

AGENDA FOR
BOARD OF SCHOOL TRUSTEES
REGULAR MEETING

Elkhart Community Schools
Elkhart, Indiana

December 8, 2020

CALENDAR

Dec	8	5:30 p.m.	Public Work Session, J.C. Rice Educational Services Center
Dec	8	immediately following	Executive Session, J.C. Rice Educational Services Center
Dec	8	7:00 p.m.	Regular Board Meeting, J.C. Rice Educational Services Center
Dec	8	immediately following	Executive Session, J.C. Rice Educational Services Center
Dec	15	5:00 p.m.	Regular Board Meeting, J.C. Rice Educational Services Center

- A. CALL TO ORDER
- B. THE ELKHART PROMISE
- C. INVITATION TO SPEAK PROTOCOL
- D. CONSENT ITEMS:
 - Minutes – November 24, 2020 – Regular Board Meeting
 - Claims
 - Gift Acceptance
 - Fundraisers
 - Grants
 - Conference Leave Requests
 - Personnel Report
- E. SPECIAL PRESENTATIONS – SCHOOL IMPROVEMENT PLANNING PROCESS
 - Eastwood Elementary School
 - Hawthorne Elementary School
 - North Side Middle Schools

F. NEW BUSINESS

Board Policy 2266 – Title IX - The administration presents proposed new Board Policy 2266 – Title IX, for initial consideration.

Board Policy 7455 – Accounting System for Fixed Assets The administration presents proposed revisions to Board Policy 7455 – Accounting System for Fixed Assets, for initial consideration.

Recommendation for Award – The Business Office recommends awarding the bid for waste removal for 2021-2023.

G. INFORMATION AND PROPOSALS

From Audience

From Superintendent and Staff

From Board

H. ADJOURNMENT

MINUTES
OF THE REGULAR MEETING
OF THE BOARD OF SCHOOL TRUSTEES

Elkhart Community Schools
Elkhart, Indiana

November 24, 2020

J.C. Rice Educational Services Center, 2720 California Road, Elkhart – at 7:00 p.m.			Place/Time
Board Members Present:	Kellie L. Mullins Roscoe L. Enfield, Jr. Carolyn R. Morris	Susan C. Daiber Troy E. Scott	Roll Call
Via Electronic Communication:		Babette S. Boling Douglas K. Weaver	
President Kellie Mullins called the regular meeting of the Board of School Trustees to order.			Call to Order
Mrs. Mullins recited the Elkhart Promise.			The Elkhart Promise
Mrs. Mullins discussed the invitation to speak protocol.			
By unanimous action, the Board approved the following consent items:			Consent Items
<ul style="list-style-type: none"> Minutes – November 6, 2020 – Special Board Meeting Minutes – November 10, 2020 – Public Work Session Minutes – November 10, 2020 – Regular Board Meeting 			Minutes
Payment of claims totaling \$6,941,304.98 as shown on the November 24, 2020, claims listing. (Codified File 2021-77)			Payment of Claims
The following donations made to Elkhart Community Schools (ECS): \$25,000 from the Rex & Alice A. Martin Foundation and \$3,000 from the Don & Jurate Krabill Family to purchase new music apparel for Elkhart High School (EHS) bands, choirs and orchestras.			Gift Acceptance
Proposed school fundraisers in accordance with Board policy. (Codified File 2021-78)			Fundraisers
			Personnel Report
A consent agreement regarding unpaid time for a certified staff member. (Codified File 2021-79)			Consent Agreement

Employment of certified staff member, Jewel Eyestone, grade 6 at Woodland, effective 11/30/20	Certified Employment
Resignation of the following two (2) certified staff members, on dates indicated: Charles Luke - ENL at Roosevelt, 12/18/20 Debra Robinson - special education at Roosevelt, 11/18/20	Certified Resignations
Leave for the following three (3) certified staff member: Rita Janson - grade 1 at Beck, beginning 11/16/20 and ending 6/2/21 Andrea Bucher - math at North Side, beginning 12/18/20 and ending 12/18/20 Tiffany Mason - grade 6 at Hawthorne, beginning 11/16/20 and ending 6/2/21	Certified Leave
Employment of the following eight (8) classified employees, effective on dates indicated: Valorie Books - LPN at North Side, 11/19/20 Courtney Curry - secretary at Pierre Moran, 11/23/20 Kendra Langfeldt - farm technician at EACC, 11/16/20 Steven Millsaps, Sr. - technical assistant at West Side, 11/16/23 Derria Pratcher - substitute teacher at Hawthorne, 11/23/20 Bethany Reed - paraprofessional at Monger, 11/23/20; Deneen Stout - paraprofessional at Eastwood, 11/23/20 Rebecca Stratton - bus driver at Transportation, 11/19/20	Classified Employment
Retirement of classified employee, Lorrie Bjornstad, registered nurse at North Side, effective 3/26/21 with 24 years of service.	Classified Retirement
Resignation of the following four (4) classified employees, effective on dates indicated: Michael Chastain - custodian at Building Services, 11/11/20 Kendra Crump - food service at Eastwood/Daly, 11/19/20 Sandra Molano Romero - building translator/parent liaison at Woodland, 11/18/20 Mary Kathryn Taylor - paraprofessional at EACC, 11/5/20	Classified Resignations
Leave for the following two (2) classified employees, for dates indicated: Debra Ball - substitute teacher at Roosevelt, beginning 11/17/20 and ending 12/18/20 Toya Wiley - bus driver at Transportation, beginning 11/17/20 and ending 11/30/20	Classified Leaves

Leave extensions for the following two (2) classified employees, for dates indicated:

Terrin Allen - food service at Hawthorne, beginning 11/9/20 and ending 11/30/20

Brenda White - food service at Woodland, beginning 11/9/20 and ending 11/13/20

Rescission of leave for classified employee, Shawn Burton, bus driver at Transportation

Rescission of resignation for classified employee, Letha Marshall, paraprofessional at Eastwood.

School Improvement Plan presentations were given by Beardsley, Bristol and Pinewood Elementary Schools and Elkhart High School. (Codified File 2021-80)

By unanimous action by roll call, the Board approved Elkhart Area Career Center Agreements for 2020/2021 with the following feeder schools: Baugo Community Schools, Bremen Public Schools, Concord Community Schools, Edwardsburg Public Schools, Goshen Community Schools, Middlebury Community Schools, Penn-Harris-Madison Schools, School City of Mishawaka, and Wa-Nee Community Schools. (Codified File 2021-81)

By unanimous action by roll call, the Board approved the proposed Tentative Agreement with the American Federation of State, County, and Municipal Employees (AFL-CIO, Local #2925). (Codified File 2021-82)

By unanimous action by roll call, the Board approved proposed revisions to the following Board Policies and waived second reading:

3422.01S - Food Service Employees' Compensation Plan

3422.02S - Mechanics' Compensation Plan

3422.03S - Bus Drivers' Compensation Plan

3422.04S - Bus Helpers' Compensation Plan

3422.05S - Support Staff Salary Schedule*

3422.06S - Secretarial/Business Compensation Plan

3422.07S - Executive Assistants' Salary Schedule

3422.09S - Technical Assistants' Compensation Plan

3422.10S - Registered Nurses' Compensation Plan

3422.11S - Social Workers' Compensation Plan

3422.12S - Employees in Misc. Positions Compensation Plan

3422.13S - Therapists' Compensation Plan

3422.14S - Employees in Technical Services Positions Compensation Plan

3422.15S - Permanent Substitute Teachers' Compensation Plan

3422.16S - LPNs' Compensation Plan

Leave
Rescission

Resignation
Rescission

School
Improvement
Plans

EACC
Agreements

AFL-CIO
Agreement

Compensation
Policies

By unanimous action (Weaver abstained) by roll call, the Board approved proposed revisions and waived second reading to Board Policy 3422.08S– Paraprofessional Compensation Plan.

