

**TITLE IX, SEXUAL HARASSMENT**

**TEMPLATES**

**JOINTLY PREPARED BY:**

**THE BEARD LEGAL GROUP**

**AND**

**THE LEVIN LEGAL GROUP, P.C.**



**August 2020**

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# **1. SCHOOL BOARD RESOLUTION RE: TITLE IX COMPLIANCE**

## Title IX Regulations Template

### **IMPORTANT PRECAUTIONS - PLEASE READ CAREFULLY BEFORE USE**

The following template Resolution is proposed/recommended for purposes of ensuring/affirming the School District's compliance with the Title IX regulations coming into effect as of August 14, 2020, while District Administration takes the time necessary to give appropriate thought and consideration to proposed Policy updates addressing extensive and important requirements arising under the new Title IX regulations which require certain selections and designation of officials and time periods that may vary in accordance with School Districts' needs, size, and operations.

The Resolution is recommended for adoption giving the short period of time arising between the issuance of the proposed PSBA policy and attachments distributed for addressing these issues on July 31, 2020, and the August 14, 2020 effective date.

School District administration and ultimately School Boards should review and develop a Policy and comply with all requirements and updates necessitated by the Title IX regulations. This Resolution may be adopted in the interim but is only a temporary measure; further policy adoption and development/implementation of grievance procedures remains necessary in order to ensure compliance with the new regulations.

**Resolution affirming adoption and compliance with Title IX Regulations effective as of August 14, 2020**

Motion made by \_\_\_\_\_ and seconded by \_\_\_\_\_ that:

1. Effective August 14, 2020, and until the School Board adopts a comprehensive Policy, the School District shall comply with and implement all requirements set forth within the Title IX regulations adopted at 34 C.F.R. Part 106 and made effective August 14, 2020;

2. Any existing policies or practices that are inconsistent with or in violation of any of the requirements, terms or conditions of the Title IX regulations are hereby superseded effective August 14, 2020;

3. The Superintendent is hereby directed and authorized to take the following actions, and any/all actions necessary to effectuate said actions, in compliance with the Title IX regulations:

- a. To designate one or more Title IX Coordinators;
- b. To designate one or more investigators under Title IX;
- c. To designate an initial decisionmaker(s) and an appeal decisionmaker(s) under Title

IX;

- d. To designate a facilitator;
- e. To establish supportive measures as required by Title IX;
- f. To make arrangements for and provide required training;
- g. To amend the Student Code of Conduct as may be required by Title IX;
- h. To adopt and/or amend the Employee Code of Conduct as may be required by Title

IX;

- i. To ensure that all required notices are provided;
- j. To ensure that all required postings to the website are appropriately posted; and
- k. To develop and adopt Administrative Regulations that will ensure compliance with

Title IX.

[END OF TEMPLATE]

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## **2. INCIDENT REPORT**

On Friday, July 31, 2020, the Pennsylvania School Boards Association (“PSBA”) published its sample Policy. Included with the Policy were three attachments, including an incident report form or template. It is recommended that any public school entity that subscribes to the PSBA Policy service utilize that form, but we caution that it should be made consistent with the entities policies and practices. Because PSBA has a copyright protection, we are not reproducing it here.

## **3. INTAKE FORM**

On Friday, July 31, 2020, the Pennsylvania School Boards Association (“PSBA”) published its sample Policy. Included with the Policy were three attachments, including an intake form or template. It is recommended that any public school entity that subscribes to the PSBA Policy service utilize that form, but we caution that it should be made consistent with the entities policies and practices. Because PSBA has a copyright protection, we are not reproducing it here.

## **4. FORMAL COMPLAINT**

On Friday, July 31, 2020, the Pennsylvania School Boards Association (“PSBA”) published its sample Policy. Included with the Policy were three attachments, including an formal complaint form or template. It is recommended that any public school entity that subscribes to the PSBA Policy service utilize that form, but we caution that it should be made consistent with the entities policies and practices. Because PSBA has a copyright protection, we are not reproducing it here.

## 5. NOTICE TO COMPLAINANT

Title IX Sexual Harassment Template

### **IMPORTANT PRECAUTIONS - PLEASE READ CAREFULLY BEFORE USE**

**The following pages are a Template.** This is a template providing a format and identification of information that should be included in a letter notice to a Complainant once a formal complaint is received or signed by the Title IX Coordinator.

**Format Changes.** The format of this Template should be adjusted as necessary. Neither this page nor any language appearing in brackets should appear in any final document.

[DISTRICT LETTERHEAD]

CONFIDENTIAL

[Date]

**Via Email [and Regular Mail]**

[Name (include names and address of parents/guardians of parties, if known)]

[Address]

[Email address]

**Re: Title IX Complaint - Notice of Allegations of Sexual Harassment and of Grievance Process**

Dear [Name of Complainant and of Parents/Guardians]:

In my capacity as Title IX Coordinator for the School District, I have [received] [signed] a formal complaint that includes allegations of sexual harassment that [were made by] [or] [pertain] to [Insert Name], the “complainant.” This letter constitutes the [Insert] School District’s notice to you, the complainant, of allegations of sexual harassment and of the School District’s grievance process. I am also sending a similar written notice to [Insert Name], the “respondent.”

Please be advised of the following:

1. The School District has been notified of the following allegations, which are contained in the formal complaint.
  - [Include here a summary of the allegations potentially constituting Title IX sexual harassment, including sufficient details known at the time. Sufficient details include:
    - The identity of the parties involved, if known.
    - The conduct allegedly constituting sexual harassment.
    - The date and location of the alleged incidents, if known.]
2. Enclosed for your reference is a copy of the District’s grievance process for formal complaints [and the District’s informal resolution process, if any]. Please be sure to review this document as it contains important information about your rights.
3. In connection with the grievance process, you may have an advisor of your choice, who may be, but is not required to be, an attorney. The advisor may inspect and review evidence.
4. I wish to conduct [or Insert Name, a designated investigator, wishes to conduct] an initial interview with you on [Date and Time] at [Location]. [Be sure to provide sufficient time for the recipients of the letter to prepare a response before any initial interview or to otherwise participate in the interview.] If you cannot attend an interview at that time, please contact me [or the designated investigator] promptly to schedule a different time.

5. My contact information is:

[Address]

[Phone numbers]

[Email]

[If there is a designated investigator: The investigator's contact information is:]

[Address]

[Phone numbers]

[Email]

1. [If applicable, provide notice to all known parties of any additional allegations that the District decides to investigate during the course of the investigation.] The District is also aware of the following allegations that it will also investigate in connection with the formal complaint. Those allegations are as follows: [Insert here, including "sufficient details" as described above.]

2. [If applicable] Please be aware that Board policy [Insert Number] and the District's Code of Student Conduct [Insert Section] prohibit knowingly making false statements or knowingly submitting false information to school officials in connection with reports of misconduct or discrimination complaints.

3. At the conclusion of the grievance process, a written determination regarding responsibility will be made. Until that time, **the respondent is presumed to be not responsible for the alleged conduct.**

You are reminded that you are prohibited from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX, including, among other things, making a report or formal complaint of sexual harassment.

In addition, you are directed to maintain confidentiality regarding your status as a party in this matter, the identity of the parties, and the identity of any witnesses, except as may be permitted by law or regulations relating to the conduct of any investigation. See e.g., 20 U.S.C. § 1232g; 34 CFR Parts 99, 106; [relevant District policies]. If you have any concerns about confidentiality or whether it has been or will be maintained in this matter, please report them to me [or the investigator].

Thank you in advance for your anticipated cooperation in this process.

Sincerely,



*[Name of Title IX Coordinator]*

[END OF TEMPLATE]

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## 6. NOTICE TO RESPONDENT

Title IX Sexual Harassment Template

### IMPORTANT PRECAUTIONS - PLEASE READ CAREFULLY BEFORE USE

**The following pages are a Template.** This is a template providing a format and identification of information that should be included in a letter notice to a Respondent once a formal complaint is received or signed by the Title IX Coordinator.

**Format Changes.** The format of this Template should be adjusted as necessary. Neither this page nor any language appearing in brackets should appear in any final document.

[DISTRICT LETTERHEAD]

CONFIDENTIAL

[Date]

**Via Email [and Regular Mail]**

[Name (include names and address of parents/guardians of parties, if known)]

[Address]

[Email address]

**Re: Title IX Complaint - Notice of Allegations of Sexual Harassment and of Grievance Process**

Dear [Name of Respondent and of Parents/Guardians]:

In my capacity as Title IX Coordinator for the School District, I have [received] [or] [signed] a formal complaint that includes allegations of sexual harassment against you, the "respondent" that were [made by] [or] [pertain] to [Insert Name], the "complainant." This letter constitutes the [Insert] School District's notice to [Insert Name], the respondent, of allegations of sexual harassment and of the School District's grievance process. I am also sending a similar written notice to [Insert Name], the complainant.

Please be advised of the following:

1. The School District has been notified of the following allegations, which are contained in the formal complaint.
  - [Include here a summary of the allegations potentially constituting Title IX sexual harassment, including sufficient details known at the time. Sufficient details include:
    - The identity of the parties involved, if known.
    - The conduct allegedly constituting sexual harassment.
    - The date and location of the alleged incidents, if known.]
2. Enclosed for your reference is a copy of the District's grievance process for formal complaints [and the District's informal resolution process, if any]. Please be sure to review this document as it contains important information about your rights.
3. In connection with the grievance process, you may have an advisor of your choice, who may be, but is not required to be, an attorney. The advisor may inspect and review evidence.
4. I wish to conduct [or Insert Name, a designated investigator, wishes to conduct] an initial interview with you on [Date and Time] at [Location]. [Be sure to provide sufficient time for the recipients of the letter to prepare a response before any initial interview or to otherwise participate in the interview.] If you cannot attend an interview at that time,

please contact me [or the designated investigator] promptly to schedule a different time. My contact information is:

[Address]

[Phone numbers]

[Email]

[If there is a designated investigator: The investigator's contact information is:]

[Address]

[Phone numbers]

[Email]

1. [If applicable, provide notice to all known parties of any additional allegations that the District decides to investigate during the course of the investigation.] The District is also aware of the following allegations that it will also investigate in connection with the formal complaint. Those allegations are as follows: [Insert, including "sufficient details" as described above.]

2. [If applicable] Please be aware that Board policy [Insert Number] and the District's Code of Student Conduct [Insert Section] prohibit knowingly making false statements or knowingly submitting false information to school officials in connection with reports of misconduct or discrimination complaints.

3. At the conclusion of the grievance process, a written determination regarding responsibility will be made. Until that time, **the respondent is presumed to be not responsible for the alleged conduct.**

You are reminded that you are prohibited from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX, including, among other things, making a report or formal complaint of sexual harassment.

In addition, you are directed to maintain confidentiality regarding your status as a party in this matter, the identity of the parties, and the identity of any witnesses, except as may be permitted by law or regulations relating to the conduct of any investigation. See e.g., 20 U.S.C. § 1232g; 34 CFR Parts 99, 106; [relevant District policies]. If you have any concerns about confidentiality or whether it has been or will be maintained in this matter, please report them to me [or the investigator].

Thank you in advance for your anticipated cooperation in this process.

