
Sexual Harassment of District Employees and Other Non-Students Prohibited

This procedure sets forth requirements for reporting, investigating, and addressing sexual harassment of district employees and other non-students in compliance with Policy 5011. Consistent with that policy, if the district finds that sexual harassment created a hostile environment or otherwise occurred, employees will take immediate action to eliminate the harassment, prevent its reoccurrence, and address its effects.

This procedure applies to sexual harassment (including sexual violence) targeted at district employees and other non-student third parties carried out by employees, students, or third parties involved in district programs or activities. The district has jurisdiction over these complaints pursuant to Title VII of the Civil Rights Act of 1964, Chapter 28A.640 RCW, and Chapter 392-190 WAC.

A. Civil Rights Compliance Officer

The superintendent has designated a Civil Rights Compliance Officer to oversee the district's compliance with the requirements of Title VII, Chapter 28A.640 RCW, Chapter 392-190 WAC, and this procedure, as described in Procedure 3210P. The Civil Rights Compliance Officer may be the same individual designated as the Title IX Coordinator responsible for addressing complaints of sexual harassment of students under Procedure 3205P.

The Civil Rights Compliance Officer is responsible for coordinating the district's responses to all complaints involving possible sex discrimination against district employees and non-students, including sexual harassment. This responsibility includes: investigating formal complaints; participating in determining the appropriate responses to and remedial actions resulting from complaints; tracking the district's responses to complaints and monitoring outcomes; and identifying and addressing any patterns or systemic problems revealed by complaints. The Civil Rights Compliance Officer will have knowledge of federal and state law requirements, the district's policies and procedures on sex discrimination, and formal complaints throughout the district that raise sexual harassment issues. The District will publish the name and contact information of the Civil Rights Compliance Officer on its website and in its nondiscrimination statement distributed to students, parents/guardians, and employees.

B. Notice of Policy

Information about the district's sexual harassment policy will be easily understandable and conspicuously posted throughout each district building. Such information will also be reproduced in each employee, parent/guardian, and volunteer handbook.

C. Employee Responsibilities

Any district employee who receives a complaint alleging sexual harassment will immediately inform the Civil Rights Compliance Officer so that the district can appropriately respond to the incident consistent with this procedure. If the complaint alleges actions against a student that may constitute a crime or child abuse, the employee will promptly report the issue to law enforcement and/or Child Protective Services and his or her supervisor.

The Civil Rights Compliance Officer will notify an employee or non-student who is the alleged victim of sexual harassment of his or her right to simultaneously file both a sexual harassment complaint under this procedure and a criminal complaint.

D. Confidentiality Requests

If a complainant requests that his or her name not be revealed to the alleged perpetrator or asks that the district not investigate or seek action against the alleged perpetrator, the request will be forwarded to the Civil Rights Compliance Officer for evaluation. The Civil Rights Compliance Officer will inform the complainant that honoring the request may limit the district's ability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator. The Civil Rights Compliance Officer will also inform the complainant that federal law and district policy prohibit retaliation, and that district officials will both take steps to prevent retaliation and respond if retaliation occurs.

If the complainant still requests that his or her name not be disclosed to the alleged perpetrator or that the district not investigate or seek action against the alleged perpetrator, the district will determine whether it can honor such a request while still providing a safe and nondiscriminatory environment for all students, employees, and third parties engaging in district programs or activities, including the person who reported the sexual harassment. Although a complainant's request to have his or her name withheld may limit the district's ability to respond fully to an individual allegation of sexual harassment, the district will use other appropriate means available to address the sexual harassment.

E. Retaliation

Federal and state laws prohibit retaliation against any individual who files a complaint of sexual harassment or participates in a complaint investigation. When an informal or formal complaint of sexual harassment is made, the district will take steps to stop further harassment and prevent any retaliation against the person who made the complaint, was the subject of the harassment, or who provided information as a witness, including making follow-up inquiries and ensuring that such individuals know how to report any retaliation. The district will investigate all allegations of retaliation and take appropriate corrective actions against those found to have retaliated.

F. Informal Complaint Process

Anyone may use informal procedures to report and resolve complaints of sexual harassment. Informal reports may be made to any employee. Upon notification of an informal complaint, employees will:

1. Notify the complainant of the right to file a formal complaint and the process in this procedure for same;
2. Direct the complainant (or potential complainant) to the Civil Rights Compliance Officer; and
3. Inform an appropriate supervisor, especially when the complaint is beyond the employee's training to resolve or alleges serious misconduct.

