

Title IX Sexual Harassment Policy and Procedures

- 1 PURPOSE:** DSST Public Schools aims to provide a safe learning and working environment that is free from sex-based discrimination and sexual harassment for students, team members, and community members. The purpose of these procedures is to ensure prompt and equitable resolution of all such complaints.

DSST prohibits sexual harassment under Colorado and federal law, including violations of Title IX of the Education Amendments of 1972 (“Title IX”), Title VII of the Civil Rights Act of 1964, and the Colorado Anti-Discrimination Act. DSST’s prohibition extends to all forms of illegal sexual harassment, including conduct based on sexual stereotypes, sexual orientation, and transgender status. This policy incorporates the changes implemented under the revised Title IX regulations issued by the United States Department of Education that became effective August 14, 2020.

This policy shall be available in the administrative office of every DSST Public Schools campus, posted on the DSST website, included in each campus’s Student and Family Handbook, and accessible on the network’s intranet website for team member access.

- 2 SCOPE OF THIS POLICY:** This policy addresses sexual harassment. Other DSST policies that may be relevant to the same or similar situations are:
- a) Prohibition Against Civil Rights Violations according to Title VII
 - b) General Grievance Policy as noted in the Student and Family Handbook
 - c) [DSST Team Member Handbook](#) Applicable Guidelines
 - d) Mandatory Child Abuse & Neglect Reporting (Section 1.2.b)
 - e) Team Member/ Student Relationships (Section 1.2.d)
 - f) Anti-Harassment Statement (Section 3.2)
 - g) Student and Family Handbook Grievance and Title IX Procedures

DSST team members are advised to refer to other applicable policies as well as to consult with the DSST Human Resources Department to ensure each situation receives a full and appropriate response.

- 3 TITLE IX COORDINATOR CONTACT INFORMATION:** DSST’s Overall Title IX Coordinator may be contacted at:

Sam LaPres, Home Office Title IX Coordinator
(303) 802-4140
Sam.Lapres@scienceandtech.org
730 Colorado Blvd Suite 200, Denver, CO 80206

- 4 NOTICE TO DSST:** DSST cannot respond to sexual harassment unless it knows about it. Thus, DSST encourages all students, team members, and community members to report any allegation or information about sexual harassment to any DSST team member, including its Title IX Coordinators.
- 5 ACTUAL KNOWLEDGE:** All DSST employees are obligated to report (i) any allegations of sexual harassment or (ii) any information that causes them reasonably to believe there has been conduct that

constitutes sexual harassment. Parents, students, or others may also make reports. Such reports must be made to any of DSST's Title IX Coordinators.

To Report a Student, Team Member, or Community Member, submit a report [located here](#).

- 6 DSST'S RESPONSE TO A REPORT:** Upon receiving a report of sexual harassment, the Title IX Coordinator shall promptly and confidentially contact the Complainant. The Title IX Coordinator must (a) discuss the availability of Supportive Measures; (b) consider any request for Supportive Measures, (c) inform the Complainant that Supportive Measures are available without regard to whether the Complainant does or does not file a formal complaint; and (d) explain the process for filing a formal complaint, if applicable. Without regard to whether a formal complaint is filed, the Title IX Coordinator shall complete the form located on the DSST Title IX website for a Report of Sexual Harassment or see Exhibit 1. The Title IX Coordinator must complete these steps as soon as practicable but no later than seven calendar days after he or she receives the report of sexual harassment.

- 6.1 SUPPORTIVE MEASURES:** Supportive measures are non-disciplinary, non-punitive individualized services designed to restore or preserve for the Complainant equal access to DSST's educational programs and activities (including employment), without unreasonably burdening the other party (*i.e.*, the Respondent), and offered without charge. Supportive Measures may include, without limitation, counseling, mentoring, class modification, schedule changes, monitoring, supervision, or restorative justice activities, as deemed appropriate by the Title IX Coordinator.

At the appropriate times, the Title IX Coordinator should offer Supportive Measures to both the Complainant and Respondent. The Title IX Coordinator must offer Supportive Measures to the Complainant as given in the prior paragraph. The Title IX Coordinator must offer Supportive Measures to the Respondent as soon as practicable and no later than seven calendar days after the Respondent has been notified of the filing of a formal complaint.

The Supportive Measures for each Party may change over time, and the Supportive Measures Counselor must remain responsive to the Parties throughout the entire process. The Supportive Measures Counselor should ensure that effective Supportive Measures are provided until final resolution.

