

VIGO COUNTY SCHOOL CORPORATION  
TERRE HAUTE, INDIANA

File: JFHA

**SEXUAL HARASSMENT**

**I. POLICY**

Vigo County School Corporation does not discriminate on the basis of sex, and it is the policy of the Vigo County School Corporation to maintain a learning and working environment that is free from sexual harassment. This policy applies to unlawful conduct occurring in school programs and activities, which are locations, events, or circumstances over which the school exercises substantial control over both the person accused of sexual harassment and the context in which the alleged harassment occurs.

**II. DEFINITION OF SEXUAL HARASSMENT**

- A. “Sexual harassment” means conduct on the basis of sex that satisfies one or more of the following:
1. A school employee conditioning education benefits on participation in unwelcome sexual conduct (i.e., *quid pro quo*); or
  2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school’s education program or activity; or
  3. Conduct that amounts to legal claims of sexual assault, dating violence, domestic violence, or stalking.
- B. Sexual harassment may involve the behavior of a person of either sex against a person of the same or opposite sex. Behaviors and actions that may constitute sexual harassment could include but are not necessarily limited to verbal or written harassment, abuse, propositions, invitations, or solicitations (either in person or through electronic means); obscene gestures; unwelcome physical contact, touching, patting, or pinching; and suggesting or demanding sexual involvement through implied or explicit threats, intimidation, or other coercive means.

**II. COMPLAINT PROCEDURES**

- A. Any person who alleges sexual harassment by an employee or student in the school corporation may use the following complaint procedure.

## B. Reporting Sexual Harassment and Making a Formal Complaint

An individual who believes s/he (1) has been unlawfully sexually harassed, (2) has observed another person be sexually harassed, or (3) has heard about another person being sexually harassed should notify a teacher, building administrator, or other school employee with whom s/he is comfortable about the alleged harassment and may do so either orally or in writing. An individual also may directly contact the Title IX Coordinator [thomas.balitewicz@vigoschools.org](mailto:thomas.balitewicz@vigoschools.org)

If the individual notifies a school employee rather than the Title IX Coordinator (or if an employee is the one who has observed or has heard about another person being sexually harassed), the employee will notify the Title IX Coordinator promptly. After the Title IX Coordinator is notified—either by an employee or the individual complaining directly, the Title IX Coordinator will contact the alleged victim of the sexual harassment (and his or her parent(s) or legal guardian(s)) and provide information about the process for making a formal complaint.

1. If the complaining individual (and his or her parent(s) or legal guardian(s)) decides not to file a formal complaint, this process is terminated. However, the school will still provide notice of available supportive measures and work with any alleged victim of sexual harassment to restore or preserve equal access to education and school programs, to protect the individual's safety, and to deter unwelcome behaviors. Such supportive measures may include counseling, course modifications, schedule changes, increased monitoring or supervision, or other non-punitive measures that do not discipline a respondent or make a determination as to a respondent's responsibility for any allegations raised.
2. If the complaining individual decides to file a formal complaint, a school administrator will be assigned to investigate the complaint according to the procedures set forth below. The person making the complaint is known as the "complainant;" the person accused of sexual harassment is the "respondent;" and the person investigating the complaint and managing the grievance process is the "investigator."
3. If the allegations, on their face, do not satisfy the definition of sexual harassment outlined above, the process is terminated. (However, complained of conduct may be a violation of other school policies and subject to discipline or school action separate from the sexual harassment grievance process.) If the allegations, on their face, did not occur in a school program or activity or did not happen to an individual within the United States, the process will also be terminated. If the

process is terminated due to the aforementioned deficiencies, the school will promptly provide written notice of the dismissal of the complaint and the reasons therefore to the parties.

4. Due to the sensitivity surrounding complaints of unlawful sexual harassment, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint promptly after the conduct occurs—while the facts are known and potential witnesses are available. For a formal complaint to be timely, the complainant must be participating in or attempting to participate in the education program or activity of the school with which the formal complaint is filed.

