

MODEL 2024 TITLE IX WRITTEN DETERMINATION TEMPLATE

- *Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the decisionmaker must determine whether sex discrimination occurred using the preponderance of the evidence standard.*
- *The decisionmaker cannot issue the written determination until after the parties are given an equal opportunity to access the relevant evidence (or an accurate description of the evidence) and a responsible opportunity to respond to the evidence.*
- *If the District does not use a single investigator-decisionmaker model and instead different individuals serve in the investigator and decisionmaker roles, the decisionmaker must have an opportunity to question the parties and witnesses to adequately assess credibility, before issuing the written determination. Additionally, this template will need to be modified. **Consult the Board Attorney.***
- *The written determination must include all of the components outlined below, including the determination whether sex discrimination under Title IX occurred, the rationale for the determination, and the permissible bases for the parties to appeal; see PRESS 2:265-AP2.*

[PLACE ON DISTRICT LETTERHEAD]

TO: ***[List Parties – Complainant, Respondent]***

RE: Written Determination – Title IX Complaint

FROM: ***[Name, Title]***
Decisionmaker, Title IX Complaint Grievance Process

DATE: ***[Date]***

[Note: We recommend that anywhere a document or other evidence is referenced in the report, or can be referenced, that it be included as an exhibit to the written determination and noted in the written determination by the corresponding exhibit number.]

On ***[date]***, a Complaint of sex discrimination was filed with the District pursuant to Title IX of the *Education Amendments of 1972* and its implementing regulations (34 C.F.R. Part 106); Board Policy 2:265, *Title IX Grievance Procedure*; and ***[list any additional applicable Board Policies (e.g., 5:20, 7:20) and any applicable Employee or Student Handbook Code of Conduct provisions]***.

The District investigated the Complaint pursuant to the District’s Title IX Grievance Process set forth in Board Policy 2:265, *Title IX Grievance Procedure*, and its corresponding administrative procedures: 2:265-AP1, *Title IX Response*, and 2:265-AP2, *Formal Title IX Complaint*

Grievance Process. I serve as the Decisionmaker for Title IX Complaints. This document constitutes my written determination regarding responsibility.

I. Summary of Complaint

[This section should set forth a summary of the allegations in the Complaint potentially constituting sex discrimination under Title IX. At times, the overall complaint investigated includes information obtained through various sources and/or on various dates (e.g., Complaint, Complainant initial meeting and interviews, correspondence); accordingly, identify how/when each of those pieces of information was received. In cases where the Complaint has expanded from the original complaint or contains multiple incidents, we recommend including a statement that you considered all of the allegations collectively to form the Complaint that was investigated. As a best practice, we recommend a numerical / bulleted list of the specific allegation(s) investigated.]

II. Summary of Investigation

[This section will depend on how the investigation was conducted, but generally should include the procedural steps taken from receipt of the Complaint through the investigation, including any notifications to the parties, interviews with parties and witnesses, summary of the interviews, site visits, methods used to gather evidence, identification and summary of the evidence reviewed.]

A. Meetings, Interviews, and Communications with Complainant

On *[insert date]*, the Title IX Coordinator, *[name]*, held an initial meeting with the Complainant, *[name]*. *[Also present was [name(s), title(s)]]*. The meeting occurred *[e.g., in person, over the phone, via online meeting platform]*.

At that meeting, *[summarize what occurred at the meeting: e.g., consideration and implementation of supportive measures; explanation of process for filing a Title IX Complaint; etc.]*.

On *[insert date]*, I interviewed the Complainant. *[Also present was [name(s), title(s)]]*. The interview occurred *[e.g., in person, over the phone, via online meeting platform]*. *[In addition to [his/her] interview, the Complainant also provided a statement, evidence, etc.]* *[Insert summary of the interview.]*

[Insert a similar summary of any additional / other interviews conducted with Complainant, e.g., follow-up interviews conducted on separate dates.]

