Radnor Township School District
Grievance Procedures for Complaints of Sexual Harassment Pursuant to Title IX of the Education Amendments of 1972 and Accompanying Regulations as Defined Within Part 106 of Title 34 of the Code of Federal Regulations

The District has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating in or attempting to participate in an education program or activity, or by the Title IX Coordinator.

The purpose of these procedures is to effectuate Title IX's prohibition against sex discrimination and to respond promptly and supportively to persons alleged to be victimized by sexual harassment, resolve allegations of sexual harassment promptly and accurately under a predictable, fair grievance process that provides due process protections to alleged victims and alleged perpetrators of sexual harassment, and effectively implement remedies for victims.

Complainants, as defined below, may request that the District initiate the Grievance Procedure or an informal resolution as set forth below for reports of Title IX sexual harassment.

A copy of a Blank Title IX Complaint is attached to the Grievance Procedure.

The District's Title IX Coordinator is:

Name: Todd Stitzel
Title: Director of Human Resources
Address: Radnor Township School District
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Title IX Grievance Procedure and Related Steps

The District will abide by all legal requirements for suspected Title IX violations, including by following these procedures:

1. Offering of Supportive Measures & Notice of Ability to File Complaint

If the District obtains actual knowledge of sexual harassment in an education program or activity of the District against a person in the United States, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

Supportive measures are non-disciplinary, non-punitive individualized services that are designed to restore or preserve equal access to the District's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District's educational environment, or deter sexual harassment.

2. Filing a Complaint of Title IX Sexual Harassment

The following individuals have a right to file a Title IX Complaint and thereby request that the District commence the following Title IX Grievance Procedure:

- A "Complainant" or an individual who is alleged to be the victim of conduct that could constitute sexual harassment;
- A parent or guardian acting on behalf of a complainant; or
- The District's Title IX Coordinator.

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the District with which the formal complaint is filed.

A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator and by any additional method designated by the District.

A. Timelines for Filing Complaints

The District encourages complaints to be filed as soon as possible after the time of occurrence of the alleged sexual harassment. An untimely filing may result in dismissal of the complaint.

B. Dismissal of Complaint

The District is required to dismiss the formal complaint if the conduct alleged in the formal complaint would not constitute sexual harassment as defined even if proved, did not occur in a District education program or activity, or did not occur against a person in the United States.

The District may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing:

- A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
- The respondent is no longer enrolled or employed by the District; or
- Specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon dismissal required or permitted pursuant to this section, the District must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties. A party may appeal dismissal of a formal complaint or any allegations therein, on the following bases:

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

Dismissal shall not preclude the individual's right to pursue the complaint through other appropriate external agencies, nor does it preclude action under another provision of the District's code of conduct.

C. Consolidation of Complaints

The District may consolidate formal complaints as to allegations of sexual harassment against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

3. Title IX Grievance Procedure

The District will follow all required steps and legal requirements as required by Title IX and its implementing regulations. Below is the Title IX Grievance Procedure that the District will follow.

A. Evaluation of Complaint

After a complaint is filed, the Title IX Coordinator will review and evaluate the complaint to ensure all required procedural steps were taken and that it is appropriate for the District to begin the Grievance Procedure as follows.

The evaluation of a complaint, including the District's decision whether to dismiss or commence the grievance process, is recommended to be completed within 10 school days of receipt of a complaint.

B. Notice of Allegations

The Title IX Coordinator must provide written notice to the parties who are known when a complaint moves forward in the grievance process. The notice must include the following:

- This Grievance Process and any informal resolution process;
- Notice of the allegations potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview;
- A statement that 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;
- Information stating that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney and that they may inspect and review evidence during the grievance process; and
- Notice of any provision in a code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of a Title IX investigation, the District decides to investigate allegations about the complainant or respondent that are not included in the original complaint, the recipient must provide notice of the additional allegations to the parties whose identities are known.

C. Investigation

An investigator will conduct an investigation into the allegations within the complaint pursuant to the following procedures.

i. Evidence Gathering and Interviews

The investigator must ensure that the burden of proof rests on the District and not on the parties. The investigator will gather relevant evidence sufficient for the decision-maker to reach a determination as to the formal complaint or allegations therein.

