



Title IX Sexual Harassment Policy and Procedures

1. PURPOSE: Mountain Song Community School (MSCS) aims to provide a safe learning and working environment that is free from sex-based discrimination and sexual harassment for students, employees, and community members. The purpose of these procedures is to ensure prompt and equitable resolution of all such complaints.

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

This policy shall be available in the administrative office of MSCS, posted on the MSCS website, and included as an appendix to the MSCS Parent Handbook.

2. SCOPE OF THIS POLICY: This policy addresses sexual sex-based discrimination and harassment (herein referred to as “sexual harassment” or “sex discrimination”). Other MSCS policies that may be relevant to the same or similar situations are:

- Non-discrimination Policy
- Grievance Policy and Procedures
- Staff Handbook
- Mandatory Child Abuse & Neglect Reporting
- Staff / Student Relationships
- Parent Handbook Harassment, Grievance and Title IX Procedures

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

3. TITLE IX COORDINATOR CONTACT INFORMATION: MSCS’s Title IX Coordinator may be contacted at:

- Kim Butler
- Director of Operations, Mountain Song Community School
- 2904 West Kiowa St.
- Colorado Springs, CO 80904
- 719-203-6364
- kbutler@mountainsongschool.org

4. **NOTICE TO MSCS:** MSCS cannot respond to sexual harassment unless it knows about it. Thus, MSCS encourages all students, staff, and community members to report any allegation or information about sexual harassment to any MSCS employee, including its Title IX Coordinator.

5. **ACTUAL KNOWLEDGE:** All MSCS employees are obligated to report (i) any allegations of sexual harassment or (ii) any information that causes them reasonably to believe there has been conduct that constitutes sexual harassment. Parents, students, or others may also make reports. Such reports must be made to any of MSCS's administrators, who shall promptly inform the Title IX Coordinator.

To report sex discrimination, use Exhibit 1 (below).

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

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

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

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

6.2 FAILURE TO OFFER SUPPORTIVE MEASURES: If supportive measures were not offered in response to a report or a formal complaint, the Title IX Coordinator must

document in detail why such failure was reasonable under the circumstances.

7. FORMAL COMPLAINT: Any person (including a Complainant) may report sexual harassment to the Title IX Coordinator at any time. A report may be made in person, by email or any other form of electronic communication, by mail, by telephone, or by any other effective means. The report must include the nature of the alleged violation; names of the person(s) responsible for the alleged violation (if known); and any other relevant background information. A Complainant (or parent or guardian, if appropriate) or the Title IX Coordinator, but not a third-party reporter, may sign a complaint. At the time of a complaint, the Complainant must be participating in or attempting to participate in the School's education program or activities (including employment). Upon the filing of a formal complaint, the Title IX Coordinator shall offer Supportive Measures (if not already offered or provided) to both the Complainant and Respondent. Complainants will be asked to complete the form located in Exhibit 2 of this policy. Completion of this form by a Complainant is not required to file a complaint.

7.1 INFORMAL RESOLUTION. If and only if (a) a formal complaint is filed, and (b) the complaint does not concern alleged harassment of a student by a School employee, the Parties may voluntarily agree in writing to an alternative form of informal dispute resolution, such as restorative justice procedures, mediation, fact-finding, or arbitration. Parties may withdraw from such a process at any time before written agreement to a defined process. Agreements to informal resolution that would displace formal investigation (*e.g.*, binding arbitration) require approval of the Title IX Coordinator. Once all Parties have executed a written agreement to use alternative dispute resolution, without objection by the Title IX Coordinator, that agreement is binding by its terms. The Title IX Coordinator may disapprove of the use of alternative dispute resolution for certain complaints, including but not limited to complaints of sexual violence, or refuse to approve certain agreements, including but not limited to those containing onerous terms, and proceed with formal investigation. If informal resolution is attempted and unsuccessful (*e.g.*, a restorative justice process that does not reach the hoped-for resolution), the matter may return to formal investigation.

7.2 ADMINISTRATIVE LEAVE – EMERGENCY REMOVAL – SAFETY PLANS: MSCS may place a Respondent who is an employee on Administrative Leave while allegations are investigated and resolved. MSCS may remove a Respondent who is a student if removal is necessary to protect the student or another person from an immediate threat to physical health or safety. Removal of a student who is on an IEP or Section 504 plan is subject to compliance with requirements of the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act, as applicable. If a Complainant and Respondent remain in the School pending or following investigation, the Title IX Coordinator shall determine if a safety plan is advisable and, if so, initiate the process for creating a written safety plan. A decision not to create a safety plan should be documented in writing.

