

SILVER CREEK SCHOOL CORPORATION ANTI-HARASSMENT POLICY

The Board of School Trustees (“Board”) endeavors to maintain an education and work environment that is free from all forms of unlawful discrimination and does not discriminate on the basis of race, color, national origin, ancestry, religion, disability, sex, genetic information, age, or military status. Moreover, the Board strictly prohibits all forms of unlawful harassment based on race, color, national origin, ancestry, religion, disability, sex, genetic information, and age.

Parents and guardians of students, and all School Corporation employees, including administrators, professional staff, support staff, and other personnel, have an obligation to avoid, discourage, and report any incident of alleged unlawful harassment that they observe or which is reported to them. Likewise, students are also encouraged to report any harassment that they experience or observe.

This policy addresses harassment that may occur in two types of settings. First, this policy addresses *Harassment Involving a Student*. Second, this policy addresses *Harassment Between Employees*.

I. HARASSMENT INVOLVING A STUDENT

When there are allegations of harassment based on race, color, national origin, ancestry, religion, disability, or sex and those allegations include a student as either a victim or harasser (*e.g.*, student(s) v. student(s), employee v. student, student v. employee, third-party v. student), this section of the Anti-Harassment Policy must be followed. (For harassment allegations between employees only, please use Section II.)

Students (or their parents or guardians) shall report allegations of unlawful harassment to an appropriate School Corporation employee. This policy identifies appropriate School Corporation employees below in each specific type of alleged harassment, but appropriate School Corporation employees generally may include teachers, administrators, the Title IX / Anti-Harassment Coordinators, or other trusted employees. While there is no definitive deadline for students (or their parents or guardians) to report such allegations, the Board stresses that students (or their parents or guardians) should report allegations promptly and as close in time to the instances of alleged harassment as possible.

Employees who observe or receive complaints about unlawful harassment relative to students or third parties shall report allegations of unlawful harassment promptly. Depending on the employee who observes or receives such a complaint of unlawful harassment, the procedure for each type of alleged harassment (listed below) designates the employees to which such a report should be made. School Corporation employees who fail to report any incident of alleged unlawful harassment are subject to appropriate disciplinary action, up to and including termination of employment.

a. Harassment Based on Race, Color, National Origin, Ancestry, Religion, or Disability

The School Corporation does not discriminate on the basis of race, color, national origin, ancestry, religion, or disability, and it is the policy of the School Corporation to maintain a learning environment that is free from such harassment. This policy applies to unlawful conduct occurring in school programs and activities, which are locations, events, or circumstances over which the school exercises substantial control over both the person accused of said harassment and the context in which the alleged harassment occurs.

This policy and the definitions and procedures set forth below apply to harassment involving a student and based on race, color, national origin, ancestry, religion, disability only. *For allegations involving harassment on the basis of sex (including sexual orientation and gender identity), please see Section I(b). For allegations involving harassment between employees only, please see Section II.*

DEFINITION

Prohibited harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race, color, national origin, ancestry, religion, or disability and when the conduct has the purpose or effect of interfering with a student's educational performance; creating an intimidating, hostile, or offensive learning environment; or interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may include but is not limited to conduct directed at the characteristics of a person's race, color, national origin, ancestry, religion, or disability, such as:

- racial slurs, nicknames stereotypes, epithets, and/or negative references relative to racial customs;
- negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs;
- conduct directed at the characteristics of a person's religious tradition or practices, clothing, or surnames, and/or involving religious slurs; and
- negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like.

The School Corporation has a separate policy for bullying (*see* ANTI-BULLYING POLICY, 5517.01), however, bullying can also rise to the level of unlawful harassment based on race, color, national origin, ancestry, religion, or disability. In this context, "harassment" means any unwanted and repeated threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal or physical conduct directed against a student or from a student in an educational program or activity based upon an individual's race, color, national origin, ancestry, religion, or disability that:

- A. places a student in reasonable fear of harm to his/her person or damage to his/her property;
- B. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or
- C. has the effect of substantially disrupting the orderly operation of a school.

COMPLAINT REPORTING

Students (or their parents or guardians) shall report allegations of unlawful harassment to the building principal or the Title IX/Anti-Harassment Compliance Officers, Dr. Tamara Swarens (tswarens@scsc.school) or Dr. Jessica Waters (jwaters@scsc.school). While there is no definitive deadline for students (or their parents or guardians) to report such allegations, the Board stresses that students (or their parents or guardians) should report allegations promptly and as close in time to the instances of alleged harassment as possible.

Employees who observe or receive complaints about unlawful harassment relative to students or third parties shall report allegations of unlawful harassment promptly to the Title IX/Anti-Harassment Compliance Officers.