Sincerely,

*[Name of Title IX Coordinator]*

[END OF TEMPLATE]

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## 7. NOTICE TO WITNESSES

Title IX Sexual Harassment Template

### **IMPORTANT PRECAUTIONS - PLEASE READ CAREFULLY BEFORE USE**

**The following pages are a Template.** This is a template providing a format and identification of information that should be included in a letter notice to a Witness once a formal complaint is received or signed by the Title IX Coordinator.

**Format Changes.** The format of this Template should be adjusted as necessary. Neither this page nor any language appearing in brackets should appear in any final document.

[DISTRICT LETTERHEAD]

CONFIDENTIAL

[Date]

**Via Email [and Regular Mail]**

[Name (include names and address of parents/guardians, if known)]

[Address]

[Email address]

**Re: Title IX Complaint - Notice of Allegations of Sexual Harassment and of Investigation**

Dear [Name of Witness and of Parents/Guardians]:

In my capacity as Title IX Coordinator for the School District, I have [received] [signed] a formal complaint that includes allegations of sexual harassment that [were made by] [or] [pertain] to [Insert Name], the "complainant." This letter constitutes the [Insert] School District's notice to you, a person who we understand is a potential witness to activities relevant to this matter, of allegations of sexual harassment and of the School District's grievance process.

Please be advised of the following:

1. The School District has been notified of the following allegations, which are contained in the formal complaint.

- [Include here a summary of the allegations potentially constituting Title IX sexual harassment, including sufficient details known at the time. Sufficient details include:
  - The identity of the parties involved, if known.
  - The conduct allegedly constituting sexual harassment.
  - The date and location of the alleged incidents, if known.]

2. I wish to conduct [or Insert Name, a designated investigator, wishes to conduct] an initial interview with you on [Date and Time] at [Location]. [Be sure to provide sufficient time for the recipients of the letter to prepare a response before any initial interview or to otherwise participate in the interview.] If you cannot attend an interview at that time, please contact me [or the designated investigator] promptly to schedule a different time. My contact information is:

[Address]

[Phone numbers]

[Email]

[If there is a designated investigator: The investigator's contact information is:]

[Address]

[Phone numbers]

[Email]

1. [If applicable, provide notice to all known parties of any additional allegations that the District decides to investigate during the course of the investigation.] The District is also aware of the following allegations that it will also investigate in connection with the formal complaint. Those allegations are as follows: [Insert, including "sufficient details" as described above.] These additional allegations will be addressed during the initial interview.

2. [If applicable] Please be aware that Board policy [Insert Number] and the District's Code of Student Conduct [Insert Section] prohibit knowingly making false statements or knowingly submitting false information to school officials in connection with reports of misconduct or discrimination complaints.

3. At the conclusion of the grievance process, a written determination regarding responsibility will be made. Until that time, **the respondent is presumed to be not responsible for the alleged conduct.**

You are reminded that you are prohibited from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX, including, among other things, making a report or formal complaint of sexual harassment.

In addition, you are directed to maintain confidentiality regarding your status as a witness in this matter, the identity of the parties, and the identity of any other witnesses, except as may be permitted by law or regulations relating to the conduct of any investigation. See e.g., 20 U.S.C. § 1232g; 34 CFR Parts 99, 106; [relevant District policies]. If you have any concerns about confidentiality or whether it has been or will be maintained in this matter, please report them to me [or the investigator].

Thank you in advance for your anticipated cooperation in this process.

Sincerely,

[Name of Title IX Coordinator]

[END OF TEMPLATE]



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**8. NOTICE WHEN DELAY OR EXTENSION OF TIME IS NECESSARY**

Title IX Sexual Harassment Template

**IMPORTANT PRECAUTIONS - PLEASE READ CAREFULLY BEFORE USE**

**The following pages are a Template.** This is a template providing a format for a letter notice to the parties to a grievance if a delay or extension of time if necessary with respect to deadlines set forth in the School District's grievance procedures

**Format Changes.** The format of this Template should be adjusted as necessary. Neither this page nor any language appearing in brackets should appear in any final document.

[DISTRICT LETTERHEAD]

CONFIDENTIAL

[Date]

**Via Email [and Regular Mail]**

**[Send two separate letters: One to each complainant and parents/guardians, if any, and another to each respondent and parents/guardians, if any]**

[Name (include names and address of parents/guardians, if known)]

[Address]

[Email address]

**Re: Title IX Complaint – Notice of delay or extension of time frames**

Dear [Insert]:

I write in connection with the currently pending grievance pertaining to allegations of sexual harassment. Under the School District's "Discrimination Complaint Procedures" (copy enclosed) and applicable regulations, reasonably prompt timeframes have been established for the conclusion of the grievance process. It has become apparent that some established timeframes included in these procedures require adjustment, and good cause exists to allow for a temporary delay or a limited extension of time.

A delay or extension of time is required because [insert discussion of factors indicating why good cause exists for the delay or extension of time. Under the regulations, "good cause" for a delay **may include, but is not limited to**, considerations such as: (1) the absence of a party, a party's advisor or a witness; (2) concurrent law enforcement activity; or (3) the need for language assistance or the accommodation of disabilities.] In light of the [insert the relevant factors], I conclude that good cause exists for a delay or extension of time of the required timeframes.

[Include a brief discussion of what will happen next and what the next deadlines will be, if they can be determined. For example, maybe you will need an extra 7 days to accommodate disabilities. There, you can determine the deadline for next steps. But if there are concurrent law enforcement activities, you may not know when those activities will end and when you will be able to proceed with the grievance. If so, specify a date by which you will follow up.]

You are reminded that you are prohibited from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX, including, among other things, making a report or formal complaint of sexual harassment.

In addition, you are again directed to maintain confidentiality regarding your status as a party in this matter, the identity of the parties, and the identity of any witnesses, except as may be permitted by law or regulations relating to the conduct of any investigation. See e.g., 20 U.S.C. § 1232g; 34 CFR Parts 99, 106; [*relevant District policies*]. If you have any concerns about confidentiality or whether it has been or will be maintained in this matter, please report them to me [*or the investigator*].

Thank you in advance for your anticipated cooperation in this process.

Sincerely,

[*Name of Title IX Coordinator or designated investigator*]

[END OF TEMPLATE]

**Cautionary Note: These are legal documents when issued by the public school entity in connection with a Title IX matter. It is important that you proofread the document carefully, that formatting be checked, that automatic numbering be reviewed, and that the document be checked to ensure that there are no errors and that “cutting,” “copying” and “pasting” do not change the contents, formatting or numbering that is not intended.**

## **9. LETTER RE: INSPECTION OF EVIDENCE**

Title IX Sexual Harassment Template

### **IMPORTANT PRECAUTIONS - PLEASE READ CAREFULLY BEFORE USE**

**This following pages are a Template.** This is a template providing an outline/format and identification of information that should be included in and/or with a letter to the parties enclosing all evidence obtained in the course of the Title IX Investigation which directly relates to the allegations, which is referred to here and within the Investigative Report Template as an “Evidence Appendix.” The template letter must be updated with case-specific information and cannot be used in its current form. Instructions and descriptions of information to be included appear within brackets in italicized font and should be replaced and/or removed from the final document.

**Review and Inspection of Evidence.** Title IX regulations require Investigators 1) to make all evidence directly related to the allegation(s) available to the parties for inspection and review for a period of at least 10 days (school or calendar, as determined by School Entity’s Policy) prior to completion of the Investigative Report, in order to 2) afford the parties an opportunity to provide a meaningful response, if desired, to the Investigator, and to 3) consider any responses provided before completing the Report. This Template consists of a letter to be issued to the parties which explains these rights and provides the evidence of inspection and review, in the form of an “Evidence Appendix, which would be created separately and attached to the letter.

**Evidence Appendix.** The “Evidence Appendix” is itself a compilation of all evidentiary records obtained in the course of the Investigation which directly relate to the allegations. Each evidentiary record within it should ideally be numbered and also identified and listed by number in a Table of Contents to the Appendix. The Evidence Appendix should include the Intake Form containing the initial report, the Formal Complaint, Notes or Transcripts of Interviews, and all other supporting evidence and information collected and obtained in the course of the investigation which directly relates to the allegations.

**Redactions/Exclusions.** Title IX regulatory guidance directs that information should not be obtained as part of the investigation if it cannot legally be disclosed to the parties for inspection and review. However, School Entities and/or Investigators should take care to determine whether any information in the Evidence Appendix must be excluded or redacted pursuant to applicable law (i.e. Title IX regulations, FERPA, HIPAA) and/or unwaived privilege. If certain evidence contains information which in part should not be disclosed for these reasons, redaction is permissible. If redactions are made, a privilege log or other notice explaining the basis for the redaction should developed and likewise included within the Evidence Appendix to properly notify the parties. Consultation with legal counsel on these issues is recommended.

**Authorship and Issuance.** The Letter and Evidence Appendix should be issued by the Investigator to the parties simultaneously, at least 10 days prior to the completion of the Investigative Report. Following completion of the parties’ review period, the Appendix should be updated to include any written response and/or notes of any verbal response provided by a party to the Investigator. It is recommended that the Evidence Appendix also ultimately be affixed as an attachment, i.e. Appendix, to the Investigative Report.

**THIS PAGE AND ALL LANGUAGE IN BRACKETED ITALICS SHOULD NOT APPEAR IN ANY FINAL DOCUMENT**

[LETTERHEAD]

[DATE]

[NAME]

**In Re: Title IX Investigation, Complaint No. \_\_\_\_\_  
Inspection and Review of Evidence**

Dear \_\_\_\_\_:

Pursuant to [*name*] School District Policy [*103 or other Title IX Policy No.*] and applicable Title IX regulations, both the Complainant and the Respondent are to be afforded an equal opportunity to inspect and review any evidence which has been obtained as part of a Title IX sexual harassment investigation and which is directly related to the allegations raised within the formal Complaint, as well as an opportunity to provide a response to such evidence, prior to the completion of the Investigative Report. Enclosed with letter you will find an Evidence Appendix which contains all evidence obtained as part of the investigation which directly relates to the allegations of the Complaint, for your inspection and review.

In accordance with applicable Policy and Title IX regulations, you will have a period of [*number*] [*school/calendar*] days to review the attached information and submit any response which you would like the undersigned Investigator to consider prior to completing the investigative report. This Response should be submitted in writing addressed to my attention, [*via email/other method*] at [*insert email address/other address*] no later than the close of business on [*date*].

The information included within the attached Evidence Appendix includes all evidence, both inculpatory and exculpatory, that relates to the allegations under investigation. The provision of this information for inspection and review, at this stage of the investigation, does not necessarily mean that the evidence has been or will be deemed relevant, nor does it indicate that the evidence has been or will be relied upon for purposes of determining an outcome to the investigation. The scope of information being provided at this time may in fact be broader than that which is relied upon or otherwise determined to be relevant within the Investigative Report, and has not been screened for purposes of any relevance determination at this time. See 85 Fed. Reg. at 30,304.