7.3 PRESUMPTION OF INNOCENCE – BURDEN OF PROOF: At the outset of any investigation, the Respondent is presumed not responsible for sexual harassment. The burden of proof to overcome the presumption is that a violation of the prohibition on

sexual harassment is more likely than not; that is, a violation has been proven by a preponderance of the evidence. Throughout each investigation, the Complainant and Respondent shall each be treated with respect and in an equitable manner.

7.4 SUMMARY DISMISSAL – RELATION TO DISCIPLINE: If the Title IX Investigator determines that the allegations in a Formal Complaint do not meet the definition of sexual harassment (or other prohibitions specific to this policy), or they indicate the conduct did not occur in MSCS’s educational program or activity, the Investigator shall summarily consider the incident as resolved according to the original complaint provided. If the Respondent withdraws from MSCS or terminates employment with the School, or the Complainant requests withdrawal of the complaint, or other specific circumstances prevent an investigation that permits a determination based on appropriate evidence, the Investigator may dismiss the complaint. Regardless of such dismissal, MSCS may take whatever separate disciplinary or corrective action is appropriate against a Respondent under its Discipline Policy or under its employment policies and practices. However, such separate action may be taken only if MSCS follows a process that complies with the due process protections afforded to Respondent in this policy.

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

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

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

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

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

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

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

7.10 INVESTIGATIVE REPORT: The Investigator shall draft the Investigative Report. It shall be based solely upon the investigation conducted by the Investigator in relation to the Complaint. The purpose of the Investigative Report is to provide the Decision-Makers the necessary evidence to be able to make an informed Determination of Responsibility. The Investigative Report shall contain a recommendation regarding whether sexual harassment or sex-based discrimination occurred. Once the Investigative Report is complete, it shall be provided to the Complainant and the Respondent, along with the cover letter proposed as Exhibit 4.

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

7.11 DETERMINATION OF RESPONSIBILITY: The Decision-Makers shall receive the Investigative Report at the same time the Investigator provides it to the Complainant and Respondent. The Decision-Makers shall further receive the responses and proposed questions from the Complainant and Respondent. The Decision-Makers, in their discretion, may gather additional evidence as they believe necessary. They may or may not, in their discretion, ask the questions proposed by the Complainant and Respondent.

The Decision-Makers shall complete the written Determination of Responsibility within the timeframe stipulated by this policy. The Determination of Responsibility shall clearly state whether the Complainant was sexually harassed or subjected to sex-based discrimination and, if so, the remedies for this conduct (as provided in Section 9). The Determination of Responsibility shall include the items listed in Exhibit 5.

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

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

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

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

9. **REMEDIES:** Upon determination that a Complainant was sexually harassed or subjected to sex-based discrimination, MSCS may impose one or more of the following:

- a) Offer the Complainant any remedies that will restore or preserve the Complainant’s access to MSCS’s educational program and activities (including employment). These may include Supportive Measures or actions similar to supportive measures that have a disciplinary component toward the Respondent. Remedies may be kept confidential as deemed necessary by the School.
- b) Impose any disciplinary sanctions on a Respondent student, including mandatory participation in counseling services; revocation of extra-curricular privileges (including, but not limited to sports); no-contact orders; schedule changes; short-term or long-term suspension or expulsion; or change of placement as otherwise authorized by law.
- c) Impose any disciplinary sanctions on a Respondent employee, including mandatory participation in counseling services; no-contact orders; reassignment; suspension without pay; or termination of employment.

10. TIME LIMITS – INFERENCE FROM REFUSAL TO PROVIDE EVIDENCE: The Title IX Coordinator, Investigator, Decision-Makers, Appeals Panel, or the MSCS Executive Director may extend any time limit for good cause shown. At all events, MSCS will endeavor to reach a determination of responsibility or other resolution within 120 days of MSCS's receiving notice of the allegations of sexual harassment or sex-based discrimination. The Investigator or Decision-Makers may consider the advantages of receiving a report of a parallel law enforcement or other investigation in determining the timeline for investigative activities or a determination of responsibility but shall not unduly delay the process to assure such receipt. The Investigator and Decision-Maker are permitted, but not required, to draw adverse factual inferences from the refusal or failure of a Complainant or Respondent to be interviewed or provide other requested evidence.

11. CONFIDENTIALITY: The identities of persons who made a report of sexual misconduct, the Complainant, the Respondent, any person reported to have been a perpetrator, and any witness shall not be made public except as provided in the Family Educational Rights and Privacy Act (FERPA), as otherwise provided by law, or as needed for the conduct of any formal investigation or judicial proceeding. This provision does not prevent disclosure of these people to others involved in the Title IX process, as described in this policy.

