[TEMPLATE - DETERMINATION OF RESPONSIBILITY]

LETTERHEAD

Date

**Delivered Via Electronic Mail and First Class Mail**

Complainant Name

Address

Email Address

Complainant Advisor [if any]

Address

Email address

Respondent Name

Address

Email Address

Respondent Advisor [if any]

Address

Email Address

Title IX Coordinator

Email Address

 Re: Determination – [Complainant] v. [Respondent]

Please find below the determination regarding responsibility in the above-named formal complaint submitted to the District on [date signed]. The standard of evidence applied in the determination was preponderance of the evidence.

**I. Allegations Investigated**

1. [State Allegation #1:]
2. [State Allegation #2]

**II. Compliance with Grievance Procedures**

1. The formal complaint was received by the Title IX Coordinator on [DATE].
2. The Title IX Coordinator or his/her designee provided written notice of the complaint to both parties on [DATE].
3. The investigator interviewed the following individuals [FROM INVESTIGATION SUMMARY]:
	1. Complainant: interviewed on [DATE] between [TIME OF INTERVIEW]. Complainant was provided written notice of the date, time, location, participants, and purpose of interview on [Date notice provided]. [IF APPROPRIATE: Complainant’s advisor, [NAME], was present at the interview.] [Repeat as needed for all interviews of Complainant]
	2. Respondent: interviewed on [DATE] between [TIME OF INTERVIEW]. Respondent was provided written notice of the date, time, location, participants, and purpose of interview on [Date notice provided]. [IF APPROPRIATE: Respondent’s advisor, [NAME], was present at the interview(s).] [Repeat as needed for all interviews of Respondent]
	3. [NAME of Witness]: interviewed on [DATE] between [TIME OF INTERVIEW].
	4. [Repeat for each witness]
4. The following documentary evidence was gathered as part of the investigation [FROM INVESTIGATION SUMMARY]:
	1. [Describe each document/email string]. [Identify who gave you the document or where you got it—for example: District server search of emails to or from the parties to one another between DATE and DATE revealed the following relevant communications: [then list each email]].
	2. [Repeat for each document]
	3. [Describe each video or audio recording]. [Identify who gave you the evidence or where you got it—for example: District surveillance camera footage from [location] recorded on [Date]].
	4. Repeat for each item].
5. On [DATE], both parties, and their advisors (if any), received a copy of all evidence gathered during investigation that directly related to the allegations and had ten calendar days to review and submit written responses regarding the relevancy and importance of such evidence.

1. The investigator received a written response to the evidence from Complainant on [DATE] and from Respondent on [DATE].
2. On [DATE], the investigator sent the parties, their advisors (if any), and me the investigation report that summarized the relevant evidence.
3. On [DATE], I sent each party written notification that they could submit written, relevant questions that the party wanted asked of any party or witness no later than 10 days after the date they received the investigation report.
	1. Complainant’s questions:
		1. On [DATE], I received written questions from Complainant to ask of Respondent. After I determined that the questions were relevant, I provided them to Respondent. I received written answers to the questions on [DATE] and provided the answers to Complainant on [the same date or the date]. [Include ONE of the following statements: Complainant had no follow up questions OR Complainant provided limited follow-up question to clarify Respondent’s answers on DATE, to which Respondent provided responses on DATE].
		2. On [DATE], I received written questions from Complainant to ask of [NAME OF WITNESS]. After I determined that the questions were relevant, I provided them to [NAME]. I received written answers to the questions on [DATE] and provided the answers to Complainant on [the same date or the date]. [Include ONE of the following statements: Complainant had no follow up questions OR Complainant provided limited follow-up question to clarify NAME’s answers on DATE, to which NAME provided responses on DATE].
	2. Respondent’s Questions:
		1. On [DATE], I received written questions from Respondent to ask of Complainant. After I determined that the questions were relevant, I provided them to Complainant. I received written answers to the questions on [DATE] and provided the answers to Respondent on [the same date or the date]. [Include ONE of the following statements: Respondent had no follow up questions OR Respondent provided limited follow-up question to clarify Complainant’s answers on DATE, to which Complainant provided responses on DATE].
		2. On [DATE], I received written questions from Respondent to ask of [NAME OF WITNESS]. After I determined that the questions were relevant, I provided them to [NAME]. I received written answers to the questions on [DATE] and provided the answers to Respondent on [the same date or the date]. [Include ONE of the following statements: Respondent had no follow up questions OR Respondent provided limited follow-up question to clarify NAME’s answers on DATE, to which NAME provided responses on DATE].

