

## Procedure - Sex Discrimination and Sex-Based Harassment of Students Prohibited - Grievance

This procedure sets forth the district's process for receiving, investigating, and resolving reports or complaints of sex discrimination. It is designed to provide for a prompt, thorough, and equitable investigation of complaints and to take appropriate steps to resolve such situations. If sex discrimination is found to have occurred, the district must also take immediate action to eliminate the discrimination, prevent its reoccurrence, and address its effects.

Under Washington State law, anyone may file a complaint with the district alleging any action that federal, state, or local sex-based nondiscrimination laws and regulations would prohibit. However, the grievance procedure below was developed to meet the district's obligations under Title IX and is aligned with Washington State laws and regulations that define sex discrimination, including those that prohibit sex-based harassment.

For questions about this procedure, contact the District's Title IX Coordinator, Denise Reddinger, who can be reached at [denise.reddinger@gsd404.org](mailto:denise.reddinger@gsd404.org), 509-773-5846, or at 525 Simcoe Dr. Goldendale, WA 98620.

### I. General Definitions

- A. Complainant** means (1) a student who is alleged to have been subjected to conduct that could constitute sex discrimination or (2) a person other than a student who is alleged to have been subjected to conduct that could constitute sex discrimination and who was participating or attempting to participate in the district's education programs or activities at the time of the alleged sex discrimination.

In some instances, the person who files a complaint may not be the student who was alleged to have been subjected to sex discrimination. In those cases, the person who filed the complaint is referred to as the **complaint requestor**, and the student subjected to the alleged sex discrimination is referred to as the complainant in documents related to the complaint.

- B. Complaint** means an oral or written request to the district that can be objectively understood as a request for the district to investigate and determine whether alleged sex discrimination occurred.
- C. Party** means the complainant or the respondent.
- D. Parties** means the complainant and the respondent
- E. Relevant** means related to allegations of sex discrimination being investigated. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred. Evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.
- F. Remedies** means appropriate measures provided to a complainant or any other person the recipient identifies as having had equal access to the district's education programs or activities limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the district's education programs or activities after the district determines that sex discrimination occurred.
- G. Respondent** means a person alleged to have violated the district's prohibition on sex discrimination and can be a student, employee, or third party. (If the complaint is not against an individual or group of individuals but is based solely on a policy or practice of the district, it will be considered a complaint of sex discrimination against the district. Parts of this procedure that apply to a respondent will not apply, but all other parts will be applied.)

- H. Retaliation** means intimidation, threats, coercion, or discrimination against any person by the district, a student, or an employee or other person authorized by the district to provide aid, benefit, or service under the district's education programs or activities for the purpose of interfering with any right or privilege secured by Title IX or state sex discrimination laws or because the person has reported information, made a complaint, testified, assisted, or participated, or refused to participate in any manner in an investigation or proceeding under this procedure.
- I. Sex discrimination** has the meaning identified in Policy 3205.
- J. Sex-based harassment**, including **sexual harassment**, has the definition identified in Policy 3205.
- K. Student with a disability** means a student who is an individual with a disability as defined in Section 504 of the Rehabilitation Act of 1973 (Section 504) or a child with a disability as defined in the Individuals with Disabilities Education Act (IDEA).
- L. Supportive measures** means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent. The measures are not punitive or disciplinary and must be without fee or charge. The purpose of the measures is to (1) restore or preserve a party's access to the district's education programs or activities, including measures designed to protect the parties' safety or the district's educational environment, and (2) provide support during the grievance process.

## **II. Staff Roles and Responsibilities**

### **A. All Employees**

Any district employee who has information about conduct that reasonably may constitute sex discrimination, including sex-based harassment, must either (1) notify the Title IX Coordinator or (2) provide the following information to the person who provided the employee with the information about conduct that reasonably may constitute sex discrimination: the contact information of the Title IX Coordinator and information about how to make a sex discrimination complaint.

### **B. Title IX Coordinator**

The district must designate one employee as the Title IX Coordinator. The Title IX Coordinator coordinates the district's efforts to comply with its responsibilities under Title IX and state sex discrimination laws.

The Title IX Coordinator must monitor the district's education programs and activities for barriers to reporting information about conduct that reasonably may constitute sex discrimination and take steps reasonably calculated to address any barriers.