Guidance from the US Department of Education included with the Title IX regulations indicates that any evidence that may relate to the allegations in a formal complaint, but which cannot be legally shared with the parties due to applicable law and/or unwaived privilege should not be obtained as part of the Investigation. See 85 Fed. Reg 30, 435. However, in instances where evidence directly relating to the allegations in a formal Complaint may partially contain information that cannot be legally shared with the parties and/or which would otherwise be barred from use due to legally-recognized and unwaived privilege, Investigators are permitted to redact such information, as well as exclude information that is not directly related to the allegations. See

id; see also 30 C.F.R. Section 106.459(b)(5)(i). *[Include the following only if redactions and a privilege log have been utilized:]* *In this instance, redaction of certain information included within the attached evidence appendix has been deemed necessary and is further documented and explained at the end of the attached Evidence Appendix.*

*[Include the following paragraph only if a nondisclosure agreement has been utilized:]*

*As you will recall, at the outset of the investigation you executed a nondisclosure agreement (“NDA”) which prohibits you from disseminating or disclosing any of the evidence being provided for your inspection and review and/or from using such evidence for any purpose unrelated to the Title IX grievance process and investigation. You are reminded that pursuant to the NDA, you have agreed that you will not photograph or otherwise copy the evidence, including but not limited to any “sensitive” or personally identifiable material included within it. These restrictions do not restrict you from discussing the investigation or information obtained within it for purposes of gathering information and/or responding; rather it restricts you from doing so for any purpose that is not related to the current Investigation.*

If you have any questions or believe you may require accommodations to assist with accessing the attached information, please contact me at your earliest convenience via the contact information provided above.

Sincerely,

*[Name, Title]*

*[Designated Investigator]*

Enclosure: Evidence Appendix

[END OF TEMPLATE]

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## **10. NOTICE RE INVESTIGATIVE REPORT & RIGHT TO SUBMIT QUESTIONS**

Title IX Sexual Harassment Template

### **IMPORTANT PRECAUTIONS - PLEASE READ CAREFULLY BEFORE USE**

**The following pages are a Template.** This is a template providing an outline/format and identification of information to be included in a Letter enclosing the Investigative Report and discussing the parties' rights to submit to the Decision-Maker a written response and/or written questions directed to the other party and/or witnesses. It must be updated with case-specific information and cannot be used in its current form. Instructions and descriptions of information are provided within brackets in italicized font and should be replaced and/or removed from the final document.

**Format Changes.** The format of this Template may be adjusted to reference content included within attachments as needed for space and/or clarity.

**Authorship and Delivery:** Per the Title IX regulations, regardless of whether a K-12 School Entity chooses to hold a live hearing (as determined in School Policy) following the issuance of the Investigative Report, **the parties must be afforded at least 10 days (school or calendar, as determined by School Policy) to review and provide a written response, and to “to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.”** This period is intended to afford an opportunity akin to cross examination, and as a result, the regulations mandate that the written questions and answers be submitted to and exchanged by the Decision-Maker, specifically.

Given that the issuance of the Investigative Report triggers this period, it is recommended that the parties' rights regarding the foregoing submission and exchange of written questions be included in the cover letter and/or content of the electronic submission delivering the Investigative Report, *i.e.*, the template letter provided below, which should be authored and issued by the Investigator.

However, following that point all written submissions from the parties must be directed to and exchanged by the Decision-Maker.

**The following template consists of suggested language for a cover letter or content to be included in an electronic transmission of the Investigative Report which likewise outlines the parties' rights to review, provide a written response, and provide written questions to another party or witness.**

**THIS PAGE AND ALL LANGUAGE IN BRACKETED ITALICS SHOULD NOT APPEAR IN ANY FINAL DOCUMENT**



CONFIDENTIAL

[Date]

[Name]

In re: Title IX Complaint – Investigative Report and Related Rights

Dear \_\_\_\_\_:

Enclosed please find the Investigative Report rendered in the above-referenced matter. This Report is being provided to both parties simultaneously, as well as [Name], who is the designated Decision-Maker in this matter and will be rendering a Written Determination regarding the Outcome of the Formal Complaint.

In accordance with the School District's Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints published as Policy [*103-AR-3 or other Policy No.*] and Title IX Regulations published at 34 C.F.R. Part 106, each party has a period of [*Insert number from Policy*] days to review the Investigative Report and submit a written response, and if desired, submit relevant written questions they want to be asked of the other party or a witness in follow up to receipt and review of the Investigative Report.

Any written response and/or written questions should be submitted directly to [*Name of Decision-Maker*], at [*contact information/mode of submission*] within [*Insert number*] [*school/calendar*] days of your receipt of this Letter and Investigative Report. [*Name of Decision-Maker*] will then distribute them to the party or witnesses.

Written Answers and any limited follow up questions must likewise be directed to the Decision-Maker, [*name*], who will facilitate an exchange with the appropriate parties. Follow-up questions must be submitted by each party within [*Insert number*] [*school/calendar*] days of being provided any answers to the initial questions submitted. In the event a decision is made to exclude any question due to irrelevance or applicable law or privilege, a written explanation of the exclusion of the question will be provided to you by [*Name of Decision-Maker*].

Additional information regarding this process is described within the School District's Grievance Procedures, and the Notice of Allegations you were issued at the outset of this matter, which you are encouraged to review.

*Sincerely,*

*[Name of Designated Investigator]*

*Cc: [Name], Decision-Maker*

[END OF TEMPLATE]

## **11. INVESTIGATIVE REPORT**

### Title IX Sexual Harassment Template

#### **IMPORTANT PRECAUTIONS - PLEASE READ CAREFULLY BEFORE USE**

**This following pages are a Template.** This is a template providing an outline/format and identification of information that should be included in and/or with an Investigative Report under Title IX regulations. It must be updated with case-specific information and cannot be used in its current form. Instructions and descriptions of information that should be included are provided within brackets in italicized font and should be replaced and/or removed from the final report.

**Evidence Appendix.** Title IX regulations require Investigators to make all evidence directly related to the allegation(s) available to the parties for inspection and review for a period of ten days (business or calendar, as determined by School Entity's Policy) prior to completion of the Investigative Report, to afford the parties an opportunity to provide a meaningful response, and to consider any responses provided before completing the Report. This Template assumes and references the creation of an "Evidence Appendix" which would be compiled and organized as a separate record or compilation of evidentiary records, including the Intake Form containing the initial report, the Formal Complaint, Notes or Transcripts of Interviews, and all other supporting evidence and information collected and obtained in the course of the investigation which directly relates to the allegations. This Evidence Appendix is what would then be shared with the Complainant and Responding parties for purposes of affording them an opportunity to provide a meaningful response, at least ten days before the Report is completed.

The Evidence Appendix may be provided electronically or in hard copy, and should be updated, following completion of the ten-day review period, to include any written response provided by a party or notes of any verbal response provided to the Investigator.

It is recommended that the Evidence Appendix ultimately be affixed as an attachment, i.e. an Appendix, to the Investigative Report, and is referenced throughout this Template Report

**Redactions/Exclusions.** Title IX regulatory guidance directs that information should not be obtained as part of the investigation if it cannot legally be disclosed to the parties for inspection and review. However, School Entities and/or Investigators should take care to determine whether any information in the Evidence Appendix must be excluded or redacted pursuant to applicable law (i.e. Title IX regulations, FERPA, HIPAA) and/or unwaived privilege. If so, if certain evidence contains information which in part should not be disclosed for these reasons, redaction is permissible. If redactions and/or exclusions are made, the District should include either a privilege log or other notice developed and likewise included within the Evidence Appendix to address the basis for any such exclusions/redactions. Title IX regulations also permit the use of a Non-Disclosure Agreements for limited purposes, which may alleviate concerns about redaction/exclusion. Consultation with legal counsel on these issues is recommended.

**Format Changes.** The format of this Template may be adjusted to reference content included within attachments as needed for space and/or clarity. Any such attachments consisting of actual content of any specified Section of this Report should be included in a separate Appendix that is compiled and labeled separately from any Appendix of Evidence referenced elsewhere within the Report.

**THIS PAGE SHOULD NOT APPEAR IN ANY FINAL REPORT.**

*[Insert school district name here]*

*[Complaint # \_\_\_\_\_]*

## INVESTIGATIVE REPORT

### Title IX Sexual Harassment Investigation

This Report addresses a Formal Complaint alleging facts which, if proven, may constitute sexual harassment in violation of Title IX of the Education Amendments Act of 1972 and related School Policies and Code of Conduct provisions of the *[Insert Name]* School District, as further specified below.

*[Insert name here]*, has been designated to conduct the investigation into these allegations in accordance with the School District’s Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints published as Policy *[103-AR-3 or other Policy No. assigned to Grievance Procedures]* and Title IX Regulations published at 34 C.F.R. Part 106.

This Report does not constitute or include a Determination regarding Responsibility and does not reach any conclusions or decisions regarding the outcome of the allegations involved. Rather, its intent is to provide a fair, impartial, and objective summary of relevant evidence obtained in the course of the investigation. As described by the U.S. Department of Education, the investigation is to entail a thorough search for relevant facts and evidence pertaining to a particular case, subject to the constraints of designated, reasonably prompt timeframes, and the absence of subpoena powers.

This Report has been drafted and completed following the provision of an equal opportunity for each party to inspect, review, and provide a meaningful response to any and all evidence obtained in the course of the investigation which is directly related to the allegations, including, any/all inculpatory evidence and exculpatory evidence, whether provided by a party or another source. All such evidence provided to the parties is included in the attached Evidence Appendix.

#### **I. Persons Involved:**

Parties and Witnesses:                    *[Insert Name, Title/Position/ for each label below]*

Complainant:

Respondent: :

Witness(es):

Designated Title IX officials: *[Insert Name, Title after the label for each below]*

Title IX Coordinator:

Designated Investigator  
Decision-Maker  
Appeal Authority:

## II. Allegations and Pertinent Background:

Date/Timeframe of Reported Incident(s): *[Date/Timeframe]*  
Date of Initial Report: *[Date/Timeframe]*  
Person making Initial Report: *[Name, Title/Position/Relationship]*  
To whom Report was made: *[Name, Title/Position/Relationship]*

*[If applicable:] A copy of the Intake form addressing the initial report is included within the Evidence Appendix as **Item** \_\_.*

Date of Formal Complaint: *[Date]*  
Person making Formal Complaint: *[Name, Title/Position/Relationship]*

**A copy of the Formal Complaint addressing is included within the Evidence Appendix as *Item* \_\_.**

### Allegations of Initial Report/Formal Complaint:

*[Describe allegation and pertinent background information here; include dates/timeframe of incidents, dates allegations were first submitted and to whom, reference and/or quote/summarize intake form and formal complaint and include Formal Complaint and Intake Forms, as attachments, within the Appendix to the Report. If/where possible, conclude this section with a numbered list of the allegations]*

### Additional Allegations:

*[If applicable, describe any allegations that arose additionally in the course of the investigation, in the same fashion described above; remember that witnesses can also become complainants, that additional allegations should be referred to the Title IX Coordinator, and that multiple complaints arising from the same set of facts can be consolidated. Include the date/timeframe of the incident[s], the person reporting the allegations, the date of referral of the additional allegations to the Title IX Coordinator (if applicable) and the date of the Title IX Coordinator's issuance of written Notice of Additional Allegations to the parties involved. Be sure to include this date in the list of Procedural Notices at Part V as well. If not applicable, remove this section of Part II.]*

### School Policies and Code of Conduct Provisions Implicated:

*[List School Board Policies and Code of Conduct provisions potentially violated and/or implicated]*

### Jurisdiction/Authority to Investigate.

The *[Name]* School District has jurisdiction to investigate this matter in accordance with District Policy 103, which addresses the District's obligations and authority to investigate allegations of Title IX sexual harassment as well as violations of other policies and provisions of the School's Code of Conduct to which the allegations may relate.