Students shall report allegations of unlawful race, color, national origin, or ancestral harassment to their teacher, their building assistant principal or principal, or another employee whom the student trusts as promptly as possible.

COMPLAINT INVESTIGATION

Once the School Corporation receives the complaint, the School Corporation must take appropriate, responsive action to address the complaint. The appropriate response must be tailored to redress fully the specific problems experienced as a result of the harassment. In addition, the responsive action must be reasonably calculated to prevent recurrence and ensure that students are not restricted in their participation or benefits as a result of a hostile environment created by students, employees or non-employees.

Complaints of unlawful harassment or retaliation must include, if available: the identity of the alleged harasser(s); a detailed description of the facts upon which the complaint is based; the potential witnesses; and the Complainant's desired resolution. If a Complainant is unwilling or unable to provide a written statement, the School Corporation employee investigating the matter may seek to conduct an oral interview to gather the necessary information or, if evidence insufficient to substantiate the complaint is not provided, the School Corporation may dismiss the complaint.

The School Corporation employee investigating the matter will then consider whether any action is needed to protect the Complainant from further harassment or retaliation during the investigation. This preliminary action may include, but is not limited to, changing the Complainant's and/or the alleged harasser's schedule.

To that end, the School Corporation employee investigating the complaint will inform the individual alleged to have engaged in the unlawful harassing or retaliatory conduct (the Respondent") that a complaint has been received. The School Corporation employee will also inform the Respondent of the allegations and provide a copy of the Board's anti-harassment policy to the Respondent. Upon receiving notice of the allegations, the Respondent shall have the opportunity to provide a written response to the allegations.

School Corporation employees serving as investigators will attempt to complete such an investigation as promptly as possible.

Formal investigations may include:

1. interview(s) with the Complainant;

2. interview(s) with the Respondent;
3. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations; and
4. consideration of any documentation or other information, presented by the Complainant, Respondent, or any other witnesses that is reasonably believed to be relevant to the allegations.

Interviews may not be required in light of documentary or recorded evidence.

During this process, the Complainant(s) and Respondent(s) have no right to counsel or advisors.

At the conclusion of the investigation, the School Corporation employee investigating the complaint may summarize the evidence, if a written summary is necessary, and, if authorized by the School Corporation, determine appropriate, responsive action. The analysis should consider the totality of the circumstances and the ages and maturity levels of the individuals involved. In determining if harassment or retaliation occurred, the School Corporation will utilize the preponderance of evidence standard (*i.e.*, it is more likely than not that unlawful discrimination retaliation occurred).

A Complainant or Respondent who is dissatisfied with the outcome may appeal through a signed written request to Dr. Chad Briggs, Superintendent at cbriggs@scsc.school within five (5) business days of the receipt of the decision.

INFORMAL RESOLUTION

At any point in the complaint process, the Complainant and Respondent may consent through their parents or guardians to enter into an informal resolution process.

Use of the informal resolution process does not prevent a student from filing a formal complaint, a complaint with the United States Department of Education, Office for Civil Rights (OCR) or the Indiana Civil Rights Commission (ICRC), and/or a concurrent criminal complaint with a law enforcement agency.

PRIVACY/CONFIDENTIALITY

The School Corporation will make reasonable efforts to protect the privacy of the Complainant, the Respondent(s), and the witnesses to the extent possible, but cannot promise confidentiality given the School Corporation's legal obligations to investigate, take appropriate action, and comply with any disclosure obligations mandated by law. To that end, the School Corporation will keep all records generated under the terms of this policy confidential to the extent permitted by law.

All Complainants should be advised that their identities will be disclosed to the Respondent(s).

During the course of a formal investigation, the School Corporation employee investigating the complaint will instruct all members of the School Corporation community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that he or she learns or that he or she provides during the course of the investigation.

RETENTION OF PUBLIC RECORDS, STUDENT RECORDS, AND INVESTIGATORY RECORDS AND MATERIALS

All individuals charged with conducting investigations under this policy shall retain all information and documents created and received as part of an investigation in accordance with the School Corporation's record-keeping policies and retention schedules.

RETALIATION

Any act of retaliation against a person who has made a report, filed a complaint alleging unlawful harassment, or participated as a witness in a harassment investigation is prohibited. Individuals found to have engaged in retaliation shall be subject to disciplinary action, up to and including termination of employment or expulsion from school.

b. Harassment Based on Sex

The School Corporation does not discriminate on the basis of sex, and it is the policy of the School Corporation, pursuant to Title IX of the Education Amendments of 1972 and its implementing regulations ("Title IX") to maintain an educational environment that is free from sexual harassment, including harassment on the basis of sexual orientation and gender identity. This policy applies to unlawful conduct occurring in school programs and activities, which are locations, events, or circumstances over which the school exercises substantial control over both the person accused of sexual harassment and the context in which the alleged harassment occurs.

