

TITLE IX
Davie County Schools
POLICIES, PROCEDURES, AND FORMS

TABLE OF CONTENTS

For Publication on Website

1. Policy 1725/4035/7236 TITLE IX SEXUAL HARASSMENT - PROHIBITED CONDUCT And SCHOOL SYSTEM RESPONSE

This policy defines sexual harassment under Title IX and directs the Superintendent to establish a grievance process consistent with Title IX. This policy sets definitions and principles to be used in the grievance process and mandates training and Title IX-compliant record-keeping.

2. Regulation 1725/4035/7236-R Title IX Sexual Harassment Formal Complaint Grievance Process

This regulation is the formal complaint grievance process to be used when addressing a formal complaint of sexual harassment under Title IX. It describes filing, dismissal, notice, investigation, decision-making, and appeal requirements.

3. Formal Complaint of Title IX Sexual Harassment Form

This form should be made available to any person who wishes to file a formal complaint of sexual harassment under Title IX. It should be put on the website, and the Title IX Coordinator should provide it to any alleged victim of sexual harassment.

For Internal Use

4. Internal Record of Report

The Title IX Coordinator should complete this form every time she receives allegations of sexual harassment. This form is how the Title IX Coordinator shows that she analyzed the situation and addressed it, regardless of whether a formal complaint was filed. These records should be maintained by the Title IX Coordinator.

5. Notice of Supportive Measures

After receiving a report of sexual harassment, the Title IX Coordinator should meet with the alleged victim and provide a copy of the DCS policies, procedures, and formal complaint form. The Title IX Coordinator should also notify the alleged victim that supportive measures are available regardless of whether a formal complaint is filed. After the meeting, the Title IX Coordinator should send this Notice of Supportive Measures, indicating which supportive measures are available under the circumstances. If the complaint moves forward, this notice should also be used to provide the respondent with supportive measures.

6. Notice of Dismissal

This notice should be sent by the Title IX Coordinator in any case where the formal complaint is being dismissed. The notice may be sent after analyzing the formal complaint and determining that the allegations do not constitute sexual harassment under Title IX. The notice may also be sent in cases where the formal complaint is dismissed part-way through the process. Seek legal counsel regarding who should receive the notice.

7. Notice of Formal Complaint and Investigation of Title IX Sexual Harassment

The Title IX Coordinator should send This notice to both the complainant and respondent after receiving a valid formal complaint. Note that the Title IX Coordinator must appoint an investigator, and the investigator should be made aware of their role before this notice is sent.

8. Notice of Investigatory Meeting

The appointed Title IX investigator should send this notice before any meeting with a complainant or respondent. The notice need only go to the person with

whom the Title IX investigator plans to meet and their adviser (if one has been designated).

9. Title IX Investigation Evidence

The Title IX investigator should send this notice to both the complainant and respondent at the same time when they have gathered all of the evidence and are preparing to draft the report. The report may not be completed until 10 days after this notice is sent. The evidence must be available for pick-up at the time the investigator sends this notice.

10. Title IX Investigative Report

The Title IX investigator completes this report. The complainant and respondent are entitled to view the report. Seek legal counsel regarding compliance with applicable privacy laws.

11. Title IX Written Decision

Generally, the Superintendent in DCS is the decision-maker. The Superintendent may designate another person if appropriate to be the decision-maker. The decision-maker completes this final decision document. The final decision document is provided to the complainant and respondent. Seek legal counsel regarding appropriate notices that may need to be attached to the final decision depending on the circumstances.

TITLE IX SEXUAL HARASSMENT – PROHIBITED CONDUCT AND SCHOOL SYSTEM RESPONSE

Policy Code: 1725/4035/7236

The board acknowledges the dignity and worth of all students and employees and strives to create a safe, orderly, caring, and inviting school environment to facilitate student learning and achievement. The board will not tolerate sexual harassment in the education program and activities of the school system. The board takes seriously all reports and formal complaints of sexual harassment. This Title IX sexual harassment policy specifically prohibits sexual harassment as that term is defined under Title IX and directs the Superintendent to establish a formal complaint grievance process that is designed to achieve prompt and equitable resolution of complaints of sexual harassment in accordance with the requirements of Title IX. .

A. PROHIBITED BEHAVIOR

Students, school system employees, volunteers, and visitors are expected to behave in a civil and respectful manner. The board expressly prohibits sexual harassment by students, employees, board members, volunteers, or visitors. “Visitors” includes parents and other family members and individuals from the community, as well as vendors, contractors, and other persons doing business with or performing services for the school system.

Sexual harassment prohibited under Title IX and by this policy is conduct *on the basis of sex* occurring in a school system education program or activity that satisfies one or more of the following:

1. an employee of the school system conditioning the provision of an aid, benefit, or service of the school system on an individual’s participation in unwelcome sexual conduct;
2. unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school system’s education program or activities. This determination requires consideration of all the facts and circumstances, including, but not limited to, the ages and disability statuses of the harasser and the victim and the number of individuals involved and their authority;
3. sexual assault including rape, statutory rape, fondling, and incest;
4. dating violence;
5. domestic violence; or

6. stalking.

Conduct that satisfies this standard is not sexual harassment for purposes of this policy if the conduct occurred (1) outside the United States or (2) under circumstances in which the school system did not have substantial control over both the harasser and the context in which the harassment occurred.

All references to “sexual harassment” in this policy mean sexual harassment that meets this definition. Conduct that is determined not to meet the definition above may violate other board policies or established standards of conduct and will be treated accordingly. Nothing in this policy is intended to limit discipline for violation of other board policies when appropriate and consistent with law.

B. DEFINITIONS

The following additional definitions apply in this policy.

