

Sexual Harassment of District Staff Prohibited

Purpose

This procedure sets forth the process for prompt, thorough and equitable investigation of allegations of sexual harassment and guides staff in taking appropriate steps to intervene and resolve such situations.

Scope

This procedure applies to the Board of Directors, Superintendent, compliance coordinators, district employees, students, parents or guardians, and volunteers.

Procedure

1. INTRODUCTION

- 1.1. The procedure guides the process for a prompt, thorough, and equitable investigation of allegations of sexual harassment and the need to take appropriate steps to resolve such situations. If sexual harassment is found to have created a hostile environment, staff must take immediate action to eliminate the harassment, prevent its reoccurrence, and address its effects.
- 1.2. This procedure applies to sexual harassment (including sexual violence) targeted at district employees carried out by students, employees or third parties involved in school district activities. The district has jurisdiction over these complaints pursuant to Title IX of the Education Amendments of 1972, Chapter 28A.640, RCW and Chapter 392-190 WAC.

2. NOTICE

- 2.1. Information about the district's sexual harassment policy will be easily understandable and conspicuously posted throughout each school building, provided to each employee and reproduced in each staff, volunteer and parent handbook.
- 2.2. In addition to the posting and reproduction of this procedure and Policy 5011 as required by that policy, the district will provide annual notice to employees that complaints pursuant to this procedure may be filed at the district administrative office at 3030 Huffman Road, Valley, Washington.

3. STAFF AND VOLUNTEER RESPONSIBILITIES

- 3.1. In the event of an alleged sexual assault, the school principal will immediately inform:
 - (a) The Title IX Liaison and Compliance Coordinator so that the district can appropriately respond to the incident consistent with its own grievance procedures.
 - (b) Law enforcement.

- 3.2. The principal will notify the targeted district staff person of his/her right to file a criminal complaint and a sexual harassment complaint simultaneously.

4. CONFIDENTIALITY

- 4.1. If a complainant requests that his/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 Compliance Coordinator for evaluation.
- 4.2. The Compliance Coordinator should 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.
- 4.3. If the complainant still requests that his/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 need to determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students, staff and other third parties engaging in district activities, including the person who reported the sexual harassment.
- 4.4. Although a complainant's request to have his/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.

5. RETALIATION

Title IX prohibits retaliation against any individual who files a complaint under these laws 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 against those who provided information as a witness. The district will investigate all allegations of retaliation and take actions against those found to have retaliated.

6. INFORMAL COMPLAINT PROCESS

- 6.1. Anyone may use informal procedures to report and resolve complaints of sexual harassment. Informal verbal or written reports may be made to any staff member. Staff will direct potential complainants to the Title IX Liaison/Human Resources Manager, who can explain the informal and formal complaint processes and what a complainant can expect. Additionally, staff will also inform an appropriate supervisor or professional staff member when they receive complaints of sexual harassment, especially when the complaint is beyond their training to resolve or alleges serious misconduct. Anyone may consult with the Human Resources Manager, a district administrator or the compliance officer without filing a formal complaint.
- 6.2. 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 the district's investigation (for example, allowing the complainant to change academic or extracurricular activities or break times to avoid contact with the alleged perpetrator).

6.3. Informal remedies may include:

- (a) An opportunity for the complainant to explain to the alleged harasser that his/her conduct is unwelcome, offensive or inappropriate, either in writing or face-to-face.
- (b) A statement from a staff member to the alleged harasser that the alleged conduct is not appropriate and could lead to discipline if proven or repeated.
- (c) A general public statement from an administrator in a building reviewing the district sexual harassment policy without identifying the complainant.
- (d) Developing a safety plan.
- (e) Separating staff persons.
- (f) Providing staff and/or student training.

6.4. Informal complaints may become formal complaints at the request of the complainant, parent, guardian, or because the district believes the complaint needs to be more thoroughly investigated.

6.5. The district will inform the complainant how to report any subsequent problems. Additionally, 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. Follow-up inquiries will follow a timeline agreed to by the district and complainant.

7. FORMAL COMPLAINT PROCESS – LEVEL ONE: Complaint to the District

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 before the final outcome of the district's investigation.

7.1. Filing a Complaint

- 7.1.1. All formal complaints will be in writing and will set forth the specific acts, conditions or circumstances alleged to have occurred and to constitute sexual harassment. The Title IX Liaison may draft the complaint based on the report of the complainant for the complainant to review and approve. The Superintendent or Title IX Liaison may also conclude that the district needs to conduct an investigation based on information in his/her possession, regardless of the complainant's interest in filing a formal complaint.