This policy and the definitions and procedures set forth below apply to sexual harassment only.

DEFINITION

- A. "Sexual harassment" means conduct on the basis of sex that satisfies one or more of the following:
1. A school employee conditioning education benefits on participation in unwelcome sexual conduct (i.e., *quid pro quo*) directed at a student; or
 2. Unwelcome conduct involving a student that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
 3. Conduct involving a student that amounts to legal claims of sexual assault, dating violence, domestic violence, or stalking.
- B. Sexual harassment may involve the behavior of a person of either sex against a person of the same or opposite sex. Behaviors and actions that may constitute sexual harassment could include but are not necessarily limited to verbal or written harassment, abuse, propositions, invitations, or solicitations (either in person or through electronic means); obscene gestures; unwelcome physical contact, touching, patting, or pinching; and

suggesting or demanding sexual involvement through implied or explicit threats, intimidation, or other coercive means.

COMPLAINT PROCEDURE

A. Any person who observes sexual harassment involving a student or students in the School Corporation's programs or activities may use the following complaint procedure.

B. Reporting Sexual Harassment

An individual who believes s/he (1) has been unlawfully sexually harassed, (2) has observed another person be sexually harassed, or (3) has heard about another person being sexually harassed should notify a teacher, building administrator, or other school employee with whom s/he is comfortable about the alleged harassment and may do so either orally or in writing. An individual also may directly contact either of the Title IX/Anti-Harassment Compliance Officers, Dr. Tamara Swarens (tswarens@scsc.school) or Dr. Jessica Waters (jwaters@scsc.school).

If the individual notifies a school employee rather than a Title IX Coordinator (or if an employee is the one who has observed or has heard about another person being sexually harassed), the employee will notify a Title IX Coordinator promptly. After a Title IX Coordinator is notified—either by an employee or the individual complaining directly, a Title IX Coordinator will contact the alleged victim of the sexual harassment (and his or her parent(s) or legal guardian(s)) and provide information about the process for making a formal complaint.

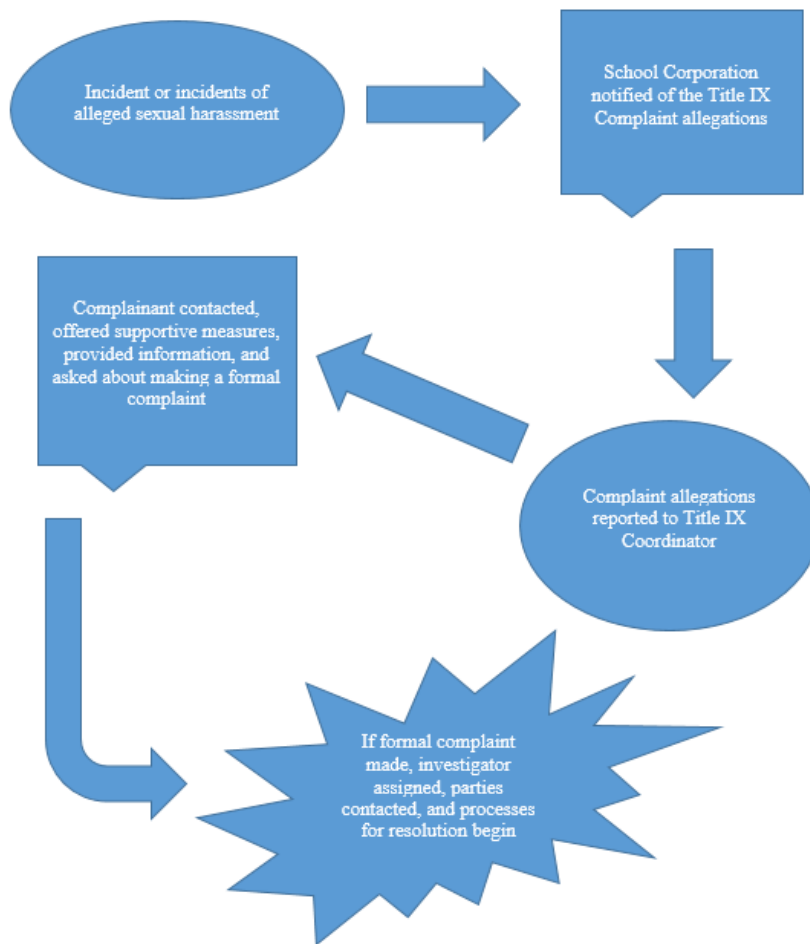
1. If the complaining individual (and his or her parent(s) or legal guardian(s)) decides not to file a formal complaint, this process is terminated. However, the school will still provide notice of available supportive measures and work with any alleged victim of sexual harassment to restore or preserve equal access to education and school programs, to protect the individual's safety, and to deter unwelcome behaviors. Such supportive measures may include counseling, course modifications, schedule changes, increased monitoring or supervision, or other non-punitive measures that do not discipline a respondent or make a determination as to a respondent's responsibility for any allegations raised.
2. If the complaining individual decides to file a formal complaint, the School Corporation will assign an investigator to investigate the complaint according to the procedures set forth below. The investigator should not be the Title IX Coordinator who heard the complaint and/or contacted the alleged victim of sexual harassment about the formal complaint process. The person making the complaint is known as the "complainant;" the person accused of sexual harassment is the "respondent;" and the

