Sex Discrimination and Sex-Based Harassment Prohibited

The procedure is intended to set forth the implementation requirements of Policy 3205 and Policy 2011 to specify the district's obligations with respect to establishing an educational and work environment that does not tolerate sex discrimination, including sex-based harassment.

"Sex discrimination" means discrimination on the basis of sex, sex stereotypes, sex characteristics, sexual orientation, gender identity, gender expression, pregnancy, or related conditions. Sex-based harassment is a form of sex discrimination.

The district prohibits sex discrimination, including sex-based harassment, of students by other students, employees, or third parties involved in school district activities.

The district also prohibits sex discrimination in the policies, procedures, and practices of the district's program and activities, including but not limited to counseling and guidance services, recreational and athletics activities, and access to course offerings.

- **I. District Notice and Information**

Publication of Notices

Information about the policy and procedure will be clearly stated and:

- conspicuously posted on the district's website.
- conspicuously posted throughout each school building,
- provided to each employee, and
- reproduced in each student, staff, volunteer, and parent handbook.

Such notices will:

- Include a statement that the recipient does not discriminate on the basis of sex and prohibits sex discrimination and sex-based harassment in any education program or activity that it operates, as required by the State and Federal law Title IX, including employment;
- State that inquiries about the application of Title IX may be referred to the district's Title IX Coordinator, the Office for Civil Rights, or both;
- Identify the district's Title IX coordinator and provide contact information, including their name or title, office address, email address, and telephone number;
- How to locate the district's sex discrimination policy and grievance procedures;
- How to report information about conduct that may constitute sex discrimination; and
- How to make a complaint of sex discrimination.

If necessary, due to the format or size of any publication, the district may instead include in those publications a statement that the district prohibits sex discrimination, including sex-based harassment, in any education program or activity that it operates. It will also state that individuals may report concerns or questions to the Title IX Coordinator, and provide the location of the notice described above on the district's website.

In addition, copies of this policy and procedure, including the policies relating to employees, will be posted on the district website and in each district building in a place accessible to staff, students, parents, volunteers, and visitors.

At a minimum, sex discrimination, including sex-based harassment, recognition and prevention, and the elements of this policy will be included in staff, student, and regular volunteer orientation.

Information about the district's sex discrimination and sex-based 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.

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:

- Pressuring a person for sexual favors
- Writing graffiti of a sexual nature on school property
- Distributing or displaying sexually explicit texts, emails or pictures
- Making unwelcome, offensive or inappropriate sexual comments, gestures, or jokes
- Making unwelcome comments about someone based on their sex, appearance, sexual orientation or gender identity or expression
- Unwelcome touching of a sexual nature or stalking a person
- Physical violence, including rape, sexual assault, dating violence, and domestic violence

- **II.** The Title IX Team

For the purposes of this section, the Title IX Team refers to the Title IX Coordinator, investigators, decisionmakers, appeal decisionmakers, informal resolution facilitators, and people with the authority to modify or terminate supportive measures.

A. Roles of Members of the Title IX Team[1]

Any individual designated with any of the following roles must not have a conflict of interest or bias for or against any of the parties:

The Title IX Coordinator is the person authorized by the Superintendent to coordinate the district's federal state and sex discrimination and sex-based harassment regulation compliance efforts.[2]

The district's Title IX Coordinator can be reached at:

Dave Smith
Superintendent
(509) 447-3167
smithdave@newportgriz.com

Person with authority to modify or terminate supportive measures is an impartial employee and someone other than the employee who made the challenged supportive measure decision. They have the authority to modify or reverse a decision to provide, deny, modify, or terminate any supportive measure upon request of a party. Their decision will be based on a determination that

the initial supportive measure decision the supportive measure was inconsistent with the definition of supportive measures under Title IX at 34 CFR 106.2.

An informal resolution facilitator is a person who has received the training provided to all employees. They must also be trained on the rules and practices associated with the district's informal resolution process(es) and on how to serve impartially, including avoiding conflicts of interest and bias. Any district designee for the informal resolution process cannot be the complaint investigator, decision-maker, or appeal decision-maker. Such designee must not have a conflict of interest or bias for or against either of the parties. However, a district designee for the informal process will not be considered biased solely because they are an employee of the district or are paid to serve as a facilitator in an informal resolution process.

An investigator is a person who is impartial and has been trained to investigate compliance with the district's sex discrimination grievance process as described in Procedure 3205P.2 . The investigator can be the same person who serves as the Title IX Coordinator or the Decisionmaker of the sex discrimination complaint.[3]

The decisionmaker is the Superintendent or a designee that reaches the final determination of responsibility for alleged Title IX sex discrimination, including sex-based harassment, will be the Superintendent or their designee. The decisionmaker can be the same person who serves as the Title IX Coordinator or the investigator of the sex discrimination complaint.