### C. Grievance Procedure

The grievance process seeks to treat complainants and respondents equitably. To that end, the investigator will be without bias for or against complainants or respondents generally or the individual complainant or respondent actually involved in the current complaint. The investigator also will be appropriately trained to handle the complaint process and procedures (whether the parties submit to the informal procedure or formal procedure, each of which is set forth below).

Upon receipt of a formal complaint, the investigator will provide the following notices to all parties known by the school at the time:

1. Notice of the grievance processes available (formal and informal), and notice of the opportunity to submit to the informal resolution process of the complaint in writing. (Both the complainant and respondent have to agree to and submit to the informal resolution process in writing. The parties may do so at the outset of the grievance procedure or agree to do so at any point during the formal procedure prior to a determination of responsibility is made. If both parties do not agree or if one party withdraws from the informal procedure prior to its conclusion, however, then the formal procedure will be followed. The informal procedure may not be used, if the alleged sexual harassment involves a student-complainant and employee-respondent.)
2. Notice of the sexual harassment allegations, including the identities of the parties involved in the incident(s), the conduct allegedly constituting sexual harassment, and the date(s) and location(s) of the alleged incident(s).
3. Notice that the respondent is presumed not responsible for the allegations and that a determination regarding responsibility is not made until the conclusion of the grievance process.

4. Notice that the parties may select an advisor of their choice, which are advocates and representatives that assist parties in the complaint resolution process (advisors do not have to be an attorney but they can be).
5. Notice that parties may inspect and review evidence as part of the process and discuss allegations under investigation.
6. Notice of the school's prohibition on making knowingly false statements or knowingly submitting false information during the grievance process.
7. Notice of the range of possible disciplinary sanctions and remedies that the school may implement if the decision-maker (an individual different than the investigator) determines that sexual harassment occurred.
8. Notice of the standard of evidence to be used under the formal procedure, which is the preponderance of the evidence standard.
9. Notice of the procedures and permissible bases for an appeal of the determination under the formal procedure.
10. Notice that the school may consolidate formal complaints alleging sexual harassment if the allegations of sexual harassment arise out of the same facts or circumstances.
11. Notice of the range of supportive measures available to the complainant and respondent.

D. Formal Procedure

1. Under the formal procedure, the investigator will set forth reasonable time frames for the parties to gather and exchange evidence and for the investigator to gather and disseminate evidence, which may include photographs, text messages, other electronic images or audio files, witness statements, medical documents, and other forms of evidence.

Should a dispute arise over discovery requested or demanded, the investigator will not require or allow the use of 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.

The investigator will ensure that all parties are able to review and inspect all evidence obtained as part of the investigation that is directly

related to the allegations in the formal complaint. Moreover, the investigator will provide copies of such evidence to parties and their advisors and will permit the parties to respond to the evidence in writing. The investigator will set a reasonable time frame for the parties to submit their written responses to the evidence but under no circumstances may that time frame be fewer than 10-days from the parties' receipt of such evidence.

2. After the deadline for submitting written responses to the evidence passes, the investigator will prepare an investigative report within a reasonable amount of time and provide the investigative report to the parties. The investigative report will summarize the relevant evidence but will not contain a determination of responsibility or provide a conclusion. Parties have 10 days from the receipt of the investigative report to submit a written response to it.
3. Also, within that same 10-day time period, each party is entitled to submit written, relevant questions of any other party or witness. The investigator shall establish a reasonable schedule for the receipt of answers to any questions submitted to a party or witness, as well as for the opportunity to ask additional, follow-up questions and receive additional answers to the follow-up questions.
4. For good cause shown, the parties may be awarded a limited extension of the time frames established by the investigator. The investigator will provide written notice to the complainant and the respondent of any delay or extension and the reasons for it.
5. The school will dismiss a formal complaint, if at any time during the investigation:
  - i. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
  - ii. The respondent is no longer enrolled or employed by the school;  
or
  - iii. Specific circumstances prevent the school from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

If dismissing a complaint for any of the above reasons, the school will promptly notify all parties in writing and explain the reason(s) for dismissal.