person investigating the complaint and managing the grievance process is the “investigator.”¹

3. If the allegations, on their face, do not satisfy the definition of sexual harassment outlined above, the process is terminated. (However, complained of conduct may be a violation of other school policies and subject to discipline or school action separate from the sexual harassment grievance process.) If the allegations, on their face, did not occur in a school program or activity or did not happen to an individual within the United States, the process will also be terminated. If the process is terminated due to the aforementioned deficiencies, the school will promptly provide written notice of the dismissal of the complaint and the reasons therefore to the parties.
4. Due to the sensitivity surrounding complaints of unlawful sexual harassment, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint promptly after the conduct occurs—while the facts are known and potential witnesses are available. For a formal complaint to be timely, the complainant must be participating in or attempting to participate in the education program or activity of the school with which the formal complaint is filed.

The general process for harassment allegations involving sex will be as follows:

¹ Should an investigator be assigned to investigate a formal complaint, the parties shall be provided with notice of the assignment on the following form: **NOTICE OF ASSIGNED INVESTIGATOR AND SCHEDULING INITIAL MEETING.**



C. Grievance Procedure

The grievance process seeks to treat complainants and respondents equitably. To that end, the investigator will be without bias for or against complainants or respondents generally or the individual complainant or respondent actually involved in the current complaint. The investigator also will be appropriately trained to investigate Title IX complaints.

Upon receipt of a formal complaint, the investigator will provide the following notices² to all parties known by the school at the time:

1. Notice of the grievance processes available (formal and informal), and notice of the opportunity to submit to the informal resolution process of the complaint in writing. (Both the complainant and respondent have to agree to and submit to the informal resolution process in writing. The parties may do so at the outset of the grievance procedure or agree to do so at any point during the formal procedure prior to a determination of responsibility is made. If both parties do not agree or if one party

² A copy of the appropriate form for this information is attached (see **INITIAL NOTICE TO PARTIES REGARDING TITLE IX COMPLAINT.**)

withdraws from the informal procedure prior to its conclusion, however, then the formal procedure will be followed. The informal procedure may not be used, if the alleged sexual harassment involves a student-complainant and employee-respondent.)

2. Notice of the sexual harassment allegations, including the identities of the parties involved in the incident(s), the conduct allegedly constituting sexual harassment, and the date(s) and location(s) of the alleged incident(s).
3. Notice that the respondent is presumed not responsible for the allegations and that a determination regarding responsibility is not made until the conclusion of the grievance process.
4. Notice that the parties may select an advisor of their choice, which are advocates and representatives that assist parties in the complaint resolution process (advisors do not have to be an attorney but they can be). The School Corporation may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
5. Notice that parties may inspect and review evidence as part of the process and discuss allegations under investigation.
6. Notice of the school's prohibition on making knowingly false statements or knowingly submitting false information during the grievance process.
7. Notice of the range of possible disciplinary sanctions and remedies that the school may implement if the decision-maker (an individual different than the investigator) determines that sexual harassment occurred.
8. Notice of the standard of evidence to be used under the formal procedure, which is the preponderance of the evidence standard.
9. Notice of the procedures and permissible bases for an appeal of the determination under the formal procedure.
10. Notice that the school may consolidate formal complaints alleging sexual harassment if the allegations of sexual harassment arise out of the same facts or circumstances.
11. Notice of the range of supportive measures available to the complainant and respondent.

D. Formal Procedure

1. Under the formal procedure, the investigator will set forth reasonable time frames for the investigator to gather and disseminate evidence, which may include photographs, text messages, other electronic images or audio files, witness statements, medical documents, and other forms of evidence.

Should a dispute arise over discovery requested or demanded, the investigator will not require or allow the use of 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.

The investigator will ensure that all parties are able to review and inspect all evidence obtained as part of the investigation that is directly related to the allegations in the formal complaint. Moreover, the investigator will provide copies of such evidence to parties and their advisors and will permit the parties to respond to the evidence in writing. The investigator will set a reasonable time frame for the parties to submit their written responses to the evidence but under no circumstances may that time frame be fewer than 10 days from the parties' receipt of such evidence.