[In this section it is best practice to gather and describe the following information:

- *Who committed the alleged conduct (Respondent);*
- *Where the incident(s) took place;*
- *Who may have witnessed the incident(s);*
- *The impact the Complainant feels the incident(s) had on him/her;*
- *If the incident was a one-time event or if it was ongoing / part of a pattern;*

- *Any admission of wrongdoing.*

B. Interviews and Communications with Respondent

On *[insert date]*, I interviewed the Respondent, *[name]*. *[Also present was [name(s), title(s)]]*. The interview occurred *[e.g., in person, over the phone, via online meeting platform]*. *[In addition to [his/her] interview, the Respondent also provided a statement, evidence, etc.]* *[Insert a summary of the interview.]*

[In this section it is best practice to gather and describe the following information:

- *Who is the alleged victim (Complainant);*
- *Where the incident(s) took place;*
- *Who else may have witnessed the incident(s);*
- *If the incident is a one-time event or if it was ongoing / part of a pattern;*
- *The Respondent's explanation regarding the alleged incident(s);*
- *Any admission of wrongdoing.*

C. Interviews and Communications with Witnesses

On *[insert date]*, I interviewed *[name, title]*. *[Also present was [name(s), title(s)]]*. The interview occurred *[e.g., in person, over the phone, via online meeting platform]*. *[In addition to [his/her] interview, [name] also provided a statement, evidence, etc.]* *[Insert a summary of the interview.]*

[Repeat for each witness interviewed.]

[In this section it is best practice to gather and describe the following information:

- *Who committed the alleged conduct (Respondent);*
- *What did the witness observe/know about the incident(s);*
- *Where the incident(s) took place;*
- *Who else may have witnessed the incident(s);*
- *If the incident is a one-time event or if it was ongoing / part of a pattern;*
- *Any impact the witness believes has resulted from the incident, on the Complainant or others;*
- *Any admission of wrongdoing.*

D. Review of Evidence and Access by Parties

[This section describes the methods used to gather evidence and identification and summary of the evidence reviewed.]

I reviewed evidence from *[describe; e.g., the District's records and as provided by the parties]*. *[Summarize the evidence submitted. One way to do that is to list the evidence reviewed, the source of the evidence, and a summary of the evidence.]*

The parties were given an equal opportunity to access the relevant and not otherwise impermissible evidence ***[OR an accurate description of the relevant and not otherwise impermissible evidence]. [If a description is provided, the parties have the right to request access to the evidence; state here if any parties requested review.] [If any of the parties accessed/reviewed the evidence, include those details: e.g., who, what reviewed, how provided, dates, etc.]***

In addition, the parties were given a reasonable opportunity to respond to the evidence ***[OR to the accurate description of the evidence]. [If any of the parties provided a response to the evidence, include those details: e.g., who, what provided, dates, etc.]***

III. Findings

[In this section, the Decisionmaker must make findings based on the evidence for each allegation. Evidence includes information obtained via interviews, documentation, witness statements, etc. Where appropriate, the findings can include observations about the credibility of the parties and witnesses and the relevance of the evidence. Findings must be conclusive statements. Based on the findings, the Decisionmaker must determine whether sex discrimination occurred under Title IX.]

IV. Conclusion & Recommendations

[This section itemizes each allegation and includes a summary of the findings relevant to that allegation, a rationale for the findings, and a determination regarding whether sex discrimination occurred under Title IX. The findings and determination of whether sex discrimination occurred under Title IX must be based on the preponderance of evidence standard. This section also includes recommendations as appropriate for the situation; e.g., discipline, interventions, support services, next steps, etc. If there is a determination that sex discrimination occurred, remedies must be provided to the Complainant, and disciplinary sanctions issued to the Respondent. The Complainant must be notified of any disciplinary sanctions to Respondent; consult the Board Attorney.]