### **C. Person with Authority to Modify or Terminate Supportive Measures**

As part of the grievance procedure described under Section VI, the district must offer and coordinate supportive measures. Either party may challenge a decision to provide, deny, modify, or terminate supportive measures. The district will designate an impartial employee who is someone other than the employee who decided to provide, deny, modify, or terminate supportive measures as a person with the authority to modify or reverse that decision upon the request of a party.

### **D. Informal Resolution Facilitator**

As described in more detail below, the district may offer an informal resolution process for responding to information about conduct that reasonably may constitute sex discrimination or when it receives a sex discrimination complaint. The district will designate a person to facilitate that process. A facilitator cannot serve as an investigator or a decision-maker. A facilitator cannot have a conflict of interest or bias for or against either party. A facilitator will not be considered biased solely because they are a district employee or are paid to serve as a facilitator.

## **E. Investigator**

An investigator is a person who investigates complaints filed under the grievance procedure described in Section VI. The investigator can be the same person as the Title IX Coordinator or the decisionmaker of the sex discrimination complaint.

## **F. Decisionmaker**

A decisionmaker is a person who decides whether a sex discrimination complaint is substantiated. The decisionmaker can be the same person as the Title IX Coordinator or the investigator of the sex discrimination complaint.

## **III. Staff and Student Training**

### **A. Staff Training**

All employees and volunteers must be trained on the district's obligation to address sex discrimination in its education programs and activities, the scope of conduct that constitutes sex discrimination under Title IX (including the definition of sex-based harassment) and state sex discrimination laws, and all applicable notification and information requirements. The training will also include reviewing Policy 3205 and this procedure.

In addition to the training received by all employees, investigators, decision-makers, people who are responsible for implementing the district's grievance procedure, and people who have the authority to modify or terminate supportive measures must be trained on the following topics: the district's obligations to respond to sex discrimination under 34 CFR 106.44; the district's grievance procedure; how to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and the meaning of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance.

In addition to the training received by all employees, facilitators of the informal resolution process must be trained on the rules and practices associated with the district's informal resolution process and how to serve impartially, including avoiding conflicts of interest and bias.

In addition to all the training described above, the Title IX Coordinator must be trained on their specific responsibilities under 34 CFR 106.8(a), 34 CFR 106.40(b)(3), 34 CFR 106(f) and (g), the district's recordkeeping system and the requirements of 34 CFR 106.8(f), and any other training necessary to coordinate the district's compliance with Title IX.

### **B. Student Training**

Students will be provided age-appropriate information on the recognition and prevention of sex-based harassment and their rights and responsibilities under Policy 3205 and this procedure during student orientation and on other appropriate occasions. Parents may be included.

The information shared with students (and parents) will include, but is not limited to, the following topics:

- 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

## **IV. Responding to Reports of Sex Discrimination**

When the district has knowledge of conduct that reasonably may constitute sex discrimination in its education programs or activities, it will respond promptly and effectively.

## **A. All Employees**

Any district employee who has information about conduct that reasonably may constitute sex discrimination, including sex-based harassment, must either (1) notify the Title IX Coordinator or (2) provide the following information to the person who provided the employee with the information about conduct that reasonably may constitute sex discrimination: the contact information of the Title IX Coordinator and information about how to make a sex discrimination complaint.

## **B. Title IX Coordinator**

When the Title IX Coordinator is notified of conduct that reasonably may constitute sex discrimination, they will take the following actions to promptly and effectively end any sex discrimination in the district's education programs or activities, prevent its recurrence, and remedy its effects:

- Treat the complainant and respondent equitably.
- Offer and coordinate supportive measures.
- Notify the complainant or, if the complainant is unknown, the individual reporting the conduct of the grievance procedure and the informal resolution process if appropriate.
- If a complaint is made, the Title IX Coordinator must notify the respondent of the grievance procedure and the informal resolution process if appropriate.
- In response to a complaint, the Title IX Coordinator must initiate the grievance procedure and informal resolution process if appropriate and requested by all parties.
- In the absence of a complaint or the withdrawal of any of or all the allegations in a complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator must determine whether to initiate a sex discrimination complaint. To make that determination, the Title IX Coordinator must consider the following factors:
  - The complainant's request not to proceed with initiating a complaint.
  - The complainant's reasonable safety concerns regarding initiating a complaint.
  - The risk that additional acts of sex discrimination would occur if a complaint is not initiated.
  - The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of the respondent from campus or a disciplinary sanction to end the discrimination and prevent it from recurring.
  - The age and relationship of the parties, including whether the respondent is an employee of the recipient.
  - The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals.
  - The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred.
  - Whether the district could end the alleged discrimination and prevent its recurrence without initiating its grievance procedure.

