms. Davis:

This letter is to confirm receipt of a report of alleged sexual harassment involving your child. It is our understanding that, at this time, you do not wish to file a Formal Complaint and pursue this matter further. If you change your mind, please contact my office immediately.

Even though you have not filed a Formal Complaint, the District is implementing the following supportive measures for your child, because school board policy FFH prohibits discrimination on the basis of sex, including sexual harassment and other prohibited conduct, against students in all of its educational programs. 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.

Supportive Measures: ***(Select only those that apply and provide details. 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/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,

[Name]
Title IX Coordinator/designee

Enclosure: FFH(LOCAL)

DISTRICT LETTERHEAD

Emergency Removal Form

Name of Respondent Student: Groper Flanders (G.F.)

Title IX Case No. 2020-10-21:45 Current Campus: Hubbard E.S.

*A Respondent may be removed from the district's educational program or activities if the District makes an individualized safety and risk analysis and determines that an immediate threat, arising from the allegations of sexual harassment, to anyone's physical health or safety justifies removal. This analysis may involve the campus/district threat assessment team. A student who is removed on an emergency basis must be provided with notice and an opportunity to challenge the decision. A student with a disability has rights under the Individuals with Disabilities Education Act and/or Section 504 of the Rehabilitation Act and may not be removed without following the procedural safeguards of those laws.

Does the student receive special education or Section 504 supports? If so, refer to ARD/504 committee. See Texas Education Code § 37.004

If the Respondent has already been removed for behaviors other than sexual harassment, list the basis for the removal from the Student Code of Conduct (e.g., bullying; cyberbullying, use of profanity, lewd or vulgar language on campus or school-related activity; violation of technology acceptable use policy; assault; hazing).

Examples of removal include OSS, DAEP, expulsion, change of campus, removal from extracurricular activity.

Removal Determination:

- No - Respondent does not pose an immediate threat arising from the allegation of sexual harassment to anyone's physical health or safety.
[X] Yes - Respondent poses an immediate threat arising from the allegation of sexual harassment to the physical health or safety of the self or others.

Basis for Removal: Due to on-going physical nature of alleged conduct, G.F. is being removed from the after school chess program where there is less student supervision than regular classroom instruction pending the results of the Title IX investigation and grievance process. G.F. is also temporarily suspended from the bus.

Length Removal: Semester Year Indefinite Trial Basis [X] Other: pending grievance process

School employees involved in making Emergency Removal Decision: Threat Assessment Team: B. Query (Principal/Behavior Coordinator); A. Kennedy (School Counselor); Rehnquist (LSSP); C. Thomas (Title IX Coordinator); A. Scalia (Exec. Dir. Special Education)

*The district threat assessment and safe and supportive school team should be notified of removal determination.

*Upon removal, Respondent student must be notified of opportunity to challenge emergency removal: Parent was informed of right to challenge emergency removal under FNG(LOCAL).

Title IX Discrimination Dismissal Form

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on the sex of students in educational institutions that receive federal financial assistance. A Formal Complaint of sexual harassment must be dismissed if alleged conduct, even if proved, would not constitute sexual harassment, did not occur in a school district program or activity, or did not occur in the United States. A Formal Complaint may be dismissed if a Complainant notifies the Title IX Coordinator that he/she would like to withdraw the complaint or any of the allegations therein, the Respondent is no longer enrolled in the district, or specific circumstances prevent the district from gathering evidence sufficient to reach a determination.

COMPLAINT INFORMATION (Please Print):

Case Number: _____

Complainant's Name: _____

Email: _____

Complainant School/Office Location: _____

Respondent's Name: _____

Email: _____

Respondent School/Office Location: _____

Dismissal Basis: (Check all that apply)

- | | |
|---|--|
| <input type="checkbox"/> Does not constitute sexual harassment | <input type="checkbox"/> Did not occur in district program or activity |
| <input type="checkbox"/> Did not occur in the U.S. | <input type="checkbox"/> Dismissal requested by Complainant |
| <input type="checkbox"/> Respondent no longer enrolled in district | |
| <input type="checkbox"/> Circumstances prevent the district from gathering evidence sufficient to reach a determination | |

Reasoning for Dismissal: Describe the reasoning behind the dismissal of this complaint.

Name

Title IX Coordinator/designee

Date

Once signed, a copy of this dismissal form will be placed in the file for this complaint and sent to all parties involved.

DISTRICT LETTERHEAD

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

[Date]

**[Adult Student Complainant/Parent/Guardian]
[Address]**

Re: Notice to Parties of Title IX Formal Complaint of Sexual Harassment
Case No. _____

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

This letter is to notify you of the filing of a Formal Complaint of sexual harassment involving your student. The details of the allegations are included on the enclosed Formal Complaint form. Sexual harassment is prohibited by and defined in Board Policy FFH (LEGAL) and (LOCAL). The grievance process for handling this complaint can be found in FFH (REGULATION 2-SEXUAL HARASSMENT). The policies and procedures are enclosed for your reference.