1. Report

A report is an oral or written notification that an individual is an alleged or suspected perpetrator or victim of sexual harassment. No disciplinary action will be taken against a respondent for sexual harassment based on a report alone.

2. Formal Complaint

A formal complaint is a document signed and filed with the Title IX coordinator by a complainant or signed by the Title IX coordinator alleging sexual harassment against a respondent and requesting that school officials investigate the allegation(s). Filing a formal complaint initiates the grievance process set forth in the Title IX Sexual Harassment Grievance Process developed by the Superintendent (1725/4035/7236-R).

At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activities of the school system.

3. Complainant

The complainant is the individual(s) who is alleged to be the victim of conduct that could constitute sexual harassment.

4. Respondent

The respondent is the individual(s) who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

5. Grievance Process

Grievance process means the process for investigating and reaching a final determination of responsibility for a formal complaint of sexual harassment. The sexual harassment grievance process is set out by the Superintendent in 1725/4035/7236-R.

6. Title IX Coordinator

The Title IX coordinator is a school official who is designated to coordinate the school system's response to sexual harassment and allegations of sexual harassment. Contact information for the Title IX coordinator is posted on the school system's website.

7. Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the school system's education program and activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the school system's educational environment, or deter sexual harassment.

Supportive measures available to the parties include, but are not limited to, counseling, mental health services referral, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring, and other similar measures determined by school officials to be necessary to protect the safety or educational or employment activities of a party.

8. Days

Days are calendar days unless specified otherwise.

9. Student(s)

"Student(s)" means the student and/or the student's parent or legal guardian unless the context clearly indicates otherwise. When the complainant or

respondent is a student, references to those terms also include the student's parent or legal guardian unless the context clearly indicates otherwise.

C. REPORTING SEXUAL HARASSMENT

1. Mandatory Reporting by School Employees and Board Members

Any employee or member of the board of education who has actual knowledge of sexual harassment or allegations of sexual harassment occurring in the education program or any activity of the school system must report that information immediately to the Title IX coordinator.

Any of the following confers "actual knowledge" and must be reported immediately:

- a. a report of sexual harassment from a student or other person;
- b. the employee or board member witnesses conduct that is or reasonably could be sexual harassment; or
- c. the employee or board member discovers evidence of sexual harassment, such as sexualized graffiti on school property, or otherwise has reliable information or reason to believe that a student, employee, or other individual may have been sexually harassed in violation of this policy, even if no one has reported the sexual harassment.

Employees who observe an incident of sexual harassment are expected to intervene to stop the conduct in situations in which they have supervisory control over the perpetrator, and it is safe to do so. An employee with actual knowledge of possible sexual harassment in violation of this policy who does not promptly report the conduct and/or take proper action as required by this subsection, or who knowingly provides false information about the incident, will be subject to disciplinary action, up to and including dismissal.

Any doubt about whether particular conduct is possible sexual harassment must be resolved in favor of reporting the conduct.

The mandatory reporting required by this section is in addition to and does not replace other required reporting by school employees.

2. All Other Reports

Any students who believes they are a victim of sexual harassment occurring in the school system's education programs or activities are encouraged to report the matter to the student's principal or to the Title IX coordinator. Reports may also be made to a teacher, counselor, assistant principal, teacher assistant, or any other school employee. Middle and high school students may also report sexual

harassment through the anonymous tip line, but school officials may be limited in their ability to respond if the report does not identify the complainant.

All other members of the school community are strongly encouraged to report any act that may constitute an incident of sexual harassment in violation of this policy to the school principal, the Title IX coordinator, or the superintendent.

3. Content of the Report

To the extent possible, reports should be sufficient to put school officials on notice of conduct that could constitute sexual harassment. Employees making mandatory reports should provide as much detail about the alleged sexual harassment as is known, unless such disclosure would violate law or standards of professional ethics. Reports, other than mandatory reports by employees, may be made anonymously, but anonymous reports may limit the school system's ability to respond fully if the alleged victim is not identified.

4. Time Period for Making a Report

Reports by students and third parties can be made at any time. During non-business hours, reports can be made by using the contact information for the Title IX coordinator provided on the school system's website. A report should be made as soon as possible after disclosure or discovery of the facts giving rise to the report. Delays in reporting may impair the ability of school officials to investigate and respond to any subsequent formal complaint.

School employees and board members with actual knowledge of sexual harassment must report that information immediately, as provided in subsection C.2 above.

D. SCHOOL OFFICIALS' RESPONSE TO ACTUAL KNOWLEDGE OF SEXUAL HARASSMENT

School officials shall respond promptly and impartially to actual knowledge of alleged sexual harassment in a manner that is not deliberately indifferent. Consistent with this duty, school officials shall respond to all reports of conduct that could constitute sexual harassment in accordance with this section. However, a report alleging conduct that is not sexual harassment as defined in this policy is not subject to this policy but may be referred to appropriate school officials as a possible violation of other board policies.

Upon receiving a report of alleged sexual harassment, the Title IX coordinator shall promptly contact the complainant and the complainant's parent or guardian confidentially. The Title IX coordinator shall also notify the principal of the report and, if an employee is the complainant or respondent, the senior human resources official or designee.

After considering the complainant's wishes, the Title IX coordinator shall arrange the effective implementation of appropriate supportive measures unless, in the exercise of good judgment, the Title IX coordinator determines that supportive measures should not be provided

If the complainant declined to file a formal complaint, the Title IX coordinator shall determine on a case-by-case basis whether to sign, i.e., file, a formal complaint to initiate the grievance process. A decision by the Title IX coordinator to sign a formal complaint is not to be construed as supportive of the complainant or in opposition to the respondent or as an indication of whether the allegations are credible or have merit, or whether there is evidence sufficient to determine responsibility. Signing a formal complaint does not make the Title IX coordinator a complainant or party to the complaint nor relieve the Title IX coordinator from any responsibilities under this policy.

