

Title IX Notice of Nondiscrimination and Sexual Harassment Procedure

General Policy Statement and Scope

New Albany-Floyd County Schools (“Corporation”) does not tolerate discrimination or harassment in the education program or activity that it operates, employment therein, and admission thereto, including sexual harassment.

The term “sexual harassment” as used in this procedure shall mean conduct on the basis of sex, failure to conform to stereotypical notions of masculine or feminine traits, sexual orientation, or gender identity including:

1. A Corporation employee conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct (i.e., *quid pro quo* sexual harassment);
2. 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 Corporation’s education program or activity; or
3. Sexual assault, dating violence, domestic violence, or stalking as defined by Federal law.

The Corporation designates the following staff member as the Corporation’s Title IX Coordinator and authorizes this individual to coordinate the Corporation’s Title IX compliance. Inquiries about the application of Title IX and its regulations may be referred to the Title IX Coordinator.

Title IX Coordinator

Bill Briscoe
Assist. Superintendent for Administration and Operations
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812-949-4200
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The Corporation is committed to promptly responding to reports of sexual harassment. All reference to “days” within these procedures shall mean instructional days. The procedures described below may be subject to temporary delays based on good cause (e.g., law enforcement involvement, absence of a party, witness, or advisor, translation or accommodation needs) with written notice to both parties explaining the reason for the delay.

Reporting Sexual Harassment

Anyone who believes that a student or staff member has possibly been the target of sexual harassment should immediately report the situation to an appropriate staff member such as a teacher, counselor, administrator, or the Title IX Coordinator. Any

person may report sexual harassment in person, by mail, by telephone, or email using the contact information for the Title IX Coordinator.

Any employee who has reason to believe that a student or staff member has been the target of sexual harassment must report the behavior to his/her building level leader, such as a principal.

The “Complainant” is a person alleged to be the victim of sexual harassment and the “Respondent” means any individual who is reported to be the perpetrator of sexual harassment.

The Corporation accepts anonymous reports. However, anonymous reports may hamper the Corporation’s ability to respond to allegations of sexual harassment.

Emergency Removal

In situations where a Respondent poses an immediate threat to the physical health and safety of any individual (including self) **before or at any time during** the proceedings described herein, the Corporation may remove Respondent from all programs and activities. In order to do so, the Corporation must i) undertake an individualized safety and risk analysis, ii) determine that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and iii) provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

An emergency removal does not affect or modify any rights a student receiving special education may have under the IDEA, Section 504, or the ADA.

Response to a Report and Supportive Measures

Upon receipt of a report, the Title IX Coordinator must promptly, usually within two (2) days, contact the Complainant to discuss the availability of supportive measures.

Supportive measures are non-disciplinary, nonpunitive 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 Corporation's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the 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, leaves of absence in the case of employees, increased security and monitoring of certain areas of the campus, and other similar measures.

In addition to discussing the availability of supportive measures, the Title IX Coordinator will also 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. The Title IX Coordinator will make contact with the Complainant in person, via phone, or via virtual meeting in order for the Complainant to ask questions. If the Complainant is a student under the age of eighteen, the student's parent will be contacted simultaneously.

A "formal complaint" is a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting the Corporation investigate the allegation(s) of sexual harassment.

Even in instances where a Complainant chooses not to file a formal complaint, supportive measures may continue at the discretion of the Title IX Coordinator.

The Title IX Coordinator may decide sign a formal complaint to investigate the allegation(s) of sexual harassment against the wishes of the Complainant where moving forward without an investigation would be unreasonable. Such circumstances may include, but are not limited to, reports that indicate multiple Respondents, the involvement of a Corporation employee, and/or continued sexual harassment of the Complainant and others.

While there is no deadline by which a Complainant must file a formal complaint, the Corporation encourages Complainants to submit a formal complaint within ten (10) days of meeting with the Title IX Coordinator. In instances where enough time has passed that the Corporation cannot gather evidence, the Corporation may not be able to investigate.

