SAMPLE K-12 NOTICE OF ALLEGATIONS FOR STUDENT RESPONDENT FROM DISTRICT TITLE IX COORDINATOR

Hawthorne School District Title IX Training August 11, 2020

[LETTERHEAD]

CONFIDENTIAL

Sent Via email at [email address] and US mail

[Date]

[Student Name]
[Parent/Guardian Name(s)]
[Address]

Re: Notice of Allegations ("NOA")

Dear [Names]:

On [date], the [District] ("District") received a formal complaint against you, [Name of Respondent] ("Respondent") alleging that you sexually harassed [Name of Complainant] ("Complainant") on [date] at [describe location]. The purpose of this NOA is notify you of the allegations against you, the relevant policies, supportive measures, your rights and responsibilities, and the District's grievance/complaint process.

Allegations. The Complainant alleges that Respondent engaged in the following conduct: [Provide a description of the incident with enough detail to a meaningful summary of all the allegations. Below is a sample ***for illustration purposes only***.]

> *On or about August 21, 2020, Respondent tutored Complainant after school in the library. Respondent put a hand on Complainant's knee, made comments about sexual acts, and then touched Complainant's groin area. When Complainant moved away, Respondent moved towards Complainant. Complainant immediately left the library.*

As the Respondent, you are presumed *not* to be responsible for the alleged misconduct listed above unless and until a trained, impartial, non-biased decision-maker reaches a different determination. If additional allegations are revealed during the investigation, this office will provide Complainant and Respondent with an additional written notice.

Potential Policy Violations, Corrective Action and/or Sanctions. These allegations, if found to have occurred, may violate the policies listed below:

- Sexual harassment in the form of physical and verbal harassment of a sexual nature [Cite to District Title IX Policy]

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- An attempted or actual forcible sexual offense as defined under Title IX [Cite to District Title IX Policy]
- Sexual harassment as a cause for suspension and expulsion [Cite to District Student Discipline Policy]
- Sexual battery as a cause for suspension and expulsion [Cite to District Student Discipline Policy]

If found responsible for the alleged misconduct, Respondent may be subject to corrective action and sanctions up to and including a behavior contract, no contact orders, suspension, expulsion, involuntary transfer and/or other disciplinary or corrective measures. [List all potential corrective actions under District's policies and practices.]

Supportive Measures. As discussed, we agreed to provide you with the following supportive measures during the complaint process. [List and describe the supportive measures.] If at any time, these supportive measures need adjustment or you feel you need additional support, please contact my office as soon as possible.

Rights and Responsibilities. During this complaint process, the Respondent is presumed *not* to be responsible for the alleged misconduct unless and until a trained, impartial, non-biased decision-maker reaches a different determination. The decision-maker will not make a determination of responsibility until after an investigation where the Complainant and Respondent will be given an opportunity during the review and comment period to review all directly related and/or relevant evidence obtained during the investigation.

The Complainant and Respondent may each have an advisor of their choice, who may be, but is not required to be an attorney. The advisor may be present for any meeting, interview, or hearing during this complaint process, and the advisor may inspect and review any evidence obtained as part of the investigation. The advisor may assist with any written question and/or written cross-examination process.

The District prohibits the Complainant, Respondent and any witness from knowingly making false statements or knowingly submitting false information during the complaint process. [Cite to applicable District policy.]

Investigation Process. The District has assigned an Investigator, [Name of Investigator], to investigate the sexual harassment allegations reported by Complainant.

This investigation will be conducted in a timely, thorough and impartial manner. The Investigator intends to interview the Complainant, relevant witnesses, and Respondent in a discrete and confidential manner. Disclosure of facts and allegations by the Investigator to persons interviewed will be limited to what is reasonably necessary to complete a fair and thorough investigation. You may bring an advisor of your choice, such as a parent, support person, or attorney to your interview or related meetings. The Investigator will keep Complainant and Respondent informed of the progress of this investigation.