Board Policy
3422.08S

By unanimous action by roll call, the Board adopted a Resolution for the transfer of appropriations. (Codified File 2021-83)

Transfer
Resolution

The Board received a financial report from Kevin Scott, chief financial officer, for the period January 1 – October 30, 2020. The Board found the report to be in order.

Financial Report

Mr. Scott provided the current insurance update reporting claims are ahead of same month last year, but are below overall for the year.

Insurance
Update

By unanimous action by roll call, the Board authorized a one-time premium holiday for all staff currently participating in the ECS benefits plan. The payroll date will December 24, 2020.

Insurance
Premium
Holiday

By unanimous action by roll call, the Board approved the Elkhart High School Campus Master Plan as presented by Tony Gianesi, chief operating officer. The project includes the creation of a new, larger bus drop off and pick up area in place of the existing softball fields, new paving to improve vehicular circulation, construction of an above ground fuel storage tank farm on the north end of the Kent Street property, and construction of an 1,800 square foot addition on the south side of the existing transportation office to include new restrooms, a new entry, conference and office space. The budget for this project is \$5,300,000. Funding for this project will come from a bond for the Elkhart High School Campus Master Plan. (Codified File 2021-84)

Campus Master
Plan

Kerry Mullet, Elkhart Teachers Association president, present some of the strong concerns shared by ETA members regarding the continuation of hybrid instruction particularly in light of the high schools switching to virtual only through January 19, 2021.

From the
Audience

An audience member thanked the Board for not closing all schools and staying on course.

From the
Audience

An on-line audience member noted the less than 2% spread of COVID within the schools and the need of students for in classroom instruction.

From the
Audience

Superintendent Thalheimer stated temporarily changing the high school format was not an easy decision. The community spread is imposing on local school districts.

From the
Superintendent

Superintendent Thalheimer reported the survey results as of the November 18th deadline.

From the
Superintendent

Superintendent Thalheimer stated the administration’s gratitude for all staff, especially for additional duties required due to COVID.

From the
Superintendent

Board member, Rocky Enfield, reported on the Real Men Read program at Pinewood and the positive feedback he received for in classroom instruction.

From the Board

Board member, Babette Boling, reminded everyone to support the Elkhart Education Foundation's drive to provide food for 500 families on Saturday, December 12th.

From the Board

Board president, Kellie Mullins, stated all staff are highly valued and the District has a powerful plan in place.

From the Board

The meeting adjourned at approximately 9:00 p.m.

Adjournment

APPROVED:

Signatures

Kellie L. Mullins, President

Carolyn R. Morris, Vice President

Roscoe L. Enfield, Jr., Secretary

Babette S. Boling, Member

Susan C. Daiber, Member

Troy E. Scott, Member

Douglas K. Weaver, Member



SUPERINTENDENT'S OFFICE

PHONE: 574-262-5526



ELKHART COMMUNITY SCHOOLS

J.C. RICE EDUCATIONAL SERVICES CENTER
2720 CALIFORNIA ROAD • ELKHART, IN 46514
PHONE: 574-262-5500

DATE: November 30, 2020
TO: Dr. Steven Thalheimer
Board of School Trustees
FROM: Susan Ott
RE: Donation Approval

David and Nancy Smith have made a donation in the amount \$25,000.00 to Elkhart Community Schools for the Engineering, Technology and Innovation building fund.

I am requesting approval from the Board of School Trustees to accept this donation and that appropriate letter of acknowledgement be sent to:

David & Nancy Smith
70397 Hilltop Road
Union, MI 49130



ROOSEVELT STEAM ACADEMY

201 WEST WOLF AVENUE • ELKHART, IN 46516

PHONE: 574-295-4840



ELKHART COMMUNITY SCHOOLS

J.C. RICE EDUCATIONAL SERVICES CENTER

2720 CALIFORNIA ROAD • ELKHART, IN 46514

PHONE: 574-262-5500

Date: November 30, 2020

To: Superintendent
Board of School Trustees

From: Dee Wappes
Harold Walt

Re: Gift Acceptance

The Elkhart Municipal Band Foundation NE, an agency designated fund held at the Community Foundation of Elkhart County, has awarded a grant number 20210738 of \$500.00 for Roosevelt Steam Academy Music Department.

I am requesting approval from the Board of School Trustees to accept this donation and that an appropriate letter of acknowledgement and appreciation is sent to:

Mr. Dean Ferguson
Elkhart Municipal Band Foundation NE
204 Apple Tree Lane
Wakarusa, IN 46573

What is the title of the grant?	What is the name of the granting agency/entity?	Please list school/entity applying.	Individual/contact applying for the grant?	What is the amount applied for?	How will the grant funds be used and who will oversee the management of the grant?	Please explain how the grant funds will be used to support the district vision, focus, and goals.	Please outline the grant budget for the funds requested.	What is the grant submission deadline?
One School at a Time	Martin's Supermarket	Cleveland	Pam Ritzler	\$1,000.00	The intense classroom at Cleveland Elementary School is providing hands on cooking experiences for their students who are virtual. The grant is to purchase supplies to continue supporting the cooking that is taking place.	This opportunity will allow the students in the intense classroom to actively participate in lessons that focus on real world experiences through cooking. They will be measuring and following step by step directions as well as facilitating independence so that they can be life ready.	The money will be used to purchase a green screen for recording, lighting, cooking utensils, and cooking supplies.	12/11/2020
Write Her Future	Pro Literacy	Community Education	Darcey Mitschelen	\$5,000	Funds will be used to purchase 25 Voxy licenses. Voxy is an on-line program focused on career development for non-English speaking women. Oversight will be conducted by Darcey Mitschelen	Community Education's aim is to bring resources to the community to encourage and develop inclusion to groups who are under serve. In doing so will support a strong Elkhart Community Schools.	\$5000 Voxy licenses (25)	1/15/2021
WNDU/Martin's Supermarkets	One School At A Time	Mary Beck	Tracey Kizyma	\$1,000.00	We would like to use the grant money on recognizing, incentivizing and rewarding our parents and students for their continued efforts to keep their children engaged in eLearning.	We are working very hard at trying to encourage participation and engagement with eLearning from our students and families. Knowing that parent support is a huge component of student academic success, parent names will be entered into a weekly drawing. This could also support and offset financial stresses during this time.	16 \$25.00 Martin's Gift Cards for parents - \$400.00 Purchase of bikes, scooters, etc. for drawings and some new and fun items for the school store for students - \$600.00	Ongoing grant with no deadline
RSA Little Kids Rock Modern Band Program	Elkhart Community Foundation	Roosevelt STEAM Scademy	Harold Walt	\$7,500.00	Grant funds will be used for the purchase of musical instruments to start up the program. Harold Walt will oversee the management of the grant and purchase of equipment from Sweetwater Sound.	(FY21 Community Investment Grant). Grant funds will be used to continue the development of the musical talents of RSA Scholars while leveraging the cultural capital of our student population. <i>This application was based on a nomination process. The teacher was unaware of the process for applying for grants through the district.</i>	The funds in total will be used to purchase instruments unique to the Modern Band Program that otherwise would not be purchased through the District or fund raised.	9/3/2020

ELKHART COMMUNITY SCHOOLS
Elkhart, Indiana

DATE: December 2, 2020
 TO: Dr. Steve Thalheimer
 FROM: Brandon Eakins *BE*
 RE: **Conference Leave Requests Paid Under Carl D. Perkins Grant
 December 8, 2020 - Board of School Trustees Meeting**