The Complainant raised ***[insert number of allegations/incidents]***, which ***[he/she/they]*** identified as sex discrimination in the Complaint: ***[list allegations/incidents]***.

The Title IX Regulations and Board Policy 2:265, *Title IX Grievance Procedure*, prohibit sex discrimination as defined in Title IX. A District employee, agent, or student violates this prohibition whenever that person engages in conduct on the basis of sex that causes another person to be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any education program or activity operated by the District. Title IX sex discrimination includes discrimination on the basis of sex stereotypes, sex characteristics, sexual orientation, gender identity, and/or pregnancy or related conditions.

Sex-based harassment is a form of Title IX sex discrimination. Sex-based harassment occurs whenever a person engages in conduct on the basis of sex that satisfies one or more of the following:

1. A District employee, agent, or other person authorized by the District to provide an aid, benefit, or service under the District's education program or activity explicitly or impliedly conditions the provision of an aid, benefit, or service on a person's participation in unwelcome sexual conduct; or
2. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the District's education program or activity; or
3. Sexual assault, dating violence, domestic violence, or stalking as defined in 34 C.F.R. §106.2.

Based on a preponderance of the evidence, I conclude that the conduct by the Respondent *[constitutes or does not constitute]* sex discrimination under Title IX and Board Policy 2:265. Specifically, I find that the Respondent's conduct constitutes *[specify the type of sex discrimination, including which type of sex-based harassment from the list above 1-3]*.

[Itemize each allegation/incident and insert a summary of the finding relevant as to each allegation/incident; i.e., 1-2 sentences summarizing the findings in Section III as to each allegation/incident and whether or not it constitutes sex discrimination under Title IX based on the District's policy as well as a rationale.]

[Insert in paragraph form or enumerated list of recommendations, which can include (as applicable):

- *disciplinary recommendations or actions taken for Respondent (if applicable);*
- *remedies for Complainant (e.g., social work services, special ed/504 evaluation, intra-district transfer to another school, etc.) (if applicable);*
- *interventions for student(s) involved or students generally (e.g., curriculum/instruction on bullying, internet safety, etc.);*
- *staff training or other applicable topics based on the incidents/issues involved (e.g., staff training on mental health issues, referrals for special education evaluations, etc.);*
- *administrative actions (e.g., increase supervision, maintenance of evidence, etc.);*
- *any additional recommendations.]*

V. Notice of Appeal Rights

Pursuant to the District's Title IX Grievance Process, a copy of this written determination will be provided to each party.

To appeal this determination, you must submit a written request to the Title IX Coordinator, *[name]*, at *[contact information]*, within *[insert number of days; if using PRESS 2:265-AP2, it is 5 school business days]* after receiving this written determination. An appeal can be filed for only the following reasons: (1) a procedural irregularity that would change the outcome; (2) new evidence that would change the outcome and that was not reasonably available when the determination whether sex-based harassment occurred or dismissal was made; or (3) the Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against

complainants or respondents generally or the individual Complainant or Respondent that would change the outcome. ***[The District may offer appeals on additional bases, so long as they are offered equally to both parties. If the Board/District allows appeals on additional bases, include those with the three reasons listed here.]*** If you fail to submit a written request appealing the determination within the specified timeframe, it shall be considered a waiver of your right to an appeal.

Upon receiving a written request to appeal the determination, the Title IX Coordinator will notify the parties in writing that an appeal has been filed. Both parties will have ***[insert number of days; if using PRESS 2:265-AP2, it is 5 school business days]*** to submit to the Title IX Coordinator a written statement and/or new evidence in support of, or challenging, the outcome. Then, the Title IX Coordinator will forward all materials relative to the appeal to the Appeal Decisionmaker. The Appeal Decisionmaker will consider all of the materials and make a decision within ***[insert number of days; if using PRESS 2:265-AP2 it is 30 school business days]*** and will issue its written decision to both parties within ***[insert number of days; if using PRESS 2:265-AP2 it is 5 school business days]***.