The investigator is encouraged to contact each party and to afford each party an opportunity to participate in at least one interview. The investigator will conduct interviews with witnesses as they deem appropriate. A party is not required to participate in this process, but is encouraged to do so. A decision to not participate (i.e., declining an interview and/or information requests) can be made. In the event of non-participation, a determination may be made without input from the individual who declines participation.

The investigator will provide each party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with sufficient time for the party to prepare to participate.

The investigator will provide an equal opportunity for parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, and the investigation will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. The investigator will decide what information to consider from the parties, including whether to interview additional witnesses at the request of the parties.

The investigator cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the District obtains that party's voluntary, written consent to do so. For parties who are not 18 years old, the District must obtain the voluntary, written consent of the party's parent or guardian, surrogate parent or guardian ad litem.

The evidence gathering stage of the investigation is encouraged to be completed within twenty (20) school days.

ii. Disclosure of Relevant Evidence

The investigator will disclose any and all evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

Each party will have an equal opportunity to inspect and review the relevant evidence, and they will have ten (10) school days to submit a written response to the evidence, which the investigator will consider prior to completion of the investigative report.

iii. Drafting and Disclosure of Investigative Report

The investigator will create an investigative report that fairly summarizes relevant evidence. The investigator will provide the report to the decision-maker.

The investigative report will also be provided to the parties for review and written response at least ten (10) school days[1] before the decision-maker issues their written determination.

It is recommended that the investigative report be completed within fifteen (15) school days upon receipt of the written responses to the investigative report.

D. Decision-Making Stage

A decision-maker will determine whether the allegations in the complaint took place and whether there was a violation of Title IX pursuant to the Title IX regulations.

i. Hearings

Hearings will be held at the discretion of the decision-maker.

ii. Opportunity for Written Response and Questions

The decision-maker will provide each party ten (10) school days to provide a response to the investigative report.

The decision-maker will also:

- Afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness;
- Provide each party with answers;
- Allow for additional limited follow-up questions; and
- Explain to the party proposing the questions any decision to exclude a question as not relevant.

With or without a hearing, questions and evidence about the complainant's sexual predisposition or prior sexual behavior is 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 complaint; or

[1] If a matter proceeds in the summer when school is not in session, business days will be used for time computation.

- If the questions and evidence concern specific incidents of the complainant's prior sexual behavior with the respondent and are offered to prove consent.

iii. Standard of Evidence

The decision-maker will apply the clear and convincing standard of evidence, which means the decision-maker must determine whether it is highly probable that the alleged facts are true.

iv. Determinations Regarding Responsibility

The decision-maker will issue a written determination which must include the following:

- Identification of the allegations potentially constituting sexual harassment;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the District's code of conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, of any disciplinary sanctions the District imposes on the respondent, and whether remedies designed to restore or preserve equal access to the District's education program or activity will be provided by the District to the complainant; and
- The District's procedures and permissible bases for the complainant and respondent to appeal.

The District must provide the written determination of responsibility to the parties simultaneously.

The determination regarding responsibility becomes final either:

- On the date that the District provides the parties with the written determination of the result of the appeal (if an appeal is filed); or
- On the date on which an appeal would no longer be considered timely (if an appeal is not filed).

A written determination of a complaint should be issued within twenty (20) school days after conclusion of the facilitation of the questions and upon receipt of a written response to the evidence.

E. Appeals

An appeals officer will decide on any filed appeal.

The bases for an appeal are as follows:

1. Procedural irregularity that affected the outcome of the matter;

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

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

Each party will have five (5) school days to submit an appeal to the Title IX Coordinator, who will then appoint an appeals officer to determine the appeal. A party filing an appeal should explain (1) the basis for appeal, in detail, and (2) what relief the appealing party is looking for.

If an appeal is filed, the non-appealing party will have the opportunity to file a response. The Title IX Coordinator and/or appeals officer will provide the non-appealing party with the information about the grounds for the appeal and will provide the non-appealing party with five (5) school days to respond upon receipt of that information.

The appeals officer should strive to decide the appeal within ten (10) school days of receiving the above information from the parties. The appeals officer will provide the decision of the appeal to the parties.

F. Informal Resolution

In lieu of resolving a complaint through the District's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. The District does not offer informal resolution to resolve a complaint that includes allegations that an employee engaged in sex-based harassment of a student, or when such a process would conflict with Federal, State, or local law.