E. REQUIREMENTS OF SEXUAL HARASSMENT FORMAL COMPLAINT GRIEVANCE PROCESS

The Superintendent will develop a formal complaint grievance process that complies with the requirements of Title IX and contains the following elements:

1. Presumption of Non-responsibility of Respondent and Bar on Disciplinary Sanctions without Due Process

The respondent identified in any report alleging sexual harassment under this policy will be presumed not responsible for the alleged conduct until the respondent's responsibility is conclusively established through the formal complaint grievance process.

No disciplinary sanction may be imposed for a violation of this policy unless the respondent agrees to a specific disciplinary sanction or action in an informal resolution or has been determined to be responsible for the sexual harassment at the conclusion of a formal complaint grievance process. Notwithstanding the limitation just described, respondents are subject to emergency removal as described in Section F of this policy.

2. Equitable Treatment

Complainants and respondents must be treated equitably throughout the formal complaint grievance process. Relevant evidence collected in the investigation of a formal complaint must be evaluated objectively. No individual designated as a Title IX coordinator, investigator, decision-maker, or appeal decision-maker will have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The complainant and respondent shall be provided an equal opportunity to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be an attorney. If a party elects to be represented by an attorney, the party should notify school officials in advance so that an attorney for the school system may also be present. Any restrictions on advisor participation in any proceeding must be applied equally to both parties.

The complainant and respondent will both be provided a description of the range of supportive measures available to them.

3. Adequate Training

The Title IX coordinator, and all persons serving as Title IX investigators, decision-makers, or appeal decision-makers shall receive training on what constitutes sexual harassment, the scope of the school system's education program and activities, how to conduct an investigation and grievance process, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Decision-makers will be trained on any technology to be used at a live hearing and on issues of relevance of questions and evidence. Materials used to train coordinators, investigators, decision-makers, and appeal decision-makers will not rely on sex stereotypes and shall promote impartial investigations and adjudications of sexual harassment.

4. Burden of Proof and Production of Evidence

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility will at all times rest on the school system and not on the complainant or respondent. Formal rules of evidence shall not apply in the formal complaint grievance process. The burden of proof will be a preponderance of the evidence standard.

5. Written Notice of Meetings and Other Proceedings

Parties whose participation is invited or expected at any hearing, investigative interview, or other meeting will be provided written notice of the event's date, time, location, participants, and purpose with sufficient time for the party to prepare to participate.

6. Confidentiality and Privacy

The school system will keep confidential the identity of any individual who has made a report or formal complaint of sexual harassment, any complainant, any respondent, and any witness, except as may be permitted by FERPA, as required

by law, or as necessary to carry out a Title IX proceeding. A violation of this provision may constitute retaliation.

All meetings, hearings, or other proceeding conducted pursuant to this policy will be private except to the extent that the parties are permitted to be accompanied by a personal advisor.

7. No Disclosure of Privileged Information

No person acting on behalf of the school system shall require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

School officials shall not access, consider, disclose, or otherwise use a party's medical, mental health, or other records that are made or maintained by a professional or paraprofessional in connection with the provision of treatment to the party without the party's voluntary written consent.

8. Timeliness of Process

School officials shall make a good faith effort to conduct a fair, impartial grievance process in a timely manner designed to provide all parties with a prompt and equitable resolution. It is expected that in most cases, the grievance process will be concluded through the adjudication phase within 90 days after filing the formal complaint. The board reserves the right to extend this time frame or any deadline contained in this policy for good cause with written notice to the parties of the delay and the reason for the delay. Good cause may include but is not limited to the absence of the parties or witnesses, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

The Title IX coordinator or other responsible school official shall make reasonable efforts to keep the complainant and respondent apprised of progress being made during any period of delay.

F. EMERGENCY REMOVAL OF RESPONDENT FROM SCHOOL OR EMPLOYMENT

Any respondent is subject to removal from the school system's education program and activities, or any part of the program or activities, on an emergency basis if a school-level team conducts an individualized safety and risk analysis and determines that removal is justified because the person poses an immediate health or safety threat to any person arising from the allegations of sexual harassment. A removal under this subsection may include a transfer of a student to an alternative school. A schedule change, and/or removing a student from an extracurricular

activity where such action would not otherwise constitute a supportive measure.

The emergency removal may take place regardless of whether a formal complaint has been filed. The respondent shall receive notice of the removal and an opportunity to challenge the decision in an informal hearing with the Superintendent or designee immediately following the removal.

An employee may be placed on administrative leave with or without pay during the pendency of the grievance process if consistent with state law.

The Superintendent or designee shall document all emergency removal decisions under this subsection, including the immediate threat to health or safety that justified the removal.

G. DISCIPLINARY CONSEQUENCES, REMEDIES, AND OTHER RESPONSES FOR SUBSTANTIATED SEXUAL HARASSMENT

1. Disciplinary Consequences for Students

Disciplinary consequences for substantiated sexual harassment will be assigned in accordance with the Code of Student Conduct. Based on the nature and severity of the offense and the circumstances surrounding the incident, the student will be subject to appropriate consequences and remedial actions ranging from positive behavioral interventions up to, and including, expulsion. In addition, the conduct also may be reported to law enforcement, as appropriate.

False or malicious complaints of sexual harassment and false statements made in bad faith in the course of any grievance proceeding conducted pursuant to this policy are subject to disciplinary action.

