TITLE IX SEXUAL HARASSMENT GRIEVANCE PROCESS CHECKLIST

This Checklist is to serve as a guide for and to support documentation of the District's response, investigation, and determination regarding sexual harassment allegations as defined in and prohibited by Board Policy 2:265, *Title IX Sexual Harassment Grievance Process*, and Title IX of the *Education Amendments of 1972* and its implementing regulations (34 C.F.R. Part 106). This Checklist should be used in conjunction with Board Policy 2:265 and its corresponding administrative procedures: 2:265-AP1, *Title IX Sexual Harassment Response*, and 2:265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*.

I. REPORT OF SEXUAL HARASSMENT ALLEGATION

See Ex. 1, HLERK Model Title IX Sexual Harassment Reporting Form

Name of Reporter: _____ **Date of Report:** _____
Report may be made anonymously.

☐ **Student** ☐ **Parent/Guardian** ☐ **Staff** ☐ **Other (please specify):** _____

If a student, specify school and grade: _____

If a parent/guardian or other, provide contact information: _____

Is the person who made the report also the victim (Complainant) of the alleged sexual harassment? ☐ **Yes** ☐ **No**

If no, identify the Complainant: _____

☐ **Student** ☐ **Staff** ☐ **Other (please specify):** _____

If a student, specify school and grade: _____

Does the student have an IEP or Section 504 Plan? ☐ **Yes** ☐ **No**

If other, provide contact information: _____

Person reported as the alleged harasser (Respondent): _____

☐ **Student** ☐ **Staff** ☐ **Other (please specify):** _____

If a student, specify school and grade: _____

Does the student have an IEP or Section 504 Plan? ☐ **Yes** ☐ **No**

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If other, provide contact information: _____
_____

Name/title of person who received the report: _____

Date person who received the report notified the Title IX Coordinator: _____

Was a report made to DCFS due to suspicion of child abuse or neglect? ☐ Yes ☐ No
If yes, name and date of person making report: _____
_____

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II. SUPPORTIVE MEASURES FOR COMPLAINANT & RESPONDENT

Document supportive measures offered and provided to Complainant and Respondent (whether or not Complainant files a Formal Complaint), and when the Formal Complaint process was explained to Complainant. Supportive measures include but not limited to school social work, deadline extensions or other course adjustments, schedule changes, escort, increased supervision, contact restrictions, changes in work locations, leaves of absence, etc. ***See HLERK Model Student Safety Plan****. If any of the parties have an IEP or Section 504 plan, contact special education staff for review of available and appropriate supportive measures.*

Complainant

Date(s) Title IX Coordinator contacted and met with Complainant: _____
_____
_____

Supportive Measures Offered to and Requested by Complainant: _____
_____
_____
_____

Complainant accept supportive measures? ☐ Yes ☐ No ☐ Certain Ones (list)
_____
_____
_____

Document plan for implementing Complainant supportive measures:
_____
_____

Date Title IX Coordinator informed Complainant of the process for filing a Formal Complaint: _____ Copy of the District's Grievance Process Provided? ☐ Yes ☐ No

Respondent

Date(s) Title IX Coordinator contacted and met with Respondent: _____
_____
_____

Supportive Measures Offered to and Requested by Respondent: _____
_____
_____
_____

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Respondent accept supportive measures? ☐ **Yes** ☐ **No** ☐ **Certain Ones (list)** _____

_____

_____

Document plan for implementing Respondent supportive measures: _____

_____

III. FORMAL COMPLAINT

See Ex. 2, HLERK Model Title IX Sexual Harassment Formal Complaint Form

Was a Formal Complaint filed?

☐ **No.** *Investigation of sexual harassment allegation(s) pursuant to Title IX ends. Further response and investigation may be required another applicable District policy or procedure.*

☐ **Yes, Complainant filed a Formal Complaint on date:** _____

☐ **Yes, Title IX Coordinator signed a Formal Complaint on date:** _____

For a Formal Complaint, identify the Investigator:

☐ **Title IX Coordinator** ☐ **Other** (name, position)**:** _____

Date assigned: _____

IV. FORMAL COMPLAINT NOTIFICATION

Written notice of the Formal Complaint must be sent to all known parties. ***See Ex. 3, HLERK Model Notice of Formal Complaint.***

Notification to Complainant: ☐ **Yes** ☐ **No** **Date:** _____

Notification to Respondent: ☐ **Yes** ☐ **No** **Date:** _____

Additional notification to all parties required if:

- *Additional allegations are later added;*
- *Identity of a previously unknown Complainant or Respondent is discovered; or*
- *Consolidation of Formal Complaints occurs.*

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Additional Notification to Complainant: ☐ **Yes** ☐ **No** **Date:** _____
Reason: _____