12. RETALIATION & INTIMIDATION: Neither MSCS nor any person may intimidate, threaten, coerce, or discriminate against an individual because such individual has exercised rights under, participated in, or declined to participate in, any proceeding under this policy. Claims of retaliation may be filed by the person alleging retaliation under MSCS's general grievance policy or this policy.

13. RETENTION OF RECORDS: All records created of activity under this policy, including, without limitation, training materials, investigative records, informal resolution records, disciplinary records, supportive measures, decisions, remedies and appeals, shall be maintained for seven years.

14. TRAINING: All MSCS team members and its governing board shall receive basic Title IX training that includes, without limitation, the definition of sexual harassment (*see below*) and the obligation of school employees and officials to report suspected sexual harassment to the Title IX Coordinator. Any person who will serve as Title IX Coordinator, Investigator, Informal Resolution practitioner, Decision-Makers, or member of an Appeals Panel must have had or receive appropriate advanced training on Title IX — specifically, as applicable and without limitation, on all matters covered in basic Title IX training, conducting investigations, methods of informal resolution, preparation of investigative reports, preparation of determinations of responsibility, conducting appeals, identification of privileged or irrelevant evidence (including treatment of evidence of prior sexual conduct), impartiality, avoidance of prejudgment, and avoiding use sex stereotypes.

15. POSTING & GENERAL NOTIFICATIONS: MSCS shall place in its Parent and Staff Handbooks, and post prominently on its website:

- a) The name or title, office address, electronic mail address, and telephone number of its Title IX Coordinator;

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

16. CONTINUED APPLICATION OF CODE OF CONDUCT AND EMPLOYMENT

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

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

18. DEFINITIONS: Unless context requires otherwise:

- a) *Appeals Panel* means the person or persons designated to hear an appeal under this policy. No member of the Appeals Panel may be involved in the Complaint as Respondent or witness or be otherwise biased. The Appeals Panel may include a non-voting advisor in hearing the appeal, which may be MSCS's general counsel, special counsel, or other appropriate person. In no event shall a member of the Appeal Panel or advisor to the Appeal Panel be the Title IX Coordinator or Decision-Makers. In almost all circumstances, the Appeals Panel shall be MSCS's Board President, and a Board Officer. Currently, the Board President position is held by Brooke Sassi, who can be contacted at bsassi@mountainsongschool.org or (703) 587-7618. If the Board President is unable to serve on the Appeals Panel, then she or he can appoint one or more unbiased people from within MSCS to serve in that role.
- b) *Complainant* means a person who is alleged to be the target of conduct that could constitute sexual harassment. "Complainant" includes a possible complainant, such as an individual identified by a third party as a possible victim of sexual harassment.
- c) *Coordinator* means a person designated as a Title IX Coordinator for MSCS. A Title IX Coordinator may delegate responsibility on a case-by-case basis. MSCS shall prominently post to its website and otherwise make known the identity and contact information for the Title IX Coordinator.
- d) *Investigator* means a person trained to evaluate objectively the credibility of witnesses, synthesize evidence, and take into account the unique circumstances of each situation involved in an alleged act or pattern of sexual harassment. A Coordinator may be the Investigator or may delegate that responsibility to a qualified outside investigator. An