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct 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 district from ensuring equal access based on sex to its education programs or activities, the Title IX Coordinator may initiate a complaint.

- If the Title IX Coordinator initiates a complaint, they must notify the complainant before doing so and appropriately address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures.
- Regardless of whether a complaint is initiated, the Title IX Coordinator must take other appropriate prompt and effective steps and steps necessary to effectuate the remedies provided to an individual complainant, if any, to ensure that sex discrimination does not continue or recur within the district's education programs or activities.

## **C. Contacting Law Enforcement**

If the alleged conduct involves the sexual assault of a student, the district will inform law enforcement consistent with mandatory reporting requirements in chapter 26.44 RCW.

In the event of an alleged sexual assault, the school principal will also immediately notify the student, parent, or guardian of their right to file a criminal complaint with law enforcement and a sex-based harassment complaint with the district. With the consent of the student or employee or when there is a legal requirement to do so, the principal may also help them contact law enforcement.

#### **D. Written Notices**

Any written notices or documents the district provides to the parties in responding to conduct that reasonably may constitute sex discrimination or sex discrimination complaints will be in a language the parties can understand, which may require language assistance for parties with limited English proficiency.

#### **E. Supportive Measures**

Once the Title IX Coordinator has been notified of possible sex discrimination, the Title IX Coordinator or a designee will promptly contact the affected student or employee to discuss the availability of supportive measures and consider their wishes concerning supportive measures; explain the district's grievance procedure and resolution options, including the informal resolution process if appropriate; and provide a copy of Policy 3205 and this procedure.

When supportive measures are offered, if a complaint has not been filed, the district will provide written notice that the complainant may file a complaint with the district at any time. The Title IX Coordinator or designee will work with a party to ensure their wishes concerning any planned and implemented supportive measures are considered.

If a complainant does not want to file a complaint or engage in informal resolution options, a reported concern may be resolved by offering and, upon request, providing supportive measures. The Title IX Coordinator or designee will document any supportive measures that are provided.

##### *1. Types of Supportive Measures*

Supportive measures are available to both parties and may vary depending on what is reasonably available, but may include the following:

- A request that an administrator address allegations by meeting with the respondent (with or without the complainant) to discuss concerning behavior, school policies, and expectations. Such a conversation must be non-disciplinary and non-punitive. Respondents cannot be required to attend such meetings, nor are they required to provide any information if they attend. If it takes place, the conversation will be documented.
- An opportunity for a complainant, upon request and voluntarily, to meet with an administrator and a respondent to explain to the respondent that their conduct is unwelcome, offensive, or inappropriate, either in writing or face-to-face.
- A public statement from an administrator in a building reviewing this procedure and the accompanying policy without identifying the complainant.
- Developing a safety plan.
- Mutual restrictions on contact between the parties.
- Increased security and monitoring of certain areas of the campus or school building.
- Providing employee or student training.
- Remote or alternative learning environments for students.
- Counseling.
- Changes in classes or other activities.
- Modifying work or class schedules, including extensions of deadlines and other course-related adjustments.
- Training and education programs related to sex discrimination or harassment.

If either party is a student with a disability, the Title IX Coordinator must consult with one or more members of the student's IEP team or 504 team, whichever is applicable, to determine how to comply with Section 504 or the IDEA in implementing supportive measures.

For allegations other than sex-based harassment or retaliation, the district is not required to alter the alleged discriminatory conduct for the purpose of providing a supportive measure.

## *2. Privacy and Supportive Measures*

To ensure the parties' privacy, the district must not disclose supportive measures to anyone other than the people to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to the district's education programs or activities. For example, the district may need to tell specific staff, the other party, or a third party of a supportive measure to implement or document it.

Further, the district can disclose information about supportive measures under the following circumstances:

- The district has obtained prior written consent from a person with the legal right to consent to the disclosure.
- The information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue.
- To carry out the purpose of complying with Title IX.
- As required by federal law, federal regulations, or the terms and conditions of a federal award.
- To the extent such disclosures do not otherwise conflict with Title IX, when required by state or local law, or when permitted under FERPA.

## *3. Modifying or Terminating Supportive Measures*

As appropriate, the district may modify or terminate supportive measures after an informal resolution process or after the grievance procedure, or the district may continue them beyond that point.

