

FINAL WRITTEN DETERMINATION TEMPLATE

Name of Decision-Makers:

Date of Report:

Name of Complainant:

Name of Respondent:

A. *Identification of Allegations

COPY AND PASTE FROM INVESTIGATIVE REPORT

B. *Procedural Steps

1. Formal Complaint

On [DATE], Complainant reported to [] that Respondent []. [Name of person who received the report] contacted the Title IX Coordinator on [DATE]. The Title IX Coordinator met [telephonically/in person/via webcam] with Complainant's and Respondent's parents separately on [DATE], to explain the Title IX process and to show Complainant how to file a Formal Complaint. Complainant filed a Formal Complaint on [DATE].

Respondent was referred to law enforcement on [DATE], and an investigation ensued. No charges were filed/Charges were filed on [DATE]. On [DATE], law enforcement completed its investigation and shared its investigative report with the Title IX Coordinator.

Investigators waited to begin their investigation until the conclusion of the law enforcement investigation, at the request of the law enforcement agency conducting the investigation, pursuant to 34 CFR 106.45(b)(1)(v). The Title IX Coordinator regularly followed up with the law enforcement agency every [X] days to minimize delay of the school district's investigation. Immediately upon receiving notification that the investigation by law enforcement was concluded, investigators began investigating under District Policy [XXXX].

2. Supportive Measures

Complainant was offered []. Respondent was offered [].

3. Notice of Allegations

The Title IX Coordinator sent to both parties Notice of the Allegations on [DATE]. The Notice included Complainant's specific allegations, including; a statement that there is a presumption the Respondent is not responsible unless and until the evidence supports a finding of responsibility; information regarding the process, including an appointment of an impartial investigator without bias towards or against either party; a statement that a preponderance of the evidence standard will be applied; directives to the Respondent not to retaliate; and information about and offer of the Informal Resolution Process.

4. Notice of Interviews

The Investigator/s provided Notice of Interview to Complainant on [DATE]. The Notice included the date, time, and location of the interview; the purpose of the interview; the participants expected to be at the interview; a provision that the Complainant may bring an advisor or attorney; and a provision that the Complainant bring any documents, evidence, or other information the Complainant would like the investigator to consider.

The Investigator/s provided Notice of Interview to Respondent on [DATE]. The Notice included the date, time, and location of the interview; the purpose of the interview; the participants expected to be at the interview; a provision that the Respondent may bring an advisor or attorney; and a provision that the Respondent bring any documents, evidence, or other information the Respondent would like the investigator to consider.

5. Interviews

Complainant

Complainant was interviewed the first time on [DATE] from [TIME] to [TIME]. The interview took place at [LOCATION]. The following individuals were present: Complainant, Complainant's mother, Investigator/s [NAME/S OF INVESTIGATOR/S]. Investigator [NAME] took notes of the interviews which have been provided to both parties and to the Decisionmaking Team for review.

Respondent

Respondent was interviewed for the first time on [DATE] from [TIME] to [TIME] at [LOCATION]. The following individuals were present: Respondent, Respondent's mother and father, and Investigator/s [NAME/S OF INVESTIGATOR/S]. Investigator [NAME] took notes of the interviews which have been provided to both parties and to the Decisionmaking Team for review.

Witnesses

Investigator/s [NAME/S OF INVESTIGATOR/S] interviewed the following witnesses, all students at Wahlquist:

- NAME OF WITNESS #1 (INITIALS OF WITNESS #1)
- NAME OF WITNESS #2 (INITIALS OF WITNESS #2)

- Etc.

The witnesses were interviewed between [DATE] and [DATE] by both [NAME/S OF INVESTIGATOR/S]. The witnesses' interviews were not recorded and witnesses did not write statements. [NAME OF INVESTIGATOR] took notes of the interviews and those notes have been provided to both parties and to the Decisionmaking Team for review.

6. Method of Gathering Evidence

Between [DATE] and [DATE], investigators gathered evidence through interviews, review of law enforcement investigative report, and a review of school security cameras. [ADD ANY OTHER METHOD OF GATHERING EVIDENCE--REVIEW OF STUDENT RECORDS? REVIEW OF TEXT MESSAGES SUBMITTED BY COMPLAINANT? ETC.]