2020-2021 CONFERENCES	EXPENSES	SUBSTITUTE
Assessment of Learning from a Distance Institute - Virtual Methods of assessing student learning for hybrid and distance learning situations. They will provide examples and how to use them effectively to monitor student learning. I will provide PD session for the EACC staff to share this information. Virtual January 14, 2021 Traci Pankratz (1-0) Instructional Leadership	\$199.00	\$0.00
TOTAL	\$199.00	\$0.00
2020-21 YEAR-TO-DATE PERKINS FUNDS	\$1,360.00	\$0.00
GRAND TOTAL	\$1,559.00	\$0.00

	\$293.00	\$0.00
2020 YEAR-TO-DATE EDUCATION FUNDS	\$9,841.88	\$1,330.00
2021 YEAR-TO-DATE EDUCATION FUNDS	\$450.00	\$0.00
2020 YEAR-TO-DATE OTHER FUNDS	\$56,021.47	\$4,465.00
2020 YEAR-TO-DATE ADJUSTMENTS	\$0.00	\$0.00
2021 YEAR-TO-DATE OTHER FUNDS	\$168.00	\$0.00
2021 YEAR-TO-DATE ADJUSTMENTS	\$0.00	\$0.00
GRAND TOTAL	\$66,481.35	\$5,795.00

(Figures in parentheses are the number of conferences & the number of absence days previously approved for the current school year.)



HUMAN RESOURCES

ELKHART
COMMUNITY SCHOOLS

INTERNAL MEMO

TO: DR. STEVEN THALHEIMER
FROM: MS. CHERYL WAGGONER
DATE: DECEMBER 8, 2020

PERSONNEL RECOMMENDATIONS

CERTIFIED

- a. **New Certified Staff** – We recommend the following new certified staff for employment in the 2020-21 school year:

Julie Bachman	Hawthorne/Grade 2
Kailey Campos	Bristol/Grade 2
Derek Suits	Pinewood/Physical Education
Kayla Suits	Monger/Intervention

- b. **Retirement** – We report the retirement of the following employee effective December 18, 2020:

Kaye Swoveland	Bristol/Grade 2	34 Years of Service
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CLASSIFIED

- a. **New Hires** – We recommend regular employment of the following classified employees:

Erin Burleson Began: 10/6/20	Technology Services/Support Technician PE: 12/1/20
Rebekah Carr Began: 10/5/20	Daly/Social Worker PE: 11/30/20
Willie Grant Began: 10/12/20	Woodland/Food Service PE: 12/7/20
Dawn Lawson Began: 10/8/20	ESC/Staff Accountant PE: 12/3/20

Maria Mitchell
Began: 10/5/20

Riverview/Paraprofessional
PE: 11/30/20

- b. **Resignation** – We report the resignation of the following classified employees:

Colleen Davidson-Nowlin
Began: 9/11/20

Hawthorne/Registered Nurse
Resign: 12/18/20

Curtis Hines
Began: 5/21/18

Elkhart East/Custodian
Resign: 11/30/20

Cedtrina Smith
Began: 8/16/18

Transportation/Bus Helper
Resign: 11/24/20

- c. **Unpaid Leave Request** - We recommend an extension to unpaid leave for the following employees:

Terrin Allen
Begin: 11/30/20

Hawthorne/Food Service
End: 12/18/20

Tonci Haynes
Begin: 11/16/20

Elkhart East/Food Service
End: 12/18/20

Toya Wiley
Begin: 12/1/20

Transportation/Bus Driver
End: 12/14/20

- d. **Unpaid Leave Request** - We recommend an unpaid leave for the following employees:

Jocelyn Gordon
Begin: 11/30/20

Elkhart West/Food Service
End: 1/18/21

Deondra Nelson
Begin: 11/18/20

Transportation/Bus Driver
End: 1/11/21

- e. **Revision** – We recommend the revision of the unpaid leave reported on November 10, 2020, Board Report of the following employee:

Tesha Miller
Began: 11/24/20

Riverview/Paraprofessional
End: 12/4/20

- f. **Revision** - We recommend the revision of a resignation reported on the September 22, 2020, Board Report of the following employee:

Kathleen Loy
Began: 2/5/19

Woodland/Registered Nurse
End: 12/11/20



Book	Policy Manual
Section	2000 Program
Title	PROPOSED REVISED TITLE IX
Code	po2266
Status	
Last Revised	December 8, 2020
Last Reviewed	December 8, 2020

TITLE IX

A. RESTATEMENT OF POLICY PROHIBITING DISCRIMINATION ON THE BASIS OF SEX.

The Board of School Trustees of Elkhart Community Schools noting the adverse effects discrimination and harassment can have on student academic progress, social relationship, and/or personal sense of self-worth; along with workplace satisfaction and effective performance of defined employment responsibilities does not discriminate on the basis of sex in its educational programs and activities, including employment and admissions. All forms of sex-based discrimination, including sexual harassment are prohibited pursuant to Board Policies 2260 and 3122ACS.

B. TITLE IX SEXUAL HARASSMENT POLICY.

1. Application of This Policy.

While all forms of sex-based discrimination are prohibited in by the Elkhart Community Schools ("ECS" or "District"), the purpose of this policy is to address, and only to address, sexual harassment as defined in Title IX and this policy, occurring within the educational programs and activities of ECS, and to provide a grievance process for investigating and reaching a final determination of responsibility for a formal complaint of sexual harassment. The "Title IX Grievance Process" is set out in §C below. While the District must respond to all "reports" it receives of sexual harassment, the Title IX Grievance Process is initiated only with the filing of a formal complaint.

The purpose of this Policy, as noted above, is to address, and only to address, sexual harassment as defined in Title IX occurring within the educational programs and activities of the district. For harassing conduct which does not meet the definition of sexual harassment under Title IX and this Policy, the District's response will be governed under other applicable laws and policies adopted by the Board of School Trustees, including but not limited to the following polices: 2260, 2260.01, 3122ACS, 3122.02ACS, and 3123ACS, along with the provisions of Administrative Regulations and Guidelines implementing the same.

This Policy shall apply to all students, employees, and any third party who contracts with the District to provide services to ECS students or employees, upon District property or during any school program or activity.

Nothing in this policy will be construed to confer on any third party a right to due process or other proceedings to which student and employee respondents are entitled under this policy unless such right exists under law. Volunteers and visitors who engage in sexual harassment will be directed to leave school property and/or be reported to law enforcement or the Indiana Department of Child Services as appropriate. A third party, under the supervision and control of the school system, will be subject to termination of contracts/agreements, restricted from access to school property, and/or subject to other consequences, as appropriate.

The Superintendent shall have overall responsibility for implementing this Policy, and shall annually appoint a District Title IX Coordinators that position is described in §B-3, below. The name and contact information for the Title IX Coordinator is set forth in Board Policy 2260, which policy shall be updated and disseminated annually with the Title IX Coordinator's name as set forth in Board policy 2260.

2. Definitions.

As used in this Policy and the Title IX Grievance Process, the terms below shall have the meaning ascribed.