Facts have been gathered so that a determination may be made as to whether the Title IX regulations apply, and if so, whether the alleged conduct occurred. These matters will ultimately be determined by the Decision-maker, and conclusions regarding them are not contained herein. For reference, a determination of whether the Title IX regulations apply requires that all of the following elements be present:

1. The School District is a recipient of federal funds and is thus subject to Title IX of the Education Amendments Act of 1972.
2. The allegations in this matter are asserted as occurring within or against a person in the United States.
3. The allegations in this matter are asserted as occurring within the scope of the School District's educational programs or activities.
4. The Complainant and Respondent are currently actively participating in the School District's educational programs or activities.
5. The allegations, if proven, would constitute sexual harassment in violation of Title IX of the Education Amendments Act of 1972.

*[Note: If any of the numbered items above are discovered not be not accurate, the Investigator or Title IX Coordinator should consult with legal counsel as whether the dismissal of the Complaint may be permitted or required.]*

### **Procedural Notices and Communications.**

*[List by date, Title, and Recipient all notices issued to all parties and witnesses up to date of completion of Investigative Report. This list must include the date the parties were provided the Evidence Appendix for Inspection and Review, as shown below. Refer to Title IX Regulations/Policy 103 for notices that may need to be issued and/or initiated by the Investigator during course of Investigation]*

***[Insert Title of Notice]***

Date/Manner of Issuance: *[Date/Mode of Delivery -U.S. mail, email, etc.]*

Sender: *[Name, Title]*

Recipient(s): *[Name, Title/Position/Party or Witness Status]*

***[Insert Title of Notice]***

Date/Manner of Issuance: *[Date/Mode of Delivery -U.S. mail, email, etc.]*

Sender: *[Name, Title]*

Recipient(s): *[Name, Title/Position/Party or Witness Status]*

**Production of Evidence Appendix for Inspection and Review**

Date/Manner of Issuance: *[Date/Mode of Delivery -U.S. mail, email, etc.]*

Sender: *[Name, Title]*

Recipient(s): *[Name, Title/Position/Party or Witness Status]*

**Complainant Interviews and Submitted Information**

**Interviews Conducted with Complainant:**

Date(s):

Location(s):

Individuals Present:

**Summary of Interviews:**

*[Optional -Describe/Summarize relevant information provided which with reference to Interview Notes/Transcript included in Appendix.. If multiple interviews occurred, or a response was made to the distribution of evidence, note this here]*

***[Notes/Transcript]* of the Interviews conducted with the Complainant are included within the Evidence Appendix at *Item \_\_.***

**Relevant Additional Information Provided by Complainant:**

*[List additional non-verbal information submitted that is relevant – written documents, emails, texts, etc. provided with dates, identification of sender/author and recipients, and relevance/relationship to allegations; Include all actual documents/records submitted which directly relate to the allegations (even if not deemed relevant) as attachments numbered and/or lettered within the Evidence Appendix and identify the fact that it is included there..]*

**Respondent Interview(s) and Submitted Information:**

Date(s):

Location(s):

Individuals Present:

**Summary of Interview(s):**

*[Optional -Describe/Summarize relevant information provided which with reference to Interview Notes/Transcript included in Appendix.. If multiple interviews occurred, or a response was made to the distribution of evidence, note this here]*

***[Notes/Transcript]* of the Interviews conducted with the Respondent are included within the Evidence Appendix at *Item \_\_.***

**Relevant Additional Information Provided by Respondent:**

*[List additional non-verbal information submitted that is relevant – written documents, emails, texts, etc. provided with dates, identification of sender/author and recipients, and relevance/relationship to allegations; Include all actual documents/records submitted which directly relate to the allegations (even if not deemed relevant) as attachments numbered and/or lettered within the Evidence Appendix and identify the fact that it is included there..]*

### **Witness Interviews and Submitted Information**

***[Insert witness name and title here]:***

- a. Date(s):
- b. Location(s):
- c. Individuals Present:
- d. **Summary of Interview(s):**

*[Optional -Describe/Summarize relevant information provided which with reference to Interview Notes/Transcript included in Appendix. If multiple interviews occurred, or a response was made to the distribution of evidence, note this here]*

**[Notes/Transcript] of the Interview(s) conducted with Witness are included within the Evidence Appendix at *Item* \_\_.**

#### **Relevant Additional Information Provided by Witness:**

*[List additional non-verbal information submitted that is relevant – written documents, emails, texts, etc. provided with dates, identification of sender/author and recipients, and relevance/relationship to allegations; Include all actual documents/records submitted which directly relate to the allegations (even if not deemed relevant) as attachments numbered and/or lettered within the Evidence Appendix and identify the fact that it is included there..]*

2. ***[Insert witness name and title here]:*** *Same as above, continue for all additional witnesses*

### **Additional Relevant Information:**

*[If applicable list any/all additional relevant information and/or investigation that occurred which does not fit within the headings above here, such as site visits, file inspections, review of attendance records, etc. and include any/all corresponding evidence/records that directly relate to the allegations in the Evidence Appendix. Include a statement indicating where each item/record appears in the Evidence Appendix, where applicable. Remove this Section if no additional information needs to be listed]*

**Summary of Relevant Evidence**

*[Identify all facts and information deemed relevant to allegation in numbered list, Conflicting factual assertions can and should be listed with appropriate description/explanation. Can organize by allegation, if multiple incidents/allegations involved. May identify information that has not been provided, if particularly relevant].*

**Certification of Evidence Shared with the Parties for Inspection and Review**

The undersigned Investigator hereby certifies, by signing below, that the attached Evidence Appendix includes all evidence and information obtained in the course of the investigation which directly relates to the allegations and which was not excluded from disclosure by applicable law or unwaived privilege. All evidence contained in the attached Appendix was distributed to the Complainant and Respondent for inspection and review prior to the completion of this report, on the date specified in Section V above, at which time the parties’ rights to respond were explained. Any/all responses by the parties were likewise reviewed and considered by the Investigator prior to the completion of this Report and are included in the Evidence Appendix at *Item* \_\_.

*[Include the following if applicable because information had to be excluded or redacted, remove if not:]* Certain evidentiary records which were obtained and required to be disclosed to the parties because they directly related to the allegations but also included, in part, information which is prohibited from disclosure pursuant to applicable law and/or unwaived privilege. Such information was therefore excluded and/or redacted from the evidentiary records containing it. An *[explanation/privilege log]* of such exclusions was likewise provided to the parties for inspection and review and is included at the end of the Evidence Appendix.

This Report summarizes relevant evidence obtained as a result of a thorough, objective, and impartial investigation, and is rendered this \_\_\_\_\_ day of \_\_\_\_\_, 20xx, by:

---

*Insert Name and Title below  
Signature*

[END OF TEMPLATE]

**Cautionary Note: These are legal documents when issued by the public school entity in connection with a Title IX matter. It is important that you proofread the document carefully, that formatting be checked, that automatic numbering be reviewed, and that the document be checked to ensure that there are no errors and that “cutting,” “copying” and “pasting” do not change the contents, formatting or numbering that is not intended.**



## **12. NOTICE OF WRITTEN QUESTIONS & ANSWERS REQUESTED**

### Title IX Sexual Harassment Template

#### **IMPORTANT PRECAUTIONS - PLEASE READ CAREFULLY BEFORE USE**

**The following pages are a Template.** This is a template providing an outline/format and identifying information that should be included in and/or with a letter to any party or witness (“Answering Party”) to whom the other party (“Questioning Party”) has submitted written questions following receipt of an Investigative Report. It **must** be updated with case-specific information and cannot be used in its current form. Instructions and descriptions of information to be included appear within brackets in italicized font and should be replaced and/or removed from the final document.

**Authorship and Delivery:** Per the Title IX regulations, regardless of whether a K-12 School Entity chooses to hold a live hearing (as determined in School Policy) following the issuance of the Investigative Report, the parties must be afforded at least 10 days (school or calendar, as determined by School Policy) following the issuance of the Report to review and provide a written response to the Report and **“to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.”** This period is intended to afford an opportunity akin to cross examination, and thus the written questions, answers, and any follow questions must be submitted to and exchanged by the Decision-Maker, specifically.

**Attaching Questions and Answers.** The attached letter is intended to notify and provide the party or witness with the Written Questions being directed to them, and to request the submission of written answers to be submitted back to the Decision-Maker. **The letter must therefore enclose the following:**

1. The Written Questions directed to the Party; and
2. A Form and/or Instructions on submitting Answers to the Questions. A suggested Answer Form is included however it is emphasized that it may not be suited to all the types of questions asked, and should be adjusted on a case by case basis with the goal being to ensure that all questions are clearly relayed to the Answering Party or Witness.

**Delivering Answers and Receiving/Exchanging Follow Up Questions.** The attached letter may be modified to become a letter to the Questioning Party, providing the Written Answers received, and providing direction as to when and how limited follow up questions may be submitted. It may likewise be modified to issue follow-up questions and again to issue answers, as applicable. It is drafted in a form that universally addresses the timelines for doing so, in order to facilitate this process.

All correspondence regarding exclusions of written questions should be directed and authored by the Decision-Maker to the party who has submitted them.

**THIS PAGE AND ALL LANGUAGE IN BRACKETED ITALICS SHOULD NOT APPEAR IN ANY FINAL DOCUMENT**

*[School District Name/Letterhead]*

*[Complaint No. \_\_\_\_\_]*

CONFIDENTIAL

*[Date]*

*[Name of Party]*

Re: Title IX Complaint  
Notice of Written Questions and Request for Written Answers

Dear *[Name Party]*:

This correspondence is being issued in follow up to receipt of written questions submitted by *[name of Questioning Party]* and directed to you in follow up to the issuance of the Investigative Report in the above-referenced matter. The Written Questions are enclosed with this Correspondence for your review and Written Answers to each question are hereby being requested of you. You may, but are not required, to utilize the attached Answer Form to answer the questions, and should submit your Answers in writing, addressed to my attention, at *[insert address here]* within *[insert number of days]* days of receiving this letter. If you are submitting additional documents, please indicate that you are doing so and attach them with your Written Answer(s).

Please be advised that following my receipt of any Answer(s) you may provide, I will be providing them to the *[name of Questioning Party]* for purposes of review and the potential submission of limited follow up questions that *[name of Questioning Party]* may wish to ask. Any follow up questions will be distributed back to you for further responses, which again shall be due within *[number]* of days of your receipt of them, and should be submitted in the same fashion described above.