The district must allow a party to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially.

If either party wants to modify or reverse the district's decision to provide, deny, modify, or terminate supportive measures applicable to them, they may request that the district modify or reverse the decision. When the district receives that request, it will designate someone with the authority to modify or reverse the decision. That person will then review the decision to see if it was inconsistent with the definition of supportive measures.

## **F. Personally Identifiable Information**

The district must not disclose personally identifiable information obtained while complying with Title IX unless one of the following circumstances apply:

- The district has obtained prior written consent from a person with the legal right to consent to the disclosure.
- The information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue.
- To carry out the purpose of complying with Title IX.
- As required by federal law, federal regulations, or the terms and conditions of a federal award.
- To the extent such disclosures are not otherwise in conflict with Title IX, when required by state or local law or when permitted under FERPA.

## **V. Informal Resolution Process**

When the district receives information about conduct that reasonably may constitute sex discrimination or when a sex discrimination complaint is made, the district may offer the parties an informal resolution process. The process may be offered at any time before the district determines whether sex discrimination occurred under the grievance procedure. However, the district cannot offer an informal resolution process if the allegation involves an employee engaging in sex-based harassment of a student or if offering an informal process would conflict with federal, state, or local law. Further, the district may decline to allow an informal resolution if it determines that the alleged conduct would present a future risk of harm to others.

The district will not require or pressure the parties to participate in an informal resolution process. The district must obtain the parties' voluntary consent and must not require a waiver of the right to an investigation and

determination of a complaint as a condition of enrollment, continuing enrollment, employment, continuing employment, or any other right.

Before initiating an informal resolution process, the district must provide the parties notice that explains the following:

- The allegations.
- The requirements of the informal resolution process.
- Before agreeing to a resolution, any party has the right to withdraw from the informal resolution process and initiate or resume the grievance procedure.
- The parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming the grievance procedure related to the subject of the informal resolution process.
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an information resolution agreement is binding only on the parties.
- The information the district will maintain and whether and how it could disclose the information for use in the grievance procedure if it is initiated or resumed.

The parties will have forty-five calendar days to engage in the informal resolution process unless there is a good cause for extension. If either party withdraws from the informal resolution process or the process has not concluded within forty-five calendar days without a good cause extension, the informal resolution facilitator or the Title IX Coordinator will end the informal resolution process.

If the informal resolution process ends without a resolution agreement between the parties, the following will happen:

- If no complaint was filed before the informal resolution process began, the Title IX Coordinator will provide written notice to the parties and remind the complainant of the right to file a complaint.
- If a complaint was filed and the complainant has not withdrawn the entire complaint in writing, the Title IX Coordinator will provide the parties with written notice that the complaint, in whole or part, will be investigated and a determination issued under the grievance procedure.

## **VI. Grievance Procedure for Handling Complaints**

### **A. Basic Requirements of the Grievance Procedure**

#### *1. Equitable Treatment of the Parties*

The district will treat complainants and respondents equitably.

Respondents are presumed not to be responsible for the alleged sex discrimination until a determination is made at the conclusion of the grievance procedure. The district will comply with its grievance procedure before disciplining a respondent for sex discrimination. However, the district may remove a student if it undertakes an individualized safety and risk analysis and determines that an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal. The district will comply with Policy and Procedure 3241 in removing a student. Additionally, the district may place an employee on administrative leave while following the grievance procedure.

The Title IX Coordinator, investigator, and decisionmaker cannot have a conflict of interest or bias in favor of or against complainants or respondents.

#### *2. Privacy of the Parties*

The district will take reasonable steps to protect the privacy of the parties and witnesses during the grievance procedure's pendency. However, these steps cannot restrict the parties' ability to obtain and present evidence; consult with family members, confidential resources, or advisors; or otherwise participate in the grievance procedure.

(See Section IV.F. for guidance on personally identifiable information.)

### 3. Evidence

The district will objectively evaluate all relevant evidence, including inculpatory and exculpatory. (See Section I.E. for the definition of "relevant.")

Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking them, will be excluded as impermissible unless one of the stated exceptions applies:

- Evidence protected under a privilege as recognized by federal or state law unless the person to whom the privilege is owed has voluntarily waived the privilege.
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness unless the district obtains that party's or witness's voluntary, written consent for use in the district's grievance procedure.
- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and the respondent does not by itself demonstrate or imply that the complainant's consent to the alleged sex-based harassment or preclude a determination that sex-based harassment occurred.