7.1.2. The time period for filing a complaint is one (1) 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:

(a) Specific misrepresentations by the district that it had resolved the problem forming the basis of the complaint.

(b) Withholding of information that the district was required to provide under WAC 392-190-065 or WAC 392-190-005.

7.1.3. Complaints may be submitted by mail, fax, email or hand-delivery to:
Title IX Liaison/Human Resources Manager
Danielle.Tupek@valleysd.org
3030 Huffman Road
Valley, Washington 99181
(509) 937-2773

Any district employee who receives a complaint that meets these criteria will promptly notify the Liaison.

7.2. **Investigation and Response**

7.2.1. The Title IX Liaison will receive and investigate all formal, written complaints of sexual harassment, or information in the coordinator's possession that they believe requires further investigation.

7.2.1.1. The Liaison will delegate his/her authority to participate in this process if such action is necessary to avoid any potential conflicts of interest.

7.2.1.2. Upon receipt of a complaint, the Liaison will provide the complainant a copy of this procedure.

7.2.2. Investigations will be carried out in a manner that is adequate in scope, reliable and impartial.

7.2.2.1. During the investigation process, the complainant and accused party or parties, if the complainant has identified an accused harasser(s), will have an equal opportunity to present witnesses and relevant evidence.

7.2.2.2. Complainants and witnesses may have a trusted adult with them during any district-initiated investigatory activities.

7.2.2.3. The district and complainant may agree to resolve the complaint in lieu of an investigation.

7.2.2.4. When the investigation is completed, the Liaison will compile a full written report of the complaint and the results of the investigation.

7.3. Superintendent's Response

- 7.3.1. The Superintendent will respond in writing to the complainant and the alleged perpetrator within thirty (30) 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. At the time the district responds to the complainant, the district must send a copy of the response to the Office of the Superintendent of Public Instruction (OSPI).
- 7.3.2. The response of the Superintendent or designee will include:
- (a) A summary of the results of the investigation.
 - (b) A statement as to whether a preponderance of the evidence establishes that the complainant was sexually harassed.
 - (c) 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.
 - (d) Notice of the complainant's right to appeal to the Board of Directors and the necessary filing information.
 - (e) Any corrective measures the district will take, remedies for the complainant (for example, sources of counseling, advocacy and other support), and notice of potential sanctions for the perpetrators(s) (for example, discipline).
- 7.3.3. The Superintendent's or designee's response will be provided in a language the complainant can understand and may require language assistance for complainants with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964.
- 7.3.4. If the complaint alleges discriminatory harassment by a named party or parties, the coordinator 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.
- 7.3.5. Any corrective measures deemed necessary will be instituted as quickly as possible, but in no event more than thirty (30) days after the Superintendent's mailing of a written response, unless the accused is appealing the imposition of discipline and the district is barred by due process considerations or a lawful order from imposing the discipline until the appeal process is concluded. Staff may also pursue complaints through

the appropriate collective bargaining agreement process (if applicable) or anti-discrimination policy.

- 7.3.6. The district will inform the complainant how to report any subsequent problems. Additionally, 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. Follow-up inquiries will follow a timeline agreed to by the district and complainant.

8. FORMAL COMPLAINT PROCESS – LEVEL TWO: Appeal to the Board of Directors

8.1. Notice of Appeal and Hearing

- 8.1.1. If a complainant disagrees with the Superintendent's or designee's written decision, the complainant may appeal the decision to the Board of Directors by filing a written notice of appeal with the secretary of the Board within ten (10) calendar days following the date upon which the complainant received the response.
- 8.1.2. The Board will schedule a hearing to commence by the twentieth (20th) calendar day following the filing of the written notice of appeal, unless otherwise agreed to by the complainant and the Superintendent or for good cause.
- 8.1.3. Both parties will be allowed to present such witnesses and testimony as the Board deems relevant and material.

8.2. Board Decision

- 8.2.1. Unless otherwise agreed to by the complainant, the Board will render a written decision within thirty (30) calendar days following the filing of the notice of appeal and provide the complainant with a copy of the decision.
- 8.2.2. The 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.
- 8.2.3. The decision will include notice of the complainant's right to appeal to the Superintendent of Public Instruction and will identify where and to whom the appeal must be filed. The district will send a copy of the appeal decision to OSPI.