- a. **"Actual knowledge"** occurs when the District's Title IX Coordinator or **ANY** employee of one of the District's schools (other than a "respondent" or alleged harasser) receives a notice, report, or information or becomes aware of sexual harassment or allegations of sexual harassment.
- b. **"Complainant"** is an individual who is alleged to be the victim of conduct which could constitute sexual harassment, whether or not this person files a report or formal complaint.
- c. **"Days"** shall mean work days (i.e. days when district administrative offices are open for business).
- d. **"Decision Maker"** means persons tasked with: the responsibility of making initial determinations of responsibility (at times referred to as "initial decision maker"); or the responsibility to decide any appeal (at times "appeals decision maker") with respect to formal complaints of sexual harassment in accordance with the Title IX Grievance Process.
- e. **"Determination of Responsibility"** is the formal finding by the decision-maker on each allegation of Sexual Harassment contained in a Formal Complaint the Respondent did or did not engage in conduct constituting Sexual Harassment Under Title IX.
- f. **"Formal Complaint"** means a document filed by a complainant, the complainant's parent/guardian, or the Title IX Coordinator, alleging sexual harassment against a respondent, and requesting the district investigate the allegation of sexual harassment.
- g. **"Respondent"** is an individual who is reported to be the individual accused of conduct which could constitute sexual harassment.
- h. **"Sexual harassment"** prohibited under Title IX and by this policy is conduct on the basis of sex (including, without limitation, gender, sexual orientation, and/or gender identity), occurring in a school system education program or activity that satisfies one or more of the following:
 1. A school district employee conditioning an aid, benefit, or service of an education program or activity on an individual's participation or refusal to participate in sexual conduct irrespective of whether the conduct is welcomed by the student or other employee;
 2. Unwelcome sex-based/related conduct determined by a reasonable person to be so severe, pervasive, **AND** objectively offensive it effectively denies a person equal access to the education program or activity (this standard requires consideration of all the facts and circumstances, including, but not limited to, the ages and disability statuses of the harasser and victim and the number of individuals involved and their authority; **OR**
 3. Sexual assault, dating violence, domestic violence, or stalking as defined in state or federal law.

Behaviors constituting sexual harassment may include, but are not limited to:

- i. Sexually suggestive remarks or jokes;
- ii. Verbal harassment or abuse;
- iii. Displaying or distributing sexually suggestive pictures, in whatever form (e.g., drawings, photographs, videos, irrespective of format);
- iv. Sexually suggestive gesturing, including touching oneself in a sexually suggestive manner in front of others;
- v. Harassing or sexually suggestive or offensive messages written or electronic;
- vi. Subtle or direct propositions for sexual favors or activities;
- vii. Touching of a sexual nature or groping; and
- viii. Teasing or name-calling related to sexual characteristics or the belief or perception an individual is not conforming to expected gender roles or conduct.

Note: incidents of the above conduct would still need to satisfy one or more of the criteria in paragraphs i-iii of this definition.

Sexual harassment may be directed against a particular person or persons, or a group, whether of the opposite sex or the same sex.

The context of behavior can make a difference between conduct falling within the technical definition of Sexual Harassment Under Title IX, and conduct of a sexual nature which is offensive or hostile in itself, but does not arise to the level within that definition. **District policies prohibit both, but for purposes of its Title IX obligations the District must address reports or complaints of conduct which may constitute sexual harassment as defined above, under this specific, limited scope Policy and Title IX Grievance Process.** Except as used in other laws (e.g., Title VII) or policies (e.g., Board policies 2260 and 3122ACS) pertaining to harassment, including of a sexual nature, other than Title IX sexual harassment, all references to "sexual harassment" in this policy mean sexual harassment meeting the above definition.

Conduct satisfying this definition is not sexual harassment for purposes of this policy if the conduct occurred (1) outside the United States or (2) under circumstances in which the school system did not have substantial control over both the harasser/respondent and the context in which the harassment occurred.

NOTE Regarding Concurrent Enrollment and Dual Enrollment, Extended Learning Opportunities, 3rd Party Distance Learning, and Other Alternative Instructional Programs: Under federal regulations, in order for the District to have jurisdiction over conduct that would otherwise meet the definition above of sexual harassment, ECS must have substantial control over both the respondent and the context in which the harassment occurred. In general, this will mean that unless such learning program is occurring upon ECS property, conduct otherwise meeting the definition of sexual harassment within that program, may not be subject to this policy.

- i. **"Supportive Measures"** are free, non-disciplinary, non-punitive, individualized services and shall be offered to the complainant, and may be offered to the respondent, as appropriate. These measures may include, but are not limited to, the following:
 1. Counseling;
 2. Course modifications;
 3. Schedule changes; and
 4. Increased monitoring or supervision.

Such measures shall be designed to restore or preserve equal access to ECS education programs and activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the ECS educational environment and/or deter sexual harassment. Supportive measures shall remain confidential with exclusive exceptions stated required in §B-5 below.

3. Title IX Coordinator.

The Title IX Coordinator shall respond promptly to all general reports as well as formal complaints of sexual harassment. The Title IX Coordinator shall receive general and specific reports of sexual harassment, and coordinate the District's responses to both reports and formal complaints of sexual harassment so the same are prompt and equitable. In addition to any other specific responsibilities assigned under this Policy, or as assigned by the Superintendent, the Title IX Coordinator will be responsible for:

- a. meeting with a complainant, and informing the parent/guardian once the Title IX Coordinator becomes aware of allegations of conduct which could constitute sexual harassment as defined in this Policy;
- b. identification and implementation of supportive measures;
- c. signing or receiving formal complaints of sexual harassment;
- d. engaging with the parents/guardians of parties to any formal complaint of sexual harassment;
- e. coordinating with district and school-level personnel to facilitate and assure implementation of investigations, and remedies, and helping to assure the District otherwise meets its obligations associated with reports and complaints of sexual harassment;
- f. coordinating with the Superintendent with respect to assignment of persons to fulfill the District's obligations, both general and case specific, relative to this Policy (e.g., investigator, decision makers, etc.; this may involve the retention of third party personnel.);
- g. coordinating with district and school-level personnel to assure appropriate training and professional development of employees and others in accordance with §B-4 of this Policy; and

- h. helping to assure appropriate systems are identified and maintained to centralize sexual harassment records and data.

In cases where the Title IX Coordinator is unavailable, including unavailability due to a conflict of interest or other disqualifying reason (see §B-7, below), the Superintendent shall assure another person with the appropriate training and qualifications is appointed as acting Title IX Coordinator for that case, in such instances "Title IX Coordinator" shall include the acting Title IX Coordinators.

4. **Training.**

All ECS employees shall receive regular training relative to mandatory reporting obligations, and any other responsibilities they may have relative to this Policy.

Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must receive training on the definition of sexual harassment, this Policy, the scope of the District's education program or activity, and how to conduct an investigation (including the requirements of the reporting and the Title IX Grievance Process, including hearings, appeals, and information resolution processes). The training must also include avoiding prejudgment of the facts, conflicts of interest and bias.

Decision-makers must also receive training on issues of relevance of questions and evidence, including when questions about the complainant's sexual predisposition or prior sexual behavior are not relevant.

Investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes, must promote impartial investigations and adjudications of formal complaints of sexual harassment, and must be made available to the public as provided in §B-8 of this Policy.

5. **Confidentiality.**

ECS will respect the confidentiality of the complainant and the respondent as much as possible; however, some information may need to be disclosed to appropriate individuals or authorities. All disclosures shall be consistent with the District's legal obligations and the necessity to investigate allegations of harassment and take disciplinary action. Examples of required disclosure include:

- a. information to either party to the extent necessary to provide the parties due process during the Title IX Grievance Process;
- b. information to individuals who are responsible for handling the District's investigation and determination of responsibility to the extent necessary to complete the District's grievance process;
- c. mandatory reports of child abuse or neglect pursuant to Indiana Code and Board Policy 8462;
- d. information to the complainant's and the respondent's parent/guardian as required under this Policy and or the Family Educational Rights and Privacy Act ("FERPA"); and
- e. reports to the Indiana Department of Education as required under Indiana Code.