Additional Notification to Respondent: ☐ **Yes** ☐ **No** **Date:** _____
Reason: _____

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V. EMERGENCY REMOVAL OF RESPONDENT

A Respondent may be removed from school on an emergency basis, provided that the District undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the sexual harassment allegations justifies the removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal. If the Respondent is a student, any emergency removal must be consistent with the District's student discipline policies and procedures and the requirements set forth in applicable law, including 105 ILCS 5/10-22.6. ***See HLERK Model Student Discipline Notification Letters and HLERK Model Student Discipline Checklist.*** *If the Respondent is an employee, any emergency removal must be consistent with the District's employee suspension policies and procedures; applicable collective bargaining agreements, if any; and the requirements set forth in applicable law.*

Individualized safety and risk analysis conduct? ☐ **Yes** ☐ **No**

Immediate threat determination? ☐ **Yes** ☐ **No**

Emergency Removal of Respondent: ☐ **Yes** ☐ **No**

If yes, date(s) of notification to Respondent: _____
Specify type of Emergency Removal: _____
_____
_____
_____

VI. DISMISSAL OF A FORMAL COMPLAINT

Written notice of the dismissal of the Formal Complaint, or of certain allegations in the Formal Complaint, must be sent simultaneously to all parties, set forth the reason(s) for dismissal, and include notice of the right to appeal the dismissal. ***See Ex. 4, HLERK Model Notice of Dismissal.***

Dismissing Formal Complaint or Allegations in Formal Complaint? ☐ **Yes** ☐ **No**
If certain allegations, identify: _____
_____
_____
_____
_____

Notification to Complainant: ☐ **Yes** ☐ **No** **Date:** _____

Notification to Respondent: ☐ **Yes** ☐ **No** **Date:** _____

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VII. INFORMAL RESOLUTION PROCESS AND NOTICE

At any time prior to a determination regarding responsibility or the conclusion of the investigation, the District may facilitate informal resolution of the Formal Complaint, except where there are allegations that an employee sexually harassed a student. Voluntary, written consent of the parties is required to participate in the informal resolution process. ***See Ex. 5, HLERK Model Notice of Informal Resolution Process.***

Notification to Complainant: ☐ **Yes** ☐ **No** **Date:** _____

Notification to Respondent: ☐ **Yes** ☐ **No** **Date:** _____

Voluntary, Written Consent of Complainant: ☐ **Yes** ☐ **No** **Date:** _____

Voluntary, Written Consent of Respondent: ☐ **Yes** ☐ **No** **Date:** _____

Informal Resolution Process/Method: _____

Date(s) of Informal Resolution: _____

Was the Formal Complaint resolved through Informal Resolution? ☐ **Yes** ☐ **No**
Date: _____

If yes, the Title IX Sexual Harassment Grievance Process ends. If no, the Grievance Process continues with investigation of the Formal Complaint.

VIII. INVESTIGATION OF FORMAL COMPLAINT

The burden of proof during the investigation rests on the District, and not the parties involved. All parties must have an equal opportunity to present witnesses and evidence, inspect and review evidence, and respond to evidence. The opportunities and timelines for review and inspection of evidence are outlined below. All parties have the right to have an advisor of their choice, who may be an attorney.

A. INTERVIEWS

Must provide witnesses, Complainant, and Respondent with prior written notice of the date, time, location, participants, and purpose of investigation interview(s) or other meeting(s). Add lines below as needed. ***See Ex. 6, HLERK Model Notice of Interview.***

Notification to Complainant: ☐ **Yes** ☐ **No** **Date:** _____

Notification to Respondent: ☐ **Yes** ☐ **No** **Date:** _____

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Notification to Witness _____: ☐ Yes ☐ No Date: _____

Notification to Witness _____: ☐ Yes ☐ No Date: _____

Notification to Witness _____: ☐ Yes ☐ No Date: _____

B. EVIDENCE

All parties must be provided with an opportunity to inspect and review any evidence related to the Formal Complaint. Parties also must receive electronic or hard copies of all evidence prior to completion of the Investigation Report. Parties have 10 school business days to submit a written response, which must then be provided to all parties.