2. The investigator will prepare a draft investigative report³ within a reasonable amount of time and provide the draft investigative report to the parties. The investigative report will summarize the relevant evidence but will not contain a determination of responsibility or provide a conclusion. Parties have 10 business days from the receipt of the investigative report to submit a written response to it.
3. For good cause shown, the parties may be awarded a limited extension of the time frames established by the investigator. The investigator will provide written notice to the complainant and the respondent of any delay or extension and the reasons for it.
4. The school will dismiss a formal complaint, if at any time during the receipt of the complaint or its investigation:
 - i. If the conduct alleged in the formal complaint would not constitute sexual harassment even if proved, did not occur in the School Corporation's education program or activity, or did not occur against a person in the United States (such a dismissal does not preclude action under another provision of the School Corporation's policies or code of conduct);
 - ii. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
 - iii. The respondent is no longer enrolled or employed by the school; or
 - iv. Specific circumstances prevent the school from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

³ A copy of the form utilized for this investigative report is attached: (*see* **INVESTIGATIVE REPORT ON THE TITLE IX COMPLAINT.**)

If dismissing a complaint for any of the above reasons, the school will promptly notify all parties in writing and explain the reason(s) for dismissal.⁴

5. Following the investigation, the matter will be set for a determination by a “decision-maker” who is separate from the investigator and the Title IX Coordinator who heard the complaint and/or contacted the alleged victim of sexual harassment about the formal complaint process. The decision-maker will be without bias for or against complainants or respondents generally or the individual complainant or respondent actually involved in the current complaint. The decision-maker must be trained on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant. Furthermore, the decision-maker will be trained on how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

The decision-maker will review the investigative report and may hold a live hearing. At the live hearing, the decision-maker(s) must permit each party (or their advisor, if an advisor is selected) to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party’s advisor of choice and never by a party personally. At the request of either party, the School Corporation must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions. Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. If a party does not have an advisor present at the live hearing, the School Corporation must provide, without fee or charge to that party, an advisor of the School Corporation’s choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party. Questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant’s prior sexual behavior 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 prior sexual behavior with respect to the respondent and are offered to prove consent. If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party’s or witness’s absence from the live hearing or refusal to answer cross-examination or other questions. Live hearings may be

⁴ A copy of the notice the parties shall receive if a formal complaint is dismissed is attached: (*see **NOTICE OF DISMISSAL***.)

conducted with all parties physically present in the same geographic location or, at the School Corporation's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other. The School Corporation must create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

Alternatively, the decision-maker may elect not to hold a live hearing but instead allow written submissions. Through this process, the decision-maker will afford each party the opportunity 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. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior 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 prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

Following a hearing or exchange of questions and answers, the decision-maker will issue a written determination regarding responsibility for dissemination to the parties.⁵

The written determination will: (1) identify the sexual harassment allegations, (2) describe the procedural steps taken, (3) issue findings of fact, (4) provide conclusions and a rationale for the result of each allegation (including whether there is responsibility found, what disciplinary sanctions will be imposed on the respondent, and whether any remedies will be utilized to restore or preserve the complainant's equal access to the school's program or activity), and (5) explain the procedures and permissible bases for the parties to appeal the determination.

6. The Appeal Process:

If a party seeks to appeal the decision-maker's decision (or the dismissal of a formal complaint or any allegations therein), the party must submit, in writing to the Title IX Coordinator who heard the complaint and/or contacted the alleged victim of sexual harassment about the formal complaint process, notice of intent to appeal and a brief summary of the basis for the appeal within 10 days of the decision-maker's decision (or within 10 days of receiving notice that the complaint and/or allegations have been dismissed). If an appeal is not timely, the initial decision-maker's determination is final.

⁵ A copy of the form utilized for this decision is attached: (*see* **NOTICE OF DECISION-MAKER'S DECISION ON THE TITLE IX COMPLAINT.**)

Either party may submit an appeal, but appeals may only be brought for one or more of the following reasons: (1) a procedural irregularity affected the outcome, (2) new evidence that was not reasonably available at the time of the determination is now available and could affect the outcome, or (3) the Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias that affected the outcome of the matter.

Upon receipt of a timely notice of appeal, the school will assign an “appeal decision-maker.” The appeal decision-maker will not be the Title IX Coordinator who heard the complaint and/or contacted the alleged victim of sexual harassment about the formal complaint process, the investigator, or initial decision-maker but will be similarly without bias for or against complainants or respondents generally or the individual complainant or respondent actually involved in the appeal, as well as appropriately trained.