Additionally, any supportive measures offered to the complainant or the respondent shall remain confidential to the extent maintaining such confidentiality would not impair the ability of the school district to provide the supportive measures.

Except as specified above, ECS shall keep confidential the identity of:

- i. Any individual who has made a report or complaint of sex discrimination;
- ii. Any individual who has made a report or filed a formal complaint of sexual harassment;
- iii. Any complainant;
- iv. Any individual who has been reported to be the perpetrator of sex discrimination[1];
- v. Any respondent; and
- vi. Any witness.

Any supportive measures provided to the complainant or respondent shall be kept confidential to the extent that maintaining such confidentiality does not impair the ability of ECS to provide the supportive measures.

6. Retaliation Prohibited.

Retaliation against any person who makes a report or complaint, or against any person who assists, participates, or refuses to participate[2] in any investigation of an act alleged in this Policy is prohibited. Actions taken in response to **materially** false statements made in bad faith, or to submitting **materially** false information in bad faith, as part of a report or during the Title IX Grievance Process do not constitute retaliation. A finding of responsibility alone is insufficient to conclude a person made a materially false statement in bad faith. Complaints of retaliation with respect to reports or formal complaints of sexual harassment shall be filed under the District's general grievance process.

7. Conflict of Interest.

No person designated as a Title IX Coordinator, investigator, decision-maker, nor any person designated by the District to facilitate an informal resolution process, may have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

8. Dissemination and Notice.

The District shall include in all student and employee handbooks, and shall make publicly available on the district's website the following information:

- a. The District's policy of non-discrimination on the basis of sex (included in Board Policies 2260 and 3122ACS).
- b. the title, name, office address, email address, and telephone number of the Title IX Coordinator (to be provided pursuant to Board Policies 3362 and 5517);
- c. the complaint process;
- d. how to file a complaint of sex discrimination or sexual harassment;
- e. how ECS will respond to such a complaint; and
- f. a statement that Title IX inquiries may be referred to the Title IX Coordinator or to the Assistant Secretary for Civil Rights.

The same information shall be provided to all persons seeking employment with the District, or seeking to enroll or participate in the District's educational programs or activities.

Additionally, ECS will make this Policy, as well as any materials used to train personnel as required under §B-4 publicly available on the district's website.

9. Records and Record Keeping.

- a. For each report or formal complaint of sexual harassment, ECS, through the Title IX Coordinator, must create, and maintain for seven (7) years, record of:
 1. Any actions, including any supportive measures,
 2. The basis for the District's conclusion that its response was not deliberately indifferent; and
 3. Documentation which:
 - If supportive measures were provided to the complainant, a description of the supportive measures taken designed to restore or preserve equal access to the ECS education program or activity; or
 - If no supportive measures were provided to a complainant, explains the reasons why such a response was not clearly unreasonable in light of the known circumstances.
- b. In addition, ECS shall maintain the following records for a minimum of seven (7) years:
 1. Records for each formal complaint of sexual harassment, including:
 - Any determination regarding responsibility, including dismissals;

- Any disciplinary sanctions imposed on the respondent;
- Any remedies provided to the complainant designed to restore or preserve equal access to the District's education program or activity;
- Any appeal and the result there from;
- Any informal resolution process and the result there from;
- All materials used to train Title IX Coordinators, investigators, and decision-makers.

10. Reports of Sexual Harassment, Formal Complaints and District Responses

a. Report of Sexual Harassment.

NOTE: A report does not initiate the formal Title IX Grievance Process. That process is begun only upon the filing of a formal complaint under the procedures set out in §§B-10-c, and C-1, below.

Any person may report sexual harassment, whether relating to her/himself or another person. **However, if any District employee – other than the employee harasser, or the Title IX Coordinator – receives information of conduct which may constitute sexual harassment under this Policy, s/he shall, without delay, inform the Title IX Coordinator** of the alleged sexual harassment. Failure to report will subject the employee to discipline up to and including dismissal.

A report of sexual harassment may be made at any time, in person, by mail, by telephone, electronic mail, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Additionally, while the District strongly encourages reports of sexual harassment to be made directly to the Title IX Coordinator, the report may be made to **any** District staff member, including, for instance, a counselor, teacher or principal.

If the Title IX Coordinator is the alleged respondent, the report or formal complaint may be made directly to the Superintendent, who shall thereafter fulfill the functions of the Title IX Coordinator regarding that report/complaint, or delegate the function to another person.

NOTE: For any allegation of sexual assault on a student under the age of 18, such conduct shall be reported immediately to the Child Protective Services or law enforcement pursuant to Board policy 8462.

b. District Response to Report of Sexual Harassment.

The district will promptly respond when there is actual knowledge of sexual harassment, even if a formal complaint has not been filed. The district shall treat complainants and respondents equitably by providing supportive measures to the complainant and by following the Title IX Grievance Process prior to imposing any disciplinary sanctions or other actions that are not supportive measures against a respondent. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

As soon as reasonably possible after receiving a report of alleged sexual harassment from another ECS employee or after receiving a report directly through any means, the Title IX Coordinator shall contact the complainant to:

- discuss the availability of and offer supportive measures;
- consider the complainant's wishes with respect to supportive measures;
- inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and
- explain to the complainant the process for filing a formal complaint.

c. Formal Complaints.

Pursuant to federal regulations, and this Policy, a formal complaint that contains an allegation of sexual harassment and a request that the District investigate the allegations is required before ECS may conduct a formal investigation of sexual harassment or take any action (other than supportive measures) against a person accused of sexual harassment. **Once a formal complaint of sexual harassment is received by**

the Title IX Coordinator, s/he shall commence the Title IX Grievance Process set out in §C below. The process for filing a formal complaint is set forth in §C-1.

d. Limitation on Disciplinary Action.

In no case shall ECS impose disciplinary consequences or sanctions against a respondent who has been accused of conduct which may constitute sexual harassment, until the Title IX Grievance Process has been completed.

e. Emergency Removal and Administrative Leave.

At any point after receiving a report or formal complaint of sexual harassment, the Title IX Coordinator (or other ECS official charged with a specific function under this Policy or the Title IX Process: e.g., investigator, decision maker, etc.) may request the Superintendent to direct an individualized safety and risk analysis be performed to determine whether a respondent student or employee is an immediate threat to the physical health or safety of any person. In the event the safety and risk analysis determines the respondent student does present an immediate threat to the physical health and safety of any person, the District may remove that student, provided such removal is in full compliance with the IDEA, a student's IEP and or 504 plan if applicable. Such emergency removal shall not be disciplinary. However, the District must provide the respondent with notice and an opportunity to challenge the decision immediately following the removal, and shall continue to offer educational programming until a final determination is made pursuant to the Title IX Grievance Process.

The Title IX Coordinator shall keep the Superintendent informed of any employee respondents so he/she can make any necessary reports to Indiana Department of Education. In appropriate cases, the Superintendent may place an employee respondent on non-disciplinary administrative leave pursuant to established Board Policy.

C. TITLE IX GRIEVANCE PROCESS.

The Title IX Grievance Process is used only upon the filing of a formal complaint of sexual harassment as described in §C-1, below. The provisions of Section A of the Policy are incorporated as part of the Title IX Grievance Process. Upon receipt of a formal complaint of sexual harassment, the Title IX Coordinator will coordinate the District's efforts to comply with its responsibilities related to the Title IX Grievance Process.

