



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

The district is committed to providing an educational environment that is free from sex discrimination, sex-based harassment, and retaliation for engaging in any protected activity as required by Federal and State laws for all students.

The district has jurisdiction over these complaints pursuant to the Federal law Title IX of the Education Amendments of 1972 (Title IX) and Washington State laws, including Chapter 28A.640 RCW and Chapter 392-190 WAC.

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. As discussed in Section III.B, the district will assess complaints under this procedure and may refer them to other district policies and procedures.

For questions about this procedure, contact the District’s Title IX Coordinator, who can be reached at:

Kyle Dodge, kdodge@libertysd.us, (509) 245-3229 ext.1221

I. General Definitions

“Complainant,” as defined by Federal law, Title IX, means a student, employee, or other person who was participating or attempting to participate in a District education program or activity who is alleged to have been subjected to sex discrimination.

In some instances, the person who files a complaint may not be the student, employee, or other person 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, employee, or person subjected to the alleged sex discrimination is referred to as “the Complainant” in documents related to the complaint.

“Complaint” means an oral or written request to the district that can be objectively understood as a request the district investigate and determine whether alleged sex discrimination occurred.

“Party” or “Parties” means a Complainant(s) or Respondent(s).

“Prohibited Conduct” means legally prohibited sex discrimination and harassment. Specific prohibited conduct is defined in Section VI below.



“Remedies” means appropriate measures provided after the district determines that sex discrimination occurred to restore or preserve a Complainant or any other person’s equal access to the recipient’s education program or activity.

“Respondent” means a person who is alleged to have violated the district’s prohibition of sex discrimination and can be a student, employee, or other 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 of the procedure will be applied.)

“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).

“Written notice” means written or electronic notice in a language the party can understand, which may require language assistance for parties with limited English proficiency in accordance with Title VI of the Civil Rights Act. The term parties include the parent(s)/guardian(s) of any minor student.

II. Responding to Notice or Report of Sex Discrimination

Upon receipt of notice, reports, or knowledge about alleged sex discrimination, including sex-based harassment, the district will take steps, as necessary, to address information that is reported to it by others to the extent that it is feasible to do so while maintaining the confidentiality of the affected student or employee.

The district is on notice and required to take action when any employee knows, or in the exercise of reasonable care should know, about possible sex discrimination. This includes verbal or written reports made to any employee, including anonymous complaints.

Upon notice of possible sex discrimination, employees will always notify the Title IX Coordinator. Additionally, employees will also inform an appropriate supervisor or professional staff member when they receive complaints of sex-based harassment, especially when the complaint is beyond their training to resolve or alleges serious misconduct.

The district will make every effort to protect Parties' privacy. However, in the event of an alleged sexual assault of a minor (under age 18) student or employee, the school principal will immediately inform law enforcement consistent with mandatory reporting requirements at RCW 26.44.

In the event of an alleged sexual assault, the school principal will also immediately notify the student, parent or guardian, or employee 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.



III. Supportive Measures, Notice of Applicable Policy/Procedure and Other Considerations

Once the Title IX Coordinator has been notified of possible sex discrimination, the Title IX Coordinator will promptly contact the affected student or employee to:

- discuss the availability of supportive measures and consider their wishes with respect to supportive measures;
- explain the district's procedure and resolution options, including the informal resolution process if appropriate; and
- provide a copy of the applicable District policy and procedure, including the district's grievance procedure.

A. Supportive Measures

Upon notice of allegations of sex discrimination, a district administrator will offer and coordinate supportive measures as appropriate for the Complainant and Respondent.

At the time that 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 administrator will work with a party to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

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 (only). The administrator will document any supportive measures provided, and provide that information to the Title IX Coordinator.

1. Providing Supportive Measures

Supportive measures are designed to protect the safety of the parties or the district's educational environment. They also provide support during the informal resolution process and grievance process. They are designed to restore or preserve access to the district's education program or activity. They are offered without fee or charge to the Parties, and must not unreasonably burden either party.

Supportive measures cannot be imposed against a Respondent for punitive or disciplinary reasons.