Nothing in this policy will preclude the school system from taking disciplinary action against a student when the evidence does not establish sexual harassment as defined in this policy but the conduct violates other board policy and/or the Code of Student Conduct.

2. Disciplinary Consequences for Employees

Substantiated sexual harassment by employees is subject to discipline up to and including dismissal. In addition, the conduct may also be reported to law enforcement, as appropriate.

Nothing in this policy will preclude the school system from taking disciplinary action against an employee when the evidence does not establish sexual harassment as defined in this policy, but the conduct violates other board policy or expected standards of employee behavior.

3. Consequences for Other Perpetrators

Volunteers and visitors who engage in sexual harassment will be directed to leave school property and/or be reported to law enforcement, as appropriate, in accordance with policy 5020, Visitors to the Schools. A third party under the supervision and control of the school system will be subject to termination of contracts/agreements, restricted from access to school property, and/or subject to other consequences, as appropriate. Nothing in this policy will be construed to confer on any third party a right to due process or other proceedings to which student and employee respondents are entitled under this policy unless such right exists under law.

4. Remedies

At the conclusion of the grievance process, the superintendent or other decision-maker shall confer with the Title IX coordinator to determine the remedies to be provided to the complainant when the respondent is found responsible for sexual harassment. The Title IX coordinator shall consult with the complainant in determining appropriate remedies.

The Title IX coordinator shall be responsible for the effective implementation of the remedies to be provided to the complainant.

If the superintendent determines that a school-wide or system-wide response is needed in order to respond to the sexual harassment in a way that is not clearly unreasonable under the circumstances, the superintendent shall provide additional staff training, harassment prevention programs, or such other measures as determined appropriate to protect the safety of the educational environment and/or to deter sexual harassment.

H. **RETALIATION PROHIBITED**

Any act of retaliation or discrimination against any person for the purpose of interfering with any right or privilege secured by Title IX or because the person has made a report or filed a formal complaint or testified, assisted, or participated or refused to participate in any investigation, proceeding, or hearing involving sexual harassment is prohibited. Any person who is found to have engaged in retaliation will be subject to discipline, up to and including dismissal.

Complaints alleging retaliation are to be treated as claims of sex discrimination and may be filed in accordance with the Bullying, Harassment, and Discrimination policies and procedures.

I. **RECORDS**

The Title IX coordinator shall create and maintain for a period of seven years records of all reports and formal complaints of sexual harassment. The Title IX Coordinator will document reports and formal complaints of sexual harassment as required by Title IX.

The Title IX coordinator shall also maintain for seven years all materials used to train the Title IX coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process. These materials will be made publicly available on the school system's website.

TITLE IX SEXUAL HARASSMENT FORMAL COMPLAINT GRIEVANCE PROCESS *Policy Code:1725/4035/7236-R*

The process provided in this policy is designed for those who believe that they have been sexually harassed in violation of policy 1725/4035/7236, Title IX Sexual Harassment – Prohibited Conduct and School System Response, and wish to file a formal complaint. School officials shall follow the grievance process established in this policy when responding to all formal complaints of sexual harassment as that term is defined by Title IX.

The Title IX Coordinator is responsible for notifying students and their parents or legal guardians, employees, and applicants for employment of this policy and ensuring that each principal or site supervisor provides a copy of this policy to these persons.

A. FILING A FORMAL COMPLAINT TO INITIATE THE GRIEVANCE PROCESS

A formal complaint initiates the grievance process. To be eligible to file a formal written complaint, the complainant must be participating in or attempting to participate in the education program or activities of the school system at the time of filing. If the complainant does not wish to file a formal complaint and the matter has not been adequately resolved through the provision of supportive measures, the Title IX coordinator may initiate the grievance process by signing a formal complaint. In accordance with law, only the complainant and the Title IX coordinator may initiate the formal complaint grievance process; no other individuals or school officials shall have authority to do so.

School officials will initiate the grievance process regardless of when the formal complaint is submitted, but delays in reporting may significantly impair the ability of school officials to investigate and respond to the allegations.

The formal complaint may be filed with the Title IX coordinator in person, by mail, or by email, and should be submitted on forms provided for that purpose. Complaint forms may be obtained from the Title IX coordinator or on the school system website.

The Title IX Coordinator may consolidate formal complaints where the allegations of sexual harassment arise out of the same facts or circumstances. The Title IX coordinator shall advise the complainant if the formal complaint will be consolidated with others.

B. DISMISSAL OF FORMAL COMPLAINT

The Title IX coordinator shall review the allegations and determine whether the formal complaint must be dismissed without further investigation because the conduct alleged in the formal complaint, even if assumed true, would not constitute sexual harassment under Title IX, did not occur in the school system's education program or activities, or did not

occur against a person in the United States. Such a dismissal does not preclude action under another provision of the Code of Student Conduct, board policy, or expected standards of employee behavior.

The Title IX coordinator may also dismiss the formal complaint or any allegations therein if at any time during the investigation or decision-making process: (1) the complainant notifies the Title IX coordinator in writing that he or she would like to withdraw the formal complaint or any allegations therein; (2) the respondent is no longer enrolled or employed by the school system; or (3) specific circumstances prevent school officials from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon dismissal for any reason, the Title IX coordinator shall promptly send written notice of the dismissal and reason(s) for such dismissal. The parties have the right to appeal the decision as provided in Section H.

The Title IX coordinator shall refer the matter that was the subject of the dismissed complaint to the principal or the HR Department for further action as warranted.