The Corporation will offer supportive measures to a Complainant who is the subject of an anonymous report. However, should a Complainant desire to initiate the grievance process, the Complainant cannot remain anonymous or prevent the Complainant's identity from being disclosed to the Respondent.

Dismissal and Consolidation

In certain instances, the Corporation may dismiss or consolidate formal complaints. Such instances of dismissal include, but are not limited to, when the alleged conduct, even if true, would not constitute sexual harassment, when the Respondent is a non-student or non-employee of the Corporation, or when a Complainant notifies the Title IX Coordinator they would like to withdraw the formal complaint. A dismissal does not preclude the Corporation from taking action under another provision of the student code of conduct. If a formal complaint is dismissed, the Corporation will promptly inform the parties of the reason for dismissal and the right to appeal.

Further, the Corporation may consolidate formal complaints where the allegations of sexual harassment arise out of the same facts or circumstances.

Grievance Procedures

The Corporation will treat Complainants and Respondents equitably throughout this process. As such, the Corporation will only impose disciplinary sanctions following the completion of the informal process or investigation and determination process. All Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution will receive training regarding topics related to this procedure, including: the definition of sexual harassment, the scope of the Corporation's education program and activity, and how to conduct these grievance procedures.

All Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution will objectively evaluate all relevant evidence – both inculpatory and exculpatory. Further, no credibility determinations will be based on a person's status as a Complainant, Respondent, or witness.

Consistent with the law, the Corporation will presume the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. **The Corporation will utilize the preponderance of the evidence standard when determining responsibility.** The Corporation will 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. Further, questions or evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions or evidence are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant or to prove consent.

Notice

Upon receipt of a formal complaint, the Title IX Coordinator will provide written notice to the parties (to the extent known) containing the following information:

- a. Notice of the Corporation's grievance process, including the informal resolution process;
- b. Notice of the allegations of sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include: the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known;
- c. 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.
- d. The parties may have an advisor of their choice, who may be, but is not required to be, an attorney;

If, in the course of an investigation, additional allegations are uncovered and therefore investigated, the Corporation will provide a supplemental notice of the additional allegations to the parties whose identities are known.

Informal Process

Upon receipt of a formal complaint and after providing sufficient notice to the parties, the Corporation may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication of the allegations. The Corporation may not require the parties to participate in the informal process, but instead must obtain the parties' voluntary, written consent to participate.

The informal process is not available to resolve allegations that an employee sexually harassed a student. Further, at any time during the informal process any of the parties may end the informal process and initiate the investigation and determination process.

Investigation and Determination

Unless the Corporation dismisses a formal complaint or the parties resolve a formal complaint through the informal process, the Corporation will investigate the allegations of sexual harassment and make a determination regarding responsibility.

The burden of proof and collection of evidence rests with the Corporation. To that end, the Title IX Coordinator in conjunction with a designated building-level leader will conduct an investigation. The means of investigating a formal complaint include, but are not limited to Complainant, Respondent, and witness interviews and review of documentation. The parties shall have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. The Corporation will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. Evidence or information related to the allegations under investigation may not be discussed by the parties, except with their chosen advisors. The parties may not substantially disrupt the educational environment. Absent extenuating circumstances, the collection of evidence for an investigation should conclude within thirty (30) days.

The parties may be accompanied to any meeting or proceeding related to the investigation by an advisor of their choice, who may be, but is not required to be an attorney. Apart from a union representative accompanying an employee who is a party, employees are discouraged from serving as advisors to students.

Advisors may not present on behalf of the party they accompany and should request or wait for a break in the meeting if they wish to interact with the Title IX Coordinator or building level leader. Advisors may confer quietly with Parties as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the party and their advisors should ask for a break or step out of the meeting. An advisor who disrupts the process will receive one warning, after which if continued disruption occurs the

advisor will be removed from the meeting/proceeding. In such an event, the parties will be given the opportunity to reschedule and be accompanied by another advisor.