- 6.2 FAILURE TO OFFER SUPPORTIVE MEASURES:** If supportive measures were not offered in response to a report or a formal complaint, the Title IX Coordinator must document in detail why such failure was reasonable under the circumstances.

- 7 FORMAL COMPLAINT:** Any person (including a Complainant) may report sexual harassment to the Title IX Coordinator at any time. A report may be made in person, by email or any other form of electronic communication, by mail, by telephone, or by any other effective means. The report must include the nature of the alleged violation; names of the person(s) responsible for the alleged violation (if known); and any other relevant background information. A Complainant (or their parent or guardian, if appropriate) or the Title IX Coordinator, but not a third-party reporter, may sign a complaint. At the time of a complaint, the Complainant must be participating in or attempting to participate in the School's education program or activities (including employment). Upon the filing of a formal complaint, the Title IX Coordinator shall offer Supportive Measures (if not already offered

or provided) to both the Complainant and Respondent. Complainants will be asked to complete the form located in Exhibit 2 of this policy. Completion of this form by a Complainant is not required to file a complaint.

- 7.1 **INFORMAL RESOLUTION.** If and only if (a) a formal complaint is filed, and (b) the complaint does not concern alleged harassment of a student by a School employee, the Parties may voluntarily agree in writing to an alternative form of informal dispute resolution, such as restorative justice procedures, mediation, fact-finding, or arbitration. Parties may withdraw from such a process at any time before written agreement to a defined process. Agreements to informal resolution that would displace formal investigation (*e.g.*, binding arbitration) require approval of the Title IX Coordinator. Once all Parties have executed a written agreement to use alternative dispute resolution, without objection by the Title IX Coordinator, that agreement is binding by its terms. The Title IX Coordinator may disapprove of the use of alternative dispute resolution for certain complaints, including but not limited to complaints of sexual violence, or refuse to approve certain agreements, including but not limited to those containing onerous terms, and proceed with formal investigation. If informal resolution is attempted and unsuccessful (*e.g.*, a restorative justice process that does not reach the hoped-for resolution), the matter may return to formal investigation.
- 7.2 **ADMINISTRATIVE LEAVE – EMERGENCY REMOVAL – SAFETY PLANS:** DSST may place a Respondent who is an employee on Administrative Leave while allegations are investigated and resolved. DSST may remove a Respondent who is a student if removal is necessary to protect the student or another person from an immediate threat to physical health or safety. Removal of a student who is on an IEP or Section 504 plan is subject to compliance with requirements of the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act, as applicable. If a Complainant and Respondent remain in the School pending or following investigation, the Title IX Coordinator shall determine if a safety plan is advisable and, if so, initiate the process for creating a written safety plan. A decision not to create a safety plan should be documented in writing.
- 7.3 **PRESUMPTION OF INNOCENCE – BURDEN OF PROOF:** At the outset of any investigation, the Respondent is presumed not responsible for sexual harassment. The burden of proof to overcome the presumption is that a violation of the prohibition on sexual harassment is more likely than not; that is, a violation has been proven by a preponderance of the evidence. Throughout each investigation, the Complainant and Respondent shall each be treated with respect and in an equitable manner.
- 7.4 **SUMMARY DISMISSAL – RELATION TO DISCIPLINE:** If the Investigator determines that the allegations in a Formal Complaint do not meet the definition of sexual harassment (or other prohibitions specific to this policy), or they indicate the conduct did not occur in DSST’s educational program or activity, the Investigator shall summarily consider the incident as resolved according to the original complaint provided. If the Respondent withdraws from DSST or terminates employment with the School, or the Complainant requests withdrawal of the complaint, or other specific circumstances prevent an investigation that permits a determination based on appropriate evidence, the Investigator may dismiss the complaint. “Regardless of such dismissal, DSST may take whatever separate disciplinary or corrective action is appropriate against a Respondent under its student Code of Conduct or under its employment policies and practices. However, such separate action may be

taken only if DSST follows a process that complies with the due process protections afforded to Respondent in this policy.”

7.5 INVESTIGATION – GENERAL PRINCIPLE: The Investigator shall investigate each formal complaint that is not referred to informal resolution and not summarily dismissed. Investigation includes evaluation of all available evidence, including witness interviews, review of relevant documents, and consultation with other staff as needed.

