



## **NONDISCRIMINATION AND AFFIRMATIVE ACTION**

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The following goals shall assure that a meaningful educational experience will continue to exist for students and staff alike. The district will:

- A. Make efforts to modify the composition of the future work force in order to work toward a full utilization of aged, persons with disabilities, ethnic minorities, women and Vietnam-era or other U.S. military veterans in the various job categories.
- B. Ensure that all applicants and staff are considered on the basis of bona fide job-related qualifications. The purpose of the affirmative action plan is to actively include persons of under-utilized classes in the employment process, not to exclude others from it. The district shall continue to emphasize in all recruitment contacts that nondiscrimination is a basic element in the district's personnel procedures.
- C. Be responsible for reviewing all employment procedures and programs to assure that there is no indication of discriminatory practices. The district shall consider aged, persons with disabilities, ethnic minorities, women and Vietnam-era or other U.S. military veterans in the recruitment and employment process. Job descriptions for classified staff may be sent to the Washington Employment Service and other organizations which are recruiting sources for groups that may be under-utilized in the district's work force. Recruitment from colleges and universities may include institutions with high percentages of students of various ethnic minorities.
- D. Contract and purchase all goods and services from persons, agencies, vendors, contractors and organizations who comply with the appropriate laws and executive orders regarding discrimination.
- E. Take appropriate action to attract and retain aged, persons with disabilities, ethnic minorities and women at all levels and in all segments of the district's work force. Criteria for selecting staff shall be reviewed regularly to assure that such statements relate directly to the requirements for specific positions. However, pursuant to state law there shall be no preferential employment practices based on race or gender.
- F. Upgrade present staff by providing management development training to assure that individuals of under-utilized groups are prepared for positions of new and increased responsibility.

Implementation of the affirmative action plan shall be the responsibility of the Superintendent. Administrators shall assist in the attainment of the established goals and purposes of this affirmative action plan.

### **Dissemination**

The district will disseminate information concerning employment and developments under the affirmative action plan on a planned basis to assist in achieving the goals set forth in this plan.

Affirmative action information will be disseminated by:

1. Printing and distributing such information to staff, school libraries and offices;
2. Publicizing such information in district newsletters;
3. Conducting meetings with administrative staff to explain the intent and advantages of the policy and plan;
4. Conducting faculty meetings and meetings with classified staff;
5. Informing appropriate and interested recruiting and hiring sources; and
6. Informing all representative staff groups in the district.

### **Internal Audit and Monitoring System**

The Human Services department, in compliance with WAC 162-12, "Pre-employment Inquiry Guide," shall record by age, race, sex and other protected groups applicant flow, new hires, promotions, transfer requests, transfers, administrative internships and terminations. An analysis shall be made of the internal and external work force availability of aged, persons with disabilities, ethnic minorities and women.

The district shall evaluate the effectiveness of the nondiscrimination and affirmative action program and report its status to the board annually. Such reports may include recommendations for changes in the affirmative action program goals. The overall responsibility for monitoring and auditing this policy is assigned to the Assistant Superintendent of Human Services. The duties include:

- A. Analysis of the categories of employment in relation to affirmative action goals;
- B. Analysis of work force data and applicant flow;
- C. Maintaining records relative to affirmative action information;
- D. Preparation of reports of progress toward the goals and recommended changes required to maintain the vitality of the program;
- E. Identifying in a written report to the Superintendent any employment practice or policy that is discriminatory or that does not meet the requirements of the affirmative action program; and
- F. Keeping the Superintendent advised of the progress in implementing the goals and procedures of this affirmative action program.

## **Complaint Procedure**

To ensure fairness and consistency, the following review procedures are to be used in the district's relationship with its staff with regard to employment problems covered by state and federal equal employment opportunity laws and/or this affirmative action program. No staff member's status with the district shall be adversely affected in any way because the staff member utilized these procedures. As used in this procedure:

"Complaint" shall mean any written charge alleging discrimination based any of the protected classes. The complaint must describe the specific acts conditions or circumstances, which are alleged to be violations of any anti-discrimination laws and must state why the complainant believes that it is discrimination. 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: 1) Specific misrepresentation by the district that it had resolved the problem forming the basis of the complaint; or 2) Withholding of information that the district was required to provide under WAC 392-190-065 or WAC 392-190-005. Complaints may be submitted by mail, fax, email or hand-delivery to any district, school or to the district compliance officer responsible for investigating discrimination complaints. Any district employee who receives a complaint that meets these criteria will promptly notify the compliance officer.

“Respondent” shall mean the person alleged to be responsible or who may be responsible for the violation alleged in the complaint.

The primary purpose of this procedure is to secure an equitable solution to a complaint. The following steps shall be taken:

### **A. Informal Review Procedures**

When a staff member has an employment problem concerning equal employment opportunity, he/she shall discuss the problem with the immediate supervisor within 60 *calendar* days of the circumstances which gave rise to the problem. The staff member may also ask the Affirmative Action Officer and/or Title IX compliance officer to participate in the informal review procedure. It is intended that the informal discussion shall resolve the issue. If the staff member feels he/she cannot approach the supervisor because of the supervisor's involvement in the alleged discrimination, the staff member may directly contact the Affirmative Action Officer and/or Title IX officer before pursuing formal procedures. If the discussion with the officer or immediate supervisor does not resolve the issue the staff member may proceed to the formal review procedures. During the course of the informal process, the district will notify complainant of their right to file a formal complaint.