1. Process for Filing a Formal Complaint of Sexual Harassment.

The Title IX Grievance Process is initiated by way of a formal complaint ("complaint" or "formal complaint") filed by the complainant, the complainant's parent/guardian, or the Title IX Coordinator. The complainant may file a complaint or choose not to file a complaint and simply receive the supportive measures. If the Complainant does not file a complaint, the Title IX Coordinator may sign a formal complaint, but only if initiating the grievance process against the respondent is not clearly unreasonable in light of the known circumstances, and in other cases where, in the exercise of good judgment and in consultation with the outside counsel as appropriate, the Title IX Coordinator determines that a grievance process is necessary to comply with the obligation not to be deliberately indifferent to known allegations of sexual harassment (e.g., reports of sexual assault, employee on student harassment, repeat reports, or the conduct in the complainant's report has not been adequately resolved through the provision of supportive measures). If the complaint is filed by the Title IX Coordinator, he/she is not a party to the action, and the District must comply with all of the provisions of the Title IX Grievance Process relative to respondents and complainants.

If no formal complaint is filed by the complainant or the Title IX Coordinator no disciplinary action may be taken against the respondent based upon conduct that would constitute sexual harassment under this policy.

Although there is no time limit per se to filing a formal complaint, for complaints initiated by the complainant or his/her parent/guardian, the complainant must be employed by ECS or participating in or attempting to participate in the education program or activities of ECS at the time of filing. Additionally, although ECS will initiate the Title IX Grievance Process regardless of when the formal complaint is submitted, delays in reporting may significantly impair the ability of ECS officials to investigate and respond to the allegations.

At a minimum, a formal complaint must:

- a. contain the name and address of the complainant and the student's parent or guardian if the complainant is a minor student;
- b. describe the alleged sexual harassment,
- c. request an investigation of the matter, and

- d. be signed by the complainant or otherwise indicate that the complainant is the person filing the complaint.

The complaint may be filed with the Title IX coordinator in person, by mail, or by email. Complaint forms may be obtained from the Title IX Coordinator.

2. Initial Steps and Notice of Formal Complaint.

- a. The Title IX Coordinator will provide notice to the complainant and the complainant's parent/guardian (if the complainant is a non-eligible student under FERPA), and to the respondent (if known) and the respondent's parent/guardian (if the respondent is a non-eligible student under FERPA), as well as to any other known parties, of the following:
 - i. this Title IX Grievance Process, including any informal resolution process;
 - ii. the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview; "sufficient details" shall include to the extent known identities of persons involved, the conduct allegedly constituting sexual harassment, and the date and location of the incident;
 - iii. a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;
 - iv. that each party may have an advisor of their choice, who may be, but is not required to be, an attorney;
 - v. that each party is entitled to inspect and review evidence; and
 - vi. a reference to any provision in the District's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
 - vii. The Title IX Coordinator will contact the complainant to discuss and offer supportive measures.
 - viii. The Title IX Coordinator may contact the respondent to discuss, and or impose, non-disciplinary supportive measures.
 - ix. The Title IX Coordinator will examine the allegations in the formal complaint, to determine whether even if assumed true, the allegations are sufficient to sustain a finding of sexual harassment under this Policy. If the Title IX Coordinator was not involved with preparing the formal complaint, the Title IX Coordinator will contact the complainant to discuss the complaint and whether amendment is appropriate, in which case the process of §C-3-d will apply.
 - x. If the formal complaint fails to satisfy the definition of sexual harassment in this Policy, the complaint shall be dismissed as provided in §C-7, below.
 - xi. If the complaint is not dismissed, then Title IX Coordinator will consult with the Superintendent as to whether the Title IX Coordinator should act as the investigator or whether a different district or other employee shall act in that capacity. At the same time, the Title IX Coordinator and the Superintendent shall appoint the person who shall make the initial determination of responsibility (initial decision maker). In all cases, the investigator and the initial decision maker must be properly trained and otherwise qualified (see §B-4 "Training", and §B-7 "Conflict of Interest").
 - xii. If the report alleges sexual harassment by the Superintendent, the Title IX Coordinator will inform the School Board President who shall have authority to seek guidance from the District's outside counsel, but shall not delay the District's response to the report as outlined in this Policy.

3. General Provisions and Additional Definitions Relative to Title IX Grievance Process.

- a. Copies and Notices. Except as specifically stated elsewhere in this Policy, for any document, information or material required to be delivered to a party or to a person assigned with responsibility under the Title IX Grievance Process, the manner of transmittal may be by electronic mail, regular mail or such other manner reasonably calculated to assure prompt delivery with evidence thereof (such as a commercial carrier or other receipted delivery). Hand delivery will only be permitted if made to the District official charged with the specific function under this Policy (e.g., Title IX Coordinator, Superintendent, investigator, decision maker(s), etc.). Any document required to be delivered to a minor or other non-eligible student, must also be delivered to the minor's parent/guardian. Copies should also be sent to a party's advisor if the information for the advisor has been previously communicated to the sending party. (Under federal regulations, copies of the investigative evidence, as well as the investigative report, must be forwarded to a party's advisor. See §§C-5-c, and C-5-d).

- b. Risk Analysis and Emergency Removal. At any point during the Title IX Grievance Process, the Title IX Coordinator may arrange for an individualized safety and risk analysis as described in §B-10-e, following which a student may be removed.
- c. Administrative Leave. At any point during the Title IX Grievance Process, the Superintendent, and at his/her own discretion, and with or without consulting the Title IX Coordinator, may place an employee on administrative leave pursuant to applicable Board Policy.
- d. Additional Allegations. If, in the course of an investigation, ECS decides to investigate allegations about the complainant or respondent that were not included in the previous notice, ECS shall simultaneously provide notice of the additional allegations to the parties whose identities are known.
- e. No Interference with Legal Privileges. At no point in process will the Title IX Coordinator, the investigator, any decision maker, or any other person participating on behalf of ECS, require, allow, rely upon, or otherwise use questions or evidence that constitutes, or seeks disclosure of, information protected under a legally recognized privilege (e.g., doctor/patient, attorney/client, clergy, etc.), unless the person holding such privilege (parent/guardian for minor student) has waived the privilege in writing to use the information with respect to the Title IX Grievance Process.
- f. Consolidation of Complaints. ECS may consolidate formal complaints of allegations of sexual harassment where the allegations of sexual harassment arise out of the same facts or circumstances and the formal complaints are against more than one respondent; or by more than one complainant against one or more respondents; or by one party against the other party. When the District has consolidated formal complaints so that the grievance process involves more than one complainant or more than one respondent, references to the singular "party", "complainant", or "respondent" include the plural, as applicable.
- g. Remedies: Range of Disciplinary Sanctions and Remedial Actions Upon Final Determination of Responsibility.
 - i. "Disciplinary sanctions" are consequences imposed on a respondent when s/he is found responsible for sexual harassment under this Policy. Remedial actions are actions intended to restore or preserve a complainant's equal access to the educational programs and activities of the District.
 - ii. "Disciplinary sanctions" against an employee respondent may include any available sanction available for the discipline of employees, up to and including dismissal, non-renewal or contract cancellation for any other violation of Board policy, applicable individual or collective bargaining contract, or state or federal laws or regulations.
 - iii. "Disciplinary sanctions" against a student may include any available discipline or sanction, up to and including expulsion, under the policies, rules and procedures that establish the district's comprehensive student code of conduct.
 - iv. "Remedial actions" as to a respondent after a final finding of responsibility, whether employee or student, may include the imposition upon a responsible respondent of any additional non-disciplinary measures appropriate to effecting a remedy for sexual harassment, and may include such measures as no-contact requirements, scheduling adjustments, removal or exclusion from extracurricular activities, class reassignments, limits on future class registrations, restrictions on access to various spaces in the school buildings, reassignment of attendance, and similar measures fine-tuned to respond appropriately to the circumstances surrounding a successful complainant's right to access the district's program and activity.