The District's Title IX sexual harassment grievance process includes an opportunity to participate in an informal resolution process at any time prior to a determination regarding responsibility. 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 _____[name], _____[title] to serve as investigator, and he/she will be in contact with you.

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 _____ [name], _____ [title] as the decision-maker in this complaint.

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 **XX** of the District's code of conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

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 free from discrimination on the basis of sex.

Sincerely,

[Name],
Title IX Coordinator/designee

Enclosures: FFH(LEGAL) & (LOCAL)
FFH(Regulation 2)
Formal Complaint Form

DISTRICT LETTERHEAD

****The Complainant and Respondent are entitled to written notice of the date, time, location, participants, and purpose of investigative interviews with sufficient time to prepare (e.g., 2-5 days).***

[Date]

[Adult Student Complainant/Parent/Guardian]

[Address]

Re: Notice of Title IX Investigative Interview
Case No. _____

Dear Mr./Ms. _____:

As you are aware, the District has received a Formal Complaint alleging sexual harassment involving your student. I plan to interview your student at [Time] on [Date] regarding this pending complaint. The interview will occur at [Location].

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.

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 all evidence may be shared with all parties prior to the issuance of my investigative report.

Before the issuance of my investigative report, you and the other party(ies) will have the opportunity to receive a copy of the evidence and an opportunity to submit a written response on behalf of your student.

If you have any questions regarding the interview, please contact me at **(XXX) XXX-XXXX** or **[email]**.

Sincerely,

[Name],
Title IX Investigator

cc: Title IX Coordinator/designee

Title IX Discrimination Witness Form

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on the sex of students in educational institutions that receive federal financial assistance. Students, employees, volunteers, and others may possess information relevant to making a determination of responsibility of a Formal Complaint of sexual harassment. However, no individual can be forced to participate in a Title IX investigation, nor may the district retaliate against any individual for participating in or refusing to participate in a Title IX investigation.

A witness may complete this form. If it is not developmentally appropriate for a student to complete this form, the investigator may interview the student and complete the form based on the student's responses.

PERSONAL INFORMATION (Please Print):

Case Number: _____

Witness's Name: _____

Email: _____

Phone Numbers: (Cell) _____ Work _____

Student ID: _____ Campus: _____

Employee ID: _____ Job Title: _____

Employee's School/Office Location: _____

Type of Complaint:

Discrimination based on: (Check all that apply)

Sexual Harassment Sexual Assault Gender Based Harassment Dating Violence

Stalking Retaliation Cyber Bullying Other

Date Incident Occurred:

Earliest _____

Latest _____

Continuing Action

Does any recording or physical record of this incident exist in your possession? Circle: Yes / No

Have you spoken to anyone else about what you witnessed?

Name: _____ Phone Number: _____

Name: _____ Phone Number: _____

Please describe what you witnessed, where, and when. If you did not witness the incident, describe what you were told and when. (Identify: Who, What, When, and Where)

Please attach additional sheets, if necessary.

I certify the aforementioned is true and correct.

Witness signature

Date

Statement taken by:

Title IX Investigator

Date

DISTRICT LETTERHEAD

****The Complainant and Respondent are entitled to an electronic or hard copy of the evidence prior to the issuance of the investigative report and must be given an opportunity to submit a written response.***

[Date]

[Adult Student Complainant/Parent/Guardian]

[Address]

Re: Opportunity to Review Evidence Title IX Complaint – Sexual Harassment
Case No. _____

Dear Mr./Ms. _____:

You have the right to review any evidence obtained as part of the investigation of sexual harassment involving your student. Please contact me at **(XXX) XXX-XXXX** or **[email]** by **[date]** if you would like the opportunity to inspect and review the evidence.

The evidence may be provided in a format that prevents copying or downloading in order to protect the confidentiality of information in education records for the students involved.

You may submit a written response within 10 days of reviewing the evidence. Your written response will be considered before I draft the investigative report.

Sincerely,

[Name],
Title IX Investigator

Title IX Final Investigation Report

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on the sex of students in educational institutions that receive federal financial assistance. The Complainant and Respondent may submit relevant¹ questions that they would like asked of a party or witness to the Decision Maker.

A Formal Complaint was filed on [date] by [Name of Complainant or Title IX Coordinator]. This report contains a summary of the 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: _____ from [date] to [date]. The parties have been given the opportunity to inspect and review the evidence gathered in this investigation and an opportunity to provide a written response.