Sincerely,

*[Insert name of decision-maker(s)]*

Encl: Written Questions  
Suggested Answer Form

**INSERT/PROVIDE WRITTEN QUESTIONS HERE**

**TITLE IX ANSWER FORM**

---

Questioning Party: \_\_\_\_\_

Answering Party: \_\_\_\_\_

Date: \_\_\_\_\_

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**Question 1:**  Admit  Deny  Admit in Part/ Deny in Part  Lack of sufficient information

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**Question 2:**  Admit  Deny  Admit in Part/ Deny in Part  Lack of sufficient information

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**Question 3:**  Admit  Deny  Admit in Part/ Deny in Part  Lack of sufficient information

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**Question 4:**  Admit  Deny  Admit in Part/ Deny in Part  Lack of sufficient information

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Additional documents attached?  yes  no

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Print Answering Party's Name

---

Answer Party Signature

Date

[END OF TEMPLATE]

**Cautionary Note: These are legal documents when issued by the public school entity in connection with a Title IX matter. It is important that you proofread the document carefully, that formatting be checked, that automatic numbering be reviewed, and that the document be checked to ensure that there are no errors and that “cutting,” “copying” and “pasting” do not change the contents, formatting or numbering that is not intended.**

### **13. NOTICE REGARDING EXCLUSION OF WRITTEN QUESTIONS**

Title IX Sexual Harassment Template

#### **IMPORTANT PRECAUTIONS - PLEASE READ CAREFULLY BEFORE USE**

**The following pages are a Template.** This is a template providing an outline/format and identifying information that should be included in and/or with a letter to any party that has submitted written questions following receipt of an Investigative Report, when it has been determined that the written question and/or response of information to it must be excluded under the Title IX regulations and/or other applicable law legally-recognized, unwaived privilege. It **must** be updated with case-specific information and cannot be used in its current form. Instructions and descriptions of information to be included appear within brackets in italicized font and should be replaced and/or removed from the final document.

**Format Changes.** The format of this Template may be adjusted to reference content included within attachments as needed for space and/or clarity.

**Authorship and Delivery:** Per the Title IX regulations, regardless of whether a K-12 School Entity chooses to hold a live hearing (as determined in School Policy) following the issuance of the Investigative Report, the parties must be afforded at least 10 days (school or calendar, as determined by School Policy) following the issuance of the Report to review and provide a written response to the Report and **“to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.”** This period is intended to afford an opportunity akin to cross examination, and thus the written questions, answers, and any follow questions must be submitted to and exchanged by the Decision-Maker, specifically.

**Exclusions Log.** The attached letter discusses the various basis upon which a Decision-Maker may determine that a written question must be excluded under applicable law, legally-recognized and unwaived privilege, and/or in relation to relevancy, and includes form for an Exclusions Log which may be utilized to properly identify and explain the exclusion applied to any question submitted. Decision-Makers evaluating written questions to answers should remain cognizant of the potential areas of exclusion when evaluating written questions and answers, and take care to examine submitted questions for such purposes before issuing them to the party to whom they are directed, as well as upon receipt of any answers that might mistakenly or inadvertently identify information that should be excluded. Consultation with legal counsel is recommended, when examining and/or evaluation whether a basis for exclusion exists, and when completing the letter and log provided below.

All correspondence regarding exclusions of written questions should be directed and authored by the Decision-Maker to the party who has submitted them.

**THIS PAGE AND ALL LANGUAGE IN BRACKETED ITALICS SHOULD NOT APPEAR IN ANY FINAL DOCUMENT**

*[School District Name/Letterhead]*

*[Complaint No. \_\_\_\_\_]*

CONFIDENTIAL

*[Date]*

*[Name of Questioning Party]*

Re: Title IX Complaint - Explanation(s) for Exclusion of Questions

Dear *[Questioning Party]*:

This correspondence is being issued in follow up to receipt of written questions you submitted in follow up to receipt of the Investigative Report, which you wished to be asked of another party/witness, including, specifically, *[name of person(s) to whom excluded questions were directed]*. The School District Policy as well as Title IX Regulations afford you the right to submit such questions but also recognize that the Decision-Maker may deem it necessary to exclude certain questions on the basis of relevancy, and/or where otherwise prohibited by law and/or legally-recognized and unwaived privilege. The following list details reasons that such an exclusion might occur:

*Prior Sexual History.* Section 106.45(b)(6)(i) of the Title IX regulations contain rape shield protections providing that questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, with two limited exceptions arising only when 1) such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondents committed the conduct alleged by the complainant, or 2) if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

*Legally-Recognized and Unwaived Privilege.* Title IX regulations set forth at §106.45(b)(1)(x) prohibit a School Entity's grievance process from requiring, allowing, relying on, or otherwise using questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived it. This prohibition against the use of information protected under a legally recognized privilege applies at all stages of the grievance process, including but not limited to the investigator's gathering of

evidence, inspection and review of evidence, investigative report, and any of the proceedings and/or exchanges of information that may follow.

*Medical and Psychological Records.* Within the Title IX Regulations at 106.145(b)(5)(i), the U.S. Department of Education specifically prohibits the inclusion and/or disclosure of any party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party. Such medical, psychological, and similar records of a party cannot be accessed, considered, disclosed, or otherwise used unless that party has given voluntary, written consent. This restriction applies even where HIPAA and/or any state-law equivalent do not apply.

*Other Applicable Law.* The *[Name]* School District likewise reserves the right to exclude any content that may not be disclosed under applicable law.

Some of the questions you submitted have been excluded on the basis of their relevancy and/or in accordance with the other prohibitions discussed above. Please see the attached form for a list of these questions as well as a basis for their exclusion.

Sincerely,

*[Insert decision-maker(s) name(s) here]*

Encl.: Exclusions Log

### Decision-Maker's Exclusions Log

Questioning Party:

Person(s) to whom Questions were directed:

Written Question(s)	Specific Language or Material to be Excluded	Basis for Exclusion (Circle One)	Additional Explanation
		Prior Sexual History  Legally-Recognized, Unwaived Privilege  Medical or Psychological Records  Other	
		Prior Sexual History  Legally-Recognized, Unwaived Privilege  Medical or Psychological Records  Other	
		Prior Sexual History  Legally-Recognized, Unwaived Privilege  Medical or Psychological Records  Other	

[END OF TEMPLATE]



**Cautionary Note: These are legal documents when issued by the public school entity in connection with a Title IX matter. It is important that you proofread the document carefully, that formatting be checked, that automatic numbering be reviewed, and that the document be checked to ensure that there are no errors and that “cutting,” “copying” and “pasting” do not change the contents, formatting or numbering that is not intended.**

## 14. WRITTEN DETERMINATION

### IMPORTANT PRECAUTIONS - PLEASE READ CAREFULLY BEFORE USE

**This following pages are a Template.** This is a template providing an outline/format and identification of information that should be included in and/or with a Written Determination under Title IX regulations. It must be updated with case-specific information and cannot be used in its current form. Instructions and descriptions of information that should be included are provided within brackets in italicized font and should be removed from the final document.

**Format Changes.** The format of this Template may be adjusted to reference content included within attachments as needed for space and/or clarity. This page and all other language appearing in bracketed italics should not appear in any final report.

**Delivery of the Written Determination:** In order to maintain clarity as to the date appeal periods commence, the Written Determination should be signed and dated on the same day it is issued to the parties. The Written Determination must be issued to the parties simultaneously.

**The following is suggested language for a cover letter or content to be included in an electronic transmission of the Written Determination**

*CONFIDENTIAL*

*[Date]*

*[Name]*

*In re: Title IX Complaint – Written Determination*

*Dear \_\_\_\_\_:*

*As you are aware, the [name] School District has designated me as the decision-maker relative to the above-referenced complaint. A Written Determination regarding Responsibility rendered in regard to the complaint is attached and discusses the outcome of this matter. [Optional: may include brief sentence stating the outcome and that further detail is included in the Written Determination]*

*The Written Determination is being provided to both parties simultaneously. Please note that each party has a right to appeal a determination of responsibility and/or dismissal of a Complaint or specified allegations within it. Important information regarding the scope, timelines, and procedures for pursuing an appeal are included with the Written Determination and should be reviewed carefully.*

*Sincerely,  
[Name of Decision-Maker]*

*Cc: Title IX Coordinator*

**PAGE AND ALL LANGUAGE IN BRACKETED ITALICS SHOULD NOT APPEAR IN ANY FINAL DOCUMENT**

*[Insert school district name here]*  
*[Complaint No.]*

**WRITTEN DETERMINATION**

**Introductory Matters**

This Written Determination addresses a Formal Complaint alleging sexual harassment in violation of Title IX of the Education Amendments Act of 1972 and related School Policies and Code of Conduct provisions of the *[Insert Name]* School District, as further specified below. The parties and designated Title IX officials involved in this matter are as follows:

Complainant:	<i>[Name, Title/Position/Relationship]</i>
Respondent :	<i>[Name, Title/Position/Relationship]</i>
Title IX Coordinator:	<i>[Name, Title/Position/Relationship]</i>
Designated Investigator:	<i>[Name, Title/Position/Relationship]</i>
Decision-Maker:	<i>[Name, Title/Position/Relationship]</i>
Appeal Authority:	<i>[Name, Title/Position/Relationship]</i>

*[Insert name here]*, has been designated to as the decision-maker for purposes of rendering a determination regarding responsibility, based on an objective evaluation of the relevant evidence produced as a result of the investigation into the subject allegations in accordance with the School District’s Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints published as Policy *[103-AR-3 or other Policy No.]* and Title IX Regulations published at 34 C.F.R. Part 106.

This Written Determination has been drafted and completed following the provision of an equal opportunity for each party to review the Investigative Report rendered in this matter and to exchange written questions and answers in follow up to receipt of the Report.

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Introductory Matters

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    - o Rationale
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V. Notice of Appeal Rights and Procedures

**I. ALLEGATIONS AND PERTINENT BACKGROUND:**

**A. Allegations of Initial Report/Formal Complaint:**

*[Describe allegation and pertinent background information here; include dates allegations were first submitted and to whom, reference and/or quote/summarize intake form and formal complaint; break down into a numbered list, if possible, each allegations for which a determination of responsibility must be made]*

**A. Additional Allegations:**

*[If applicable describe any allegations that arose additionally in the course of the investigation in the same fashion as described above]*

**C. School Policies and Code of Conduct Provisions Implicated:**

*[List or Describe in a narrative the School Board Policies and Code of Conduct provisions potentially violated and/or implicated and reference specific provisions addressing allegations at issue]*

**II. PROCEDURAL HISTORY**

*[Provide a description of the procedural steps taken from the receipt of the formal complaint through the determination, including all notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; This can appear in list form and should include dates, akin to timeline. It must include dates and notices of issuance of Investigative Report, date of any responses made to same, etc. The examples provided below are only a sampling of some of the Notices that will have been issued; all notices issued in the specific case must be included]*

***[Receipt of Initial Report/Intake if applicable]***

Date/Manner of Issuance: *[Date/Mode of Delivery -U.S. mail, email, etc.]*

Sender: *[Name, Title]*

Recipient(s): *[Name, Title/Position/Party or Witness Status]*

**Submission/Filing of Formal Complaint**

Date/Manner of Issuance: *[Date/Mode of Delivery -U.S. mail, email, etc.]*

Sender: *[Name, Title]*

Recipient(s): *[Name, Title/Position/Party or Witness Status]*

**Notice of Allegations Issued to Complainant:**

Date/Manner of Issuance: *[Date/Mode of Delivery -U.S. mail, email, etc.]*

Sender: *[Name, Title]*

Recipient(s): *[Name, Title/Position/Party or Witness Status]*

**Notice of Allegations Issued to Respondent:**

Date/Manner of Issuance: *[Date/Mode of Delivery -U.S. mail, email, etc.]*  
Sender: *[Name, Title]*  
Recipient(s): *[Name, Title/Position/Party or Witness Status]*