The appeal decisionmaker will be a member of the School Board or a School Board designee and cannot be the Superintendent or an employee of the district.

B. **Training for the Title IX Team**

All investigators, decisionmakers, employees with authority to modify or terminate supportive measures, and other employees responsible for implementing the recipient's grievance procedures must be trained on the following topics to the extent related to their responsibilities:

- The definition of sex-based harassment under Title IX and state law;
- The scope of the district's education program or activity;
- How to conduct an investigation, the grievance process, and the informal resolution process;
- How to serve impartially;
- Their responsibilities under 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.

Investigators must also receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

The decisionmaker and appeal decisionmaker must also receive training on issues of relevance of questions and evidence, including the requirement that questions and evidence about a Complainant's sexual predisposition or prior sexual conduct are not relevant unless 1) such questions and evidence are offered to prove that someone other than the Respondent committed the alleged conduct or 2) questions and evidence concerning specific incidents of the Complainant's prior sexual behavior with respect to the Respondent is offered to prove consent.

Appeal decisionmakers must also receive training on any technology to be used during in-person or virtual hearings.

In addition to training requirements for all employees described above, the Title IX Coordinator and any designees under the Title IX Coordinator must be trained on:

- the responsibilities of the Title IX Coordinator,
- specific responsibilities for ensuring equal opportunity to pregnant and parenting students,
- the provision of supportive measures,
- the District's recordkeeping requirements, and
- any other training necessary to coordinate the recipient's compliance with Title IX.

III. Compliance Responsibilities

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

The Title IX Coordinator will inform the district community, including people who report sex discrimination, of the district's responsibilities under Policy 3205 and related policies and procedures. These include policies for pregnant and parenting students (Policy 3206), gender-inclusive schools (Policy 3211), and district employees (Policy 5210) to comply with its obligations under State and Federal laws, including Title IX, and to create inclusive and welcoming school communities.

The Title IX Coordinator will ensure the district has a process for facilitation of supportive measures for all students, staff, and people attempting to enroll or participate in district programs that report sex discrimination. In addition to the Title IX Coordinator, the process for supportive measures will include another district employee who is not a subordinate of the Title IX Coordinator to address requests for rescinding or modifying supportive measures.

The Title IX Coordinator will ensure the district has a process and system in place to provide support and modifications to pregnant and parenting students, staff, and people attempting to enroll or participate in district programs that report being pregnant or having pregnancy-related conditions.

The Title IX Coordinator will annually:
(1) Monitor the district's education program or activity for barriers to reporting information about conduct that reasonably may constitute sex discrimination under Title IX or this part and
(2) Take steps reasonably calculated to address such barriers.

When notified of conduct that reasonably may constitute sex discrimination under Title IX, Washington State law, or the district's policies, the Title IX Coordinator must take the following actions to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects:

- Treat the Complainant and Respondent equitably;
- Offer and coordinate supportive measures, as appropriate, for the Complainant.
- Offer and coordinate supportive measures, as appropriate, for the Respondent if the district has initiated grievance procedures or offered an informal resolution process to the Respondent.

- Notify the Complainant or, if the Complainant is unknown, the individual who reported the district's grievance procedures under 3205P.1 and the informal resolution process, if available and appropriate.

If a complaint is initiated under the grievance procedures, the Title IX Coordinator will:

- Evaluate the complaint and, as appropriate, initiate the grievance procedures under 3205P.1 or other applicable procedures;
- Describe and offer the informal resolution process under the same, if available and appropriate, [4] and
- Notify the Respondent of the grievance procedures, if appropriate and applicable.

In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and the absence or termination of an informal resolution process, the Title IX Coordinator will determine whether to initiate a complaint of sex discrimination that complies with the grievance procedures under 3205.P.1. To make this fact-specific determination, the Title IX Coordinator must consider, at a minimum, the following factors:

1. The Complainant's request not to proceed with a complaint;
2. The Complainant's reasonable safety concerns regarding a complaint;
3. The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
4. The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
5. The age and relationship of the parties, including whether the Respondent is an employee of the recipient;
6. The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
7. The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
8. Whether the district could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures under Procedure 3205P.1.

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the Complainant or other person or that the conduct as alleged prevents the recipient from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint.

When there has been a determination of responsibility for sex discrimination, the Title IX Coordinator or a designee will ensure that any corrective measures and remedial actions deemed necessary will be instituted as quickly as possible, but in no event more than thirty (30) days after the Superintendent mailed a written decision unless a student 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 or anti-discrimination policy.