Informal resolutions can take many forms, depending on the particular case. Examples include, but are not limited to, mediation, facilitated discussions between the parties, restorative practices, acknowledgment of responsibility by a respondent, apologies, a requirement to engage in specific services or supportive measures.

When offering an informal resolution process, the Title IX Coordinator will adhere to all requirements, including notice requirements, in the Title IX regulations, which includes notifying parties that 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 procedures. Specifically, the District will

- Provide to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the

parties from resuming a formal complaint arising from the same allegations, provided, however, that 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 with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared; and

- Obtain the parties' voluntary, written consent to the informal resolution process;

The informal resolution should be completed within ten (10) days after both parties provide their consent and agree to participate in an informal resolution.

4. Representation

The District will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice, who may be, but is not required to be, an attorney. The District will not limit the choice or presence of an advisor for either the complainant or respondent in any meeting or grievance proceeding. But, the District may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

5. Additional Requirements for the Grievance Process

The District will ensure the process adheres to the required legal obligations, which, *inter alia,* requires the District to:

a. Treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a grievance process that complies with this section before the imposition of any disciplinary sanctions or other actions that are not supportive measures;

b. Require an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness;

c. Require that any individual designated by the District as a Title IX Coordinator, investigator, decision-maker, or any person designated by the District to facilitate an informal resolution process not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent and that all individuals receive the required training;

d. Include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process;

e. Include reasonably prompt time frames for conclusion of the grievance process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if the recipient offers informal resolution processes, and a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

f. Describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that the recipient may implement following any determination of responsibility;

g. State whether the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard or the clear and convincing evidence standard, apply the same standard of evidence for formal complaints against students as for formal complaints against employees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment;

h. Include the procedures and permissible bases for the complainant and respondent to appeal;

i. Describe the range of supportive measures available to complainants and respondents; and

j. Not 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.

6. Recordkeeping

The District must maintain for a period of seven years records of:

- Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the District's education program or activity;

- Any appeal and the result therefrom;
- Any informal resolution and the result therefrom; and
- All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. The District will make these training materials publicly available on its website, or if the District does not maintain a website, the District must make these materials available upon request for inspection by members of the public as required by its legal obligations.

Appendix A: Definitions

Complainant means:

(1) An individual who is alleged to be the victim of conduct that could constitute sexual harassment; or
(2) A parent or guardian acting on behalf of a complainant.

Formal complaint means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the District investigate the allegation of sexual harassment.

- *Document filed by a complainant* means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the District) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

Party means a complainant or respondent.

Remedies must be designed to restore or preserve equal access to the District's education program or activity. Such remedies may include the same individualized services described elsewhere in this grievance process as "supportive measures"; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent. The Title IX Coordinator is responsible for effective implementation of any remedies.

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- An employee of the District conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct;

- 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 District's education program or activity; or

- Sexual assault, dating violence, domestic violence, or stalking.

    - *Sexual assault* means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

    - *Domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with

or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

- *Dating violence* means violence committed by a person:
  - Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - Where the existence of such a relationship shall be determined based on a consideration of the following factors:
    i. The length of the relationship.
    ii. The type of relationship.
    iii. The frequency of interaction between the persons involved in the relationship.
- *Stalking* means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - Fear for his or her safety or the safety of others; or
  - Suffer substantial emotional distress.

Supportive measures mean 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 District's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District's educational environment, or deter sexual harassment.
- 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 District 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 District to provide the supportive measures.
- The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures

Complaint of Title IX Sexual Harassment

Date: _____
Reporter Name: _____
Phone / Email Address: _____

Complainant Name: _____
Complainant Grade: _____
Complainant School: _____

Respondent Name: _____
Respondent Grade: _____
Respondent School: _____

Date of Reported Incident: _____

Description of Incident. Please describe the conduct you believe constitutes Title IX discrimination.

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Witnesses to Incident:

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Desired Outcome. Please describe the result or outcome you would like to see result from the grievance process:

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_____

Signature _____
Date _____

Title IX Complaints can be submitted to the Title IX Coordinator:

Name: Todd Stitzel
Title: Director of Human Resources
Address: Radnor Township School District
135 South Wayne Avenue
Wayne, PA 19087
Phone: 610-688-8100
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