C. INFORMAL RESOLUTION

Informal resolution processes are available to resolve some formal complaints of sexual harassment without a full investigation and adjudication. Informal resolution is not available unless a formal complaint is filed and will not be used to resolve formal complaints alleging that an employee sexually harassed a student. Further, school officials shall never condition an individual's enrollment, employment, or other rights on an agreement to waive the individual's right to a formal investigation and adjudication of a formal complaint.

The Title IX coordinator may offer the parties an informal process to resolve a formal complaint at any time prior to reaching a final determination regarding responsibility. Before using an informal resolution process, school officials must ensure that both parties have given voluntary, informed, written consent to attempt informal resolution.

Any agreement reached by the parties through informal resolution may include measures that are designed to restore or preserve the parties' equal access to the education program and activities, including measures that may be punitive or disciplinary in nature.

Any informal process should be completed within a reasonable period of time, not to exceed 60 days from filing the complaint unless special circumstances necessitate more time. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process.

D. DESIGNATION OF TITLE IX INVESTIGATOR

If the complaint may proceed, the Title IX coordinator shall notify the appropriate investigator, who shall investigate the formal complaint.

In order to provide a neutral and objective investigation, the investigator shall not be a party to the complaint under investigation. The investigator of a formal complaint is ordinarily determined as described below; however, the Title IX coordinator, in consultation with the superintendent or designee, may determine that conflict of interest, bias, or other individual circumstances warrant the assignment of a different investigator.

1. If the respondent is a student, the investigator is the principal or designee of the school with jurisdiction over the incident.
2. If the respondent is an employee or applicant for employment, the investigator is the senior human resources official or designee.
3. If the respondent is neither a student nor an employee/applicant for employment, the principal of the school/site supervisor at which the complainant is enrolled or employed shall be the investigator.
4. Notwithstanding the above designations, (1) if the respondent is the senior human resources official, the superintendent shall investigate the complaint; (2) if the respondent is the superintendent or a member of the board, the Title IX coordinator shall immediately notify the board chair who shall direct the board attorney to investigate, unless the board chair determines that outside counsel should be engaged to investigate.

E. INVESTIGATION

The investigator is responsible for gathering evidence sufficient to reach a determination of whether the allegations in the formal complaint are true and whether the facts as determined by the investigator establish that sexual harassment as defined in this policy occurred. In so doing, the investigator shall impartially, promptly, and thoroughly investigate the complaint.

1. The investigator shall explain the process of the investigation to the complainant and respondent.
2. The investigator shall interview all individuals who may have relevant information, including (1) the complainant; (2) the respondent; (3) individuals identified as witnesses by the complainant or respondent; and (4) any other individuals who are thought possibly to have relevant information. Prior written notice shall be provided to a party whose participation is invited or expected for any investigative interview or meeting. The investigator shall provide the complainant and respondent an equal opportunity to present fact and expert witnesses and other evidence tending to prove or disprove the allegations.

3. At any meeting or interview with the Investigator, a complainant or respondent may bring a personal adviser. The personal adviser may not speak on behalf of the complainant or respondent during any meeting with the Investigator. The adviser may be asked to leave if he or she does not comply with the directives of the Investigator. If the complainant or respondent plans to bring an attorney as his or her personal adviser, notification to the Investigator must be provided so that an attorney for the school system may attend the meeting, and the meeting may be rescheduled if necessary.
4. The investigator shall ensure that the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the school system and not on the complainant or respondent.
5. The investigator shall not restrict the ability of either party to gather and present relevant evidence or to discuss the allegations under investigation.
6. The formal complaint and the investigation will be kept confidential to the extent possible and as required by law. Information may be shared only with individuals who need the information in order to investigate and address the complaint appropriately and those with a legal right to access the information. Any requests by the complainant or respondent for further confidentiality will be evaluated within the context of the legal responsibilities of the school system.

F. INVESTIGATIVE REPORT AND OPPORTUNITY TO REVIEW EVIDENCE

1. The investigator shall prepare an investigative report that fairly summarizes the relevant evidence.
2. Before completing the final report, the investigator shall provide to each party and the party's advisor, if any, all the evidence collected which is directly related to the allegations raised in the formal complaint. The parties shall have 10 days to submit a written response for the investigator's consideration before the investigator finalizes the investigative report.
3. Following the parties' opportunity to respond to the written evidence, the investigator shall finalize the written investigative report, including a recommendation on the question of responsibility and any recommended discipline sanction.
4. The investigator shall provide a copy of the report to each party and the party's advisor, if any, for their review and written response. The investigator shall also notify the parties of the opportunity to submit written questions to the other party and witnesses as provided in subsection G.2 below. The parties shall have 10 days to provide a written response to the investigative report, along with the

party's initial set of written questions.

5. The investigator shall provide to the decision-maker a copy of the investigative report, the relevant evidence, and the parties' written responses to the report and initial sets of written questions.

The investigator shall also provide a description of the procedural steps taken, starting with the receipt of the formal complaint and continuing through the preparation of the investigative report, and including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence.

G. ADJUDICATION OF FORMAL COMPLAINTS

The superintendent or designee shall serve as the decision-maker. In his or her role as decision-maker, the superintendent or designee shall provide for the exchange of questions between the parties and a decision on responsibility in a manner consistent with law and as provided below.

1. Step 1 – Student's Opportunity to Request a Hearing

In cases where the respondent is a student, after the investigative report has been sent to the parties, both parties shall have five calendar days to request a hearing. Requests for a hearing must be sent via e-mail to the Title IX Coordinator. If either party requests a hearing, the long-term suspension hearing procedures shall be followed, except that (1) both parties shall have the right to participate in the hearing to the extent required by Title IX; (2) the evidence will be made available at the hearing to give each party equal opportunity to refer to such evidence during the hearing; and (3) prior to the hearing, both parties shall have a limited opportunity to submit and respond to written questions and follow-up questions as provided below.