**Notice of Investigation/Scheduling Issued to Parties/Witnesses**

Date/Manner of Issuance: *[Date/Mode of Delivery -U.S. mail, email, etc.]*  
Sender: *[Name, Title]*  
Recipient(s): *[Name, Title/Position/Party or Witness Status]*

**Interviews conducted with Parties and Witnesses**

*[List by Name: Date, Location/Mode of Interview]*

**Other Information Gathered**

*[List written submissions by sender, recipient, and date; identify dates of any site visits, etc]*

**Investigator’s Production of Evidence for Inspection and Review**

Date/Manner of Issuance: *[Date/Mode of Delivery -U.S. mail, email, etc.]*  
Sender: *[Name, Title]*  
Recipient(s): *[Name, Title/Position/Party or Witness Status]*

**Investigative Report Issued to School Entity, Complainant, Respondent**

Date/Manner of Issuance: *[Date/Mode of Delivery -U.S. mail, email, etc.]*  
Sender: *[Name, Title]*  
Recipient(s): *[Name, Title/Position/Party or Witness Status]*

**Notice of Rights to Submit Written Questions following Receipt of Report**

Date/Manner of Issuance: *[Date/Mode of Delivery -U.S. mail, email, etc.]*  
Sender: *[Name, Title]*  
Recipient(s): *[Name, Title/Position/Party or Witness Status]*

***[Written Questions and Answers Exchanged between Parties/Witnesses (if any)]***

Date/Manner of Issuance: *[Date/Mode of Delivery -U.S. mail, email, etc.]*  
Sender: *[Name, Title]*  
Recipient(s): *[Name, Title/Position/Party or Witness Status]*

**III. AUTHORITY AND EVIDENTIARY STANDARD**

**A. Jurisdiction/Authority**

The *[Name]* School District has jurisdiction to investigate and issue a Determination this matter, in accordance with District Policy *[103]* which addresses the District’s obligations and authority

to investigate allegations of Title IX sexual harassment as well as policies and/or provisions of the School's Code of Conduct to which the allegations may relate.

Jurisdiction and utilization of the Title IX grievance process has been deemed appropriate based on the following findings of fact:

1. The School Entity is a recipient of federal funds governed by Title IX of the Education Amendments Act of 1972.
2. The allegations in this matter are asserted as occurring within or against a person the United States.
3. The allegations in this matter are asserted as occurring within the scope of the School District's educational programs and/or activities
4. The Complainant and Respondent are currently actively participating in the School District's educational programs and/or activities.
5. The allegations, if proven, would constitute sexual harassment in violation of Title IX of the Education Amendments Act of 1972.

*[Note: If any of the numbered items above are determined not to be accurate, the dismissal of the Complaint may be mandated, or permitted, on this basis]*

#### **A. Evidentiary Standard**

In order to render a determination regarding responsibility based on the allegations asserted, [*insert school district here*] Policy [*insert policy number here*], provides that the standard of evidence required is a preponderance of evidence. As such, the relevant inquiry is whether the evidence demonstrates that it is more likely than not that particular events or conduct occurred, and/or that a fact is more likely to be true and accurate than not. This standard is often referred to as "50 percent plus a feather."

Pursuant to a preponderance of evidence standard, the party bearing the burden of proof must present evidence which is more credible and convincing than that presented by the other party or which shows that the fact to be proved is more probable than not.

Credibility is the process of weighing the accuracy and veracity of evidence. To assess credibility, the source, content, and plausibility of what is offered must be evaluated. When source, content, and plausibility are strong, credibility is strong. Some aspects of credibility are weighted based on neutrality, impartiality, and objectivity. Credibility is best established through corroboration, which is provided through sufficient independent evidence to support the fact at issue. Credibility assessments are not ever based on an individual's status as a Complainant, Respondent, or Witness.

In accordance with Title IX regulations and corresponding School District policy, the Respondent is at all times during the course of the grievance process and investigation presumed not to have committed the conduct alleged, unless and until such time that a Determination of Responsibility has been made.

#### **IV. RESPONSIBILITY DETERMINATION**

In accordance with Title IX regulations and corresponding School District policy, the following is addressed below with respect to each of the allegations raised in this matter: A) Findings of Fact Supporting the Determination; B) Conclusions regarding the application of the School Entity's Code of Conduct and/or Board Policies to the Facts; and C) Responsibility Determination and Rationale, including, where applicable, a discussion of any Disciplinary Sanctions and Remedies to be Provided.

**Allegation 1:**

*[Describe allegation, may include brief statement of outcome at the end, as responsible/not responsible, before proceeding to Parts A B and C]*

**FINDINGS OF FACT SUPPORTING THE DETERMINATION**

*[List or describe in narrative form all facts deemed to support the determination made regarding the allegation, by a preponderance of the evidence. If appropriate, any determinations of credibility may be addressed here as well as within the sections below]*

**CONCLUSIONS REGARDING APPLICATION OF CODE OF CONDUCT/BOARD POLICIES**

*[Discuss provisions of code of conduct and policies at issue and whether or not the a preponderance of the evidence indicates that they have been violated]*

**DETERMINATION OF RESPONSIBILITY AND RATIONALE**

1. RATIONALE

*[Include a statement of, and rationale for, the result as to each allegation, including an express statement of the determination regarding responsibility, assessment of the facts in accordance with the preponderance of the evidence standard, and if applicable, any assessment of credibility made, in order to reach the conclusion of whether the allegation was substantiated, i.e. whether the conduct occurred and whether the Respondent is responsible for said conduct.]*

2. DISCIPLINARY SANCTIONS

*[any disciplinary sanctions the recipient imposes on the respondent must be discussed here, or else it should be confirmed as to why any such sanctions have not been imposed, i.e. because there was no finding of responsibility or violation of codes of conduct/board policies.]*

3. REMEDIES

*[Must state whether remedies designed to restore or preserve equal access to the recipient's education program or activity have been or will be provided by the recipient to the complainant and what those will be, may include supportive measures or other remedies]*

**Allegation 2:** *[Continue in same fashion as above until all allegations are addressed].*

## V. NOTICE OF RIGHTS TO APPEAL AND APPEAL PROCEDURES

Each party to this matter has a right to appeal a determination of responsibility and/or the dismissal of any Formal Complaint or allegation contained within it, within [*insert number indicated in policy*]   days after the date of the Written Determination indicated below.

**A notice detailing important information regarding the scope and basis on which an appeal may be sought and the procedures and timelines for an appeal are provided on the last page(s) of this Written Determination and should be reviewed carefully.**

If an appeal is filed, this Written Determination will be deemed final as of the date indicated below, which is likewise the date on which it is being provided to both parties.

If an appeal is not filed, this Written Determination shall become and be deemed final upon the expiration of appeal period, i.e.    days from the date indicated below.

This Written Determination is rendered following an objective evaluation of all relevant evidence this        day of                     , 20xx, by:

---

*Insert Name and Title below  
Signature*

## TITLE IX APPEAL RIGHTS AND PROCEDURES

Each party to this matter has a right to appeal a determination regarding responsibility and/or the dismissal of any Formal Complaint or allegation contained within it, by submitting written notice to the Title IX Coordinator within [*insert number indicated in policy*]  [*school/calendar*] days after the date of the Written Determination.

In accordance with the School District's Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints published as Policy [*103-AR-3 or other Policy No. assigned*] and Title IX Regulations published at 34 C.F.R. Part 106, the scope of appeals related to Title IX sexual harassment is limited. The Appeal must be based on one of the following reasons:

1. A procedural irregularity occurred and affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and/or



3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent, and such conflict or bias affected the outcome of the matter.

Written Notice of Appeal must be submitted to the appeal shall be submitted to [Insert Title IX Coordinator's name here], Title IX Coordinator, within [insert number of school days here] school days after the date of the written determination. The Party's Notice of Appeal should include a brief statement describing which of the above-referenced reasons serves as the basis for the appeal and why.

[Insert Title IX Coordinator's name here], Title IX Coordinator, shall ensure that the designated Appeal Authority is not the same person as the Decision-Maker that reached the determination, the investigator, or the Title IX Coordinator. The designated appeal authority shall be [Insert name]

Once an appeal has been filed, the following procedures and process will apply:

1. The Designated Appeal Authority will issue a Notice of Appeal Filing to the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.

2. Both parties will be afforded a reasonable, equal opportunity to submit a written statement in support of or challenging the stated basis for the appeal.

- a. Appealing Party's Written Statement. An Appealing Party will be afforded an opportunity to submit a written statement in support of the Appeal. This statement should describe in detail, as applicable, the procedural irregularities asserted to have affected the outcome of the determination, the nature of any new evidence asserted to have affected the outcome, and the nature of any bias asserted to have affected the outcome, with an explanation of how the outcome was affected by such factors. If the party has evidence which exists and supports the appeal it shall accompany the supporting statement, or else the Statement shall identify where such evidence may be found.

The Appealing Party's supporting statement must be submitted to [Insert name of Appeal Authority] and provided to the other party within [insert number of school days here] school days following the date of the submission of the party's Notice of Appeal to the Title IX Coordinator.

- b. Responding Party's Written Statement. A Responding Party to an appeal will be afforded an equal opportunity to submit a written statement in opposition to the Appeal. This statement should describe, in detail, the basis for the Responding Party's opposition to the appeal, including the basis for opposing, as applicable, the Appealing Party's assertion of procedural irregularities affecting the outcome of

the determination, of any new evidence affecting the outcome, and the nature of any bias asserted to have affected the outcome, with an explanation of how the outcome was affected by such factors. If a statement in opposition to an appeal refers to any evidence beyond what is described in a supporting statement, it shall accompany the statement in opposition, or else the Statement shall identify where such evidence may be found.

The Responding Party's Statement in opposition to the appeal shall be submitted to [Insert name of Appeal Authority] and provided to the other party within [insert number of school days here] school days of following the date of the submission of the Appeal Party's Written Statement.

3. The Appeal Authority may accept and consider evidence in support of or in opposition to an appeal in making any conclusions necessary to deciding the appeal. Alternatively, when the Appeal Authority determines that factors exist making it necessary for the decision-maker to further develop the evidentiary record relevant to the basis for appeal, the appeal authority may return the matter to the decision-maker for that limited purpose.

#### The Appeal Determination

Following the submission of the party's statements, the Appeal Authority will determine whether the appeal meets the ground for permitted reasons for appeal and justifies modifying the written determination, and will issue a written Appeal Determination setting forth the respects, if any, in which the written determination is modified and the rationale for the results within [insert number of school days here] school days.

The Written Appeal Determination will be provided simultaneously to both parties. A copy of the written decision shall also be provided to the Title IX Coordinator.

The Appeal Determination is final and binding.