7.6 FALSE EVIDENCE PROHIBITED: Complainants, Respondents, and all witnesses are prohibited from making any knowingly false statements, or providing other evidence known to be false, in any investigation. DSST may take disciplinary action against a person making false statements or submitting other false evidence. Inconsistencies between evidence and an investigative report or determination of responsibility do not prove a knowing use of false evidence. Discipline for knowingly providing false evidence is not retaliation as otherwise prohibited by this policy.

7.7 WRITTEN NOTICE OF FORMAL COMPLAINT: The Investigator will provide written notice to the Complainant and the Respondent of (i) the allegations of a formal complaint and (ii) this process, including any opportunity for Informal Resolution. The notice must include:

- a) Sufficient detail to permit the Respondent to prepare a response. This includes a description of the conduct alleged, the date and location of the conduct, and the names of the Complainant and other involved parties, if any.
- b) A statement that the Respondent is presumed not to be responsible for the conduct and that responsibility will be determined at the conclusion of the process
- c) A notice of the Complainant’s and Respondent’s rights to have an attorney or non-attorney advisor.
- d) A statement of the right of the Complainant and Respondent to inspect and review any evidence.
- e) A statement of the prohibition on providing false evidence.

If additional allegations arise and require investigation, the Investigator will provide written notice of such additional allegations to the Complainant and Respondent. A form of the notice required by this paragraph is Exhibit 3 to this policy.

7.8 PRIVILEGED AND IRRELEVANT EVIDENCE: Evidence that is privileged by law and evidence of sexual predisposition or prior sexual behavior (unless offered to prove either that a person other than Respondent committed the alleged conduct or to prove legally recognized consent) is neither admissible nor relevant in this process.

7.9 INITIAL COLLECTION OF EVIDENCE: The Complainant and Respondent will have a reasonable opportunity to present witnesses and other evidence to the Investigator. DSST will not restrict the ability of either Party to gather evidence or discuss the allegations, unless either Party’s discussions exceed legal bounds. Such evidence must be provided within 21 days of receipt of the written notice of the formal complaint. The Investigator will meet with each Party and give that Party at least 24 hours’ advance written notice of the date, time, location, and purpose of the meeting.

- 7.10 **ACCESS TO EVIDENCE – PARTIES’ WRITTEN RESPONSE:** Once all evidence is collected, the Investigator will provide the Complainant and Respondent (and representatives, if any) with an equal opportunity to review all evidence directly related to the allegations of the formal complaint. If possible, the evidence will be provided in an electronic format that does not permit downloading or copying. The evidence shall include all exonerating and incriminating evidence and any evidence that the Investigator will not rely upon. Within 10 calendar days of receipt or inspection of the evidence, the Parties may submit a written response to the Investigator.
- 7.11 **NO LIVE HEARINGS:** DSST will not conduct live hearings under this policy.
- 7.12 **INVESTIGATIVE REPORT – PARTIES’ RESPONSES – PROPOSED QUESTIONS.** The Investigator will consider all the relevant evidence discovered during the investigation and consider any written response to the evidence submitted by a Party. Following the date by which any written response must be submitted, the Investigator will promptly prepare and issue a written investigation report that fairly summarizes the relevant evidence discovered during the investigation. The investigative report must be provided to the Parties and the Decision-Makers. The report must include or be accompanied by a notice that the Parties may submit a written response to the report and proposed written, relevant questions the Party wants asked of any other Party or witness. A form of such notice is provided in Exhibit 4. Such response and proposed questions must be provided to the Decision-Makers within five calendar days of the transmission of the report.
- 7.13 **WRITTEN QUESTIONING:** The Decision-Makers must review the investigative report and the Parties’ responses and proposed questions, if any. The Decision-Makers shall either exclude questions as irrelevant, with an explanation to the Party proposing the question, or submit the questions for answer and provide each Party with such answers. The Decision-Makers shall allow limited follow-up questions from either Party.
- 7.14 **DECISION:** No sooner than 10 days after the distribution of the investigative report, the Decision-Makers shall determine the question of responsibility. Such determination must be based on facts the Decision-Makers finds to be more likely than not (*i.e.*, by the preponderance of evidence), and the written decision must include:
- a) A statement of the allegations that may constitute sexual harassment;
 - b) A summary of the process followed from receipt of the formal complaint through determination, including notices provided, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
 - c) Findings of fact;
 - d) Conclusions regarding application of any code of conduct or employment policy to the facts;
 - e) A statement of, and rationale for:
 - i. the conclusions as to each allegation;
 - ii. disciplinary sanctions, if any, on the Respondent; and
 - iii. remedies, if any, designed to restore or preserve the Complainant’s equal access to DSST’s programs and activities (including employment, if applicable).