When the Title IX Coordinator and building level leader have completed their collection of evidence, they will provide both parties with an equal opportunity to inspect and review the evidence obtained that is directly related to the allegations raised in the formal complaint so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The parties and any advisors must execute the provided non-disclosure agreement before they may receive the evidence for review. Following execution of the non-disclosure agreement, the Title IX Coordinator and/or building level leader will send to each party and the party's advisor, if applicable, the evidence subject to inspection and review in an electronic format or hard copy, and parties will have ten (10) days to submit a written response, which the Title IX Coordinator will consider prior to completion of the investigative report.

Following the period for the parties' review and inspection of the evidence, the Title IX Coordinator and building level leader will create an investigative report that fairly summarizes relevant evidence. At least ten (10) days prior to the time of determination, the Title IX Coordinator and building level leader will send to each party and the party's advisor, if applicable, the investigative report in an electronic or a hard copy, for their review and written response.

The Superintendent will act as the decision-maker. After the investigative report has been sent to the parties and before a determination regarding responsibility, each party will be afforded 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.

The Superintendent may exclude questions as not relevant, including questions that seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. Further, questions about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant or to prove consent. Any decision to exclude a question as not relevant will be explained to the party proposing the question. The process of written questions and follow up questions should take thirty (30) days or less.

Within a reasonable time period following the written questions, the Superintendent, acting as the decision-maker, will issue a written determination regarding responsibility applying the preponderance of the evidence standard. The written determination must include:

- a. Identification of the allegations potentially constituting sexual harassment;
- b. A description of the procedural steps taken;
- c. Findings of fact supporting the determination;

- d. Conclusions regarding the application of the recipient's code of conduct to the facts;
- e. A statement of, and rationale for, the result as to each allegation;
- f. The recipient's procedures and permissible bases for the Complainant and Respondent to appeal.

The Superintendent will provide the written determination to the parties simultaneously. The Title IX Coordinator is responsible for effective implementation of any remedies.

Remedies

Where, following the formal or informal process, the Corporation determines a Respondent responsible for sexual harassment, the Corporation shall provide remedies designed to restore or preserve equal access to the recipient's education program or activity. Such remedies may include supportive measures and/or discipline up to and including expulsion.

Appeals

Following the Superintendent's determination regarding responsibility, either party may appeal to the designated governing body representative. An appeal should be submitted in writing within ten (10) days of the party's receipt of the Superintendent's determination. Note, appeals will only be considered if based on one of the following:

- A. There was a procedural irregularity that affected the outcome of the matter;
- B. 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; or
- C. 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.

Both parties shall have five (5) days after the submission of an appeal to submit a written statement in support of, or challenging the Superintendent's determination. The governing body representative will issue a written decision describing the result of the appeal and the rationale for the result within forty-five (45) days. The governing body representative's decision will be provided simultaneously to the parties.

Retaliation

The Corporation prohibits retaliation against persons who report, testify, assist, or participate or refuse to participate in any manner in an investigation, proceeding, or hearing. Retaliation includes intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal

complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX.

Recordkeeping

The Corporation will maintain records from the investigation, determination, appeal, and informal resolution for seven (7) years.

Reports otherwise required by Law

These procedures do not affect or alleviate mandatory reporting required by state or federal law, for example, reporting of suspected child abuse or neglect to law enforcement or Department of Child Services.