[END OF TEMPLATE]

**Cautionary Note: These are legal documents when issued by the public school entity in connection with a Title IX matter. It is important that you proofread the document carefully, that formatting be checked, that automatic numbering be reviewed, and that the document be checked to ensure that there are no errors and that "cutting," "copying" and "pasting" do not change the contents, formatting or numbering that is not intended.**

## **15. TITLE IX APPEAL RIGHTS AND PROCEDURES**

### Title IX Sexual Harassment Template

#### **IMPORTANT PRECAUTIONS - PLEASE READ CAREFULLY BEFORE USE**

**This following pages are a Template.** This is a template providing Notice of Appeal Rights and Procedures under Title IX regulations and School Policy. It must be updated with case-specific information and cannot be used in its current form. Instructions and descriptions of information that should be included are provided within brackets in italicized font and should be replaced and/or removed from the final document.

**Format Changes.** The format of this Template may be adjusted to reference content included within attachments as needed for space and/or clarity. This page and all other language appearing in bracketed italics should not appear in any final report.

**Delivery of the Appeal Determination:** This Notice is required to be included within a Written Determination issued on a Formal Complaint by Title IX Regulations and also appears in the Template provided for that document. This is a “stand-alone” version that may enclosed with correspondence exchanged regarding the Appeal, include on a website, or otherwise incorporated into relevant handbooks, codes of conduct, policies, etc. where not otherwise appearing.

**THIS PAGE AND ALL LANGUAGE IN BRACKETED ITALICS SHOULD NOT APPEAR IN ANY FINAL DOCUMENT**

## TITLE IX APPEAL RIGHTS AND PROCEDURES

Each party to this matter has a right to appeal a determination regarding responsibility and/or the dismissal of any Formal Complaint or allegation contained within it, by submitting written notice to the Title IX Coordinator within [*insert number indicated in policy*]<sub>[school/calendar]</sub> days after the date of the Written Determination.

In accordance with the School District's Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints published as Policy [*103-AR-3 or other Policy No. assigned*] and Title IX Regulations published at 34 C.F.R. Part 106, the scope of appeals related to Title IX sexual harassment is limited. The Appeal must be based on one of the following reasons:

1. A procedural irregularity occurred and affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and/or
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent, and such conflict or bias affected the outcome of the matter.

Written Notice of Appeal must be submitted to the appeal shall be submitted to [*Insert Title IX Coordinator's name here*], Title IX Coordinator, within [*insert number of school days here*] school days after the date of the written determination. The Party's Notice of Appeal should include a brief statement describing which of the above-referenced reasons serves as the basis for the appeal and why.

[*Insert Title IX Coordinator's name here*], Title IX Coordinator, shall ensure that the designated Appeal Authority is not the same person as the Decision-Maker that reached the determination, the investigator, or the Title IX Coordinator. The designated appeal authority shall be [*Insert name*]

Once an appeal has been filed, the following procedures and process will apply:

1. The Designated Appeal Authority will issue a Notice of Appeal Filing to the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.
2. Both parties will be afforded a reasonable, equal opportunity to submit a written statement in support of or challenging the stated basis for the appeal.

Appealing Party's Written Statement. An Appealing Party will be afforded an opportunity to submit a written statement in support of the Appeal. This statement should describe in detail, as applicable, the procedural irregularities asserted to have affected the outcome of the determination,

the nature of any new evidence asserted to have affected the outcome, and the nature of any bias asserted to have affected the outcome, with an explanation of how the outcome was affected by such factors. If the party has evidence which exists and supports the appeal it shall accompany the supporting statement, or else the Statement shall identify where such evidence may be found.

The Appealing Party's supporting statement must be submitted to [Insert name of Appeal Authority] and provided to the other party within [insert number of school days here] school days following the date of the submission of the party's Notice of Appeal to the Title IX Coordinator.

Responding Party's Written Statement. A Responding Party to an appeal will be afforded an equal opportunity to submit a written statement in opposition to the Appeal. This statement should describe, in detail, the basis for the Responding Party's opposition to the appeal, including the basis for opposing, as applicable, the Appealing Party's assertion of procedural irregularities affecting the outcome of the determination, of any new evidence affecting the outcome, and the nature of any bias asserted to have affected the outcome, with an explanation of how the outcome was affected by such factors. If a statement in opposition to an appeal refers to any evidence beyond what is described in a supporting statement, it shall accompany the statement in opposition, or else the Statement shall identify where such evidence may be found.

The Responding Party's Statement in opposition to the appeal shall be submitted to [Insert name of Appeal Authority] and provided to the other party within [insert number of school days here] school days of following the date of the submission of the Appeal Party's Written Statement.

The Appeal Authority may accept and consider evidence in support of or in opposition to an appeal in making any conclusions necessary to deciding the appeal. Alternatively, when the Appeal Authority determines that factors exist making it necessary for the decision-maker to further develop the evidentiary record relevant to the basis for appeal, the appeal authority may return the matter to the decision-maker for that limited purpose.

### The Appeal Determination

Following the submission of the party's statements, the Appeal Authority will determine whether the appeal meets the ground for permitted reasons for appeal and justifies modifying the written determination, and will issue a written Appeal Determination setting forth the respects, if any, in which the written determination is modified and the rationale for the results within [insert number of school days here] school days.

The Written Appeal Determination will be provided simultaneously to both parties. A copy of the written decision shall also be provided to the Title IX Coordinator.

The Appeal Determination is final and binding.

[END OF TEMPLATE]

**Cautionary Note:** These are legal documents when issued by the public school entity in connection with a Title IX matter. It is important that you proofread the document carefully, that formatting be checked, that automatic numbering be reviewed, and that the document be checked to ensure that there are no errors and that “cutting,” “copying” and “pasting” do not change the contents, formatting or numbering that is not intended.

## 16. TITLE IX APPEAL FORM

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### **IMPORTANT PRECAUTIONS - PLEASE READ CAREFULLY BEFORE USE**

**The following pages are a Template.** This is a template providing an outline/format for an Appeal Form to be completed by an Appealing Party after receipt of a Written Determination. It must be updated with case-specific information and cannot be used in its current form. Instructions and descriptions of information to be included appear within brackets in italicized font and should be replaced and/or removed from the final document.

**Appeal Procedures and Handling:** Per the Title IX regulations, an Appeal of a Written Determination must be submitted to the Title IX Coordinator. Following receipt of notice of an appeal submitted by a party (“Appealing Party”) to the Title IX Coordinator, the Title IX Coordinator must notify the Appealing Authority and ensure that the designated Appeal Authority is not the same person as the Decisionmaker that reached the determination, the Investigator, and/or the Title IX Coordinator, if the Title IX Coordinator is not the Investigator.

Title IX regulations further require that for all appeals, the designated Appeal Authority shall then proceed in notifying the other party (“Responding Party”) in writing when an appeal is filed and implement appeal procedures equally for both parties, in addition to providing both parties a reasonable and equal opportunity to submit a written statement in support of or challenging the basis for the appeal.

The Notice of Appeal Filing, and all written notices and correspondence exchanged thereafter, through the date of the issuance of an appeal determination, should be issued by and/or directed to the designated Appeal Authority.

**Distribution/Identification of the Appeal Form:** This Appeal Form Template is prepared separately, as a stand-alone document, but may be included or identified within the Notice of Appeal Rights and Procedures required to appear in the Written Determination, included or identified within a stand-alone Notice of Appeals Rights and Procedures themselves and/or provided separately, or upon request.

If/when received, the Appeal Form should be included within the Notice of Appeal Filing (provided as a separate Template0 issued to the other Party by the Appealing Authority.

**THIS PAGE AND ALL LANGUAGE IN BRACKETED ITALICS SHOULD NOT APPEAR IN ANY FINAL DOCUMENT**

**NOTICE OF APPEAL**  
**TITLE IX WRITTEN DETERMINATION**

Any Party choosing to appeal a Written Determination should submit this Appeal Form to the Title IX Coordinator, *[insert name]* electronically at *[insert email]* or in hard copy addressed to *[insert address]* within *[insert number from policy]* *[school/calendar]* days following the issuance of a Written Determination. Parties are not required to file an Appeal.

Name of Appealing Party: \_\_\_\_\_ Email/Contact Address: \_\_\_\_\_

Name of Advocate(if any): \_\_\_\_\_ Email/Contact Address: \_\_\_\_\_

Title IX Complaint No. \_\_\_\_\_ Party Status (select one): \_\_\_ Complainant \_\_\_ Respondent

Date Appeal is being submitted: \_\_\_\_\_

Grounds Asserted for Appeal: (Check all that are believed to apply)

\_\_\_\_\_ A procedural irregularity affected the outcome of the matter;

\_\_\_\_\_ New evidence was not reasonably available at the time the determination regarding responsibility or dismissal was made, and could affect the outcome of the matter;

\_\_\_\_\_ (Check all that apply)The \_\_\_ Title IX Coordinator, \_\_\_ Investigator(s), or \_\_\_ Decision-Maker(s) had a conflict of interest or bias **for/in favor of:** \_\_\_ Complainants generally \_\_\_ Respondents generally, \_\_\_ Complainant individually, or \_\_\_ Respondent individually, that affected the outcome of the matter.

\_\_\_\_\_ (Check all that apply) The \_\_\_ Title IX Coordinator, \_\_\_ Investigator(s), or \_\_\_ Decision-Maker(s) had a conflict of interest or bias **against/in disfavor of:** \_\_\_ Complainants generally \_\_\_ Respondents generally \_\_\_ Complainant individually or \_\_\_ Respondent individually, that affected the outcome of the matter.

Please provide below, or attach, a **brief** statement detailing the reason for the Appeal and the outcome or other aspect of the Written Determination that you are challenging.

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Signature of Appealing Party \_\_\_\_\_

Date Signed \_\_\_\_\_

**Important Instructions and Dates**

After completing this Appeal Form you will have a period of *[Insert No.]**[school/calendar]* days from the **date of its submission** to submit a Written Statement in support of your appeal to the Appeal Authority, *[name]*, electronically at *[email]* or via hard copy addressed to *[address]* who will then share it with the Responding Party.



The Responding Party will be afforded the same opportunity to submit a Written Statement and any supporting evidence in opposition to the Appeal [*Insert No.*] [*school/calendar*] days following the party's receipt of your Written Statement. If you contend that certain evidence supports your appeal, the Written Statement must either attach that evidence or clearly identify where it may be located.

[END OF TEMPLATE]

**Cautionary Note: These are legal documents when issued by the public school entity in connection with a Title IX matter. It is important that you proofread the document carefully, that formatting be checked, that automatic numbering be reviewed, and that the document be checked to ensure that there are no errors and that “cutting,” “copying” and “pasting” do not change the contents, formatting or numbering that is not intended.**

## **17. NOTICE OF APPEAL FILING**

### Title IX Sexual Harassment Template

#### **IMPORTANT PRECAUTIONS - PLEASE READ CAREFULLY BEFORE USE**

**The following pages are a Template.** This is a template providing an outline/format and identifying information that should be included in and/or with a letter advising a party that an appeal of a Written Determination has been filed. It must be updated with case-specific information and cannot be used in its current form. Instructions and descriptions of information to be included appear within brackets in italicized font and should be replaced and/or removed from the final document.

**Format Changes.** The format of this Template may be adjusted to reference content included within attachments as needed for space and/or clarity.