Document requests by parties to inspect and review evidence during the investigation, including the party requesting, date(s) requested, date(s) reviewed, etc.: _____
_____
_____
_____

Evidence Sent Before Investigation Report Completed

Evidence Sent to Complainant: ☐ Yes ☐ No Method: _____ Date: _____

Evidence Sent to Respondent: ☐ Yes ☐ No Method: _____ Date: _____

Parties' written response to evidence due by (10 school business days): _____

Written Response from Complainant: ☐ Yes ☐ No Date: _____

Sent to Respondent: ☐ Yes ☐ No Date: _____

Written Response from Respondent: ☐ Yes ☐ No Date: _____

Sent to Complainant: ☐ Yes ☐ No Date: _____

C. INVESTIGATION REPORT

The Investigator must prepare a final Investigation Report, with electronic or hard copies provided to each party at least 10 school business days prior to submitting the report to the Initial Decision-Maker, who will determine responsibility. Parties have 10 school business days to submit a written response, which must then be provided to all parties. ***See Ex. 7, HLERK Model Investigation Report Template****.*

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Date of Final Investigation Report: _____

Report Sent to Complainant: ☐ Yes ☐ No Method: _____ Date: _____

Report Sent to Respondent: ☐ Yes ☐ No Method: _____ Date: _____

Parties' written response to Investigation Report due by (10 school business days): _____

Written Response from Complainant: ☐ Yes ☐ No Date: _____

Sent to Respondent: ☐ Yes ☐ No Date: _____

Written Response from Respondent: ☐ Yes ☐ No Date: _____

Sent to Complainant: ☐ Yes ☐ No Date: _____

D. INVESTIGATION DOCUMENTS TO INITIAL DECISION-MAKER

The Investigator must send to the Initial Decision-Maker in an electronic format or hard copy: (1) Formal Complaint; (2) all evidence gathered during the investigation that is directly related to the Formal Complaint's allegations; and (3) the Investigation Report, plus any written response from the parties.

Initial Decision-Maker (name, position)**: _____**

Date Investigation Documents Provided to Initial Decision-Maker: _____

Documents Sent:

- ☐ **Formal Complaint**
- ☐ **All Evidence**
- ☐ **Investigation Report**
- ☐ **Parties' Written Responses**
- ☐ **Other: _____**

_____

IX. DETERMINATION OF RESPONSIBILITY

The Initial Decision-Maker reviews all materials received from the Investigator, provides the parties with an opportunity to participate in the Question and Answer Process, and issues a Written Determination of responsibility based on the preponderance of the evidence standard (unless the Board has chosen to use the clear and convincing standard).

Initial Decision-Maker (name, position)**: _____**

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A. QUESTION AND ANSWER PROCESS

The Initial Decision-Maker must provide the parties with written notice of the opportunity to submit written, relevant questions that a party wants asked of any party or witness.

Notification of Question & Answer Process
See Ex. 8, HLERK Model Notice of Party Question & Answer Process

Notification to Complainant: ☐ **Yes** ☐ **No** **Date: _____**

Notification to Respondent: ☐ **Yes** ☐ **No** **Date: _____**

Parties' questions due by (5 school business days): _____

Notification of Question Excluded
See Ex. 12, HLERK Model Notice of Party Excluded Questions

Notification to Complainant: ☐ **Yes** ☐ **No** **Date: _____**

Notification to Respondent: ☐ **Yes** ☐ **No** **Date: _____**

Copies of Questions to Party or Witness
See Ex. 9, HLERK Model Notice of Party/Witness Questions for Response

Questions to Complainant: ☐ **Yes** ☐ **No** **Date: _____**

Questions to Respondent: ☐ **Yes** ☐ **No** **Date: _____**

Questions to Witness _____: ☐ **Yes** ☐ **No** **Date: _____**
_____

Questions to Witness _____: ☐ **Yes** ☐ **No** **Date: _____**
_____

Questions to Witness _____: ☐ **Yes** ☐ **No** **Date: _____**
_____

Parties' or witnesses' answers due by (5 school business days): _____

Notification of Answers & Limited Follow-Up Question & Answer Process
See Ex. 10, HLERK Model Notice of Party/Witness Answers and Limited Follow-Up Question & Answer Process

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Notification to Complainant: ☐ **Yes** ☐ **No** **Date:** _____

Notification to Respondent: ☐ **Yes** ☐ **No** **Date:** _____

Parties' questions due by (5 school business days): _____

Notification of Limited Follow-Up Question Excluded
See Ex. 12, HLERK Model Notice of Party Excluded Questions

Notification to Complainant: ☐ **Yes** ☐ **No** **Date:** _____

Notification to Respondent: ☐ **Yes** ☐ **No** **Date:** _____

Copies of Limited Follow-Up Question to Party or Witness
See Ex. 11, HLERK Model Notice of Party/Witness Limited Follow-Up Questions for Response