- f) A statement of the process and bases for appeal. A form for this statement is provided in Exhibit 5 and may accompany the determination of responsibility (as illustrated in Exhibit 5) or be incorporated into that document.

8 APPEAL – FILING AND GROUNDS: An appeal may be filed within five calendar days of notice of a determination of responsibility or summary dismissal. The notice need only identify the Party filing the appeal, the decision or dismissal appealed from, and which of the three grounds listed in this paragraph, (a), (b) and/or (c), will form the ground(s) for the appeal. Parties may choose to use an optional form of notice of appeal provided as Exhibit 6. An appeal shall be filed with the Decision-Makers.

Appeals will be permitted *only* on one or more of the following grounds:

- a) A procedural irregularity affected the outcome of the matter;
- b) New evidence not available at the time of the determination of responsibility or summary dismissal could affect the outcome of the matter; or
- c) The Investigator or Decision-Makers had a conflict of interest, was biased against a Party, or was biased against all complainants or all respondents.

8.1 APPEAL – PROCESS: The Decision-Makers, upon receiving a notice of appeal, shall provide a notice to both Parties (or, in the case of appeal of a summary dismissal, to Complainant) that the appeal has been filed and that each Party has five calendar days to file a brief written statement supporting or challenging the outcome. A form of such notice is provided in Exhibit 7. The Decision-Makers shall also initiate the formation of an Appeals Panel. The Appeals Panel shall be provided with copies of the notice of appeal, statements of the Parties challenging or supporting the decision appealed, the formal complaint, and, as appropriate, either the summary dismissal or the investigative report and determination of responsibility. Either Party may attach other documents produced during the process to their statement supporting or challenging the outcome. Within 21 calendar days of receiving all required information, the Appeals Panel shall provide a written decision describing the appeal and the rationale for its decision; it shall provide its decision simultaneously to the Parties. If the Appeals Panel is evenly divided on the proper outcome to the appeal, the summary dismissal or determination of responsibility shall be upheld.

9 REMEDIES: Upon determination that a Complainant was sexually harassed DSST may impose one or more of the following:

- a) Offer the Complainant any remedies that will restore or preserve the Complainant's access to DSST's educational program and activities (including employment). These may include Supportive Measures or actions similar to supportive measures that have a disciplinary component toward the Respondent. Remedies may be kept confidential as deemed necessary by the School.
- b) Impose any disciplinary sanctions on a Respondent student, including mandatory participation in counseling services; revocation of extra-curricular privileges (including, but not limited to sports); no-contact orders; schedule changes; short-term or long-term suspension or expulsion, or change of placement as otherwise authorized by law.

- c) Impose any disciplinary sanctions on a Respondent employee, including mandatory participation in counseling services, no-contact orders, reassignment; suspension without pay; or termination of employment.

- 10 TIME LIMITS – INFERENCE FROM REFUSAL TO PROVIDE EVIDENCE:** The Investigator, Counselor, Decision-Makers or Chief of Talent may extend any time limit for good cause shown. At all events, DSST will endeavor to reach a determination of responsibility or other resolution within 120 days of DSST's receiving notice of the allegations of sexual harassment. The Investigator or Decision-Makers may consider the advantages of receiving a report of a parallel law enforcement or other investigation in determining the timeline for investigative activities or a determination of responsibility but shall not unduly delay the process to assure such receipt. The Investigator and Decision-Maker are permitted, but not required, to draw adverse factual inferences from the refusal or failure of a Complainant or Respondent to be interviewed or provide other requested evidence.
- 11 CONFIDENTIALITY:** The identities of persons who made a report of sexual harassment, the Complainant, the Respondent, any person reported to have been a perpetrator, and any witness shall not be made public except as provided in the Family Educational Rights and Privacy Act (FERPA), as otherwise provided by law, or as needed for the conduct of any formal investigation or judicial proceeding.
- 12 RETALIATION & INTIMIDATION:** Neither DSST nor any person may intimidate, threaten, coerce, or discriminate against an individual because such individual has exercised rights under, participated in, or declined to participate in, any proceeding under this policy. Claims of retaliation may be filed by the person alleging retaliation under DSST's general grievance policy or this policy.
- 13 RETENTION OF RECORDS:** All records created of activity under this policy, including, without limitation, training materials, investigative records, informal resolution records, disciplinary records, supportive measures, decisions, remedies and appeals, shall be maintained for seven years.
- 14 TRAINING:** All DSST team members and its governing board shall receive basic Title IX training that includes, without limitation, the definition of sexual harassment and the obligation of school employees and officials to report suspected sexual harassment to the Title IX Coordinator. Any person who will serve as a Investigator, Counselor, Informal Resolution practitioner, Decision-Makers, or member of an Appeals Panel must have had or receive appropriate advanced training on Title IX — specifically, as applicable and without limitation, on all matters covered in basic Title IX training, conducting investigations, methods of informal resolution, preparation of investigative reports, preparation of determinations of responsibility, conducting appeals, identification of privileged or irrelevant evidence (including treatment of evidence of prior sexual conduct), impartiality, avoidance of prejudgment, and avoiding use sex stereotypes.
- 15 POSTING & GENERAL NOTIFICATIONS:** DSST shall place in its Student and Team Member Handbooks, and post prominently on its website:
- a) The name or title, office address, electronic mail address, and telephone number of its Title IX Coordinators;