9. FORMAL COMPLAINT PROCESS – LEVEL THREE: Complaint to the Superintendent of Public Instruction

9.1. Filing of Complaint

- 9.1.1. If a complainant disagrees with the decision of the Board of Directors, or if the district fails to comply with this procedure, the complainant may file a complaint with the Superintendent of Public Instruction.
- 9.1.2. A complaint must be received by the Superintendent of Public Instruction on or before the twentieth (20th) calendar day following the date upon which the complainant received written notice of the Board's decision, unless OSPI grants an extension for good cause. Complaints may be submitted by mail, fax, electronic mail or hand-delivery.
- 9.1.3. A complaint must be in writing and include:
 - (a) A description of the specific acts, conditions or circumstances alleged to violate applicable anti-sexual harassment laws.
 - (b) The name and contact information, including address, of the complainant.
 - (c) The name and address of the district subject to the complaint.
 - (d) A copy of the district's complaint and appeal decision, if any.
 - (e) A proposed resolution of the complaint or relief requested. 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.
- 9.2. **Investigation, Determination and Corrective Action**
 - 9.2.1. Upon receipt of a complaint, OSPI may initiate an investigation, which may include conducting an independent onsite review. OSPI may also investigate additional issues related to the complaint that were not included in the initial complaint or appeal to the district Superintendent or Board.
 - 9.2.2. Following the investigation, OSPI will make an independent determination as to whether the district has failed to comply with RCW 28A.642.010 or Chapter 392-19 WAC and 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 documentation the district must provide to demonstrate that corrective action has been completed.
 - 9.2.3. 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.

- 9.3. 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.

10. FORMAL COMPLAINT PROCESS – LEVEL FOUR: Administrative Hearing

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

11. OTHER COMPLAINT OPTIONS

11.1. 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. OCR may be contacted at 206-607-1600; TDD: 1-800-877-8339; OCR.Seattle@ed.gov; www.ed.gov/ocr

11.2. 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. WSHRC may be contacted at 1-800-233-3247; TTY: 1-800-300-7525; www.hum.wa.gov

12. OPTION OF MEDIATION

- 12.1. 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.
- 12.2. 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 the use of an impartial mediator. Mediation must be voluntary and requires the mutual agreement of both parties. It may be terminated by either party at any time during the mediation process. It may not be pursued to deny or delay a complainant's right to utilize the complaint procedures.
- 12.3. Mediation must be conducted by a qualified and impartial mediator who may not:
- (a) 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.

(b) 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/she serves as a mediator.

12.4. 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 the course of 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.

13. TRAINING AND ORIENTATION

13.1. A fixed component of all district orientation sessions for staff, students and regular volunteers will introduce the elements of Policy 5011-Sexual Harassment of District Staff Prohibited.

13.1.1. Staff

Staff will be provided information on recognizing and preventing sexual harassment. Staff will be fully informed of the formal and informal complaint processes and their roles and responsibilities under the policy and procedure. Certificated staff will be reminded 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 get the portions of this component of orientation relevant to their rights and responsibilities.

13.1.2. Students

Students will be provided with age-appropriate information on the recognition and prevention of sexual harassment and their rights and responsibilities under this and other district policies, procedures and rules at student orientation sessions and on other appropriate occasions, which may include parents.

13.2. As part of the information on the recognition and prevention of sexual harassment, staff, volunteers, students and parents will be informed that sexual harassment may include, but is not limited to:

- (a) 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.
- (b) Standing too close, inappropriately touching, cornering or stalking a person. Unwelcome touching of a sexual nature. Physical violence, including rape and sexual assault.

- (c) Making unwelcome, offensive or inappropriate sexually suggestive remarks, rumors, 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.
- (d) Distributing sexually explicit text messages, emails or pictures.
- (e) Displaying offensive or inappropriate sexual illustrations or graffiti.

14. POLICY REVIEW

Periodically, the Superintendent and designee(s) will review the use and efficacy of this policy and procedure. Based on this internal review, the Superintendent will prepare a report to the Board including, if necessary, any recommended policy or procedure changes. The Superintendent is encouraged to involve staff, volunteers and parents in the review process.

Supporting Documentation

Questions and Answers on Title IX and Sexual Violence, U.S. Department of Education, Office for Civil Rights, April 2014

Prohibiting Discrimination in Washington Public Schools, OSPI, February 2012

Understanding how to make a complaint of unlawful discrimination with your school district, April 2011, Equity & Civil Rights, Office of Superintendent of Public Instruction

Document History

Action:	Date:
New	September 18, 2013
Revised	March 18, 2015
Revised	November 18, 2015
Revised	