

**Administrative Guideline to Policy 1662**  
***GRIEVANCE PROCEDURE FOR TITLE IX SEXUAL HARASSMENT CLAIMS  
WITHIN PROGRAM OR ACTIVITY***

1. This grievance procedure seeks to treat complainants and respondents equitably. To that end, the Title IX Coordinator and other personnel involved in the grievance process are trained in accordance with the law and will be without bias for or against parties making complaints and accused of sexual harassment generally as well as the specific individuals actually involved in any given complaint.
2. After receiving a complaint, the Title IX coordinator will contact the student allegedly being harassed and/or the student's parents to discuss supportive measures and to obtain any additional information needed to understand the allegations. Supportive measures may include counseling, course modifications, schedule changes, increased monitoring or supervision, or other non-punitive measures that do not discipline the person(s) being accused of committing harassment or make a determination as to responsibility for any allegations raised. For more information on possible supportive measures and their implementation, please see below.
3. The Title IX Coordinator is responsible for determining if the complaint implicates the School Corporation's sexual harassment policy. If the complaining individual's allegations implicate potential sexual harassment, as defined by the School Corporation's policy, the School Corporation will assign an investigator to investigate the complaint according to the procedures set forth below. 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."
4. If allegations, on their face, do not satisfy the definition of sexual harassment or the allegations fail to implicate conduct governed by Title IX, they still may be a violation of other school policies and subject to discipline or school action separate from the sexual harassment grievance process. The School Corporation will communicate with the complainant / the complainant's parent(s) or guardian(s) if that is the case to clarify what is being done to address any such allegations.
5. 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.

**Notice Provided to Parties by the Investigator**

If the conduct complained of implicates the School Corporation's sexual harassment policy, the assigned investigator will provide the following notices to all parties known by the school at the time:

1. Notice that the formal procedure is being followed (and, where appropriate, that the informal procedure is being offered (see below for more information on the informal procedure)).
2. Notice of the sexual harassment allegations, including as much of the following information as is available: 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 of the school's prohibition on making knowingly false statements or knowingly submitting false information during the grievance process.
5. Notice that retaliation for participation is prohibited.
6. Notice that parties have the equal opportunity to inspect and review relevant and not otherwise impermissible evidence as part of the process.
7. Notice of the range of possible disciplinary sanctions and remedies that the school may implement if the decision-maker 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 that the school may consolidate complaints alleging sexual harassment if the allegations of sexual harassment arise out of the same facts or circumstances.

#### **Formal Procedures Conducted by the Investigator**

Under the formal procedure, and in conjunction with providing the above information and notices, the investigator also will set forth reasonable time frames for the parties to present and request relevant and otherwise permissible evidence and witness testimony and for the investigator to gather such evidence and witness testimony. If a party believes another party or a witness has relevant and otherwise permissible evidence, that party should make this known to the investigator during this time frame. The investigator is responsible for evaluating such requests and facilitating the gathering of any such evidence. Evidence and witness testimony may include photographs, text messages, other electronic images or audio files, interviews, 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. Moreover, 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.

Once the evidence is gathered, the investigator will review it to determine whether the evidence is in fact relevant and otherwise permissible. After such review, the investigator will ensure that the parties are able to review and inspect all relevant and otherwise permissible evidence obtained as part of the investigation. The investigator will then set a reasonable time frame for the parties to submit written responses to the evidence, should they choose to do so.

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(s) and the respondent(s) of any delay or extension and the reasons for it.

The school will dismiss a complaint, if at any time during the receipt of the complaint or its investigation:

- i. It is unable to identify the respondent after taking reasonable steps to do so;
- ii. The respondent is not participating in the school's education program or activity and is not employed by the school;
- iii. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the complaint or any allegations therein and the Title IX Coordinator determines the remaining allegations, if any, would not constitute sexual harassment even if proved; or
- iv. If the conduct alleged in the complaint would not constitute sexual harassment even if proved.

If dismissing a complaint for any of the above reasons, the school will promptly notify all parties already made aware of the complaint in writing and explain the reason(s) for dismissal and the bases for appealing any such dismissal, including a deadline for the parties to submit such an appeal. For reasons (iii) and (iv), such a dismissal does not preclude action under another provision of the School Corporation's policies or code of conduct. As well, dismissal for any reason does not preclude the School Corporation from offering and providing appropriate supportive measures.

If a dismissal is timely appealed, the school will assign a decision-maker to resolve the appeal. The decision-maker shall not be someone who participated in the investigation or decision to dismiss the complaint. The decision-maker shall notify the parties of the appeal and set a deadline for the parties to have an opportunity to submit a written statement in support or in opposition to the appeal. The decision-maker will notify the parties of the result of the appeal and the rationale for any decision within a reasonable time frame.