During the course of the informal complaint process, the district will take prompt and effective steps reasonably calculated to end any harassment and to correct any discriminatory effects on the complainant. If an investigation is needed to determine what occurred, the district will take interim measures to protect the complainant before the final outcome of such investigation.

Informal remedies may include:

1. An opportunity for the complainant to explain to the alleged harasser that his or her conduct is unwelcome, offensive, or inappropriate, either in writing or face-to-face;
2. A statement from an employee to the alleged harasser that the alleged conduct is not appropriate and could lead to discipline if proven or repeated;
3. A general public statement from an administrator in a building reviewing the district sexual harassment policy without identifying the complainant;
4. Developing a safety plan;
5. Separating individuals involved in the alleged harassment; and
6. Providing employee and/or student training.

Informal complaints may become formal complaints at the request of the complainant, or because the district determines that the complaint needs to be more thoroughly investigated.

The district will inform the alleged victim (and the complainant, if other than the alleged victim) about how to report any subsequent problems. In addition, the district will conduct follow-up inquiries to see if there have been any new incidents or instances of retaliation and promptly respond and appropriately address continuing or new problems. Follow-up inquiries will follow a timeline agreed to by the district and alleged victim (and the complainant, if other than the alleged victim).

G. Formal Complaint Process

1. Complaint to District (Level One)

Anyone may initiate a formal complaint of sexual harassment, even if the informal complaint process is being utilized. At any level in the formal complaint process, the district will take interim measures to protect the complainant pending the outcome of the district's investigation. The following process will be followed:

a. Filing of Complaint

- i. All formal complaints will be in writing and set forth the specific acts, conditions, or circumstances alleged to have occurred and to constitute sexual harassment. The Civil Rights Compliance Officer may draft the complaint based on the report of the complainant for the complainant to review and approve. The superintendent or Civil Rights Compliance Officer may determine that the district will conduct an

investigation based on information in his or her possession, regardless of the complainant's interest in filing a formal complaint.

- ii. The time period for filing a complaint is one year from the date of the occurrence that is the subject matter of the complaint. However, a complaint filing deadline may not be imposed if the complainant was prevented from filing due to specific misrepresentations by the district that it had resolved the problem forming the basis of the complaint or withholding of information that the district was required to provide under WAC 392-190-005 or -065.
- iii. Complaints may be submitted by mail, fax, email, or hand-delivery to the district Civil Rights Compliance Officer. Any district employee who receives a complaint that meets the criteria in this procedure will promptly notify the Civil Rights Compliance Officer.

b. Investigation and Response

- i. The Civil Rights Compliance Officer will receive and investigate each formal, written complaint of sexual harassment or information in the coordinator's possession that he or she believes requires further investigation. The Civil Rights Compliance Officer will delegate his or her authority to participate in this process if such action is necessary to avoid any potential conflicts of interest.
- ii. Upon receipt of a complaint, the Coordinator will provide the complainant with a copy of this procedure in a language that the complainant can understand, which may require language assistance for complainants with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964.
- iii. Investigations will be carried out in a manner that is adequate in scope, reliable, and impartial. The Civil Rights Compliance Officer may conduct investigations directly, or delegate responsibility for such investigations to other appropriate district administrators or contractors.
- iv. During the investigation process, the complainant and accused party or parties, if the complainant has identified an accused harasser(s), will have sufficient opportunity to present witnesses and relevant evidence. Students may have a trusted adult with them during any district-initiated investigatory activities.
- v. When the investigation is completed, the Civil Rights Compliance Officer will provide the superintendent with a full written report of the complaint and the results of the investigation.
- vi. The district and complainant may agree to resolve the complaint in lieu of an investigation.