- b) The availability of the Title IX Coordinators to receive at any time a report of sexual harassment (whether or not by the person alleged to be the victim);
- c) A statement of DSST's policy to not discriminate on the basis of sex in any education program or activity it operates or in employment, which includes a prohibition against sexual harassment;
- d) A copy of or link to this sexual harassment policy and related DSST policies forbidding and providing procedures for receiving and processing complaints of sex discrimination.\
- e) A copy of or link to training materials used by DSST to comply with the "Training" paragraph, above.

16 CONTINUED APPLICATION OF CODE OF CONDUCT AND EMPLOYMENT POLICY:

Nothing in this policy prevents the ordinary application of DSST's student Code of Conduct or employment policies to matters or issues other than sexual harassment, provided this is not done in retaliation, as prohibited in the paragraph above. For clarity, matters and issues other than sexual harassment include misconduct that was alleged to be sexual harassment but is another form of misconduct or matters that are first revealed as a result of proceedings under this policy.

17 POLICY REVIEW: The DSST governing board will review this policy and make appropriate changes from time to time as it deems necessary, including but not limited to if the Title IX regulation published at 85 Fed. Reg. 30572 (May 19, 2020) be amended, repealed, replaced, or held unlawful in any part in a final and unappealable judgment by a court of competent jurisdiction.

18 DEFINITIONS: Unless context requires otherwise:

- a) *Appeals Panel* means the person or persons designated to hear an appeal under this policy. No member of the Appeals Panel may be involved in the Complaint as Respondent or witness or be otherwise biased. The Appeal Panel may include a non-voting advisor in hearing the appeal, which may be DSST's general counsel, special counsel, or other appropriate person. In no event shall a member of the Appeal Panel or advisor to the Appeal Panel be the Title IX Coordinator or Decision-Makers. In almost all circumstances, the Appeals Panel shall be DSST's Vice President of School Culture & Student Experience. Currently, that position is held by Grant Erwin, who can be contacted Grant.Erwin@scienceandtech.org. If the Vice President of School Culture & Student Experience is unable to serve as Appeals Panel, then he can appoint one or more unbiased people from within the DSST Network to serve in that role.
- b) *Complainant* means a person who is alleged to be the target of conduct that could constitute sexual harassment. "Complainant" includes a possible complainant, such as an individual identified by a third party as a possible victim of sexual harassment.
- c) *Coordinator* means a person designated as a Title IX Coordinator for the DSST Network as a whole or for an individual DSST school. A Title IX Coordinator serves as the Coordinator and may delegate that responsibility on a case-by-case basis. DSST shall prominently post to its website and otherwise make known the Title IX Coordinators as those are assigned from time to time.
- d) *Investigator* means a person trained to evaluate objectively the credibility of witnesses, synthesize evidence, and take into account the unique circumstances of each situation involved in an alleged act or pattern of sexual harassment. A Coordinator may be the

Investigator or may delegate that responsibility to a qualified outside investigator. An Investigator may not have a conflict of interest in a matter under investigation.