### **Formal Procedures Performed by the Decision-Maker**

Following the investigation, the matter will be set for a determination by a "decision-maker." The decision-maker may be the investigator or the Title IX Coordinator, if appropriate under the circumstances. The School Corporation may, at its sole discretion, also assign an entirely different person to be the decision-maker, depending on the needs of the given situation and the School Corporation's available resources. Regardless of who is serving in the role, the decision-maker will be without bias for or against complainants or respondents generally or the individual complainant or respondent actually involved in the specified complaint. 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 investigation materials and contact parties and witnesses regarding questions that the decision-maker has or to set up interviews that the decision-maker believes are necessary

for understanding the evidence and assessing credibility. The decision to schedule interviews is in the sole discretion of the decision-maker, based on the needs of the particular complaint and the evidence gathered.

Once the decision-maker has been able to assess the relevant and permissible evidence and the credibility of witnesses and parties, the decision-maker will issue a written determination to the parties.

Using the preponderance of the evidence standard, the written determination will: (1) identify the sexual harassment allegations, (2) provide findings and a rationale for the result of each allegation (including whether there is responsibility found (i.e. whether sexual harassment was found to have occurred), and (3) explain the procedures and permissible bases for the parties to appeal the determination.

### **Appealing a Decision Issued Under the Formal Process**

A Complainant or Respondent who is dissatisfied with the outcome may appeal through a signed written request to Dr. Chad Briggs, Superintendent, (cbriggs@scsc.school) within five (5) business days of the receipt of the decision. The party making the request shall include the reasons for making the appeal in the same communication. If an appeal is not timely, the initial decision-maker's determination is final.

Upon receipt of a timely notice of appeal, the school will assign an "appeal decision-maker." The appeal decision-maker will not be the 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.

### **Informal Resolution**

If the School Corporation believes, at its sole discretion, that an informal process might be useful under the circumstances presented based on the ages of the individuals involved, the relationship of the parties, and the context surrounding the alleged harassment, it shall notify the parties of the opportunity to engage in an informal resolution of the complaint. The School Corporation may offer an informal resolution process at any point after a complaint is made, even if the formal process is currently being followed. The informal resolution process is not available if any of the parties involved are an employee of the School Corporation.

1. If offering informal resolution, the school must provide notice of the complaint allegations, the requirements of the informal resolution process, notice that parties may withdraw from the information resolution process at any time prior to its conclusion, the potential terms that may be requested or offered in an informal resolution agreement (e.g. restrictions on contact and restrictions on respondent

participation in certain events and programs), notice that the agreement would be binding on the parties, notice of how information received may or may not be disclosed in formal grievance procedures.

2. If the informal process is offered, both the complainant and respondent have to agree to and submit to the informal resolution process in writing. If both parties do not agree or if one party withdraws from the informal procedure prior to its conclusion, the formal procedure will be followed. The informal procedure may not be used if the alleged sexual harassment involves an employee as a complainant or respondent.
3. Under the informal procedure, if both parties submit to the process in writing, the Title IX Coordinator or a person designated by the Title IX Coordinator will contact the parties and establish a date to engage in an informal mediation to discuss the allegations, the parties' perspectives, potential supportive measures, potential terms that may be requested or offered in an informal resolution (e.g. restrictions on contact, restrictions on the respondent's participation in one or more programs or activities, or restrictions on the respondent's attendance at specific events), and what information the School Corporation will maintain and whether and how it could disclose such information for use in grievance procedures.
4. At the mediation, if the parties reach an agreement to resolve the process, they shall submit to the resolution terms in writing.
5. 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.

### **Implementation of Remedies and Supportive Measures**

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

With respect to 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.

The Title IX Coordinator is also responsible for coordinating the effective implementation of supportive measures, including consulting with the proper individual(s) needed to comply with any terms or conditions set forth in an Individualized Education Program or the requirements of the federal law pertaining to students with disabilities.

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. 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 or other parties, including measures designed to protect the safety of all parties, the School Corporation's educational environment, and to deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, campus escort services, increased security and monitoring of certain areas of campus, restrictions on contact applied to one or more parties, leaves of absence, modifications of work, class, activity schedules, 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.

Should a party believe supportive measures need to be modified or altered, it is the responsibility of that party to notify the Title IX Coordinator and make that request. Should that party disagree with the supportive measures being offered or the Title IX Coordinator's decision not to modify or alter a requested modification to the supportive measures, the Title IX Coordinator shall refer the party to an independent, impartial employee of the School Corporation for review of the request. This impartial employee will have the authority to overrule the decision of the Title IX Coordinator with regard to the requested supportive measures.

## **INVESTIGATOR’S NOTICE TO PARTIES**

The School Corporation is in receipt of a complaint alleging sexual harassment. You are receiving this notice because you are either the complainant(s) (alleged victim), the respondent(s) (alleged perpetrator), or a party required to receive notice.