c. Superintendent Response

- i. The superintendent or designee will respond in writing to the complainant and the alleged perpetrator within thirty (30) calendar days of receipt of the complaint, unless otherwise agreed to by the complainant or if exceptional circumstances related to the complaint require an extension of the time limit. In the event an extension is needed, the district will notify the complainant in writing of the reason for the extension and the anticipated response date in a language that the complainant can understand, which may require language assistance for complainants with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964. At the time the district responds to the complainant, the district will send a copy of the response to the Office of the Superintendent of Public Instruction (OSPI).
- ii. The response of the superintendent or designee will include:
 - 1) A summary of the results of the investigation;
 - 2) A statement regarding whether a preponderance of the evidence establishes that the complainant was sexually harassed;
 - 3) If sexual harassment is found to have occurred, the corrective measures the district deems necessary, including assurance that the district will take steps to prevent recurrence and remedy its effects on the complainant and others, if appropriate;
 - 4) Any corrective measures the district will take, remedies for the complainant (e.g., sources of counseling, advocacy, and academic support), and notice of potential sanctions for the perpetrator(s) (e.g., discipline or corrective action), in accordance with relevant laws protecting confidentiality of student information;
 - 5) A statement regarding whether the district has complied with Chapter 392-190 WAC or OSPI's guidelines for prohibiting discrimination in Washington public schools; and
 - 6) Notice of the complainant's right to appeal to the Board of Directors and the necessary filing information.
- iii. The response of the superintendent or designee will be provided in a language the complainant can understand, which may require language assistance for complainants with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964.
- iv. If the complaint alleges discriminatory harassment by a named party or parties, the Civil Rights Compliance Officer will provide the accused party or parties with notice of the outcome of the investigation and notice of their right to appeal any discipline or corrective action imposed by the district.

- v. Any corrective measures deemed necessary will be instituted as quickly as possible, but in no event more than thirty (30) days after the mailing of the written response by the superintendent or designee, unless the accused is appealing the imposition of discipline or corrective action and the district is barred by due process considerations or a lawful order from imposing the discipline or corrective action until the appeal process is concluded.
- vi. The district will inform the alleged victim (and the complainant, if other than the alleged victim) how to report any subsequent problems. In addition, the district will conduct follow-up inquiries to see if there have been any new incidents or instances of retaliation, and to promptly respond and appropriately address continuing or new problems.

2. Appeal to Board of Directors (Level Two)

a. Notice of Appeal and Hearing

- i. If a complainant disagrees with the written decision of the superintendent or designee, the complainant may appeal the decision to the district's Board of Directors by filing a written notice of appeal with the superintendent within ten (10) calendar days following the date upon which the complainant received the response.
- ii. The Board will schedule a hearing on the appeal. Both parties will be allowed to present such witnesses and testimony as the Board deems relevant and material.

b. Board Decision

- i. Unless otherwise agreed to by the complainant, the Board will render a written decision within thirty (30) calendar days following the district's receipt of the notice of appeal and provide the complainant with a copy of the decision.
- ii. The Board decision will be provided in a language that the complainant can understand, which may require language assistance for complainants with limited English proficiency in accordance with Title VI of the Civil Rights Act.
- iii. The Board decision will include notice of the complainant's right to file a complaint with OSPI under WAC 392-190-075. The district will send a copy of the Board decision to OSPI.

3. Complaint to OSPI (Level Three)

a. Filing of Complaint

- i. If a complainant disagrees with the decision of the Board of Directors, or if the district fails to comply with the complaint and appeal procedures in WAC 392-190-065 or -070, the complainant may file a complaint with OSPI.
- ii. A complaint must be received by OSPI on or before the twentieth (20) calendar day following the date upon which the complainant received written notice of the Board decision, unless OSPI grants an extension for good cause. Complaints may be submitted by mail, fax, email, or hand delivery.
- iii. A complaint to OSPI must be in writing and include:
 - 1) A description of the specific acts, conditions, or circumstances alleged to violate Chapter 392-190 WAC or OSPI's guidelines for prohibiting discrimination in Washington public schools;
 - 2) The name and contact information, including address, of the complainant;
 - 3) The name and address of the district subject to the complaint;
 - 4) A copy of the district's complaint and Board appeal decisions;
 - 5) A proposed resolution of the complaint or relief requested;
 - 6) If the allegations regard a specific student, the complaint must also include the name and address of the student, or in the case of a homeless child or youth, contact information, as well as the name of the school and school district that the specific student attends.

b. Investigation, Determination, and Corrective Action

- i. Upon receipt of a complaint, OSPI may initiate an investigation pursuant to WAC 392-190-075.
- ii. Following the investigation, OSPI will make an independent determination as to whether the district has failed to comply with Chapter 392-190 WAC or OSPI's guidelines for prohibiting discrimination in Washington public schools.
- iii. OSPI will issue a written decision to the complainant and the district that addresses each allegation in the complaint and any other noncompliance issues it has identified. The written decision will include corrective actions deemed necessary to correct noncompliance and any documentation the district must provide to demonstrate that corrective action has been completed.