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The Investigator will also review any documents and other information relevant to the allegations. If you have any materials that you believe may be relevant to this investigation that you have not already submitted to the District, please send those to me or give copies to the Investigator during your upcoming interview, (e.g., emails, texts, instant messages, photos, social media postings, videos, notes or other documents). However, if you have photos or videos involving nudity or sexual activity of minors, please do not forward those to us at this time. The District may need to take certain precautions before viewing such materials. The Investigator may, however, ask you to recount what you observed to be contained in the relevant photo or video material. During the investigation, Investigator will inspect the evidence and assess the relevance, weight and credibility of the information provided. Please note, you must not tamper with or alter any evidence, and you must not tamper with or attempt to alter any witness testimony.

Prior to completing the investigation report, the Investigator will send to the Complainant and Respondent (and their respective advisors, if any) the evidence that has been gathered, likely in the form of a confidential Draft Report of Evidence. You and your advisor may inspect and review evidence and will have at least 10 days to submit a written response.

After reviewing any written responses, the Investigator will prepare a confidential Investigative Report that fairly summarizes the relevant evidence, and the Investigative Report will be forwarded to the Complainant and Respondent (and their respective advisors, if any.) Complainant and Respondent will both have at least 10 days to submit another written response regarding the Investigative Report.

Decision-Maker and Determination of Responsibility. After the parties' review and comment period, the District will assign a trained, unbiased Decision-Maker, who is not the Title IX Coordinator or the investigator. Before the Decision-Maker reaches a determination regarding responsibility, the Complainant and Respondent will have the opportunity to submit written, relevant questions that a party wants the Decision-Maker to ask of another party or witness. The Decision-Maker will provide Complainant and Respondent with the answers, and allow for additional, limited follow-up questions from Complainant and Respondent. The Decision-Maker must explain any decision to exclude a question as not relevant.

After considering the Investigative Report and the answers to the written questions, the Decision-Maker will issue a written determination regarding responsibility. The Decision-Maker will make findings of fact, reach conclusions, explain the rationale, and determine whether policy has been violated based on a preponderance of the evidence standard (i.e. "it is more likely than not the allegation occurred or did not occur"). The Decision-Maker may also make recommendations for any sanctions against the Respondent or remedies for the Complainant, if applicable. The District will send the Complainant and Respondent a written decision, sometimes called a Notice of Outcome. The Notice of Outcome will explain how each party can file an appeal. If a finding is made that Respondent has not violated the District's policies, then the investigation will be closed, but the Complainant may still receive Supportive Measures.

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If a finding is made that Respondent violated District policy, the matter will be referred to the applicable administrator, who will review any recommendations and determine and implement the appropriate disciplinary action for violation of the policy. Regardless of the outcome of the investigation, the District shall determine what occurred and whether any corrective actions or supportive measures are needed to prevent or address any issues discovered during the investigation. After exhausting any appeal procedure, the District will implement the sanctions for Respondent and remedies for Complainant, if any.

Timelines. The District endeavors to complete the investigation and complaint process within reasonably prompt time frames, typically within 60-90 calendar days of the time the formal complaint was filed. If the District has good cause to extend the time lines, the District will provide written notice to the Complainant and Respondent explaining the reasons for the delay and the needed extension.

Informal Resolution Process. You are not required to participate in an informal resolution process. However, at any time prior to reaching a determination regarding responsibility, you may request an informal resolution process that does not involve a full investigation and adjudication. Please contact me to discuss informal resolution options. An informal resolution process will be initiated only upon written consent from all parties.

If the matter is resolved through an informal resolution process, then the complaint will be dismissed. 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.

Confidentiality. The District will keep the identity of the Complainant, Respondent and witness(es) confidential unless required by law or as necessary to carry out this complaint process. As such the District will, to the extent possible, maintain the privacy and/or confidentiality during the complaint process. However, the Complainant and Respondent are not restricted from discussing the allegations under investigation or from gathering and presenting relevant evidence during the investigation process needed to support their case, unless each party has signed a written agreement restricting the release of confidential information.

No Retaliation. The District or other person may not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in an investigation, proceeding, or hearing. If you believe you have been retaliated against, please contact this office immediately.

If you have any additional questions during the course of the investigation, please do not hesitate to contact me at [list contact information].

Very Truly Yours,

[Name]
Title IX Coordinator

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