- e) *Decision-Makers* means the people who receives a recommendation regarding a complaint of sexual harassment from the Title IX Coordinator, assess the relevant evidence and decide if the burden of proof has been met to determine that a Respondent has engaged in sexual harassment. The Decision-Makers shall be the Title IX Coordinator, Supportive Measures Counselor and an Administrative Team Member unless one or all of the Decision-Makers is implicated in the complaint as a Respondent or witness, in which case the Chief Talent Officer shall designate an independent Decision-Makers. The Decision-Makers may not be a Title IX Coordinator and an Investigator.
- f) *Supportive Measures* means non-disciplinary, non-punitive individualized services designed to restore or preserve for the Complainant equal access to DSST's educational programs and activities (including employment), without unreasonably burdening the other party (*i.e.*, the Respondent), and offered without charge. Supportive Measures may include, without limitation, counseling, mentoring, class modification, schedule changes, monitoring, supervision, or restorative justice activities, as deemed appropriate by the Title IX Coordinator. At the appropriate times, a Title IX Coordinator should offer Supportive Measures to both the Complainant and Respondent.
- g) *Education program or activity* means DSST campuses, the DSST Home Office, and all locations, events, or circumstances in which DSST exercises substantial control over a Respondent and the context in which alleged sexual harassment occurs.
- h) *Parties* means the Complainant(s) and Respondent(s) in an individual matter.
- i) *Respondent* means an individual alleged to have engaged in sexual harassment.
- j) *Sexual harassment* means:
 - i. Conduct by a DSST employee or board member that conditions an aid, benefit, or service of the school, including employment, on participation in unwelcome sexual conduct (that is, *quid pro quo* harassment);
 - ii. Conduct by a DSST team member that constitutes sexual misconduct involving a student;
 - iii. Conduct by anyone that is unwelcome and that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to employment at DSST or to DSST's education program and activities; or
 - iv. Conduct by anyone that constitutes sexual assault, dating violence, domestic violence or stalking towards a DSST employee or student. *See* 20 U.S.C. § 1092(f)(6)(A)(v) & 34 U.S.C. § 12291(a)(8), (10) & (30).
- k) DSST uses the following to define *consent*:
 - i. Consent is active (not passive), informed, knowing, and voluntary (freely given)
 - ii. Consent creates a mutually understood permission regarding the conditions of sexual activity
 - iii. Under DSST's definition of consent, "no means no" and "nothing means no." Silence and passivity do not equal consent.
 - iv. To be valid, consent must be given immediately prior to or contemporaneously with the sexual or intimate activity.
 - v. Consent can be withdrawn at any time, so long as it is clearly communicated verbally or non-verbally.

A person may be sexually harassed by members of his or her own sex.

DSST's prohibition against sexual harassment does not extend to legitimate nonsexual touching or other nonsexual conduct. For example, a high school athletic coach hugging a student who made a goal or a kindergarten teacher's consoling hug for a child with a skinned knee will not be considered sexual harassment.

Similarly, one student's demonstration of a sports maneuver or technique requiring contact with another student will likely not be considered sexual harassment. However, in some circumstances, nonsexual conduct may take on sexual connotations and rise to the level of sexual harassment. For example, if a teacher repeatedly hugged and put his or her arms around students under inappropriate circumstances, that conduct could rise to the level of sexual harassment.

19 LEGAL AUTHORITY FOR THIS POLICY:

20 U.S.C. § 1681 *et seq.*

34 C.F.R. §§ 106.8, 106.30, 106.44, 106.45 & 106.71

C.R.S. §§ 24-34-101 *et seq.*

Bostock v. Clayton County, 590 U.S. ___, 140 S.Ct. 1731 (June 15, 2020)

Rosenberg v. Bd. of Educ., 710 P.2d 1095, 1100 n. 11 (Colo. 1985)

Exhibit 1
Report of Sexual Harassment
(to be completed by the Title IX Coordinator)

1. Date: _____
2. Name of Reporter: _____
3. Name of Complainant: _____
4. Name of Respondent: _____
5. Summary of Report: _____

Attached pages? ☐ No ☐ Yes — Number? ____

6. Was the report discussed with Complainant? Yes ☐ No ☐ Date: _____
7. Was the Complainant:
Informed of available Supportive Measures, with or without a formal complaint? Yes ☐ No ☐
Given an explanation of the process for filing a formal complaint? Yes ☐ No ☐
8. Were Supportive Measures requested? Yes ☐ No ☐
9. Will Supportive Measures be provided? Yes ☐ No ☐. If yes, describe: _____

10. If an answer under 6 through 9 above is “No,” fully explain why (attach pages if needed):

11. Attached pages? Yes ☐ No ☐ Number? ____
12. Formal Complaint filed by/for Complainant? Yes ☐ No ☐
13. Formal Complaint filed by Title IX Coordinator? Yes ☐ No ☐

Signature of Title IX Coordinator

Date

Exhibit 2 Sexual Harassment (Title IX) Complaint Form

Instructions for filling out this form: If you believe that you have been the victim of sexual harassment, please fill out this form and submit it by hand delivery, electronic mail, or U.S. mail to the School's Title IX Coordinator or DSST's Overall Title IX Coordinator. **You are not required to use this form and may file a complaint by any other reasonable means, orally or in writing.** If the victim of sexual harassment is a minor, the form may be completed and signed by a parent or guardian. A person believed to be a victim of sexual harassment is the "complainant."