### **B. Level One – Complaint to the District**

The complaint must be written and set forth the specific acts, conditions, or circumstances alleged to be in violation. Upon receipt of a complaint, the compliance officer will provide the complainant a copy of this procedure. The compliance officer shall investigate the allegations set forth within 30 calendar days of the filing of the charge. The officer shall provide the

Superintendent with a full written report of the complaint and the results of the investigation. The Superintendent shall respond in writing to the complainant as expeditiously as possible, but in no event later than 30 calendar days following receipt of the written 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. The decision of the Superintendent or designee will include:

1. A summary of the results of the investigation;
2. Whether the district has failed to comply with anti-discrimination laws;
3. If non-compliance is found, corrective measures the district deems necessary to correct the non-compliance
4. Notice of the complainant's right to appeal to the school board and necessary filing information.

Such corrective measures deemed necessary shall be instituted as expeditiously as possible, but in no event later than 30 calendar days following the Superintendent's mailing of a written response to the complaining party.

In certain cases, the complainant and school district may agree to resolve the complaint in lieu of an investigation.

### **C. Level Two - Appeal to Board of Directors**

If a complainant disagrees with the Superintendent's or designee's written decision, he/she may file a written notice of appeal with the secretary of the Board of Directors within ten (10) calendar days following the date upon which the complainant received the response. The Board of Directors shall schedule a hearing to commence by the 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. Both parties shall be allowed to present such witnesses and testimony as the Board deems relevant and material. Unless otherwise agreed to by the complainant, the Board of Directors shall render a written decision within thirty (30) calendar days following the filing of the notice of appeal and provide the complainant a copy of the decision. 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 the Office of the Superintendent of Public Instruction.

### **D. Level Three - Appeal to the Superintendent of Public Instruction**

If a complainant disagrees with the school district's or public charter school's appeal decision under or if the school district or public charter school fails to comply with these procedures, the complainant may file a complaint with the Office of Superintendent of Public Instruction.

1. A complaint must be received by the Office of Superintendent of Public Instruction within twenty calendar days after the complainant received the school district's or public charter school's written appeal decision, unless the office of superintendent of public instruction grants an extension for good cause. Complaints may be submitted by mail, fax, electronic mail, or hand delivery
2. A complaint must be in writing and include:
  - a. A description of the specific acts, conditions, or circumstances alleged to violate applicable anti-discrimination laws and the facts on which the complaint is based;
  - b. The name and contact information, including an address, of the complainant;
  - c. The name and address of the school district or public charter school 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; and
3. If the allegations regard a specific student, the complaint must also include:
  - a. The name and address of the student, or in the case of a homeless child or youth, contact information for the student; and
  - b. The name of the school and school district, the student attends.

Upon receipt of a complaint, the Office of Superintendent of Public Instruction may initiate an investigation, which may include reviewing relevant information or conducting an independent on-site review. The Office of Superintendent of Public Instruction may, at its discretion, investigate additional issues related to the complaint that were not included in the initial complaint or appeal.

Following an investigation, the Office of Superintendent of Public Instruction will make an independent determination as to whether the school district has failed to comply with RCW 28A.642.010 or WAC 392-190. The Office of Superintendent of Public Instruction will issue a written decision to the complainant and the district that addresses each allegation in the complaint and any other noncompliance issues that the Office of Superintendent of Public Instruction has identified in the investigation. The written decision will include the corrective actions deemed necessary to correct any noncompliance and any documentation the district must provide to ensure that the corrective action is completed.

All corrective actions must be completed within the timelines established in the written decision unless the Office of Superintendent of Public Instruction grants an extension. If timely compliance is not achieved, the Office of Superintendent of Public Instruction may take actions to ensure compliance. Such actions may include, but are not limited to, referring the district to appropriate state or federal agencies empowered to order compliance.

A complaint may be resolved at any time when, before the conclusion of an investigation, the complainant, and the district, voluntarily agree to resolve the complaint. The Office of Superintendent of Public Instruction may provide technical assistance and dispute resolution methods necessary to resolve a complaint

## **E. Level Four – Administrative Hearing**

A complainant or school district that desires to appeal the written decision of the Office of the Superintendent of Public Instruction may file a written notice with the Superintendent of Public Instruction 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.

## **F. Mediation**

At any time during the discrimination 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 discrimination 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 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 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:

- 1) 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
- 2) 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 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.

## **Preservation of Records**

The files containing copies of all correspondence relative to each complaint communicated to the district and the disposition, including any corrective measures instituted by the district, shall be retained in the office of the District Compliance Officer.

**Adopted: May 8, 2006**  
**Revised: November 28, 2011**  
**Revised: June 22, 2015**  
**Revised: February 24, 2020**