Legal Citations:

Title IX of the Education Amendments of 1972, 20 USC § 1681
34 CFR part 106
Clery Act, 20 USC § 1092
Violence Against Women Act (VAWA), 34 USC § 12291

Book	Policy Manual
Section	5000 Students
Title	ANTI-HARASSMENT
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Adopted	June 26, 2006
Last Revised	November 9, 2020

5517 - ANTI-HARASSMENT

General Policy Statement

It is the policy of the School Board to maintain an education and work environment which is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all School Corporation operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Board will vigorously enforce its prohibition against harassment based on sex, race, color, national origin, religion, disability, or any other unlawful basis, and encourages those within the School Corporation community as well as third parties who feel aggrieved to seek assistance to rectify the problems. The Board will investigate all allegations of harassment and in those cases where unlawful harassment is substantiated, the Board will take immediate steps to end the harassment. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

For purposes of this policy, "School Corporation community" means students, administrators, teachers, staff, and all other school personnel, including Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on School Corporation property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the School Corporation community at school-related events/activities (whether on or off School Corporation property).

Other Violations of the Anti-Harassment Policy

The Board will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of harassment, when responsibility for reporting and/or investigating harassment charges comprises part of one's supervisory duties.

DEFINITIONS

Sexual Harassment

The term "sexual harassment" as used in this policy shall mean conduct on the basis of sex, failure to conform to stereotypical notions of masculine or feminine traits, sexual orientation, or gender identity including:

- A. a Board employee conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct (i.e., quid pro quo sexual harassment);
- B. 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 Board's education program or activity; or
- C. sexual assault, dating violence, domestic violence, or stalking as defined by Federal law.

NOTE: Any teacher, administrator, coach or other school authority, or staff member who engages in certain sexual conduct with a student may be disciplined up to and including termination and may also be guilty of the criminal charge of "sexual battery" as set forth in Indiana Code 35-42-4-8. In the case of a child under fourteen (14) years of age, the person may also be guilty of "child molesting" under Indiana Code 35-42-4-3. In the case of a child

between the ages of fourteen (14) and sixteen (16), the person may also be guilty of "sexual misconduct with a minor" under Indiana Code 35-42-4-9. The issue of consent is irrelevant in regard to the latter two (2) criminal charges. Any employee accused of sexual relations with a student may be placed on leave with pay until school administrative proceedings are completed. Proven sexual relationships with a student regardless of the age of the student will initiate the termination process for the employee.

Race/Color Harassment

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's educational performance; of creating an intimidating, hostile, or offensive learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

Religious (Creed) Harassment

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's educational performance; of creating an intimidating, hostile, or offensive learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

National Origin Harassment

Prohibited national origin harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin and when the conduct has the purpose or effect of interfering with the individual's educational performance; of creating an intimidating, hostile, or offensive learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

Disability Harassment

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's educational performance; of creating an intimidating, hostile, or offensive learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like.

SEXUAL HARASSMENT PROCEDURE

The Board designates the following staff member as the Board's Title IX Coordinator and authorizes this individual to coordinate the Board's Title IX compliance. Inquiries about the application of Title IX and its regulations may be referred to the Title IX Coordinator.

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Anyone who believes that a student or staff member has possibly been the target of sexual harassment should immediately report the situation to an appropriate staff member such as a teacher, counselor, administrator, or the Title IX Coordinator. Any person may report sexual harassment in person, by mail, by telephone, or email using the contact information for the Title IX Coordinator.

Any employee who has reason to believe that a student or staff member has been the target of sexual harassment must report the behavior to his/her building-level leader, such as a principal.

The "Complainant" is a person alleged to be the victim of sexual harassment and the "Respondent" means any individual who is reported to be the perpetrator of sexual harassment.

The Board accepts anonymous reports. However, anonymous reports may hamper the Board's ability to respond to allegations of sexual harassment.

Emergency Removal

In situations where a Respondent poses an immediate threat to the physical health and safety of any individual (including self) **before or at any time during** the proceedings described herein, the Board may remove Respondent from all programs and activities. In order to do so, the Board must 1) undertake an individualized safety and risk analysis, 2) determine that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and 3) provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

An emergency removal does not affect or modify any rights a student receiving special education may have under the IDEA, Section 504, or the ADA.

Response to a Report and Supportive Measures

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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, leaves of absence in the case of employees, increased security and monitoring of certain areas of the campus, and other similar measures.