If you are reporting sexual harassment you witnessed or know of against another person, please report this to the School's Title IX Coordinator or DSST's Overall Title IX Coordinator. **Do not use this form.** Please identify for the Title IX Coordinator the victim, the alleged perpetrator; the date, time and place of the conduct; and other factual details. **Under federal law, only an alleged victim (for themselves or, for a minor, through a parent or guardian) or the Title IX Coordinator has the right to file a complaint.**

Please print or type when completing this form. **If needed, attach additional sheets and indicate the number of additional pages below.**

Name of complainant: _____

Parent or guardian (if applicable) _____

Address: _____

Telephone number: _____

Email address: _____

I am an/a: ☐Employee ☐Student ☐Parent/Guardian ☐Other (_____)

You have the right to be represented by an advisor (who may be an attorney, advocate, or someone else) during the complaint process. If you have an advisor, please provide contact information. You may provide this information at a later time.

Name: _____

Address: _____

Telephone number: _____

Email address: _____

A person alleged to have committed sexual harassment is called the "respondent." Please identify the respondent(s) and indicate their relationship to the School.

☐ Employee ☐ Student ☐ Parent/Guardian ☐ Other (_____)

Please describe the facts and circumstances giving rise to this complaint.

When and where did these events occur? Provide dates, times, and locations, if possible.

Please provide the names of anyone else you believe is a victim of such conduct:

Please provide the names and contact information of anyone who may have witnessed the alleged conduct.

If you have reported this to another person, please state to whom you reported the behavior and provide their contact information (if known).

If you reported to a DSST employee, please state when, to whom, and what response you received. Please note such a report is not required.

Please list below any evidence that you believe is relevant. This could include audio or visual media, physical objects, online materials, text messages, voicemail messages, screen captures, emails, or any other item. Please include any information in the possession of the School or the Respondent that may be helpful (such as emails, pictures, or video).

Is there any other information you believe would be helpful? For example, if this conduct constituted harassment or misconduct on some other grounds, you may explain that here.

Please explain how this conduct has impacted you. This includes any injuries as well as impacts on your ability to access or benefit from the School's education program or activities or from your employment.

Please describe the outcome or remedy you seek.

Please provide below your physical or digital signature.

Signature:

Name (printed):

Check one:

☐ Complainant ☐ Parent/Guardian ☐ Title IX Coordinator

Date:

Notice to Complainant: This document is a legal record requesting a formal investigation. Please keep a copy of this completed form and any supporting documentation for your records.

If your complaint is found not to support a claim of sexual harassment, but would be proper under any other School policy, the School will notify you and proceed to consider your complaint under the proper policy.

Exhibit 3 Written Notice of Formal Complaint

[To be promptly prepared and provided by the Investigator to the Complainant and Respondent after a formal complaint is filed, if the complaint is not summarily dismissed.]

[DSST Letterhead]

[Date]

PLEASE TAKE NOTICE THAT, a formal complaint alleging sexual harassment has been filed with the School. I will be the Investigator in this process and will submit an investigative report with findings and recommendations.

In such complaints, the alleged victim is referred to as the Complainant and the alleged perpetrator is referred to as the Respondent. One purpose of this notice is to assure that both the Complainant and Respondent are aware of certain rights they may exercise in this process. Another purpose is to allow the Respondent to be prepared to appropriately participate in this process. When a party is a minor, the parent or guardian will be given this notice. The terms “Complainant” and “Respondent” may in some cases refer to a representative of a minor.

At the outset of this process, the Respondent is presumed not to be responsible for the conduct alleged. Responsibility will be determined at the conclusion of the process.

Complainant: _____

Respondent: _____

Summary of the Complaint:

Date(s) of conduct: _____

Location of conduct: _____

Names of other parties, if any: _____

Description of the conduct alleged. This is a summary intended to provide sufficient detail to allow the Respondent to prepare a response. (Additional pages may be attached)

Both the Complainant and the Respondent have a right to be advised by an attorney or non-attorney of their choice, at their own expense.