Questions to Complainant: ☐ **Yes** ☐ **No** **Date:** _____

Questions to Respondent: ☐ **Yes** ☐ **No** **Date:** _____

Questions to Witness _____: ☐ **Yes** ☐ **No** **Date:** _____

Questions to Witness _____: ☐ **Yes** ☐ **No** **Date:** _____

Questions to Witness _____: ☐ **Yes** ☐ **No** **Date:** _____

Parties' or witnesses' answers due by (5 school business days): _____

Notification of Answers to Limited Follow-Up Questions

Notification to Complainant: ☐ **Yes** ☐ **No** **Date:** _____

Notification to Respondent: ☐ **Yes** ☐ **No** **Date:** _____

B. WRITTEN DETERMINATION

No sooner than 10 school business days after receipt of the Investigator's Investigation Report and after the Question & Answer Process, the Initial Decision-Maker must issue a Written Determination regarding responsibility, based on a review of all information and evidence and using a preponderance of the evidence standard (unless the Board has chosen to use the clear and convincing standard). ***See Ex. 13, HLERK Model Written***

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Determination Template. *The Title IX Coordinator is responsible for implementation of any remedies.*

Date of Written Determination: _____

Written Determination Sent to Complainant: ☐ Yes ☐ No Method: _____ _____ Date: _____

Written Determination Sent to Respondent: ☐ Yes ☐ No Method: _____ _____ Date: _____

X. APPEAL PROCESS

Either party may appeal the Written Determination by the Initial Decision-Maker or the dismissal of the Formal Complaint (or dismissal of allegations within the Formal Complaint) within 10 school business days of receiving the Written Determination or Notice of Dismissal.

Appeal due by (10 school business days): _____

Date Written Appeal Received: _____

Party Submitting Appeal: ☐ Complainant ☐ Respondent

A. NOTIFICATION OF APPEAL & STATEMENT

Upon receipt of an appeal, the Title IX Coordinator must notify all parties in writing that an appeal has been filed and that they may submit a written statement. ***See Ex. 14, HLERK Model Notice of Appeal Filed.***

Notification of Appeal and Statement to Complainant: ☐ Yes ☐ No Date: _____

Notification of Appeal and Statement to Respondent: ☐ Yes ☐ No Date: _____

Parties' written statement to Appeal due by (5 school business days): _____

Written Statement from Complainant: ☐ Yes ☐ No Date: _____

Sent to Respondent: ☐ Yes ☐ No Date: _____

Written Statement from Respondent: ☐ Yes ☐ No Date: _____

Sent to Complainant: ☐ Yes ☐ No Date: _____

B. APPEAL DOCUMENTS TO APPELLATE DECISION-MAKER

The Title IX Coordinator must forward all materials relative to the appeal to the Appellate Decision-Maker.

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Appellate Decision-Maker: _____

Date Appeal Documents Provided to Appellate Decision-Maker: _____

Documents Sent:

- ☐ **Formal Complaint**
- ☐ **Investigation Report**
- ☐ **Appeal**
- ☐ **Notice of Dismissal**
- ☐ **All Evidence**
- ☐ **Written Determination**
- ☐ **Appeal Statements**
- ☐ **Other:** _____

_____

C. APPEAL DECISION

The Appellate Decision-Maker must, within 30 school business days, affirm, reverse, or amend the Written Determination regarding responsibility or the Notice of Dismissal. Within 5 school business days of its decision, the Appellate Decision-Maker must simultaneously issue a Written Decision to both parties. ***See Ex. 15, HLERK Model Appeal Written Decision.***

Decision due date (30 school business days): _____

Written Decision due date (5 school business days after decision made): _____

Appeal Written Decision to Complainant: ☐ **Yes** ☐ **No** **Date:** _____

Appeal Written Decision to Respondent: ☐ **Yes** ☐ **No** **Date:** _____

X. RECORDKEEPING

Records must be maintained for at least ***7 years****. The District must maintain records of any actions and supportive measures taken and provided in response to the report of sexual harassment, regardless of whether a Formal Complaint was filed. Including records that document: (1) why the District's response to the sexual harassment allegation was not deliberately indifferent, e.g., was deliberately concerned and appropriate; (2) the supportive measures the District took to restore or preserve equal access to its education program or activity; and (3) if the District did not provide Complainant with supportive measures, why not providing them was clearly reasonable in light of the circumstances.*

The District also must maintain records related to the investigation, including:

- *Any determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore/preserve equal access to the District's education program or activity;*
- *Any appeal and its result;*

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- *Any informal resolution and its result; and*
- *All materials used to train the Nondiscrimination/Title IX Coordinator, Investigators, Decision-Makers (initial and appellate), and any person who facilitates an informal resolution.*

In addition, the District must comply with Policy 5:150, Personnel Records, and 5:150-AP, Personnel Records, regarding the identification, storage, and access to personnel records. The District also must comply with Policy 7:340, Student Records, as well as 7:340-AP1, School Student Records, and 7:340 AP-2, Storage and Destruction of School Student Records, regarding the identification, confidentiality, storage, access, and disposal of student records.

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