6. Separate and apart from the investigator, the school shall also appoint a well-trained, independent, and unbiased individual to be the “decision-maker.” The decision-maker will be without bias for or against complainants or respondents generally or the individual complainant or respondent actually involved in the current complaint.

The decision-maker shall review the investigative report, written responses thereto, the questions and answers of all witnesses and parties, and the underlying evidence gathered in the investigation, shall apply the standard of evidence set forth above, and will draft a written determination regarding responsibility for dissemination to the parties.

The written determination will: (1) identify the sexual harassment allegations, (2) describe the procedural steps taken, (3) issue findings of fact, (4) provide conclusions and a rationale for the result of each allegation (including whether there is responsibility found, what disciplinary sanctions will be imposed on the respondent, and whether any remedies will be utilized to restore or preserve the complainant’s equal access to the school’s program or activity), and (5) explain the procedures and permissible bases for the parties to appeal the determination.

7. The Appeal Process:

If a party seeks to appeal the decision-maker’s decision (or the dismissal of a formal complaint or any allegations therein), the party must submit, in writing to the Title IX Coordinator, notice of his or her intent to appeal and a brief summary of the basis for the appeal within 10 days of the decision-maker’s decision (or within 10 days of receiving notice that the complaint and/or allegations have been dismissed). If an appeal is not timely, the initial decision-maker’s determination is final.

Either party may submit an appeal, but appeals may only be brought for one or more of the following reasons: (1) a procedural irregularity affected the outcome, (2) new evidence that was not reasonably available at the time of the determination is now available and could affect the outcome, or (3) the Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias that affected the outcome of the matter.

Upon receipt of a timely notice of appeal, the school will assign an “appeal decision-maker.” The appeal decision-maker will not be the Title IX Coordinator, the investigator, or initial decision-maker but will be similarly without bias for or against complainants or respondents generally or the individual complainant or respondent actually involved in the appeal, as well as appropriately trained.

Upon assignment, the appeal decision-maker will contact all parties to provide notice of the appeal and the alleged basis for the appeal and to establish a deadline for the parties to submit in writing a response to the appeal which either supports or challenges the initial decision-maker's determination of responsibility.

The appeal decision-maker will provide the parties with his or her determination regarding the appeal within a reasonable amount of time thereafter. The appeal decision-maker's determination will be set forth in writing, will provide the appeal decision-maker's rationale, and will be final.

E. Informal Procedure

1. Under the informal procedure, if both parties submit to the process in writing, the investigator will contact the parties and establish a date to engage in an informal mediation to discuss the allegations, the parties' perspectives, potential protective measures, and other informal methods of resolving the formal complaint.
2. At the mediation, if the parties reach an agreement to resolve the process, they shall submit to the resolution terms in writing.
3. By signing the resolution, the parties are precluded from seeking additional procedures and processes arising from the same allegations. However, at any point during the mediation, prior to agreeing to a resolution, either party may terminate the informal procedure and begin or resume the formal procedure.

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Adoption Date: April 30, 1992; Revised: April 8, 1996; August 25, 1997;  
\_\_\_\_ January 11, 2021 \_\_\_\_

Legal Ref:

CrossRef: GBCC

VIGO COUNTY SCHOOL CORPORATION  
TERRE HAUTE, INDIANA

File: **JFHA-E**

**REPORT OF SEXUAL HARASSMENT**

This form is to be used by any employee or student who has either observed or been subject to sexual harassment. To insure full investigation, it should be completed as accurately as possible. It is not, however, critical to be 100 percent precise. An investigation may require the complainant to be interviewed.

Date: \_\_\_\_\_

**Please Print**

Name of complainant making a charge of sexual harassment:

\_\_\_\_\_

Address of complainant:

\_\_\_\_\_

Telephone Number:

\_\_\_\_\_

Position or Grade:

\_\_\_\_\_

Names of individuals involved in the harassment and indicate whether they are students or employees:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Please give a description of the sexual harassment in your own words:

Names of any witnesses, indicating whether they are employees or students:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Complainant's Signature

Please see the Vigo County School Corporation's policy on Sexual Harassment for more information on the topic. Present this Report to your most immediate supervisor not involved in the harassment.

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