

Procedure - Prohibition of Sexual Harassment - Students

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A. [Introduction](#)

This procedure sets forth the requirements of Policy 3205: Prohibition of Sexual Harassment - Students, including 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.

This procedure applies to sexual harassment (including sexual violence) targeted at students carried out by other students, employees or third parties involved in school district activities. Because students can experience the continuing effects of off-campus harassment in the educational setting, the District will consider the effects of off-campus conduct when evaluating whether there is a hostile environment on campus. The district has jurisdiction over such reports of off-campus behavior pursuant to Title IX of the Education Amendments of 1972, Chapter 28A.640, RCW and Chapter 392-190 WAC.

B. [Title IX Coordinator, Investigator, and Decision-maker](#)

The district will designate and authorize at least one employee to act as “Title IX Coordinator” to coordinate the district’s state and federal sex discrimination and sexual harassment regulation compliance efforts. The decision-maker who reaches the final determination of responsibility for alleged Title IX sexual harassment will be the Superintendent or designee. A decision-maker cannot be the same person who serves as the Title IX Coordinator or the investigator of a Title IX report.

The Title IX coordinator’s name, title, office address, telephone number, and email address are available on the district website; in handbooks/catalogs that are made available to staff, students, and parents; and in the district’s nondiscrimination statement.

Any individual designated as Title IX Coordinator, an investigator, or decision-maker, and any person who facilitates an informal resolution process must not have a conflict of interest or bias for or against individuals who made the report (“reporting party”) or individuals reported to be the perpetrator of the conduct that could constitute sexual harassment (“person(s) being reported”) in general or individually, and must receive training on the following:

- The definition of sexual harassment under Title IX.
- The scope of the district's education program or activity.
- How to conduct an investigation.
- How to conduct the formal resolution process and informal resolution process.
- How to serve impartially.
- Their responsibilities chapter WAC 392-190 WAC, and
- How to raise awareness of and eliminate bias based on sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal.

The investigator must also receive training on issues of relevance of questions and evidence, and on how to create an investigative report that fairly summarizes relevant evidence.

District decision-makers must also receive training on any technology to be used during hearings if the district provides for a hearing, and on issues of relevance of questions and evidence, including the requirement that questions and evidence about a reporting party's sexual predisposition or prior sexual conduct are not relevant unless 1) such questions and evidence is offered to prove that someone other than the person(s) being reported committed the alleged conduct or 2) questions and evidence concerning specific incidents of the reporting party's prior sexual behavior with respect to the person(s) being reported is offered to prove consent.

Any training materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must not rely on sex stereotypes and must promote impartial investigations and adjudications of reports. The district shall maintain for a period of seven years records of any informal resolution and the result; and all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, and make such materials available on the district's website or make these materials available upon request for inspection by members of the public.

C. Notice of Sexual Harassment Policy and Procedure

Information about the District's sexual harassment policy will be easily understandable, conspicuously posted throughout each school building, included in student and staff handbooks, and provided to volunteers and parents. In addition to the posting and reproduction Procedure 3205P and Policy 3205, the District will provide notice to employees and applicants that reports pursuant to this procedure may be filed with Jeff Lowell, Title IX Coordinator through any of the following methods:

- Email: lowellj@bsd405.org
- Phone: 425-456-4010 or 425-456-4050
- US Mail: *Jeff Lowell, Title IX Coordinator*, P.O. Box 90010, Bellevue, WA 98009
- In-person at the District's Educational Service Center address 12111 NE 1st St Bellevue, 98005.

D. Responding to Notice or Reports of Sexual Harassment

The district is on notice and required to act when any employee knows, or in the exercise of reasonable care should know, about possible sexual harassment. This includes informal and formal reports made to any staff member. All employees will direct informal and formal reports to Jeff Lowell, Title IX Coordinator.

Additionally, all employees will also inform an appropriate supervisor or professional staff member when they receive reports of sexual harassment especially when the report is beyond their training to resolve or alleges

serious misconduct.

In the event of an alleged sexual assault of a student, *the school principal or designee* will immediately inform:

- the Title IX Coordinator so that the District can appropriately respond to the incident consistent with its own resolution processes, and
- law enforcement.

The school principal will then notify the targeted student(s) and their parents/guardians of their right to file a criminal report and a sexual harassment report simultaneously.

Once the district is on notice of possible sexual harassment, the Title IX Coordinator or designee will promptly contact the reporting party to discuss the availability of supportive measures, consider the reporting party's wishes with respect to supportive measures, inform the reporting party of the availability of supportive measures with or without the filing of a formal report, and explain to the reporting party the process for filing a formal report.