**Issuance of Notice:** Per the Title IX regulations, following receipt of notice of an appeal submitted by a party (“Appealing Party”) to the Title IX Coordinator, the Title IX Coordinator must ensure that the designated Appeal Authority is not the same person as the Decisionmaker that reached the determination, the Investigator, and/or the Title IX Coordinator, if the Title IX Coordinator is not the Investigator. Title IX regulations further require that for all appeals, the designated Appeal Authority shall notify the other party “Responding Party”) in writing when an appeal is filed and implement appeal procedures equally for both parties, in addition to providing both parties a reasonable and equal opportunity to submit a written statement in support of or challenging this stated basis for the appeal.

The Notice of Appeal Filing, and all written notices and correspondence exchanged thereafter, through the date of the issuance of an appeal determination, should be issued by and/or directed to the designated Appeal Authority

**Enclosures.** The following letter is intended to provide the required notice to the Responding Party when an appeal has been filed, and to provide further information regarding the appeal procedures and timelines for response. As a result, this letter contemplates that the Appeal filed by the Appealing Party and the Notice of Appeal Rights and Procedures (distributed as a separate, stand-alone Template) will be enclosed with this letter, notwithstanding the fact that said procedures and rights must also have been outlined within the Written Determination.

**THIS PAGE AND ALL LANGUAGE IN BRACKETED ITALICS SHOULD NOT APPEAR IN ANY FINAL DOCUMENT**

*[School District Name/Letterhead]*

*[Complaint No. \_\_\_\_\_]*

CONFIDENTIAL

*[Date]*

*[Name of Responding Party]*

Re: Title IX Complaint – Notice of Appeal of Written Determination

Dear *[Responding Party]*:

This correspondence is being issued in order to notify you that an appeal of the written determination rendered in this matter has been filed by *[insert name and designation of Appealing Party]*. A copy of the Appeal filed by *[Name of Appealing Party]* is attached for your review.

Title IX regulations as well as *[insert name]* School District Policy provide you with a right to submit a written statement and/or supporting evidence in response to this appeal, subject to specified timelines adopted within the School District's Title IX Grievance Procedures, and specifically its Appeal Procedures. A Notice providing detailed information relative to your right to respond to this appeal and all/other relevant appeal procedures is attached for your review, and you are encouraged to review it carefully.

Please note that the Appealing Party will have until *[date]* to submit a written statement in support of the Appeal, which may include or otherwise identify any evidence asserted as supporting it, which will likewise be provided to you. You will then have *[number]* *[school/calendar]* days to provide a written statement in opposition to the appeal, if you choose to do so, and will likewise be afforded the opportunity to include or otherwise identify within that statement any evidence that you believe supports your opposition to the appeal. Any and all written submissions should be directed to me, as the designated Appeal Authority at *[contact information for appeal authority]*.

If you have any questions in this or any other regard, or otherwise believe you may be in need of assistance with respect to accessing the attached information, please contact me at your earliest convenience.

Sincerely,

*[Insert decision-maker(s) name(s) here]*

**Encl.: Notice of Appeal Filed by Appealing Party  
Notice of Appeal Rights and Procedures**

[END OF TEMPLATE]

**Cautionary Note: These are legal documents when issued by the public school entity in connection with a Title IX matter. It is important that you proofread the document carefully, that formatting be checked, that automatic numbering be reviewed, and that the document be checked to ensure that there are no errors and that “cutting,” “copying” and “pasting” do not change the contents, formatting or numbering that is not intended.**

## 18. APPEAL DETERMINATION

### Title IX Sexual Harassment Template

#### **IMPORTANT PRECAUTIONS - PLEASE READ CAREFULLY BEFORE USE**

**This following pages are a Template.** This is a template providing an outline/format and identification of information that should be included in and/or with an Appeal Determination under Title IX regulations. It must be updated with case-specific information and cannot be used in its current form. Instructions and descriptions of information that should be included are provided within brackets in italicized font and should be replaced and/or removed from the final document.

**Format Changes.** The format of this Template may be adjusted to reference content included within attachments as needed for space and/or clarity. This page and all other language appearing in bracketed italics should not appear in any final report.

**Delivery of the Appeal Determination:** In order to maintain clarity as to the date appeal periods, the Appeal Determination is recommended to be signed and dated on the same day it is issued to the parties. The Appeal Determination must be issued to the parties simultaneously.

**The following is suggested language for a cover letter or content to be included in an electronic transmission of the Appeal Determination**

*CONFIDENTIAL*

*[Date]*

*[Name]*

*In re: Title IX Complaint – Appeal Determination*

*Dear \_\_\_\_\_:*

*As you are aware, the [name] School District has designated me as the Appeal Authority relative to the above-referenced Appeal. A Written Determination rendered in regard to the Appeal is attached and discusses the outcome of this matter. [Optional: may include brief sentence stating the outcome and that further detail is included in the Appeal Determination]*

*The Appeal Determination has been provided to both parties simultaneously.*

*Sincerely,  
[Name of Appeal Authority]*

*Cc: Title IX Coordinator*

**THIS PAGE AND ALL LANGUAGE IN BRACKETED ITALICS SHOULD NOT APPEAR IN ANY FINAL DOCUMENT**

*[Insert school district name/letterhead here]*  
*[Complaint No.]*

## APPEAL DETERMINATION

### Introductory Matters

This Appeal Determination addresses an appeal filed in follow up a Written Determination rendered by the *[Name]* School District following the investigation of a Formal Complaint alleging sexual harassment in violation of Title IX of the Education Amendments Act of 1972 and related School Policies and Code of Conduct provisions of the *[Insert Name]* School District, as further specified below.

The instant Appeal was originally submitted by *[Name of Appealing Party]* following receipt of a Written Determination from the School Entity's designated Decision Maker, *[name]* on *[date]*.

Per the School District's Policy and instructions included within the Written Determination, the Appeal was directed to the attention of the Title IX Coordinator *[name]* and referred to the undersigned, *[name]* as the designated Appeal Authority.

In accordance with the School District's Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints published as Policy *[103-AR-3 or other Policy No. assigned to Grievance Procedures]* and Title IX Regulations published at 34 C.F.R. Part 106, the designated Appeal Authority shall provide written notice to the other party when an appeal is filed and implement appeal procedures equally for both parties, providing each with a reasonable, equal opportunity to submit a written statement in support of or challenging the stated basis for the appeal, along with any evidence existing to support such statement or an identification of where such evidence may be found. Such evidence may be accepted and considered in making any conclusions necessary to decide the appeal.

Alternatively, when the Appeal Authority determines that factors exist making it necessary for the Decision-Maker to further develop the evidentiary record relevant to the basis for appeal, the Appeal Authority may return the matter to the Decision-Maker for that limited purpose.

The Appeal Authority must then issue a written decision simultaneously to the parties determining whether the appeal meets the grounds for permitted reasons for appeal and whether it justifies modifying the written determination.

This Appeal Determination has been drafted and completed following the provision of an equal opportunity for each party to submit written statements and/or evidence in support thereof.

### Involved Parties:

Appealing Party: *[Name, Complaint or Respondent?]*

Responding Party:: *[Name, Complainant or Respondent?]*  
Title IX Coordinator: *[Name, Title/Position/Relationship]*  
Designated Investigator: *[Name, Title/Position/Relationship]*  
Decision-Maker: *[Name, Title/Position/Relationship]*

**4. ASSERTED REASONS FOR APPEAL AND BACKGROUND:**

3. *Appealing Party. Describe the reasons for the Appellant’s appeal as included within Appellant’s appeal and supporting statement; briefly summarize any supporting arguments and list any evidence submitted in support thereof. If possible conclude with a numbered list of the reasons for the Appeal; At the end include a brief summary of the Responding Party’s arguments in opposition to the Appeal and list any evidence submitted in support of the Responding Party’s written statement]*

**B. PROCEDURAL HISTORY RELEVANT TO APPEAL**

*[Provide A description of the procedural steps taken from the date the Written Determination was rendered through the date of the Appeal Determination. This can appear in list form and should include dates, akin to timeline. The examples provided below are only a sampling of some of the Notices that necessarily will have been issued; all notices issued in the specific case must be included]*

**Issuance of Written Determination**

Date/Manner of Issuance: *[Date/Mode of Delivery -U.S. mail, email, etc.]*  
Sender: *[Name, Title]*  
Recipient(s): *[Name, Title/Position/Party or Witness Status]*

**Filing of Appeal by Appealing Party:**

Date/Manner of Issuance: *[Date/Mode of Delivery -U.S. mail, email, etc.]*  
Sender: *[Name, Title]*  
Recipient(s): *[Name, Title/Position/Party or Witness Status]*

**Submission of Written Statement and/or Evidence by Appealing Party:**

Date/Manner of Issuance: *[Date/Mode of Delivery -U.S. mail, email, etc.]*  
Sender: *[Name, Title]*  
Recipient(s): *[Name, Title/Position/Party or Witness Status]*

**Submission of Written Statement and/or Evidence by Responding Party:**

Date/Manner of Issuance: *[Date/Mode of Delivery -U.S. mail, email, etc.]*  
Sender: *[Name, Title]*  
Recipient(s): *[Name, Title/Position/Party or Witness Status]*

**B. DETERMINATION: BASIS FOR APPEAL**

In accordance with the School District’s Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints published as Policy *[103-AR-3 or other policy no.]* and Title IX

Regulations published at 34 C.F.R. Part 106, an appeal of a Written Determination addressing Responsibility for Title IX sexual harassment may be pursued only one or more of the following permissible grounds:

1. A procedural irregularity that affected the outcome of the matter.
2. New evidence that that could affect the outcome was not reasonably available at the time the decision to dismiss or determination of responsibility was made.
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against the individual complainant or respondent or for or against complainants or respondents generally that affected the outcome of the matter.

*[Insert discussion describing what Appealing party contends are the grounds for the appeal and determine whether the Appealing Party has adequately stated or identified one of the grounds permitting an appeal in this matter. Include a brief rationale for why this or is not the case].*

**B. DETERMINATION: APPEAL OF WRITTEN DETERMINATION**

In accordance with Title IX regulations and corresponding School District policy, the Appeal Authority, after addressing the adequacy of the grounds asserted for the appeal, must next address whether the Appeal Party has established, or proven, one of the bases asserted in support the appeal and whether any aspect of the Written Determination should be modified as a result.

Outcome of Appeal and Rationale

*[State outcome as either being granted or denied, discuss arguments, and provide rationale for outcome that is reached, for each reason adequately and permissibly stated as determined in Section III above. Include discussion of any new evidence submitted and each party's arguments]*

Modification of Written Determination, if any

*[Discuss whether any modification of the Written Determination is necessary/justified as a result of the outcome reached above, and describe in detail what aspects will be modified – i.e.s disciplinary sanctions, remedies, etc.]*

This Appeal Determination is the result of an objective and impartial review of the Appeal, the Written Determination and the evidentiary submissions of the parties, and is rendered this \_\_\_\_\_ day of \_\_\_\_\_, 20xx, by:

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*Insert Name and Title below  
Signature*



[END OF TEMPLATE]

**Cautionary Note: These are legal documents when issued by the public school entity in connection with a Title IX matter. It is important that you proofread the document carefully, that formatting be checked, that automatic numbering be reviewed, and that the document be checked to ensure that there are no errors and that “cutting,” “copying” and “pasting” do not change the contents, formatting or numbering that is not intended.**