### 4. Prohibition on Retaliation

Retaliation is prohibited from the district, a student, or an employee or other person authorized by the district to provide any aid, benefit, or service under the district's education program or activity. Retaliation includes student-to-student retaliation.

#### **B. Filing a Complaint**

All complaints will be in writing and will set forth the specific acts, conditions, or circumstances alleged to have occurred and to constitute sex discrimination.

The time for filing a complaint is one year from the date of the occurrence that it is the subject of the complaint. However, the deadline may not be imposed if the complainant was prevented from filing because the district specifically misrepresented that it had resolved the problem forming the basis of the complaint or because the district withheld information it was required to provide under chapter 392-190 WAC.

Complaints may be submitted by mail, fax, email, or hand delivery to the Title IX Coordinator. Any employee who receives a complaint must promptly notify the Title IX Coordinator.

(See Section IV.B. for when the Title IX Coordinator might file a complaint.)

#### **C. Responding to the Complaints**

When a complaint is received, the Title IX Coordinator will follow the requirements described in Section IV of this procedure and consider the informal resolution process described in Section V of this procedure.

#### **D. Notice of Allegations**

After receiving a complaint, the district will issue a notice of allegations to the parties. The notice must include the following:

- Policy 3205 and this procedure in a language the parties can understand, which may require language assistance for a party with limited English proficiency.
- Sufficient information that is available at the time to allow the parties to respond to the allegations. Sufficient information includes, to the extent known by the district, the identities of the parties involved in the incident, the conduct alleged to constitute sex discrimination, and the date and location of the alleged incident.
- A statement that retaliation is prohibited.



- A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of the evidence; and if the district describes the evidence, the parties are entitled to an equal opportunity to access the relevant and permissible evidence upon the request of any party.

If, during an investigation, the district decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the initial notice, the district will provide notice of the additional allegations to the parties whose identities are known.

The district may consolidate complaints of sex discrimination against more than one respondent, by more than one complainant against one or more respondents, or by one party against another party when the allegations of sex discrimination arise from the same facts or circumstances.

## **E. Investigation**

The Title IX Coordinator will appoint an investigator to investigate the complaint. The investigator can be the Title IX Coordinator, the superintendent, another employee, or someone hired by the district if they are properly trained.

The investigation must be prompt, thorough, adequate, reliable, and impartial. To ensure that, the district will do the following:

- Ensure that the burden is on the district—not the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.
- Provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.
- Review all evidence gathered through the investigation and determine what evidence is relevant and impermissible regardless of relevance.
- Provide each party with an equal opportunity to access the evidence or an accurate description of the evidence.

If the district provides a description of the evidence, it will provide the parties with an equal opportunity to access the relevant and permissible evidence upon the request of any party.

The parties will have five calendar days to respond to the evidence or the description of the evidence.

The district will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained through the grievance procedure. Disclosing such information and evidence for administrative proceedings or litigation related to the complaint is authorized.

## **F. Superintendent's Response and Decision**

The superintendent or designee will issue a decision regarding the complaint within thirty calendar days of receiving the complaint. The timeline may be extended if the complainant agrees to extend it or if exceptional circumstances related to the complaint require an extension. If an extension is needed, the district will notify the complainant and the respondent in writing of the reasons for the extension and the anticipated response date.

Before issuing the decision, the superintendent or designee will objectively review all evidence gathered in the investigation and determine what evidence is relevant and permissible. The superintendent or designee may question parties and witnesses to adequately assess a party's or witness's credibility if credibility is in dispute and is relevant to evaluating one or more allegations of sex discrimination.

When determining whether sex discrimination occurred, the superintendent or designee will use the preponderance of the evidence standard.

The superintendent's or designee's decision will be sent to the parties and must include the following:

- A summary of the results of the investigation.
- Whether sex discrimination occurred.
- The rationale for the determination.

- Notice of the right to appeal, including where and to whom the appeal must be filed.

When the district responds to the parties, the district must send a copy of the response to the Office of the Superintendent of Public Instruction (OSPI).

If the superintendent or designee determines that sex discrimination occurred, the Title IX Coordinator must implement remedies for the complainant or other persons identified by the district as having had equal access to the district's education program or activities limited or denied by sex discrimination as expeditiously as possible but no later than thirty calendar days after the superintendent's or designee's decision was issued, unless otherwise agreed to by the complainant. (See Section I.G. for the definition of "remedies.")