7. Production of Evidence

On [DATE], investigators sent all the evidence listed above, including notes from interviews, to both parties, and both parties were informed they had ten days to review and respond to the evidence. [LIST HERE WHAT RESPONSE THE INVESTIGATORS RECEIVED DURING THIS 10 DAY PERIOD]

8. Submission of Investigative Report to Parties and Decision-Makers

On [DATE], the Investigators sent the Investigative Report to both parties and the Decision-Making team. On [DATE], the Title IX Coordinator notified both parties by email of the opportunity to submit questions and the procedures of the Decision-Making Team. Neither party submitted questions for the other party. OR [THE PARTIES SUBMITTED THE FOLLOWING QUESTIONS, WHICH WERE FORWARDED TO THE OTHER PARTY AFTER A REVIEW FOR RELEVANCE BY THE DECISION-MAKERS. AND THEN INFORMATION ABOUT THAT EXCHANGE.]

On [DATE] the Decision-Making Team completed a final Written Determination.

C. Findings of Fact* (Even if the Investigative Report includes Findings of Fact, Decision-Makers still must independently review those findings and the evidence to see if the evidence supports those findings. Your findings may differ from those in the Investigative Report and that's okay.)

Undisputed Facts

[LIST HERE ALL THE FACTS THAT NEITHER PARTY DISPUTES. THESE FACTS SHOULD BE MORE OF A BACKGROUND AND A NARRATIVE OF

RELEVANT INFORMATION SO SOMEONE READING THIS REPORT WOULD HAVE THE FULL STORY.]

EXAMPLE:

1. Complainant and Respondent were in a romantic relationship prior to March, 2020 but after the soft closure of schools in March 2020 and the summer, they returned to school in the fall of August, 2020 as friends, not romantically involved.
2. Complainant and Respondent acknowledged a physical relationship while they were dating which only included kissing.
3. Complainant and Respondent spent lunch together with their friends and also are often together in the hallways between classes.
4. Respondent reported to law enforcement on March 23, 2021 that he touched Complainant's breast during the Tree Incident, but later told the Investigators that he "poked" Complainant's breast. When asked about the distinction in his report to law enforcement and report to the Investigators, Respondent reported that since the report to law enforcement was closer in time to the incident, that is likely true.
5. Complainant and Respondent both agree that Complainant asked Respondent to stop during the Tree Incident.
6. Complainant and Respondent agree that Complainant said if Respondent did not stop, she would file a report.
7. Complainant and her mother stated they do not wish to pursue criminal charges as long as the conduct stops.
8. Respondent's mother stated in a letter that Respondent admitted guilt and understands that what he has done is wrong.

Disputed Facts

[INCLUDE EACH FACT THAT IS IN DISPUTE IN SEPARATE PARAGRAPHS HERE. INCLUDE THE COMPLAINANT'S STATEMENT REGARDING THE DISPUTED FACT AND THE RESPONDENT'S STATEMENT REGARDING THE DISPUTED FACT.]

EXAMPLE

1. Respondent alleges that Complainant touched his penis previously, which caused him to believe Complainant welcomed Respondent's touching her breast and butt. Complainant denies touching Respondent's penis, ever. Complainant also denies welcoming Respondent touching her breast and/or butt.

Finding: The Decision-Maker/Decision-Making Team finds [INSERT WHAT YOU THINK HAPPENED BASED ON A PREPONDERANCE OF ALL THE EVIDENCE. EXPLAIN WHAT EVIDENCE YOU ARE RELYING ON TO SUPPORT YOUR FINDING.]

EXAMPLE:

The Decision-Making Team finds no evidence to support Respondent's allegation. No other witnesses report seeing Complainant touch Respondent's penis. SF reported that Complainant was a hugger and he might have seen Complainant touch Respondent's thigh. GW reported seeing Complainant running her hand up and down Respondent's chest and moving her hand down to his private parts, but GW stated she didn't think it was intentional. No other witnesses report seeing Complainant touch Respondent sexually at all. With regard to Respondent's claim that he believed Complainant welcomed his touching, several witnesses report hearing Complainant tell Respondent to stop or push Respondent's hand away when he touched Complainant. The Decision-Making Team finds Complainant's assertion that she never touched Respondent's penis and did not welcome Respondent's touching her breast and/or butt more likely than Respondent's assertion to the contrary. The Decision-Making Team concludes that Respondent's conduct was unwanted.