Supportive measures must be offered to the reporting party, before or after the filing of a formal report, or where no formal report has been filed. Supportive measures may also be provided to the person(s) being reported. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the reporting party or person(s) being reported. Supportive measures should be designed to restore or preserve access to the District's education program or activity without unreasonably burdening the other party.

Supportive measures may include:

- An opportunity for the reporting party to explain to the alleged harasser that his or her conduct is unwelcome, offensive, or inappropriate, either in writing or face-to-face.
- 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.
- A public statement from an administrator in a building reviewing the district sexual harassment policy without identifying the reporting party.
- Developing a safety plan.
- Modifications of work or class schedules.
- Mutual restrictions on contact between the parties.
- Increased security and monitoring of certain areas of the campus or school building, or
- Providing staff and/or student training.

In response to notice of sexual harassment, the district will take prompt and appropriate action to investigate and take prompt and effective steps reasonably calculated to end harassment, eliminate the hostile environment, prevent its recurrence, and as appropriate, remedy its effects.

The district will inform the reporting party and their parent/guardian 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 reporting party.

A reporting party may file a formal report at any time while receiving supportive measures. A reporting party, their parent or guardian, or the Title IX Coordinator may file a formal report because, for example, they feel the report needs to be more thoroughly investigated or discipline may be warranted for individual alleged to have engaged in sexually harassing conduct.

E. Confidentiality

The district will maintain as confidential any supportive measures provided to the reporting party or person(s) being reported, to the extent that maintaining such confidentiality would not impair the ability of the district to provide the supportive measures.

If a reporting party requests that his or her name not be revealed to the alleged perpetrator or asks that the District not investigate or seek action against an alleged perpetrator, the request will be forwarded to Jeff Lowell, Title IX Coordinator for evaluation.

The Title IX Coordinator or designee should inform the reporting party that honoring the request may limit the District's ability to respond fully to the incident, including pursuing disciplinary action against the person(s) being reported. Although a reporting party'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.

If the reporting party 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 need to determine if 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.

F. Retaliation

Title IX prohibits retaliation, defined as adverse action taken against any individual in response to, motivated by or in connection with an individual's report of sexual harassment, participating in an investigation of such report and/or opposition to such harassment in the educational setting. When a formal report of sexual harassment is made or an informal resolution process is engaged, the District will take steps to prevent any retaliation against the reporting party, any individual who was the subject of the harassment, or against individuals who provided information as a witness. The District will investigate all allegations of retaliation and take actions against those found to have retaliated.

G. Formal Resolution Process

Formal Report to District: Anyone may initiate a formal report of sexual harassment, even if the informal resolution process is being utilized. Any District employee in receipt of a report will promptly notify the District Title IX Coordinator. Formal reports where multiple allegations arise out of the same facts, the allegations will be consolidated when possible. The following resolution process will be followed:

If a formal report is determined to meet the criteria for a Title IX report, the district will implement a formal resolution process that includes additional Title IX requirements. The formal resolution process with Title IX procedures is outlined in procedure 3205P: Exhibit B – Formal Title IX Resolution process.

If the formal report is determined not to meet the criteria for a Title IX report, the district will implement the following Standard Formal Resolution process:

Level 1: STANDARD FORMAL RESOLUTION PROCESS

Acknowledging a Report - Upon receipt of a report:

- The Title IX Coordinator or designee will provide the reporting party a copy of procedure 3205P in a language the reporting party can understand.
- The Title IX Coordinator will assess whether a formal report of sexual harassment meets the criteria for a Title IX complaint. If so, the District will implement investigation and resolution procedures under state law, as well as the following additional procedures as required by Title IX regulations. The investigation and resolution procedures are detailed in 3205P Exhibit B: [Prohibition of Sexual Harassment – Students \(Title IX\)](#)
- Reports that do not meet the criteria for a Title IX complaint will be resolved through this Standard Resolution Process.

Investigating a Formal Report

- Investigations will be carried out in a manner that is prompt, thorough, reliable, and impartial. During the investigation process, the reporting party and person(s) being reported, if identified in the report, will have equal opportunity to present witnesses and relevant evidence. The reporting party, person(s) being reported, and witnesses may have a trusted adult with them during any district-initiated investigatory activities. The District and reporting party may also agree to resolve the report in lieu of an investigation through the Informal Resolution Process.
- When the investigation is completed, the investigator will compile a full written report to include the results of the investigation.