Both the Complainant and the Respondent have the right to collect and submit evidence in this process. Please submit such evidence directly to me. Such evidence must be submitted within 21 days of receipt of this notice.

During this process both the Complainant and Respondent will be given the opportunity to inspect and review all evidence that I have gathered.

Submitting knowingly false statements or evidence is a violation of DSST policy and will result in disciplinary consequences. Such consequences are not “retaliation.” Mere disagreement between the parties, or between a party and a school official investigating or deciding this matter does not, by itself, demonstrate knowing submission of false evidence.

If a party refuses to cooperate, I am empowered to nonetheless finish the investigation and issue a report. I may also decide that a party refusing to respond to questions or provide evidence means that they have no basis for disputing certain factual issues.

I will be following up as needed during the investigation. Please contact me with any questions or concerns.

/s/ Investigator

Exhibit 4

Notice to Parties Concerning Investigative Report

[At the conclusion of the investigation this notice will accompany the investigative report and be provided by the Investigator to the Complainant, the Respondent, and the Decision Maker.]

[DSST letterhead]

[Date]

[Addressee]

Attached to this notice is a copy of the investigative report on an allegation of sexual harassment in which you are [the Complainant/the Respondent/the Decision-Makers].

Further proceedings in this matter will be handled by the [Decision-Makers/Other Title], who is:

[Name/Title]

[Street address]

[Email]

[Phone]

The Complainant and the Respondent each have the right to submit a written response to this report. The Complainant and the Respondent each also have the right to submit proposed written, relevant questions they want the Decision-Makers to ask of the other Party or a witness. **Any written response or proposed questions must be provided to the [Decision-Makers/Other Title] within five (5) days of receipt of this report.**

I want to thank everyone for their efforts in this investigative process.

/s/ [Investigator]

Exhibit 5

Notice to Parties Concerning Determination of Responsibility

[This notice is to accompany the transmission of, or be incorporated into, the determination of responsibility to the Complainant and Respondent. The form given here is of a cover letter.]

[DSST Letterhead]

[Date]

[Addressee]

Please find attached the determination of responsibility in this matter. This determination can be appealed on one or more of the following three grounds:

- You believe a procedural irregularity affected the outcome of the matter;
- You have new evidence not available as of the date of this decision that could have affected the outcome of this matter; or
- You believe either I was biased, or the Investigator was biased, against you or biased against all persons in your position (that is, against all complainants or all respondents).

If you wish to appeal, please send me a notice identifying the ground(s) on which you are appealing. An optional form of notice of appeal is provided in **Exhibit 6** to DSST's Title IX Sexual Harassment Policy and Procedures. If an appeal is filed, I will forward your notice of appeal to an Appeals Panel formed under DSST's sexual harassment policy and provide you with further notice of details of that process.

/s/ [Decision-Makers]

Exhibit 6 Notice of Appeal

[This illustrates one proper form for filing a notice of appeal. This may be used by a Complainant in response to a summary dismissal or by a Complainant or Respondent in response to a determination of responsibility.]

[Date]

From: [Name and Contact information of party filing the appeal]

To: [Name, Title and Contact information of Decision-Makers]

To Whom it May Concern:

I am appealing the (check one) ☐ Summary Dismissal ☐ Determination of Responsibility in this matter dated [date]. I believe (check appropriate boxes and summarize details, if desired):

☐ A procedural irregularity affected the outcome of the matter. Describe (optional):

☐ I have new evidence not available as of the date of this decision that could have affected the outcome of this matter. Describe (optional):

☐ The (check as appropriate ☐ Investigator or ☐ Decision-Makers was biased against me or biased against all persons in my position. Describe (optional):

/s/ [Complainant or Respondent]

Exhibit 7

Notice to Parties of Appeal

[To be provided by the Decision-Makers to the Complainant in the event of appeal of a summary dismissal, or to the Complainant and Respondent in the event of appeal of a determination of responsibility.]

[DSST letterhead]

[Date]

[Addressed to Complainant in cases of appeal of summary dismissal or to the Complainant and Respondent in cases of appeals of determination of responsibility.]

This will confirm that I have received a notice of appeal in this matter. If you did not file the notice of appeal, it is attached. You may file a brief written statement challenging or supporting the outcome in this matter within five (5) days of receipt of this notice. The notice of appeal and such written statements will be provided to the Appeals Panel, together with the formal complaint and, as appropriate, either the summary dismissal or the investigative report and determination of responsibility.

You may attach other documents from this proceeding to your written statement.

/s/ [Decision Makers]