In addition to discussing the availability of supportive measures, the Title IX Coordinator will also 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. The Title IX Coordinator will make contact with the Complainant in person, via phone, or via virtual meeting in order for the Complainant to ask questions. If the Complainant is a student under the age of eighteen (18), the student's parent will be contacted simultaneously.

A "formal complaint" is a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting the Board investigate the allegation(s) of sexual harassment.

Even in instances where a Complainant chooses not to file a formal complaint, supportive measures may continue at the discretion of the Title IX Coordinator.

The Title IX Coordinator may decide to sign a formal complaint to investigate the allegation(s) of sexual harassment against the wishes of the Complainant where moving forward without an investigation would be unreasonable. Such circumstances may include, but are not limited to, reports that indicate multiple Respondents, the involvement of a Board employee, and/or continued sexual harassment of the Complainant and others.

While there is no deadline by which a Complainant must file a formal complaint, the Board encourages Complainants to submit a formal complaint within ten (10) days of meeting with the Title IX Coordinator. In instances where enough time has passed that the Board cannot gather evidence, the Board may not be able to investigate.

The Board will offer supportive measures to a Complainant who is the subject of an anonymous report. However, should a Complainant desire to initiate the grievance process, the Complainant cannot remain anonymous or prevent the Complainant's identity from being disclosed to the Respondent.

Dismissal and Consolidation

In certain instances, the Board may dismiss or consolidate formal complaints. Such instances of dismissal include, but are not limited to, when the alleged conduct, even if true, would not constitute sexual harassment, when the Respondent is a non-student or non-employee of the Board, or when a Complainant notifies the Title IX Coordinator they would like to withdraw the formal complaint. A dismissal does not preclude the Board from taking action under another provision of the Student Code of Conduct. If a formal complaint is dismissed, the Board will promptly inform the parties of the reason for dismissal and the right to appeal.

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Consistent with the law, the Board will presume the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. **The Board will utilize the preponderance of the evidence standard when determining responsibility.** The Board will 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. Further, questions or evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions or evidence are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant or to prove consent.

Notice

Upon receipt of a formal complaint, the Title IX Coordinator will provide written notice to the parties (to the extent known) containing the following information:

- A. notice of the Board's grievance process, including the informal resolution process;
- B. notice of the allegations of sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview;

Sufficient details include: the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known.
- C. 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;
- D. the parties may have an advisor of their choice, who may be, but is not required to be, an attorney;
- E. the Board's code of conduct for students prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, additional allegations are uncovered and therefore investigated, the Board will provide a supplemental notice of the additional allegations to the parties whose identities are known.

Informal Process

Upon receipt of a formal complaint and after providing sufficient notice to the parties, the Board may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication of the allegations. The Board may not require the parties to participate in the informal process, but instead must obtain the parties' voluntary, written consent to participate.

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The parties may be accompanied to any meeting or proceeding related to the investigation by an advisor of their choice, who may be, but is not required to be an attorney. Apart from a union representative accompanying an employee who is a party, employees are discouraged from serving as advisors to students.

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When the Title IX Coordinator and building-level leader have completed their collection of evidence, they will provide both parties with an equal opportunity to inspect and review the evidence obtained that is directly related to the allegations raised in the formal complaint so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation.

The parties and any advisors must execute the provided non-disclosure agreement before they may receive the evidence for review. Following execution of the non-disclosure agreement, the Title IX Coordinator and/or building level leader will send to each party and the party's advisor, if applicable, the evidence subject to inspection and review in an electronic format or hard copy, and parties will have ten (10) days to submit a written response, which the Title IX Coordinator will consider prior to completion of the investigative report.

Following the period for the parties' review and inspection of the evidence, the Title IX Coordinator and building-level leader will create an investigative report that fairly summarizes relevant evidence. At least ten (10) days prior to the time of determination, the Title IX Coordinator and building-level leader will send to each party and the party's advisor, if applicable, the investigative report in an electronic or a hard copy, for their review and written response.