Additional remedial actions may include recommendations that a school-wide or system-wide response is needed in order to respond to the sexual harassment in a way that is not clearly unreasonable under the circumstances. In such cases, the Superintendent shall provide additional staff training, harassment prevention programs, or such other measures as determined appropriate to protect the safety of the educational environment and/or to deter sexual harassment.

4. Timeframe of Grievance Process.

ECS shall make a good faith effort to conduct a fair, impartial grievance process in a timely manner designed to provide all parties with a prompt and equitable resolution. It is expected that in most cases, the grievance process will be concluded through at least the determination of responsibility decision within ninety (90) days after filing the formal complaint. In more complex cases, the time necessary to complete a fair and thorough investigation or other circumstances mean a determination of responsibility cannot reasonably be made within that timeframe.

- a. Summary of Grievance Process Timeline.
 - i. Investigation 20 +/- days as the complexity of the case demands (§C-5-a)
 - ii. 10 days for reviewing information prior to conclusion of investigation

- iii. 10 days after receiving report to respond to report
- iv. 10 days for decision maker to allow initial questions
- v. 10 days for responses to questions
- vi. 10 days for questions and responses to follow-up questions.
- vii. 10 days for determination of responsibility decision
- viii. 10 days for appeal (6 additional days for administrative steps)
- ix. 10 days for argument/statement challenging or supporting determination
- x. 10 days for decision on appeal

b. Delays and Extensions of Time. At any stage of the grievance process, the District (through the Superintendent, or if the Superintendent is the respondent, the Title IX Coordinator or designee) may for good cause allow for temporary delays or extensions of time upon request of either party, or on his/her own initiative. Examples of good cause may include such things as availability of parties or witnesses, school or school administrative office holidays or vacations, referral back to an earlier stage of the grievance process, concurrent law enforcement or other agency activity, or need to obtain interpreters or accommodation of disabilities. For any such delay or extension of time, the Superintendent or the Title IX Coordinator will provide written notice to the parties of the delay/extension and the reason(s).

5. **Investigation.**

The Title IX Coordinator will coordinate the investigation. The investigator shall be as appointed pursuant to §C-2-e.

- a. The Title IX Coordinator may conduct the investigation, or, in consultation with the Superintendent, designate another qualified person to investigate. The investigation and investigator must:
 - i. Include objective evaluation of all relevant evidence, including inculpatory and exculpatory evidence. (Evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such evidence about the complainant's prior sexual behavior is offered to prove someone other than the respondent committed the conduct alleged by the complainant, or if the evidence concerns specific incidents of the complainant's prior sexual behavior with respect to the respondent and is offered to prove consent.)
 - ii. Ensure the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the District and not on either of the parties;
 - iii. Provide an equal opportunity for the parties to present witnesses, and other inculpatory and exculpatory evidence;
 - iv. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
 - v. Provide the parties with the same opportunities to have others present during any interview or other part of the investigation, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice. The investigator may restrict any others from participating, as long as the restrictions apply equally to both parties;
 - vi. Provide, to a party (e.g., respondent or complainant – and parent/guardian as appropriate) whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate within the timeframes established in §C-4, above.
 - vii. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint;
- b. Prior to completion of the investigative report, ECS, through the Title IX Coordinator, must send to each party and party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report;
- c. The investigator must prepare a written investigative report that fairly summarizes relevant evidence, including, without limitation, witness credibility, discrepancies, inculpatory and exculpatory information, and relevant District policies, guidelines, rules and regulations, and the manner in which the same were made known to the pertinent school populations or specific parties. The investigative report shall include a description of the procedural steps taken, starting with the receipt of the formal complaint, and continuing through the preparation of the

investigative report, including any notifications to the parties, interview with parties and witnesses, site visit, and methods used to gather evidence.

- d. The investigator shall provide the investigative report in hard copy or electronic format to the Title IX Coordinator, to each party and each party's advisor, if any. Each party will have ten(10) days from receipt to provide the Title IX Coordinator a written response to the investigative report.
- e. It serves all parties when investigations proceed diligently and conclude within a reasonable time, which may vary case by case. In most cases, it is expected that the investigator will conclude the initial investigation, and provide the parties the evidence and other information required under §C-5-b. Not more frequently than every other week, any party may request the Title IX Coordinator to obtain and provide the parties with a basic status report on the investigator's progress toward completion. In most cases, the investigator should conclude the investigation within ten (10) to twenty (20) days after receiving a Formal Complaint.

6. Determination of Responsibility and Initial Decision Maker.

The determination of responsibility of the respondent shall be made by the initial decision maker as appointed pursuant to§C-2-e.

- a. Prior to making a determination of responsibility, the initial decision maker will afford each party ten (10) days to submit written, relevant questions to the initial decision maker that the party wants asked of any party or witness.
- b. The initial decision-maker must explain to the party proposing the questions any decision to exclude a question as not relevant. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the question and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
- c. The initial decision maker will provide the questions to the party/witness, with copies to each party, and provide no less than ten (10)days for written responses, likewise to be provided to each party.
- d. The initial decision maker will provide five (5) days each for supplementary, limited follow-up questions and five (5) days for answers, and may provide for additional rounds of follow-up questions, as long as the provision is extended to both parties equally.
- e. The initial decision maker may not make any credibility determinations based on the person's status as a complainant, respondent or witness.
- f. The respondent must be deemed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
- g. The initial decision maker may impose disciplinary sanctions and remedies as described in Section §C-3-g, above.
- h. The standard to be used for formal complaints in determining whether a violation has occurred and/or that the respondent is responsible is the preponderance of the evidence standard, which is only met when the party with the burden convinces the fact finder (the initial decision maker) that there is a greater than 50% chance that the claim is true (i.e., more likely than not).
- a. The initial decision-maker must issue a written determination/decision within ten (10) days after the close of the period for responses to the last round of follow-up questions. The written "Initial Determination of Responsibility" must include:
 - i. Identification of the allegations potentially constituting sexual harassment;
 - ii. A description of the procedural steps taken from the receipt of the formal complaint through the Initial Determination of Responsibility, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
 - iii. Findings of fact supporting the determination;
 - iv. Conclusions regarding the application of the applicable ECS codes of conduct, policies, administrative regulations or rules to the facts;
 - v. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility (i.e., whether or not the respondent is responsible for sexual harassment), and any disciplinary sanctions or remedies; and

- vi. The District's procedures and permissible bases for the complainant and respondent to appeal (as set forth in §C-8, below).
- j. The decision maker shall provide the Initial Determination of Responsibility to the Title IX Coordinator, the Superintendent and the parties simultaneously.

7. **Dismissal of a Formal Complaint.**

- a. The District must dismiss a formal complaint with regard to Title IX sexual harassment if the alleged conduct:
 - i. Would not constitute sexual harassment, even if proved;
 - ii. Did not occur in the District's education program or activity; or
 - iii. Did not occur against a person in the United States.
- b. The District may dismiss a formal complaint with regard to Title IX sexual harassment if at any time during the investigation or determination of responsibility stage(s):
 - 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 District; or
 - iii. Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
- c. Prior to dismissal of a complaint, the person responsible at that stage shall consult with the Superintendent.
- d. Upon dismissal of a formal complaint, the District must promptly send written notice of the dismissal and the reason(s) therefore simultaneously to the parties.

The dismissal of a formal complaint under Title IX does not preclude the District from continuing any investigation or taking action under other District policies, code of conduct or administrative rules/regulations. In some cases, the District may have an obligation to continue an investigation and proceed under a different policy or mandated process.