Remedies may include, but are not limited to, the following:

- Continuing supportive measures
- Referring to counseling or health services
- Adjusting schedules
- Providing safety escorts
- Conducting climate surveys
- Training
- Modifying policies and procedures

If it is determined that a respondent engaged in sex discrimination, the district will administer student discipline in accordance with Policy and Procedure 3241 and employee discipline in accordance with applicable policies and procedures and collective bargaining agreements.

#### **G. Appeal to the Board**

If a complainant or respondent disagrees with the superintendent's or designee's decision, the disagreeing party may appeal the decision to the board or designee by filing a written notice of appeal with the superintendent within ten calendar days of receiving the decision.

If the complaint involves a named respondent, the district will implement appeal procedures equally for both parties and provide written notice to the other party when an appeal is filed.

The board or designee shall schedule a hearing to commence by the twentieth calendar day following the filing of the written notice of appeal unless otherwise agreed to by the parties. Both parties will be allowed to present witnesses and testimony as the board or designee deems relevant and material.

The appeal must be heard by an impartial individual or group of impartial individuals who do not have any conflicts or bias for any parties. The appeal decisionmaker must also be properly trained. (See Section III.A. of this procedure regarding training requirements.) The board may designate someone else to hear the appeal. However, the board cannot appoint the superintendent or anyone under the superintendent's authority. The board will also ensure that the decisionmaker for the appeal is not an employee of the district, nor the same decisionmaker who reached the determination regarding responsibility, the investigator, or the Title IX Coordinator. A decisionmaker for the appeal is not considered an employee of the district solely because they receive payment to serve as the decisionmaker for the appeal.

Unless otherwise agreed to by the parties, the board or designee will render a written decision within thirty calendar days of receiving the written notice of appeal. All parties will receive a copy of the decision.

#### **H. Complaint to OSPI**

If the complainant disagrees with the board's or the board's designee's decision, or if the district fails to comply with this procedure, the complainant may file a complaint with OSPI. OSPI must receive a complaint on or before the twentieth calendar day following the date the complainant received written notice of the decision unless OSPI grants an extension for good cause. Complaints may be submitted by mail, fax, electronic mail, or hand delivery.

A complaint must be in writing and include the following: (1) a description of the specific acts, conditions, or circumstances alleged to violate applicable anti-discrimination laws; (2) the name and contact information, including address, of the complainant; (3) the name and address of the district subject to the complaint; (4) copy of the district's complaint and appeal decision, if any; and (5) 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.

Upon receipt of a complaint, OSPI may open an investigation, which may include conducting an independent on-site review. OSPI may also investigate additional issues related to the complaint that were not included in the initial complaint or appeal. 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 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.

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.

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.

### **I. Administrative Hearing**

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

### **VII. Mediation with the District for Complaints of General Discrimination**

If the complaint does not have an individual respondent because it concerns a district policy or practice, the district may offer mediation at any time during the grievance procedure. The complainant and the district may agree to extend the grievance procedure deadlines to pursue mediation.

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

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 solely because they serve as a mediator.

If the parties reach an agreement through mediation, they may execute a legally binding agreement that sets forth the resolution and states that all discussions, including both oral statements and any written notes or documents, that occurred during mediation will remain confidential and privileged 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 with the authority to bind the district.

### **VIII. Responding to Retaliation**

When the district has information about conduct that reasonably may constitute retaliation, it will respond to that information in compliance with Section IV. If the district receives a complaint alleging retaliation, it will initiate the grievance procedure described in Section VI or, as appropriate, the information resolution process described in Section V.

## **IX. Recordkeeping**

The district will maintain the following records for at least seven years:

- For each complaint of sex discrimination, records documenting the informal resolution process or the grievance procedure and the resulting outcome.
- For each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute sex discrimination under Title IX, records documenting the actions the district took to meet its obligations described in this procedure.
- All materials used to provide training to employees. These materials will be available for public inspection upon request.

## **X. Other Complaint Options**

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

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

206-607-1600 | TDD: 1-800-877-8339 | [OCR.Seattle@ed.gov](mailto:OCR.Seattle@ed.gov) | [www.ed.gov/ocr](http://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 places of public accommodation, including schools. File complaints with WSHRC within six months of the date of the alleged discrimination.

1-800-233-3247 | TTY: 1-800-300-7525 | [www.hum.wa.gov](http://www.hum.wa.gov)

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