Allegations

Identify the allegations potentially constituting sexual harassment: _____

Procedural Steps

Describe the procedural steps taken from the receipt of the Formal Complaint to date:

- *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: _____*
- *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].*

¹ 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.

- *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.*

Findings 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 CPS report was necessary*
- VI. Whether there is a related criminal/juvenile investigation*
- VII. Evidence from witnesses*
- VIII. Physical or other evidence*
- IX. Consideration of written responses to draft investigative report.*

This is the final investigative report in this matter. The Decision Maker will allow the parties to submit relevant questions for the other party(ies) or witnesses before making a determination of responsibility for sexual harassment.

Title IX Investigator

Date

Title IX Determination of Responsibility – Sexual Harassment Decision

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

CASE INFORMATION (Please Print):

Case Number: _____

Complainant: _____

Campus: _____

Respondent: _____

Campus: _____

Type of Complaint:

Discrimination based on: (Check all that apply)

- Sexual Harassment Sexual Assault Gender Based Harassment Dating Violence Stalking Retaliation Cyber Bullying Other

Nature of Allegations:

- A school employee conditioning an educational benefit or service upon a student's participation in sexual conduct
- 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
- Sexual assault, dating violence, domestic violence, or stalking (as those offenses are defined in the Clery Act, 20 U.S.C. § 1092(f), and the Violence Against Women Act, 34 U.S.C. § 12291(a))

Specific Allegations

Identify the allegations potentially constituting sexual harassment: _____

Procedural Steps

Describe the procedural steps taken from the receipt of the Formal Complaint to date:

- *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.*
- *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].*
- *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.*

Findings 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 CPS report was necessary*
- VI. Whether there is a related criminal/juvenile investigation*
- VII. Evidence from witnesses*
- 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 *[or beyond a reasonable doubt, depending on the burden of proof selected by the district in its regulations]*, it is determined that:

- I. Allegation 1 [Fully listed]
 - a. The Respondent has been determined to have/have not engaged in sexual harassment or other prohibited conduct under the district's FFH policy and/or student code of conduct....
 - b. The reasoning for the finding. . .
- II. Allegation 2 [Fully listed]
 - a. The Respondent has been determined to have/have not engaged in sexual harassment or other prohibited conduct under the district's FFH policy and/or student code of conduct....
 - b. The reasoning for the finding. . .
- III. Allegation 3 [Fully listed]
 - a. The Respondent has been determined to have/have not engaged in sexual harassment or other prohibited conduct under the district's FFH policy and/or student code of conduct....
 - b. The reasoning for the finding. . .

Remedies Provided

Disciplinary Sanctions

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

- Sanction 1
- Sanction 2
- Etc.

Supportive Measures to Complaint: *(Select only those that apply and provide details. 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: _____

Supportive Measures to Respondent: (Select only those that apply and provide details. 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 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(s), or Decision Maker has a conflict of interest or bias for or against Complainants or Respondents.

Name

Title IX Decision Maker

Date

cc: Title IX Coordinator

Title IX 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 the sex of students 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.

APPEAL REQUESTER’S INFORMATION (Please Print):

Case Number: _____

Name: _____

Date of Title IX Decision: _____

Basis for Appeal:

- 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; and
- The Title IX Coordinator, Investigator(s), or Decision Maker has a conflict of interest or bias for or against Complainants or Respondents.

Please describe the basis for your appeal.

Your signature

Date

This appeal must be submitted to the Title IX Coordinator within 10 calendar days. Once an appeal is received, the other party will be notified and provided with an opportunity submit a written response within five calendar days. An administrator who was not the Investigator, Title IX Coordinator, or Decision Maker will make a decision on the appeal. Both parties will be notified of the outcome.

DISTRICT LETTERHEAD

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

[Date]

[Adult Student Complainant/Parent/Guardian]

[Address]

Re: Notice of Appeal of Determination of Responsibility
Case No. _____

The Complainant/Respondent in the above referenced matter filed an appeal of the Decision Maker's determination of responsibility. A copy of the appeal 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 this statement via mail or email to the Title IX Coordinator who will provide the statement to the administrator who will issue a final decision.

Sincerely,

[Name],
Title IX Coordinator

Title IX 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.

APPEAL REQUESTER'S INFORMATION (Please Print):

Case Number: _____

Complainant's Name: _____

Email: _____

Home Address _____

City _____ State _____ Zip code _____

Phone Numbers: (Cell) _____ Work _____

Employee ID: _____ Job Title: _____

Employee's School/Office Location: _____

Appeal Basis:

Appeal was based on: (Check all that apply)

Procedural Error Substantive Error New Information Other

After carefully considering the appeal and the submissions of all parties, there **will/will not** be a change in the decision made by the District.

Rationale: _____

Decision Maker on Appeal

Date

cc: Copy of decision to both parties simultaneously
Title IX Coordinator