Superintendent's Response to a Formal Report

- The superintendent or designee will respond in writing to the reporting party and the person(s) being reported within thirty (30) calendar days of receipt of the report, unless otherwise agreed to by the reporting party or if exceptional circumstances related to the report require an extension of the time limit. In the event an extension is needed, the District will notify the parties in writing of the reason for the extension and the anticipated response date. At the time the District responds to the reporting party, the District must send a copy of the response to the office of the Superintendent of Public Instruction.
- The response of the superintendent or designee will include: 1) a summary of the results of the investigation; 2) a statement as to whether a preponderance of the evidence establishes that the reporting party 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 reporting party and others, if appropriate; 4) notice of the reporting party's right to appeal and the necessary filing information; and 5) any corrective measures the district will take, remedies for the reporting party (e.g., sources of counseling, advocacy and academic support), and notice of potential sanctions for the perpetrator(s) (e.g., discipline).
- The superintendent's or designee's response will be provided in a language the reporting party can understand and may require language assistance for a reporting party with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964. If the report alleges discriminatory harassment by a named person being reported or person(s) being reported, the coordinator will provide the person(s) being reported with notice of the outcome of the investigation and notice of their right to appeal any discipline or corrective action imposed by the district.
- Any corrective measures deemed necessary will be instituted as quickly as possible, but in no event more than thirty (30) calendar 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 involved and/or participating in district initiated investigatory activities may access appropriate collective bargaining agreement process(es) or anti-discrimination policy.

- The district will inform the reporting party and their parent/guardian 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 reporting party.

Dismissal of Allegations

Allegations of conduct that do not meet the definition of sexual harassment or did not occur in a school's education program or activity against a person in the U.S. must be dismissed for Title IX purposes. Should it be necessary to dismiss under Title IX, the Title IX Coordinator will inform the reporting party(s) and person(s) being reported(s) of this decision. A dismissal under Title IX will not prevent the district from utilizing a formal or informal resolution process to address the alleged conduct and resolve the report.

Any formal report or allegations therein may be dismissed in their entirety:

- if the reporting party informs the Title IX Coordinator in writing that the reporting party desires to withdraw the formal report or allegations therein,
- if the person(s) being reported is no longer enrolled or employed by the school,
- the reported conduct does not meet the definition of sexual harassment, or
- if specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

Parties will receive written notice of a dismissal (mandatory or discretionary) and the reasons for the dismissal.

Informal Report Process

Anyone may use informal resolution options to resolve reports of sexual harassment if both parties give voluntary, informed, written consent to attempt informal resolution. Informal resolution options will be any effective steps reasonably calculated to end any harassment and to correct any discriminatory effects on the reporting party. Any informal resolution option must be facilitated by individuals trained to provide such a resolution.

At any time prior to a determination regarding responsibility for alleged sexual harassment as defined by Title IX regulations, the district may permit a reporting party to waive the formal report grievance process in favor of an informal resolution process not involving a full investigation and adjudication, provided that the district does not offer informal resolution of sexual harassment allegations against a person(s) being reported who is an employee of the district, and the district provides the parties with written notice disclosing the allegations, the requirements for the informal resolution process, and the circumstances in which the parties would be precluded from continuing with a formal resolution process for the same allegations.

The District may not require any individual to waive their right to a formal investigation and adjudication of any formal report of sexual harassment as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right.

Informal remedies may include:

- An opportunity for the reporting party to explain to the alleged harasser that the alleged conduct is

unwelcome, offensive, or inappropriate, either in writing or face-to-face.

- 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.
- A public statement from an administrator in a building reviewing the District sexual harassment policy without identifying the reporting party.
- Developing a safety plan.
- Separating students.
- Providing staff and/or student training.
- Mediation (facilitated conflict resolution).
- Restorative justice (peer-mediated small groups to talk, ask questions, and air grievances).

At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the formal resolution process with respect to the report.

As part of an informal resolution, the District will inform the reporting party and their parent/guardian how to report any subsequent problems. This information will be provided to the reporting party in writing and will be provided in a language the reporting party can understand and may require language assistance for reporting party(s) with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964.

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 reporting party, which will be included in the written response to the reporting party and their parent/guardian.

Emergency Removals for alleged sexual harassment under Title IX

These additional Title IX sexual harassment procedures do not preclude a school district from removing a student from school on an emergency basis consistent with [Procedure 3120P: Enrollment – Resident Student](#), [Procedure 3141: Nonresident Students](#), and [Policy and Procedure 3241: Student Discipline](#) and the associated student discipline regulations for emergency expulsion.

Title IX Investigation Recordkeeping

The district will maintain records of each Title IX sexual harassment investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript; any disciplinary sanctions imposed on the person(s) being reported, and any remedies provided to the reporting party; and any appeal from the result of a determination regarding responsibility, for a period of seven years.