The Superintendent will act as the decision-maker. After the investigative report has been sent to the parties and before a determination regarding responsibility, each party will be afforded 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.

The Superintendent may exclude questions as not relevant, including questions that seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. Further, questions about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant or to prove consent. Any decision to exclude a question as not relevant will be explained to the party proposing the question. The process of written questions and follow up questions should take thirty (30) days or less.

Within a reasonable time period following the written questions, the Superintendent, acting as the decision-maker, will issue a written determination regarding responsibility applying the preponderance of the evidence standard. The written determination must include:

- A. identification of the allegations potentially constituting sexual harassment;
- B. a description of the procedural steps taken;
- C. findings of fact supporting the determination;
- D. conclusions regarding the application of the recipient's code of conduct to the facts;
- E. a statement of, and rationale for, the result as to each allegation;
- F. the recipient's procedures and permissible bases for the Complainant and Respondent to appeal.

The Superintendent will provide the written determination to the parties simultaneously. The Title IX Coordinator is responsible for the effective implementation of any remedies.

Remedies

Where, following the formal or informal process, the Board determines a Respondent responsible for sexual harassment, the Board shall provide remedies designed to restore or preserve equal access to the recipient's education program or activity. Such remedies may include supportive measures and/or discipline up to and including expulsion.

Appeals

Following the Superintendent's determination regarding responsibility, either party may appeal to the designated governing body representative. An appeal should be submitted in writing within ten (10) days of the party's receipt of the Superintendent's determination. Note: appeals will only be considered if based on one (1) of the following:

- A. there was a procedural irregularity that affected the outcome of the matter;
- B. 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; or
- C. 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.

Both parties shall have five (5) days after the submission of an appeal to submit a written statement in support of, or challenging the Superintendent's determination. The governing body representative will issue a written decision describing the result of the appeal and the rationale for the result within forty-five (45) days. The governing body representative's decision will be provided simultaneously to the parties.

Retaliation

The Board prohibits retaliation against persons who report, testify, assist, or participate or refuse to participate in any manner in an investigation, proceeding, or hearing. Retaliation includes intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX.

Record-keeping

The Board will maintain records from the investigation, determination, appeal, and informal resolution for seven (7) years.

Reports Otherwise Required by Law

These procedures do not affect or alleviate mandatory reporting required by State or Federal law, for example, reporting of suspected child abuse or neglect to law enforcement or the Department of Child Services.

HARASSMENT PROCEDURE FOR ALL OTHER (NON-SEXUAL) REPORTS AND COMPLAINTS

Members of the School Corporation community and third parties are encouraged to promptly report incidents of harassing conduct to an administrator, supervisor, or other School Corporation official so that the Board may address the conduct before it becomes severe, pervasive, or persistent.

Members of the School Corporation community or third parties who believe they have been unlawfully harassed by another member of the School Corporation community or a third party are entitled to utilize the Board's informal and/or formal investigation and complaint processes. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's participation in educational or extra-curricular programs. Individuals should make every effort to file an informal or a formal complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

The names and titles of the Anti-Harassment Complaint Coordinators with whom complaints of unlawful harassment should be filed are set forth in the administrative guidelines which supplement this policy. The names and titles of these individuals will be published annually:

- A. in the parent and staff handbooks;
- B. in the School Corporation Annual Report to the public;
- C. on the School Corporation's web site.

The Superintendent shall establish Administrative Guidelines describing both a formal and an informal process for making a charge of harassment, a process for investigating claims of harassment, and a process for rendering a decision regarding whether the claim of harassment was substantiated. This Policy and the Administrative Guidelines will be readily available to all members of the School Corporation community and posted in appropriate places throughout the School Corporation.

Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to the principal or one of the Complaint Coordinators. Thereafter, the principal or the Complaint Coordinator must contact the student if over age eighteen (18) or the student's parents if under the age eighteen (18), to advise s/he/them of the Board's intent to investigate the alleged misconduct, including the obligation of the Complaint Coordinator or designee to conduct an investigation following all the procedures outlined for a formal complaint.