2. Step 2: Questions and Answers

After the parties are sent the investigative report, the parties shall have an opportunity to submit written, relevant questions that the party wants asked of any other party or witness. This opportunity will be provided regardless of whether a hearing is requested, and should be undertaken before a hearing if one is requested.

Initial questions must be submitted along with any response to the investigative report within ten (10) calendar days of receiving the investigative report via e-mail to the Title IX Coordinator. The Superintendent or designee will evaluate the questions for relevance and submit questions that are relevant to each party. Responses must be provided within three calendar days from receipt of the

questions. Upon receipt of the answers to relevant questions, each party will have three calendar days to submit follow-up questions via e-mail to the Title IX Coordinator. The Superintendent or designee will evaluate the follow-up questions for relevance and submit the relevant questions. Each party will have three calendar days to respond to the follow-up questions via e-mail to the Title IX Coordinator.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior will be considered irrelevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's sexual behavior with respect to the respondent and is offered to prove consent. The superintendent or designee must explain to the party proposing the questions any decision to exclude questions as irrelevant.

3. Step 3 – Decision on the Question Regarding Responsibility

Following the exchange of questions and/or hearing as described above, the superintendent or designee shall decide the question regarding responsibility, any disciplinary action, and any other measures the superintendent or designee deems appropriate. The superintendent or designee shall consider all the relevant evidence objectively, including evidence in the investigative report, any testimony of witnesses at the hearing, if one was held, and any additional information provided by the parties through the exchange of questions and responses as provided above.

Based on an objective evaluation of the evidence, the superintendent or designee shall determine whether the preponderance of the evidence supports a finding that the respondent is responsible for sexual harassment in violation of board policy, and if so, what disciplinary sanction will be imposed.

4. Step 4 – Written Determination Regarding Responsibility

The superintendent or designee shall issue a written determination regarding responsibility simultaneously to both parties.

H. APPEAL OF FORMAL COMPLAINTS

The parties shall have the right to appeal to the board of education the determination regarding responsibility, the outcome of any disciplinary proceeding, and any dismissal of a formal complaint or any allegations therein. If both parties appeal, the appeals will be heard at the same time.

Either party may appeal by submitting a request in writing via e-mail to the Title IX Coordinator within five calendar days of receiving the determination regarding responsibility or dismissal, unless the party is entitled to a longer appeal period under state law or board policy. Any longer appeal period applicable to one party shall apply equally to the other party.

In all appeals, the other party will be notified in writing when an appeal is filed and be provided a copy of the appeal.

1. Appeal Procedures

- a. The board will hear the appeal. Unless otherwise required by law, the board may designate a panel of two or more board members to hear and act on behalf of the board.
- b. Appeal procedures will be implemented equally for both parties. In cases of a student-respondent, the appeal will follow the procedures for student discipline matters. In cases of an employee-respondent, the appeal will follow the procedures for employee hearings, as applicable.

2. Decision on Appeal

- a. The board will provide a written decision describing the results of the appeal and rationale for the result within thirty days after receiving the appeal unless the decision is delayed for good cause. The written decision will be provided simultaneously to both parties. The Board may make any appropriate determination and take any action it deems appropriate based on the evidence before it.

3. When the Decision Becomes Final

If an appeal is timely filed, the determination regarding responsibility becomes final at the conclusion of the appeal process. However, if the decision on appeal is to remand the matter back to the Superintendent or designee, the determination regarding responsibility does not become final until that process, including any appeal of the proceedings on remand, is concluded. If an appeal is not filed, the determination regarding responsibility becomes final after the three-day appeal period.

The superintendent or designee shall ensure that a copy of the final decision is provided to the Title IX coordinator and shall confer with the Title IX coordinator regarding any remedies to be provided to either party.

FORMAL COMPLAINT OF TITLE IX SEXUAL HARASSMENT

Instructions:

Any individual who is participating or attempting to participate in the education program or activities of the school system who believes that they have experienced Title IX sexual harassment may initiate the grievance process by filing a formal written complaint on this form. This form should be completed by the Complainant. If the Complainant is a student, the form may also be completed by a parent or guardian of a Complainant or the Title IX Coordinator. This form should be submitted to the Title IX Coordinator by hand delivery, mail, fax, or e-mail at the following address:

Candace Lindstrom
220 Martin Luther King Drive
Mocksville, NC 27028
Phone 336.751.2491 ext 1068
Fax: 336.751.3147
E-mail: lindstromc@davie.k12.nc.us

Formal Complaint:

Individual Completing Form:

Status: Complainant _____ Parent/Guardian of Complainant _____ Title IX Coordinator

Name of Complainant : _____
Status: _____ Student _____ Employee _____ Other (Please specify): _____

School of Complainant (if applicable): _____

Position Title of Complainant (if applicable): _____

Grade Level of Complainant (if applicable): _____

Parent/Guardian of Complainant (if applicable)(s) (if student-complainant) _____

Address: _____

Phone Number: _____

E-mail address: _____

Name of Respondent(s): _____

Status: _____ Student _____ Employee _____ Other: _____

Did any of the incidents of sexual harassment occur on school property?

Yes _____ No _____

Did any of the incidents of sexual harassment occur at a school-sponsored event?

Yes _____ No _____

Please describe the sexual harassment you experienced (attach additional sheets if needed):

Date(s) of incident(s) of sexual harassment: _____

Location(s) of incident(s) of sexual harassment: _____

Please list all known witnesses to the sexual harassment, and indicate whether the witness is a DCS student or employee:

Please provide any additional information you wish to convey as part of this Title IX Formal Complaint (attach additional sheets if needed):

Signature

By signing below, the Complainant formally requests that school officials investigate the allegation(s) described on this form. The Complainant has received a copy of the Title IX

Sexual Harassment Grievance Process and understands that submission of this form initiates that grievance process. The Complainant represents that the information in this formal complaint is true and accurate to the best of their knowledge and belief.