Upon assignment, the appeal decision-maker will contact all parties to provide notice of the appeal and the alleged basis for the appeal and to establish a deadline for the parties to submit in writing a response to the appeal which either supports or challenges the initial decision-maker’s determination of responsibility.

The appeal decision-maker will provide the parties with his or her determination regarding the appeal within a reasonable amount of time thereafter. The appeal decision-maker’s determination will be set forth in writing, will provide the appeal decision-maker’s rationale, and will be final.

E. Informal Resolution

1. Under the informal procedure, if both parties submit to the process in writing, the investigator will contact the parties and establish a date to engage in an informal mediation to discuss the allegations, the parties’ perspectives, potential protective measures, and other informal methods of resolving the formal complaint.
2. At the mediation, if the parties reach an agreement to resolve the process, they shall submit to the resolution terms in writing.
3. By signing the resolution, the parties are precluded from seeking additional procedures and processes arising from the same allegations. However, at any point during the mediation, prior to agreeing to a resolution, either party may terminate the informal procedure and begin or resume the formal procedure.

F. Implementation of Remedies and Supportive Measures

The Title IX Coordinator is responsible for effective implementation of any remedies issued under the grievance procedure or through informal resolution.

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Supportive measures means 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 Corporation's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the School Corporation's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The School Corporation must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the School Corporation to provide the supportive measures.

II. HARASSMENT BETWEEN EMPLOYEES

The Board believes that its employees should be able to enjoy a workplace free from all forms of discrimination, including harassment on the basis of race, color, religion, gender, sex, national origin, age, disability, sexual orientation, gender identity, and other legally-protected status. It is against Board policy for any School Corporation employee, whether an administrator, supervisor, or co-worker, to unlawfully discriminate against or harass another individual. This policy also prohibits harassment of any School Corporation employee by any third party, such as a supplier or a contractor employee or representative.

Sexual harassment or gender-based harassment occurs when unwelcome conduct of a sexual nature becomes a condition of an employee's continued employment, affects other employment decisions regarding the employee, or creates an intimidating, hostile, or offensive work environment. Harassment or discrimination also occurs when verbal or physical conduct defames or shows hostility toward an individual because of his or her race, color, religion, gender, national origin, age, disability, sexual orientation, gender identity, or other legally-protected status, or that of the individual's relatives, friends, or associates; creates or is intended to create an intimidating, hostile, or offensive work environment; interferes or is intended to interfere with an individual's work performance; or otherwise adversely affects an individual's employment opportunities.

Sexual and sex-based harassment and discrimination may include, but is not limited to:

- Requests for sexual favors;
- Unwanted physical contact, including touching, pinching, or brushing the body;
- Verbal harassment, such as sexual innuendos, suggestive comments, jokes of a sexual nature, sexual propositions, and threats;
- Non-verbal conduct, such as display of sexually suggestive objects or pictures, leering, whistling, or obscene gestures;
- Acts of physical aggression, intimidation, hostility, threats, or unequal treatment based on sex (even if not sexual in nature);

- Inappropriate or adverse treatment because an employee does not fit a gender stereotype.

Other types of harassment and discrimination may include, but is not limited to:

- Epithets, slurs, negative stereotyping, or threatening, intimidating or hostile acts, which relate to race, color, religion, gender, national origin, age, disability, sexual orientation, gender identity, or other legally-protected status;
- Written or graphic material that defames or shows hostility or aversion toward an individual or group because of race, color, religion, gender, national origin, age, disability, sexual orientation, gender identity, or other legally-protected status, and that is placed on walls, bulletin boards, or elsewhere on the School Corporation's premises, or that is circulated in the workplace; and
- Unequal treatment based on an employee's protected status.

Any employee who believes he or she has been harassed or otherwise discriminated against should report the conduct immediately to the Director of Human Resources, Elizabeth Miller (emiller@scsc.school). No victim retaliation or discrimination will result from any good-faith complaint made under this policy. A thorough and impartial investigation of all complaints will be conducted in a timely and confidential manner and appropriate corrective action will be taken. Any School Corporation employee who has been found, after appropriate investigation, to have harassed another employee will be subject to disciplinary action up to and including discharge.

UPDATED FALL 2023

INITIAL NOTICE TO PARTIES REGARDING TITLE IX COMPLAINT

The School Corporation is in receipt of a formal complaint alleging sexual harassment. You are receiving this notice because you are either the complainant(s) (alleged victim), the respondent(s) (alleged perpetrator), or party requiring notice pursuant to 34 C.F.R. § 106.45(b)(2).

Below, please see the substance of the allegations, as understood by the School Corporation at the time of providing this notice. As well, please see information relating to the grievance procedure and general information relating to other procedural rights and notices.