8. **Appeals Process.**

- a. Either party may appeal the Initial Determination of Responsibility or the dismissal of a formal complaint or any allegation in a formal complaint by notifying the Superintendent in writing ("written appeal"), with a copy to the Title IX Coordinator. If there are multiple determinations of responsibility, the written appeal shall specify which ones are included in the appeal. The written appeal must be received by the Superintendent within ten (10) days of the Initial Determination of Responsibility or written notice of dismissal being communicated to the parties.
- b. An appeal under this Policy may only be based upon one or more of the following bases, which must be stated specifically in the party's written appeal:
 - i. Procedural irregularity that affected the outcome of the matter;
 - ii. 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
 - iii. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Appeals for any other reason or upon any determination of responsibility not included in the written appeal will not be heard.

Appeals pertain only to the determination of responsibility and non-disciplinary remedies. Once a determination of responsibility is final per §C-9, below, appeals of disciplinary sanctions may be made pursuant to the District's ordinary review process for discipline, or, to the extent applicable, any statutory or other processes provided under collective bargaining agreements or individual contracts.

- c. Within three (3) days of receipt of the written appeal, the Superintendent shall appoint a decision maker for appeal ("appeals decision maker"), who must have adequate training as provided in §B-4, be free from conflict of

interest as provided in §B-7, and may not be the same person as the initial decision maker, the person who ordered dismissal, the investigator(s), or the Title IX Coordinator. Upon the appointment of the appeals decision maker, the Superintendent shall provide a Notice of Appeal to each party and to the Title IX Coordinator, with a copy of the written appeal. The Notice of Appeal must include information about all deadlines and timeframes in the appeal stage.

- d. Each party shall have ten (10) days from the date the Notice of Appeal is delivered to the parties to submit to the appeals decision maker a written statement, with copies to the Superintendent, Title IX Coordinator, and other party a statement ("appeal statement") in support of, or challenging, the determination of responsibility or dismissal.
- e. Each party shall provide copies of the appeal statement to the other party, the Superintendent, and the Title IX Coordinator at the same time the appeal statement is given to the appeals decision maker. If the basis of the appeal is newly available evidence affecting the outcome, the party shall submit such evidence or a summary of such evidence along with the party's appeal statement.
- f. The appeals decision maker may refer an appealed issue back to a prior point in the grievance process, with written notice to the parties, the Superintendent and the Title IX Coordinator.
- g. The appeals decision maker shall provide a written appeals decision after considering the record and the parties' appeal statements. The appeals decision maker will only overturn the Initial Determination of Responsibility upon a conclusion that it was clearly erroneous (i.e., either made on unreasonable grounds, or without any proper consideration of the circumstances). If the basis or one of the bases for the appeal was new evidence, the appeals decision maker may either make a determination of responsibility regarding that evidence, or refer it back to the appropriate stage of the Title IX Grievance Process. The written appeals decision will describe the result(s) of the appeal and the rationale, with copies provided to the parties, Superintendent and Title IX Coordinator, no more than ten (10) days after receiving the last of the parties' written statements per §C-8-e.

9. Finality of Determination of Responsibility.

The determination regarding responsibility becomes final either on the date that the recipient, through the Superintendent, provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal of the Initial Determination of Responsibility would no longer be considered timely. The final determination shall be identified as the Title IX Decision.

Once the Title IX Decision is final, the District may implement remedies and disciplinary sanctions. The Title IX Coordinator is responsible for effective implementation of any non-disciplinary remedies, with the assistance of building and district administrative personnel, while disciplinary sanctions will be imposed by persons charged with such responsibilities under other Board policies, regulations or administrative procedures. ECS may also proceed against the respondent or complainant pursuant to the District's applicable code of conduct or other Board policies, collective bargaining agreement, individual contract or administrative rules/regulations/procedures. The issue of responsibility for the conduct at issue shall not be subject to further review or appeal within the District.

10. Informal Resolution.

At any time prior to reaching a determination regarding responsibility (but only after the filing of a formal complaint), the District may offer an optional informal resolution process (e.g., mediation, arbitration), provided that the District:

- a. Provides written notice to the parties disclosing:
 - i. The allegations of the formal complaint;
 - ii. The requirements of the information resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to an informal final resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
 - iii. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
- b. Obtains the parties' voluntary written consent to the informal resolution process; and
- c. **In no event may the District offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.**

[\[1\] 34 CFR 106.71 \(a\).](#)

[\[2\] 34 CFR 106.71 \(a\).](#)

Legal

Legal References Disclaimer: These references are not intended to be considered part of this policy, nor should they be taken as a comprehensive statement of the legal basis for the Board to enact this policy, nor as a complete recitation of related legal authority. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

Title IX of the Education Amendments of 1972, 20 U.S.C 1681, et seq 20 U.S.C. §1232g, Family Educational Rights and Privacy Act 34 CFR. Part 99, Family Educational Rights and Privacy Act Regulations 34 CFR 106.8, Designation of responsible employee and adoption of grievance procedures. 34 CFR 106.30, Definitions 34 CFR 106.44, Recipient's response to sexual harassment 34 CFR 106.4, Grievance process for formal complaints of sexual harassment 34 CFR 106.71, Retaliation

Book	Policy Manual
Section	7000 Property
Title	Proposed Revised ACCOUNTING SYSTEM FOR FIXED ASSETS
Code	po7455
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7455 - ACCOUNTING SYSTEM FOR FIXED ASSETS

As steward of the School Corporation's property, the School Board recognizes that efficient management and full replacement upon loss requires accurate inventory and properly maintained property records.

The Corporation shall maintain a continuous inventory of Corporation-owned equipment.

~~Fixed Asset Definition~~

~~For purposes of this policy, "equipment" shall mean a unit of furnishings, an instrument, a machine, an apparatus, or a set of articles which retains its shape and appearance with use, is non-expendable, costs at least \$5,000 as a single unit and does not lose its identity when incorporated into a more complex unit. For capitalization purposes, the cost of the asset will include shipping and installation costs. When defining supplies for inventory purposes, no items will be counted whose total value is less than \$5,000. Fixed assets are defined as those tangible assets of the Elkhart Community Schools with a useful life in excess of one (1) year and an initial cost equal to or exceeding twenty five thousand dollars (\$25,000). All computer equipment, televisions, video cassette recorders, DVD players and recorders, CD players and recorders, etc. with an initial cost equal to or greater than \$10,000 shall also be identified as "controlled" assets that, although they do not meet all fixed asset criteria, are to be monitored in the fixed asset management system.~~

For donated items, the estimated replacement cost will be used to determine the value for capitalization purposes.

Fixed assets that are leased/purchased and assets which are jointly-owned with another entity shall be identified and recorded in the fixed-asset system.

~~Fixed Asset Monitoring~~

Fixed assets to be monitored shall be classified as follows:

- A. land
- B. buildings
- C. improvements other than buildings
- D. Machinery, equipment and vehicles
- E. construction-in-progress

~~Fixed assets that are leased/purchased and assets which are jointly-owned with another entity shall be identified and recorded in the fixed-asset system.~~

~~Information to be Maintained~~

The following information shall be maintained for all fixed assets:

- A. Number of Assets
- B. Asset Description
- C. Asset Classification (i.e. land, building, equipment, etc.)
- D. Location of Asset (site, building and room)
- E. Date of Purchase
- F. Purchase Price
- G. Serial Number and Model Number
- H. ~~Estimated Life of Assets~~
- I. Fund Number
- J. Details of Disposal or Trade-In of Asset

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