The district must maintain records of any actions, including supportive measures, taken in response to a report or formal report of sexual harassment under Title IX, for a period of seven years.

H. Appeal Rights

Level Two - Notice of Appeal and Hearing

If the targeted student remains dissatisfied after the initial appeal to the superintendent or designee, the student may appeal to the Disciplinary Appeals Council (DAC) by filing a written notice of appeal with the school support coordinator on or before the tenth (10th) calendar day following the date upon which the reporting party received the superintendent or designee's written decision.

An appeal before the disciplinary appeal council must be heard on or before the twentieth (20th) calendar day following the filing of the written notice of appeal to the disciplinary appeal council. The disciplinary appeal council will review the record and render a written decision on the merits of the appeal on or before the fifth (5th) calendar day following the termination of the hearing and will provide a copy to all parties involved. The council's decision will be the final district decision.

The decision will be provided in a language that the reporting party can understand which may require language assistance for reporting party s with limited English proficiency in accordance with Title VI of the Civil Rights Act. The decision will include notice of the reporting party'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.

Level Three - Report to the Superintendent of Public Instruction Report

If a reporting party disagrees with the decision of the Disciplinary Appeals Council, or if the District fails to comply with this procedure, the reporting party may file a report with the Superintendent of Public Instruction (OSPI).

A report must be received by the Superintendent of Public Instruction on or before the twentieth (20th) calendar day following the date upon which the reporting party received written notice of the board of directors' decision, unless the Superintendent of Public Instruction grants an extension for good cause. Reports may be submitted by mail, fax, electronic mail, or hand delivery.

A report must be in writing and include:

1. A description of the specific acts, conditions or circumstances alleged to violate applicable anti-sexual harassment laws.
2. The name and contact information, including address, of the reporting party.
3. The name and address of the District subject to the report.
4. A copy of the District's report and appeal decision, if any.
5. A proposed resolution of the report or relief requested. If the allegations regard a specific student, the report must also include the name and address of the student, or in the case of a homeless child or youth, contact information.

Upon receipt of a report, the Office of the Superintendent of Public Instruction may initiate an investigation, which may include conducting an independent on-site review. OSPI may also investigate additional issues related to the report that were not included in the initial report or appeal to the superintendent or board.

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 392-190, WAC and will issue a written decision to the reporting party and the District that addresses each allegation in the report 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.

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 act including but not limited to referring the District to appropriate state or federal agencies empowered to order compliance.

A report may be resolved at any time when, before the completion of the investigation, the District voluntarily agrees to resolve the report. OSPI may provide technical assistance and dispute resolution methods to resolve a report.

Level Four - Administrative Hearing

A reporting party or school District that desires to appeal the written decision of the Office of the Superintendent of Public Instruction 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.

Other Report Options

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

OCR enforces several federal civil rights laws, which prohibit discrimination in public schools based on race, color, national origin, sex, disability, and age. File reports 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 reports 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 report procedure set forth in WAC 392-190-065 through 392-190-075, a District may, at its own expense, offer mediation. The reporting party and the District may agree to extend the report process deadlines to pursue mediation.

The purpose of mediation is to provide both the reporting party and the District an opportunity to resolve disputes and reach a mutually acceptable agreement using 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 reporting party's right to utilize the report 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 report 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 mediation will remain confidential and may not be used as evidence in any subsequent report, due process hearing or civil proceeding. The agreement must

be signed by the reporting party and a District representative who has authority to bind the District.

J. Training and Orientation

A fixed component of all District orientation sessions for staff, students and regular volunteers will introduce the elements of this policy. Staff will be provided information on recognizing and preventing sexual harassment. Staff will be fully informed of the formal and informal report processes and their roles and responsibilities under the policy and procedure.

Staff responsible for facilitating and/or conducting investigations will receive annual training on investigations.

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.

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 and rules at student orientation sessions and on other appropriate occasions, which may include parents.

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:

- 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, inappropriately touching, cornering or stalking a person.
- Displaying offensive or inappropriate sexual illustrations on school property.
- Sexual Assault.
- Intimate Partner (Dating and/or Domestic Violence); or
- Stalking.

K. Policy and Procedure Review

Annually, the superintendent or designee will convene an ad hoc committee composed of representatives of certificated and classified staff, volunteers, students, and parents to review the use and efficacy of this policy and procedure. The compliance officer will be included in the committee. Based on the review of the committee, the superintendent or designee will prepare a report to the board including, if necessary, any recommended policy changes. The superintendent will consider adopting changes to this procedure if recommended by the committee.

Date: 8.18, 8.20, 8.22, 3.23, 9.23