I. ALLEGATIONS

[INCLUDE BRIEF SUMMARY OF ALLEGATIONS]

A. Identities of Parties Involved in the Incident(s)

[IDENTIFY PARTIES INVOLVED]

B. Date and Location of the Alleged Incident(s)

[IDENTIFY DATE AND LOCATION OF ALLEGED INCIDENT(S)]

II. GRIEVANCE PROCEDURE

The School Corporation's Sexual Harassment Policy and an explanation of the grievance process is available at: [INSERT LINK]

III. RESPONDENT PRESUMED NOT RESPONSIBLE

The School Corporation recognizes that under Title IX and its implementing regulations the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.

IV. RIGHTS OF THE PARTIES

Complainant and Respondent may have an advisor of their choice, who may be, but is not required to be, an attorney. The parties also may inspect and review evidence relating to the allegations.

V. REMINDER REGARDING FALSE INFORMATION

The School Corporation's code of conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance process. If any party violates the code of conduct in this respect, that party will be subject to the processes and consequences of the applicable code of conduct provision.

VI. RANGE OF POTENTIAL DISCIPLINARY SANCTIONS AND REMEDIES

The range of possible disciplinary sanctions and remedies that the School Corporation may implement if the decision-maker determines that sexual harassment occurred include, for students, detention/in-school suspension, loss of transportation privileges, loss of extracurricular privileges, out-of-school suspension, expulsion, and for employees, oral reprimand, written reprimand, suspension without pay, loss of extracurricular opportunities, termination of employment/contract cancellation, and prohibition from entering School Corporation property.

VII. EVIDENTIARY STANDARD

In determining whether the Respondent is responsible for the sexual harassment allegations, the decision-maker shall apply a preponderance of the evidence standard.

VIII. RIGHT TO CONSOLIDATE FORMAL COMPLAINTS

The School Corporation reserves the right to consolidate formal complaints of sexual harassment, without the consent of the involved parties, if the allegations arise out of the same facts or circumstances.

IX. RANGE OF SUPPORTIVE MEASURES

Supportive measures means 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 Corporation's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the School Corporation's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

NOTICE OF ASSIGNED INVESTIGATOR AND SCHEDULING INITIAL MEETING

The School Corporation has assigned me to be the investigator for the Title IX complaint that you received an initial notice of, dated [INSERT DATE OF INITIAL NOTICE], because you are either the complainant(s) (alleged victim), the respondent(s) (alleged perpetrator), or a party requiring notice pursuant to 34 C.F.R. § 106.45(b)(2)..

As the investigator, my duties include establishing a schedule for the exchange of relevant evidence and information between the parties. I am also responsible for facilitating opportunities for the parties to respond to all of the relevant evidence in writing once the evidence has been compiled, exchanged, and reviewed. After receiving such written responses, I will issue an investigative report to the parties and set forth a timeframe to respond to that report in writing and to engage in any other relevant witness or party questioning.

To perform my duties, I would like to schedule an initial telephonic meeting with the parties and/or their representatives to understand the expected evidence to be sought and/or produced, any time restrictions or schedule limitations of the parties and/or their representatives, and any other special considerations for establishing the schedule for the investigation.

Please provide dates and times of when you are available for this initial telephonic meeting by emailing me at [INSERT EMAIL ADDRESS OF INVESTIGATOR].

I will notify you of the date and time for the initial meeting in a response email or follow-up with alternative dates and times if necessary. In the meantime, if you have any questions about the investigative process, please refer to the Initial Notice to Parties Regarding Title IX Complaint that you received or the School Corporation's Sexual Harassment Policy.

Sincerely

[INSERT NAME]
Title IX Complaint Investigator
[INSERT EMAIL ADDRESS]
[INSERT TELEPHONE NUMBER]

INVESTIGATIVE REPORT ON THE TITLE IX COMPLAINT

This investigative report summarizes the relevant evidence received and exchanged on this Title IX complaint. This investigative report is not a determination and provides no conclusions or ultimate findings on the underlying issues presented in the allegations.

I. Summary of Evidence

Evidence submitted by the complainant:

[SUMMARIZE EVIDENCE FROM COMPLAINANT]

Evidence submitted by the respondent:

[SUMMARIZE EVIDENCE FROM RESPONDENT]

Additional evidence obtained:

[SUMMARIZE EVIDENCE FROM OTHER SOURCES]

****Parties and their representatives have 10 days from the receipt of this investigative report to submit a written response to the evidence summarized above.**

Additionally, upon the receipt of this investigative report and within the same 10-day time period, each party is entitled to submit to the investigator written, relevant questions of any other party or witness. If any party does submit such questions, as the investigator, I will serve the questions on the appropriate party or witness, establish a reasonable schedule for answering any such questions submitted to a party or witness, and, where appropriate, provide for the opportunity to ask additional, follow-up questions and receive additional answers to the follow-up questions.