**III. Standard of Evidence**

Using a preponderance of the evidence standard, I considered all relevant evidence provided by the investigator and any testimonial evidence obtained during the exchange of written questions to determine whether the Respondent has responsibility for the allegations of sexual harassment made against [him/her].

Sexual harassment is conduct on the basis of sex that meets one or more of the following:

1. A District employee conditions the provision of an aid, benefit, or service of the district on an individual’s participation in unwelcome sexual conduct;
2. Unwelcome conduct that a reasonable person would find to be so severe, pervasive, and objectively offensive that it “effectively denies a person equal access”to the District’s education program or activity;
3. Sexual assault, dating violence, domestic violence, or stalking.

[IF #3 is at issue, state here the definition of the appropriate term or terms as follows:

Sexual assault is an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. 20 U.S.C. § 1092(f)(6)(A)(v).

Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors:

1. the length of the relationship;
2. the type of relationship;
3. the frequency of interaction between the persons involved in the relationship

34 U.S.C. § 12291(a)(10).

Domestic violence is felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction. 34 U.S.C. § 12291(a)(8).

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

1. Fear for his or her safety or the safety of others; or
2. Suffer substantial emotional distress

34 U.S.C. § 12291(a)(30).]

A preponderance of the evidence standard weighs to evidence to determine if it is more likely than not that the alleged conduct occurred.

**IV. Determination**

**A. Allegation 1: [RESTATE ALLEGATION]**

Findings of Facts: based on the evidence presented, I find the following facts to be relevant and substantiated:

[IDENTIFY EACH RELEVANT AND SUBSTANTIATED FACT]

Conclusions as to application of facts to the code of conduct: Governing Board Policy ACAA, Title IX Sexual Harassment, prohibits sexual harassment in its education programs and activities. In addition, Governing Board Policies and Regulations JIC, Student Conduct; JICFB, Harassment of Students; and JK/JK-R, Student Discipline provide that all students are to be treated with respect and to have access to an educational environment that is free of discrimination.

The following conduct, substantiated as a finding of fact above, constitutes prohibited sexual harassment under District policy:

[IDENTIFY ANY CONDUCT SUBSTANTIATED THAT CONSTIUTES SEXUAL HARASSMENT].

Determination: based on the above findings of fact and conclusions, I find that Respondent [is/is not] responsible for the alleged conduct [IF IS RESPONSIBLE: and that the conduct constitutes sexual harassment under Title IX.]

[IF RESPONSIBLE: District discipline policy provides that students who engage in sexual harassment will be subject to disciplinary consequences ranging from [STATE DISCIPLINE RANGE SET OUT IN DISCIPLINE MATRIX]. In the present situation, [IDENTIFY THE CONSEQUENCE. Possible examples:

Respondent will be removed from [IDENTIFY ACTIVITY] AND/OR

Respondent will receive a nine day out of school suspension for the conduct. OR

Respondent will receive a ten day short term out of school suspension and will be referred for expulsion. Student will receive all appropriate due process under Governing Board Policy JKE related to expulsion.]

The following remedies will be provided to the Complainant to restore or preserve his/her equal access to the District’s education program or activity:

[IDENTIFY REMEDIES]

**B. Allegation 2: [RESTATE ALLEGATION & REPEAT ABOVE]**

**V. Appeals**

Either party has the right to appeal this determination regarding responsibility. Appeals must be based on one or more of the following:

* Procedural irregularity that affected the outcome of the matter;
* 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
* The Title IX Coordinator, investigator(s), or decision-makers(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affect the outcome of the matter.

Requests for appeal must be submitted, in writing, to the Title IX Coordinator no later than ten (10) days after receipt of this determination. The Title IX Coordinator will forward any appeal based on one or more of the allegations set out above to the individual designated to hear the appeal, which will not be the Title IX Coordinator, the investigator, or the decision-maker in this case. The individual hearing the appeal will provide a copy of the appeal request to the non-appealing party and will provide that party an opportunity to submit a written response to the appeal.

The decision of the person hearing the appeal will be final.

Sincerely,

[Name]

Higley Unified School District Title IX Decision-Maker