The School Corporation has assigned me to be the investigator for the Title IX complaint. As the investigator, my duties include:

- (1) providing you with the below notices;
- (2) establishing a schedule for gathering relevant evidence and information (again, please see below for important dates and deadlines); and
- (3) facilitating the parties’ ability to review and respond to such evidence and information.

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

Second, please see the dates and deadlines established for this matter at the conclusion of this Notice.

### **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: <https://www.scsc.school/resources/parent-student-resources>.

At this time, you are being offered the option of selecting an informal resolution of this process. 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.

### **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 will be provided the opportunity to inspect and review relevant and permissible evidence relating to the allegations. The parties may not be retaliated against for participation in this process.

### **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 COMPLAINTS**

The School Corporation reserves the right to consolidate 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. 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 or other parties, including measures designed to protect the safety of all parties, the School Corporation's educational environment, and to deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, campus escort services, increased security and monitoring of certain areas of campus, restrictions on contact applied to one or more parties, leaves of absence, modifications of work, class, activity schedules,



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.

<b><u>INVESTIGATION SCHEDULE</u></b>		
Deadline for parties to identify witnesses and information relevant to the complaint	MUST SUBMIT TO ME AT: [INSERT EMAIL]	BY NO LATER THAN: [INSERT DATE/TIME]
Deadline for parties to request additional information or evidence	MUST SUBMIT TO ME AT: [INSERT EMAIL]	BY NO LATER THAN: [INSERT DATE/TIME]
Deadline for parties to review and inspect relevant and permissible evidence	INVESTIGATOR TO PROVIDE AVAILABLE DATES AND TIMES FOR SUCH REVIEW	
Deadline for parties to submit written responses to their review and inspection of the evidence	INVESTIGATOR TO PROVIDE THIS DEADLINE	

If the parties have good cause for the extension of any deadline, they must request the extension promptly and as soon as practicable under the circumstances by contacting me at: [INSERT EMAIL].

Sincerely,

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

**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 required to receive such notice.

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 School Corporation has not been able to identify the respondent despite taking reasonable steps to do so.
- \_\_\_\_\_ The respondent is not participating in the school’s education program or activity and is not employed by the school.
- \_\_\_\_\_ The complainant notified the Title IX Coordinator in writing that the complainant would like to withdraw part or all of the complaint and allegations, and the Title IX Coordinator has determined the remaining allegations, if any, would not constitute sexual harassment even if proven.
- \_\_\_\_\_ The conduct complained of would not constitute sexual harassment, even if proven.

**\*\*If a party wants to appeal this dismissal, the party must submit, in writing, to one of the Title IX Coordinators via e-mail, notice of intent to appeal and a brief summary of the basis for the appeal within 5 business days.**

Dr. Jessica Waters ([jwaters@scsc.school](mailto:jwaters@scsc.school))

Dr. Tamara Swarens ([tswarens@scsc.school](mailto:tswarens@scsc.school))

**DECISION-MAKER’S NOTICE TO PARTIES**

The School Corporation has assigned me to be the decision-maker for the Title IX complaint. As the decision-maker, my duties include:

- (1) reviewing the investigation materials;
- (2) contacting parties and witnesses regarding any questions I have and setting up interviews (if necessary) for better understanding the evidence and assessing credibility; and
- (3) issuing a written determination to the parties.

Should I have questions or the need to schedule an interview with you, I will contact you as soon as possible. At the conclusion of my review of the evidence and any interviews I conduct, I will issue my decision and determination to you in writing.

Sincerely,

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[INSERT NAME]  
Title IX Decision-Maker  
[INSERT EMAIL ADDRESS]  
[INSERT TELEPHONE NUMBER]

## **DECISION-MAKER’S DECISION ON THE TITLE IX COMPLAINT**

This decision sets forth a summary of the sexual harassment allegations made by the complainant, the findings and rationale regarding a determination of responsibility (as determined by the evidence presented), and the procedures for any appeal of this decision.

If there is a determination of responsibility, the Title IX Coordinator is tasked with coordinating and ensuring appropriate remedies and disciplinary sanctions are implemented and will be in contact with the parties as necessary and appropriate.

### **I. Sexual Harassment Allegations**

[EXPLAIN ALLEGATIONS]

### **II. Findings and Rationale**

[INSERT FACTUAL FINDINGS]

### **III. Procedure for Appealing this Decision**

A Complainant or Respondent who is dissatisfied with this Decision may appeal through a signed written request to [INSERT NAME AND EMAIL ADDRESS] within five (5) business days of the receipt of the decision. The party making the request shall include the reasons for making the appeal in the same communication. If an appeal is not timely, the initial decision-maker’s determination is final.

Upon receipt of a timely notice of appeal, the school will assign an “appeal decision-maker.” 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.