IV. **District Staff Responsibilities**

Any district employee who witnesses or receives a report or complaint about sex discrimination, including sex-based harassment, is responsible for informing the district Title IX or Civil Rights

Compliance Coordinator. All staff are also responsible for directing reporters to the complaint process.[5]

Any district employee who is informed by a student (or a student's parent, guardian, or legal representative) of the student's pregnancy or pregnancy-related condition must promptly:

- provide them with the district's Title IX Coordinator's contact information and
- inform the affected student (or the student's legal representative) that the Title IX Coordinator can coordinate specific actions to prevent pregnancy and pregnancy-related discrimination and ensure equal access to the district's education program or activity.

Such notice does not need to be provided if the employee reasonably believes that the Title IX Coordinator has already been notified.

Reports of other forms of discrimination and discriminatory harassment will be referred to the district's Civil Rights Compliance Coordinator. Reports of disability discrimination or harassment will be referred to the district's Section 504 Coordinator.

Employees who are mandatory reporters must also report allegations of criminal misconduct to law enforcement, and suspected child abuse must be reported to law enforcement or Child Protective Services.

District/school staff, including employees, contractors, and agents, shall not provide a recommendation of employment for an employee, contractor, or agent that the district/school, or the individual acting on behalf of the district/school, knows or has probable cause to believe, has engaged in sexual misconduct with a student or minor in violation of the law.

V. District Training and Orientation Requirements

A fixed component of all district newly hired employees, and annual orientation sessions for staff, students, and regular volunteers will introduce the elements of this procedure, the district's grievance procedures, and the corresponding policy.

Staff will be provided information on recognizing and preventing sex discrimination, including sex-based harassment. Staff will be fully informed of their responsibilities when on notice of sex discrimination, the district's complaint procedures, and their roles and responsibilities under the policy and procedure.

All employees must receive training on the district's obligations under Federal, State, and local laws and regulations and district policy and procedures prohibiting sex discrimination, including those related to pregnancy or pregnancy-related conditions or marital or parental status. The training shall include, at a minimum:

- Employees' obligations to provide notice of the Title IX Coordinator as discussed above;
- The district's prohibition of sex discrimination, including prohibitions of harassment of students and staff based on sexual orientation, gender identity, gender expression, pregnancy, pregnancy-related conditions, and marital or pregnancy status; and
- The district's policy prohibition of retaliation against a student or staff member for exercising these rights, including imposing or threatening to impose negative educational outcomes because a student requests leave or accommodation, files a complaint, or otherwise exercises their rights under the policy.

Professional school personnel, including but not limited to certificated staff, will be reminded of their legal responsibility to report suspected child abuse and how some allegations of sex-based harassment may implicate that responsibility. Regular volunteers will get the portions of this component of orientation relevant to their rights and responsibilities.

- **VI. Policy and Procedure Review**

Annually, the Superintendent or designee and the Title IX Coordinator 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 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.

- **VII. Investigation Recordkeeping**

The district will maintain, for a period of at least seven years, the following records:

- All materials used to train employees, Title IX Coordinator, investigators, decisionmakers, and any person who facilitates an informal resolution process for the district and make such materials available upon request

- Records of any actions, including supportive measures, taken in response to a report of sex-based harassment under Title IX, even if no complaint is filed

- Records of any informal resolution and the result

Records of each sex discrimination investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript; any disciplinary sanctions imposed on the Respondent and any remedies provided to the Complainant; and any appeal from the result of a determination regarding responsibility

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[1] It does not need to be specified in the policy, but the district needs to determine who will fulfill these roles and ensure that the receive the necessary training. The District should also identify who will assume any of the team members' roles should any of them have a conflict of interest or bias.
[2] The district may delegate some of the Title IX Coordinator's responsibilities to others, such as for provision of supportive measures, informal resolution, investigations, etc. But, there should be only one Title IX Coordinator.
[3] This is a difference from the 2020 regulations. Under the 2024 regulations the Title IX Coordinator, investigator, and decisionmaker can be the same person within the district. But,it is not the recommended practice due to the many other duties of the Title IX Coordinator.
[4] This depends on whether 3205P.1 offers an informal resolution process. Under the 2024 Title IX Regulations, informal resolution is optional, but if a district uses it, there are explicit requirements for informal resolution facilitator(s), including impartiality, notice, recordkeeping, and training requirements.
[5] NOTE ON CONFIDENTIAL EMPLOYEES: Under the 2024 Title IX regulations, Recipients are allowed to designate "Confidential employees" to receive information about conduct that may

constitute sex discrimination under Title IX and not notify the Title IX Coordinator. See 34 CFR § 106.2 and 106.44. WSSDA's model policy and procedure does not include a provision for Confidential Employees due to the broad range of staff who are mandatory reporters of child abuse in WA state, the potential for confusion about when the confidential employee is acting in that role versus another in the district, and inadvertent harm or liability. Districts that want to include a provision on confidential employee are encouraged to discuss these option under the Title IX regulations with their counsel.

Date: 08.24