2. [LIST EVERY DISPUTED FACT SEPARATELY FOLLOWED BY THE DECISION-MAKING TEAM'S FINDINGS AND BASIS FOR YOUR FINDINGS.]

D. Conclusions re Application of Sexual Harassment Policy

We conclude that Respondent [DID/DID NOT--PICK ONE] violate [INSERT SCHOOL DISTRICT'S NAME] School District's Policy [NAME OR NUMBER] prohibiting sexual harassment because we find that the evidence supports that Respondent's conduct [WAS SEVERE, PERVASIVE, AND OBJECTIVELY OFFENSIVE **OR** MEETS THE DEFINITION OF SEXUAL ASSAULT/STALKING/DATING VIOLENCE/DOMESTIC VIOLENCE **OR** AMOUNTS TO QUID PRO QUO]. [IF YOU FIND THE CONDUCT IS SEVERE, PERVASIVE, AND OBJECTIVELY OFFENSIVE, YOU HAVE TO EXPLAIN WHY YOU THINK IS IS SEVERE, WHY YOU THINK IT IS PERVASIVE, AND WHY IT IS OBJECTIVELY OFFENSIVE. IF YOU FIND THE CONDUCT MEETS A DEFINITION OF

ONE OF THE BIG 4, DEFINE THE TERM AND EXPLAIN WHY YOU THINK THE CONDUCT MEETS THAT DEFINITION.]

EXAMPLE:

We conclude that Respondent did violate Wizard School District's Policy 4121, prohibiting sexual harassment because Respondent's conduct meets the definition of Sexual Assault, which is a form of sexual harassment under the Policy. Sexual assault is defined in the Policy as "Any sexual act directed against another person for the purposes of sexual gratification, without the consent of the victim" including fondling, which is defined in the Policy as "The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim[.]" Respondent touched Complainant on her breasts and or butt, commonly understood as private body parts, and he did so for the purpose of sexual gratification, as evidenced by the intentionality of Respondent's conduct and the fact that Respondent and Complainant had been in a non-intercourse sexual relationship, and he did not have Complainant's consent.

E. Determination Regarding Responsibility

We determine that Respondent [IS/IS NOT--PICK ONE] responsible for sexual harassment under District Policy [NAME OR NUMBER] and Section 106.45 of the Title IX regulations. [THIS IS A SIMPLE ONE SENTENCE SECTION. HOWEVER, YOU COULD STATE IF THE RESPONDENT IS DEEMED **NOT** RESPONSIBLE FOR SEXUAL HARASSMENT UNDER THE POLICY, THE RESPONDENT HAS ENGAGED IN SOME OTHER VIOLATION OF DISTRICT POLICY.]

F. Recommended Disciplinary Sanctions

We recommend that Respondent [DETERMINE WHAT THE APPROPRIATE DISCIPLINARY SANCTION SHOULD BE IN ACCORDANCE WITH YOUR POLICY.]

G. Remedies to Restore or Preserve Equal Access

We recommend [SUGGESTED REMEDIES TO ENSURE COMPLAINANT IS SAFE AND IS ABLE TO ACCESS EDUCATIONAL PROGRAMS. THIS COULD INCLUDE A SAFETY PLAN, AN ADJUSTMENT TO GRADES, ACCESS TO COUNSELING, ETC.]

H. Procedures for Appeal

Either party is entitled to appeal this Determination to the Title IX Coordinator within five (5) business days of receiving this Determination. A party will be granted an appeal by the [INSERT THE PERSON WHO WILL HEAR REVIEWS] if the requesting party presents evidence of procedural irregularity that affected the outcome of the matter; presents new evidence that was not reasonable available at the time the determination was made that could

affect the outcome of the matter; or the Title IX Coordinator, Investigator/s or Decision-making Team members have conflicts of interest or bias for or against the requesting party such that it affected the outcome of the matter. The [APPELLATE PERSON] **may** grant the requesting party an appeal on additional bases in the [APPELLATE PERSON'S] discretion. If an appeal is granted, both parties will be given reasonable, equal opportunity to submit a written statement in support of, or challenging the outcome. Upon review of the written statements, the [APPELLATE PERSON] will issue a written decision describing the result of the appeal and the rationale for the result and will provide the written decision simultaneously to both parties. The written decision on the appeal will take one of the following three positions: Affirm the Determination; Repeal the Determination; or Remand the Determination.