NOTICE OF DISMISSAL

You are receiving this notice because you are either the complainant(s) (alleged victim), the respondent(s) (alleged perpetrator), or a party requiring notice pursuant to 34 C.F.R. § 106.45(b)(2)..

At this time, the School Corporation is dismissing the Title IX Complaint (or allegations therein). The School Corporation is dismissing

___ the entire Title IX Complaint; or

___ the following allegations contained in the Complaint:

[EXPLAIN WHICH ALLEGATIONS ARE DISMISSED]

because:

_____ The alleged conduct (circle all that apply): (i) would not constitute sexual harassment even if proved; (ii) did not occur in the School Corporation’s education program or activity; or (iii) did not occur against a person in the United States.

_____ The complainant notified the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint and the allegations therein.

_____ The respondent is no longer enrolled in or employed by the School Corporation.

_____ The School Corporation cannot gather evidence sufficient to reach a determination as to the formal complaint (or certain allegations therein). Specifically, [EXPLAIN LIMITATIONS ON GATHERING EVIDENCE].

****If a party wants to appeal this dismissal, the party must submit, in writing to the Title IX Coordinator who heard the complaint and/or contacted the alleged victim of sexual harassment about the formal complaint process via e-mail notice of intent to appeal and a brief summary of the basis for the appeal within 10 days of the decision-maker’s decision. If an appeal is not timely, the initial decision-maker’s determination is final.**

Either party may submit an appeal, but appeals may only be brought for one or more of the following reasons: (1) a procedural irregularity affected the outcome, (2) new evidence that was not reasonably available at the time of the determination is now available and could affect the

outcome, or (3) the Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias that affected the outcome of the matter.

NOTICE OF DECISION-MAKER'S DECISION ON THE TITLE IX COMPLAINT

This decision sets forth a summary of the sexual harassment allegations made by the complainant, a summary of the procedural steps taken to investigate and resolve the complaint, the findings of fact found as determined by the evidence presented, and a determination of responsibility, disciplinary sanctions, and any remedies to be utilized.

X. Sexual Harassment Allegations

[EXPLAIN ALLEGATIONS]

XI. Summary of Procedural Steps

The Title IX Coordinator contacted the complainant on [INSERT DATE], upon learning of the complainant's allegations. The Title IX Coordinator provided information about the process for making a formal complaint and discussed potential supportive measures available to the complainant.

The complainant filed a formal complaint on [INSERT DATE], and the School Corporation assigned [INSERT NAME] as the investigator of the complaint. On [INSERT DATE], the investigator sent the Initial Notice to Parties Regarding Title IX Complaint, which summarized the allegations of the complaint and the grievance procedures available to the parties and provided additional information and notices of rights regarding the process. The investigator then contacted the parties to schedule an initial meeting and to set forth the discovery schedule and timeline for completing the investigation into the complaint.

Next, the investigator oversaw and facilitated opportunities for the parties and their respective representatives to exchange evidence and then respond to all of the relevant evidence in writing once it had been compiled, exchanged, and reviewed. After receiving such written responses, the investigator issued an investigative report to the parties and set forth a timeframe for the parties to respond to that report in writing and to engage in any other relevant witness or party questioning.

At the conclusion of those exchanges and submissions and the completion of the investigation, the investigator submitted the investigative report, the parties' written responses thereto, the parties' questions and answers of all witnesses, and the underlying evidence gathered in the investigation to me the decision-maker for consideration and a determination of responsibility.

XII. Findings of Fact

[INSERT FACTUAL FINDINGS]

XIII. Conclusions

[INSERT CONCLUSIONS AND REASONING FOR DECISION AS TO EACH ALLEGATION AND APPROPRIATE REMEDY]

XIV. Procedure for Appealing this Decision

If a party wants to appeal this decision, the party must submit, in writing to the Title IX Coordinator who heard the complaint and/or contacted the alleged victim of sexual harassment about the formal complaint process via e-mail notice of intent to appeal and a brief summary of the basis for the appeal within 10 days of this decision. If an appeal is not timely, the initial decision-maker's determination is final.

Either party may submit an appeal, but appeals may only be brought for one or more of the following reasons: (1) a procedural irregularity affected the outcome, (2) new evidence that was not reasonably available at the time of the determination is now available and could affect the outcome, or (3) the Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias that affected the outcome of the matter.

Upon receipt of a timely notice of appeal, the school will assign an "appeal decision-maker." Upon assignment, the appeal decision-maker will contact all parties to provide notice of the appeal and the alleged basis for the appeal and to establish a deadline for the parties to submit in writing a response to the appeal, which either supports or challenges the initial decision-maker's determination of responsibility.