- Investigator may not have a conflict of interest in a matter under investigation.
- e) *Decision-Makers* mean the people who receive a recommendation regarding a complaint of sexual harassment from the Title IX Coordinator or Investigator, assess the relevant evidence, and decide if the burden of proof has been met to determine that a Respondent has engaged in sexual harassment. The Decision-Makers shall be the Business Manager, the Director of School Performance, and the Executive Director, unless one or all of the Decision-Makers is implicated in the complaint as a Respondent or witness, in which case the Title IX Coordinator shall designate independent Decision-Makers. The Decision-Makers may not be a Title IX Coordinator or an Investigator.
 - f) *Supportive Measures* mean non-disciplinary, non-punitive individualized services designed to restore or preserve for the Complainant equal access to MSCS's educational programs and activities (including employment), without unreasonably burdening the other party (*i.e.*, the Respondent), and offered without charge. Supportive Measures may include, without limitation, counseling, mentoring, class modification, schedule changes, monitoring, supervision, or restorative justice activities, as deemed appropriate by the Title IX Coordinator. At the appropriate times, a Title IX Coordinator should offer Supportive Measures to both the Complainant and Respondent.
 - g) *Education program or activity* means the MSCS campus, MSCS administrative offices, and all locations, events, or circumstances in which MSCS exercises substantial control over a Respondent and the context in which alleged sexual harassment occurs.
 - h) *Parties* means the Complainant(s) and Respondent(s) in an individual matter.
 - i) *Respondent* means an individual alleged to have engaged in sexual harassment.
 - j) *Sexual harassment* means:
 - i. Conduct by a MSCS employee or board member that conditions an aid, benefit, or service of the school, including employment, on participation in unwelcome sexual conduct (that is, *quid pro quo* harassment);
 - ii. Conduct by a MSCS employee that constitutes sexual misconduct involving a student;
 - iii. Conduct by anyone that is unwelcome and that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to employment at MSCS or to MSCS's education program and activities; or
 - iv. Conduct by anyone that constitutes sexual assault, dating violence, domestic violence or stalking towards a MSCS employee or student. *See* 20 U.S.C. § 1092(f)(6)(A)(v) & 34 U.S.C. § 12291(a)(8), (10) & (30).

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

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

Similarly, one student's demonstration of a sports maneuver or technique requiring contact with another student will likely not be considered sexual harassment. However, in some circumstances, nonsexual conduct may take on sexual connotations and rise to the level of sexual

harassment. For example, if a teacher repeatedly hugged and put his or her arms around students under inappropriate circumstances, that conduct could rise to the level of sexual harassment.

19. LEGAL AUTHORITY FOR THIS POLICY:

20 U.S.C. § 1681 *et seq.*

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

C.R.S. §§ 24-34-101 *et seq.*

Bostock v. Clayton County, 590 U.S. 140 (2020)

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

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

Date: _____

Name of Reporter: _____

Name of Complainant: _____

Name of Respondent: _____

Summary of Report: _____

Attached pages? Yes No — Number? _____

Was the report discussed with Complainant? Yes No Date: _____

Was the Complainant:

Informed of available Supportive Measures, with or without a formal complaint? Yes No

Given an explanation of the process for filing a formal complaint? Yes No

Were Supportive Measures requested? Yes No

Will Supportive Measures be provided? Yes No . If yes, describe: _____

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

Attached pages? Yes No Number? _____

Formal Complaint filed by/for Complainant? Yes No

Formal Complaint filed by Title IX Coordinator? Yes No

Signature of Title IX Coordinator

Date

Exhibit 2
Sexual Harassment (Title IX) Complaint Form

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

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

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

Name of complainant: _____

Parent or guardian (if applicable) _____

Address: _____

Telephone number: _____ Email address: _____

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

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

Name: _____

Address: _____

Telephone number: _____ Email address: _____

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

 Employee Student Parent/Guardian Other (_____)

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

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

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

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

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

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

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

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

Please describe the outcome or remedy you seek.

Please provide below your physical or digital signature.

Signature: _____

Name (printed): _____

Check one: Complainant Parent/Guardian Title IX Coordinator

Date: _____

Notice to Complainant: This document is a legal record requesting a formal investigation.
Please keep a copy of this completed form and any supporting documentation for your records.
If your complaint is found not to support a claim of sexual harassment, but would be proper
under any other School policy, the School will notify you and proceed to consider your
complaint under the proper policy.

Exhibit 3
Written Notice of Formal Complaint

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

[MSCS Letterhead]

[Date]

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

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

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

Complainant: _____

Respondent: _____

Summary of the Complaint:

Date(s) of conduct: _____ Location of conduct: _____

Names of other parties, if any: _____

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

\

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

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

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

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

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

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

/s/ Investigator

Exhibit 4
Notice to Parties Concerning Investigative Report

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

[MSCS letterhead]

[Date]

[Addressee]

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

Further proceedings in this matter will be handled by the Decision-Makers, who are:

[Name/Title]

[Street address]

[Email]

[Phone]

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

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

/s/ [Investigator]

Exhibit 5
Notice to Parties Concerning Determination of Responsibility

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

[MSCS letterhead]

[Date]

[Addressee]

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

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

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

/s/ [Decision-Makers]

Exhibit 6
Notice of Appeal

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

[Date]

From: [Name and Contact information of party filing the appeal] To: [Name, Title and Contact information of Decision-Makers]

To Whom it May Concern:

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

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

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

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

/s/ [Complainant or Respondent]

Exhibit 7
Notice to Parties of Appeal

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

[MSCS letterhead]

[Date]

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

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

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

/s/ [Decision Makers]