Signature of Complainant

Date: _____

Signature of Parent/Guardian of
Complainant (if applicable)

Date: _____

Alternative to Complainant Signature

By signing below, the Title IX Coordinator acknowledges that it would be deliberately indifferent to ignore the allegation(s) described above and that the Complainant has not chosen to file a formal complaint.

Signature of Title IX Coordinator

Date: _____

INTERNAL RECORD OF REPORT
[Internal Files of Title IX Coordinator]

Individual Making Report: _____

Status: _____ Student _____ Employee _____ Other: _____

School/Department: _____

Grade Level/Position: _____

Phone Number: _____ Email Address: _____

Name of Potential Complainant(s): _____

Status: _____ Student _____ Employee _____ Other: _____

School/Department: _____

Grade Level/Position: _____

Phone Number: _____ Email Address: _____

Name of Potential Respondent(s) : _____

Status: _____ Student _____ Employee _____ Other: _____

School/Department: _____

Grade Level/Position: _____

Phone Number: _____ Email Address: _____

Date Report Received by Title IX Coordinator: _____

Date Title IX Coordinator met with potential complainant: _____

Description of Allegations:

Do allegations if true rise to the level of Title IX sexual harassment?
_____ Yes _____ No

How did Title IX Coordinator learn of allegations?

What supportive measures are being put in place to support the potential complainant?

What supportive measures (if any) are being put in place to support the potential Respondent?

Is potential complainant planning to file a formal complaint?

_____ Yes _____ No

If no, will Title IX Coordinator file a formal complaint?

_____ Yes _____ No

If no formal complaint will be filed, state reason:

What other action is being taken to address these allegations? (include reports to other agencies, referrals to principal or HR)

Signature of Title IX Coordinator

NOTICE OF SUPPORTIVE MEASURES

Dear _____,

I am the Title IX Coordinator for the Davie County Schools. I have received a report that you may need additional support during this time. I have discussed these concerns with you and provided you with the DCS Title IX policies and procedures. Regardless of whether you choose to access any of those procedures, I write now to make sure that you are aware of the supportive measures that could be implemented to support you during this time.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge. These measures are designed to restore or preserve equal access to the school system's education program and activities without unreasonably burdening another student or staff member, including measures designed to protect safety or the educational environment, or deter sexual harassment. Supportive measures available to you include:

[delete any that do not apply]

- Counseling
- mental health services referral
- extensions of deadlines
- course-related adjustments
- modifications of work or class schedules
- escort services
- mutual restrictions on contact between you and another individual
- changes in work locations
- leave of absence
- increased security and monitoring
- **[insert other similar measures determined by school officials to be necessary to protect the safety or educational or employment activities of a party.]**

As we discussed, we have already implemented **[insert any supportive measures already agreed to]**. Please do not hesitate to contact me with any questions or concerns you have moving forward.

Sincerely,

Candace Lindstrom
Title IX Coordinator

NOTICE OF DISMISSAL

This notice is to inform you that the formal complaint of sexual harassment filed by **[Complainant]** on **[Date]** is hereby dismissed. The reason for this dismissal is (please check one):

- The allegations in the formal complaint, if assumed true, would not constitute sexual harassment as defined by Title IX.
- The allegations in the formal complaint did not occur in the school system's education program or activities.
- The allegations in the formal complaint did not occur against a person in the United States.
- The Complainant has notified the Title IX coordinator in writing that they would like to withdraw the formal complaint.
- The respondent is no longer enrolled or employed by the school system.
- Specific circumstances prevent school officials from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

This dismissal ends the Title IX formal complaint grievance process. Dismissal does not prevent other school officials from taking appropriate action. You may appeal this dismissal by submitting an appeal in writing via e-mail to the Title IX Coordinator (patterd@DCSnc.com) within five calendar days of receiving this notice.

Signature of Title IX Coordinator

Date: _____

NOTICE OF FORMAL COMPLAINT AND INVESTIGATION OF TITLE IX SEXUAL HARASSMENT

This notice is to inform you that a formal complaint of sexual harassment under Title IX has been filed with the Davie County Schools Title IX Coordinator. The allegations of this formal complaint are: **[Insert description of allegations, including date and location.]**

After reviewing this formal complaint, I have determined that an investigation must be conducted. The respondent in this matter is presumed not responsible for the alleged conduct until the conclusion of the Title IX formal complaint process.

The investigator for this matter will be **[Insert Name]**. The investigator may be contacted at **[insert email address]**.

Please find attached DCS Board Policy “Prohibition on Sexual Harassment and School System Response” and accompanying DCS Regulation “Title IX Sexual Harassment Formal Complaint Process.” This policy and regulation will govern the investigation and the decision of whether the respondent is responsible for allegations of sexual harassment. This policy and regulation are inapplicable to conduct that does not constitute sexual harassment under Title IX but may otherwise be prohibited.

Investigation

The investigator will contact you regarding any interview or meeting. You may have an advisor present at any meeting with the investigator, though the advisor may not speak on your behalf. If you wish to bring an attorney as your advisor, please notify the investigator so that arrangements can be made for the school system to have an attorney present.

You will be given an opportunity to inspect and review any evidence collected by the investigator. If you have any information you wish for the investigator to consider prior to any meeting, please provide that information directly to the investigator. You are prohibited from knowingly making false statements or knowingly submitting false information during the formal complaint process, and any knowing misrepresentation could subject you to disciplinary action.