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- iv. State regulations provide that all corrective actions must be completed within the timelines established by OSPI in the written decision unless OSPI grants an extension. If timely compliance is not achieved, OSPI may take action including, but not limited to, referring the district to appropriate state or federal agencies empowered to order compliance.
 - v. A complaint may be resolved at any time when, before the completion of the investigation, the district voluntarily agrees to resolve the complaint. OSPI may provide technical assistance and dispute resolution methods to resolve a complaint.

4. Administrative Hearing (Level Four)

A complainant or school district that desires to appeal OSPI's written decision may file a written notice of appeal with OSPI within thirty (30) calendar days following the date of receipt of such decision. OSPI will conduct a formal administrative hearing in conformance with the Administrative Procedure Act, Chapter 34.05 RCW.

H. Other Complaint Options

Any person may also make a complaint of sexual harassment of a District employee or other non-student to the following entities:

U.S. Equal Employment Opportunity Commission (EEOC)

EEOC enforces federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex, national origin, age, disability, or genetic information. File complaints with EEOC within 180 calendar days of the date of the alleged discrimination.

1-800-669-4000 | TTY: 1-800-669-6820 | www.eeoc.gov

Office for Civil Rights (OCR), U.S. Department of Education

OCR enforces several federal civil rights laws, which prohibit discrimination in public schools on the basis of race, color, national origin, sex, disability, and age. File complaints with OCR within 180 calendar days of the date of the alleged discrimination.

206-607-1600 | TDD: 1-800-877-8339 | OCR.Seattle@ed.gov | www.ed.gov/ocr

Washington State Human Rights Commission (WSHRC)

WSHRC enforces the Washington Law Against Discrimination (RCW 49.60), which prohibits discrimination in employment and in places of public accommodation, including schools. File complaints with WSHRC within six months of the date of the alleged discrimination.

1-800-233-3247 | TTY: 1-800-300-7525 | www.hum.wa.gov

I. Mediation

At any time during the complaint procedure set forth in WAC 392-190-065 through 392-190-075, a district may, at its own expense, offer mediation. The complainant and the district may agree to extend the complaint process deadlines in order to pursue mediation.

The purpose of mediation is to provide both the complainant and the district an opportunity to resolve disputes and reach a mutually acceptable agreement through use of an impartial mediator. Mediation must be voluntary and requires the agreement of both parties. It may be terminated by either party at any time during the mediation process. It may not be used to deny or delay a complainant's right to utilize the complaint procedures.

Mediation must be conducted by a qualified and impartial mediator who may not:

- Be an employee of any school district, public charter school, or other public or private agency that is providing education related services to a student who is the subject of the complaint being mediated; or
- Have a personal or professional conflict of interest.

A mediator is not considered an employee of the district or charter school or other public or private agency solely because he or she serves as a mediator.

If the parties reach agreement through mediation, they may execute a legally binding agreement that sets forth the resolution and states that all discussions that occurred during mediation will remain confidential and may not be used as evidence in any subsequent complaint, due process hearing, or civil proceeding. The agreement must be signed by the complainant and a district representative who has authority to bind the district.

J. Training and Orientation

A fixed component of all district orientation sessions for employees and regular volunteers will introduce the elements of this policy and procedure. For employees, the district will:

- Provide information on recognizing and preventing sexual harassment;
- Fully inform employees of the formal and informal complaint processes and their roles and responsibilities under this policy and procedure; and
- Remind certificated employees of their legal responsibility to report suspected child abuse, and how that responsibility may be implicated by some allegations of sexual harassment.

Regular volunteers will receive the portions of this component of orientation relevant to their rights and responsibilities.

As part of the information on the recognition and prevention of sexual harassment, employees and regular volunteers will be informed that sexual harassment may include, but is not limited to:

- Demands for sexual favors in exchange for preferential treatment or something of value;
- Stating or implying that a person will lose something if he or she does not submit to a sexual request;
- Penalizing a person for refusing to submit to a sexual advance, or providing a benefit to someone who does;
- Making unwelcome, offensive, or inappropriate sexually suggestive remarks, comments, gestures, or jokes, or remarks of a sexual nature about a person's appearance, gender, or conduct;
- Using derogatory sexual terms for a person;
- Standing too close to a person, or inappropriately touching, cornering, or stalking a person;
or
- Displaying offensive or inappropriate sexual illustrations on district property.