Confidentiality

The School Board will make reasonable efforts to maintain the confidentiality of the parties involved in a harassment investigation. Confidentiality, however, cannot be guaranteed.

Informal Process for Addressing Complaints of Harassment

The administrative guidelines will include an informal complaint process to provide members of the School Corporation community or third parties who believe they are being unlawfully harassed with a range of options designed to bring about a resolution of their concerns. Members of the School Corporation community or third parties who believe that they have been unlawfully harassed are encouraged to initiate their complaint through this informal complaint process but are not required to do so. Those members of the School Corporation community or third parties who believe that they have been unlawfully harassed may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

Formal Process for Addressing Complaints of Harassment

The administrative guidelines will also include a formal complaint process. While the formal complaint process may serve as the first step to a resolution of a charge of unlawful harassment, it is also available in those circumstances when the informal complaint process fails to satisfactorily resolve a concern. Because of the need for flexibility, no specific timelines are established for initiating the formal complaint process; however, once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within thirty-one (31) calendar days of the complaint being received).

Although not required, members of the School Corporation community or third parties who feel they have been unlawfully harassed should file a formal written complaint with the principal of their school building or with one (1) of the Complaint Coordinators identified in the Administrative Guidelines. Oral complaints of harassment will be reduced to writing by the individual receiving the complaint and the Complainant will be asked to verify the accuracy of the reported charge by signing the document. Complaints received by a school building principal will be immediately reported to the appropriate Complaint Coordinator identified in the Administrative Guidelines.

After a complaint is filed, the Complaint Coordinator or designee shall conduct a prompt and timely investigation. The investigation may include interviews of the complainant, the individual accused of engaging in harassing behavior, and any other witness who may reasonably be expected to have information relevant to the situation. All interviewed parties and witnesses will be provided an opportunity to present any evidence that they reasonably believe to be relevant to the situation.

At the conclusion of the investigation, the Complaint Coordinator or designee will prepare and deliver to the Superintendent a written report summarizing the evidence gathered during the investigation and providing his/her recommendations regarding whether or not the complaint of unlawful harassment has been substantiated. The written report must be based on the totality of the circumstances involved in the complaint, the nature of the alleged conduct, the context in which the alleged conduct occurred, and the ages and maturity of the individuals involved.

Upon review of the written report, the Superintendent will either issue a final decision regarding whether or not the complaint of unlawful harassment was substantiated or request that further investigation be conducted. A copy of the Superintendent's action will be delivered to both the Complainant and the individual accused of the harassing conduct.

A Complainant who is dissatisfied with the Superintendent's decision may appeal it to the Board by submitting written notice to the Superintendent within ten (10) days of the date of the Superintendent's decision. Upon receipt of a notice of appeal, the Board shall decide, at its next regular scheduled meeting, whether or not to hear or review the appeal. If the Board decides to hear the appeal it will review the complaint and the summary in an executive session. Following the meeting, the Board will issue a decision either affirming, modifying, or rejecting the Superintendent's decision. The decision of the Board shall be final.

The Complaint process set forth in the Policy and in the Administrative Guidelines is not intended to interfere with the rights of a member of the School Corporation community or a third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights, the Indiana Civil Rights Commission, or the Equal Employment Opportunity Commission.

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment regardless of whether the member of the School Corporation community or third party alleging the harassment pursues the complaint.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law. When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies.

Where the Board becomes aware that a prior remedial action has been taken against a member of the School Corporation community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to eliminate such conduct in the future.

Education and Training

In support of this Anti-Harassment Policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent or designee shall provide appropriate training to all members of the School Corporation community related to the implementation of this policy and its accompanying administrative guidelines. All training regarding the Board's policy and administrative guidelines and harassment, in general, will be age and content appropriate.

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