Option for Informal Resolution

At any point during the formal complaint process, you may request an informal resolution. An informal resolution may be used to resolve the formal complaint without a full investigation and/or decision. Informal resolution is a mediated discussion of the allegations and supports needed by both parties in order to move forward with their education or employment. At the conclusion of this process, the parties enter into an agreement of how they will proceed, including an agreement that neither party will be able to resume the formal complaint process on the particular allegations described above. The agreement could include measures that are designed to restore or preserve the parties’ equal access to the education program and activities. Records of this formal complaint will be maintained regardless of whether an informal resolution is reached, as required by Title IX. Informal resolution is only available if both parties give

voluntary, informed, written consent. If you wish to seek informal resolution, please e-mail me so that the process can be started.

Retaliation Prohibited

Any act of retaliation or discrimination against any person for the purpose of interfering with any right or privilege secured by Title IX or because the person has made a report or filed a formal complaint or testified, assisted, or participated or refused to participate in any investigation, proceeding, or hearing involving sexual harassment is prohibited. Any person who is found to have engaged in retaliation will be subject to discipline, up to and including suspension or dismissal.

Title IX Coordinator

Date

NOTICE OF INVESTIGATORY MEETING

This notice is to inform you that you are scheduled to meet with me regarding a formal complaint of sexual harassment on **[Insert Date and Time]**. The meeting will take place **[insert location]**. The purpose of this meeting is to discuss the allegations of the formal complaint and your knowledge regarding the events. **[Insert name of other individual]** will also be present at this meeting to assist me.

You may have an advisor present at this meeting. Your advisor will be limited to advising you and will not be permitted to speak for you. Your advisor will be asked to leave if this policy is not followed. If you wish to bring an attorney as your advisor, please notify me at least 24 hours before your scheduled meeting time so that arrangements can be made for the school system to have an attorney present.

Title IX Investigator

Date

TITLE IX INVESTIGATION EVIDENCE

The evidence relevant to the formal complaint of sexual harassment to which you are a party is available and will be provided to you at **[Insert Location]**. If you would like to provide any additional information or make any further statement for my consideration and inclusion in the final investigative report, you must provide these written documents to me no later than 3:00 p.m. on **[10 calendar days away]**. These additional materials must be submitted to me via e-mail at: **[insert email address]**.

Title IX Investigator

Date

TITLE IX INVESTIGATIVE REPORT

Date Formal Complaint Received: _____

List of Interviews

Person Interviewed	Date of Interview	Date of Notice of Interview
_____	_____	_____
_____	_____	_____
_____	_____	_____

List of Documents Gathered

List of Any Site Visits

Location	Date of Site Visit	Relevance
_____	_____	
_____	_____	
_____	_____	

Date Parties Were provided Evidence and Right to Submit Statement: _____

Which parties, if any, submitted a written statement? _____

Description of Events Established by Evidence

Allegations. Please list each allegation from the Title IX Formal Complaint and indicate whether it was substantiated by the evidence.

Recommendation: Is the respondent responsible for sexual harassment of the complainant?

__ Yes __ No

Recommended Discipline:

[If long-term suspension, include a long-term suspension letter].

Other Recommended Remedial Measures:**Right to Hearing in Student-Respondent Cases**

If the respondent in this case is a student, you have the right to request a hearing before the Superintendent or designee makes a final decision. If you wish to request a hearing, you must notify the Title IX Coordinator via e-mail within five calendar days of receiving this investigative report.

Right to Written Response

You may submit a written response to this investigative report to the Superintendent or designee. You may also submit written, relevant questions to the other party and witnesses. You may submit any such written response and/or initial questions by sending them via e-mail to the Title IX Coordinator within ten calendar days from the date you receive this investigative report.

TITLE IX WRITTEN DECISION

As the superintendent (or designee) of the Davie County Schools, I have made a decision of responsibility with respect to a pending complaint of sexual harassment under Title IX. Based on an objective evaluation of the evidence, I have determined that the preponderance of the evidence **[supports/does not support]** a finding that the respondent is responsible for sexual harassment in violation of board policy.

Pursuant to a formal complaint filed with the Title IX Coordinator, the allegations of sexual harassment were:

The following procedural steps were taken in response to this formal complaint:

1. The formal complaint was received by the Title IX Coordinator on _____
2. The notice of investigation was sent on _____
3. The following interviews were conducted by the Title IX Investigator: **[insert name of interviewee, date of interview, and date notice of interview was provided]**
4. The following written evidence was collected by the Title IX Investigator: _____
5. The following site visits were conducted by the Title IX Investigator: **[insert location and date]**
6. The parties were provided an opportunity to review the evidence and submit a written statement on _____.
7. The **[complainant and/or respondent]** submitted a written statement on _____.
8. The investigative report and any written statements submitted by the parties were submitted to me on _____.
9. The parties had an opportunity to submit written questions during the period of _____ to _____.
10. A hearing **[was/was not]** requested on _____.
11. The hearing **[was/was not]** held on _____

Findings of Fact

After reviewing all of the evidence provided to me through these various processes and opportunities, I make the following findings of fact:

Conclusions

Based on these findings, I have concluded that the respondent **[is/is not]** responsible for engaging in sexual harassment in violation of Board policy. **[Add any other disciplinary violations and sanctions to be imposed].**

Right of Appeal

Either party may appeal my decision to the Board of Education by submitting a request for appeal to the Title IX Coordinator via e-mail no later than five calendar days from the receipt of this written determination. Important additional notices are attached to this document.

Superintendent (or Designee)

Date