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

- A request that an administrator address allegations by meeting with the Respondent(s) (with or without the Complainant) to discuss concerning behavior, school policies, and expectations. Such a conversation must be non-disciplinary, non-punitive, and Respondent(s) 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 student or employee, upon request and voluntarily, to meet with an Administrator and an alleged harasser to explain to the alleged harasser that their conduct is unwelcome, offensive, or inappropriate, either in writing or face-to-face;
- A written statement from a Complainant student or employee to an alleged harasser that the alleged conduct is not appropriate and could lead to discipline if proven or repeated;



- A general public statement from an administrator in a building reviewing the district's sex-based harassment policy without identifying the Complainant;
- Developing a safety plan; adjustments;
- Mutual restrictions on contact between the parties;
- Increased security and monitoring of certain areas of the campus or school building;
- Providing employee and/or student training;
- Remote or alternative learning environments for students or leaves of absence for employees;
- Counseling or a referral to the Employee Assistance Program;
- Changes in class or extracurricular or any other activity;
- Modifications of work or class schedules, including extensions of deadlines and other course-related either there is or is not a comparable alternative; and
- Training and education programs related to sex discrimination or harassment.

If either party is a student with a disability, the Title IX Coordinator may consult, as appropriate, with an individual or office designated to provide support to students with disabilities about how to comply with Section 504 or the IDEA in the implementation of 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 about the supportive measures, including the other party.

Except, the district may disclose some information to carry out the purposes of supportive measures, including to address conduct that reasonably may constitute sex discrimination. 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. But the district may not need to disclose why the supportive measure is being provided.

The following are other exceptions that may apply:

- (1) A person with the legal right to consent to the disclosure provides written consent.
- (2) The information is disclosed to a parent, guardian, or other authorized legal representative of the person at issue.
- (3) As required by laws, regulations, or to comply with State or Federal grant awards or other funding agreement.
- (4) When required by Federal, State or local law, including FERPA, and those laws do not conflict with Title IX.

Application of State laws may prohibit disclosure even where permissible under those exceptions. As stated in Policy 3230, Washington State law provides that at certain ages, students attain the right to decide for themselves what records will remain confidential, even from their parents, and what activities the student will participate in.

Additionally, as stated in Procedure 3211P, information about a student's gender identity, legal name, or assigned sex at birth may constitute confidential medical or educational information. Disclosing this information to others may violate privacy laws. To ensure the safety and well-being of the student, school employees should not disclose a student's transgender or gender-expansive



status to others, including other school personnel, other students, or the parents of other students, unless the school is (1) legally required to do so or (2) the student has authorized such disclosure.

3. District Modification or Termination of Supportive Measures

As appropriate, the district may modify or terminate supportive measures at the conclusion of an informal resolution or investigation process, or the district may continue them beyond that point.

4. Opportunity for Modification or Reversal of Supportive Measures

The district must also provide a party with the opportunity 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 an opportunity for modification or reversal from the Title IX Coordinator.

B. Title IX Coordinator Determinations and Explanation of Applicable Policies

1. Who Can File Under this Procedure

For complaints of sex-based harassment, these people also have the right to file complaints under this procedure:

- a person who meets the definition of “Complainant” above,
- a parent, guardian, or other authorized legal representative of the Complainant,
- or the Title IX Coordinator
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For other forms of sex discrimination that are not sex-based harassment, the following people have the right to make a complaint under this procedure:

- a person who meets the definition of “Complainant” above,
- a parent, guardian, or other authorized legal representative of the Complainant,
- the Title IX Coordinator,
- any student or employee, or
- any other person participating or attempting to participate in a district education program or activity at the time of the alleged sex discrimination.

If an individual wishes to file a sex-based discrimination complaint, but does not fit this definition, they should use the process for students, Procedure 3210P, or the process for employees or applicants, Procedure 5010P.

If a person filed a complaint of sex-based harassment but does not have the right to make that type of complaint, the Title IX Coordinator or designee will inform the person, in writing, that the district cannot proceed with an investigation. The notice will also state that the district will treat the complaint as a report of sex-based harassment and take steps, as necessary, to address the information to the extent that it is feasible to do so while maintaining the confidentiality of the affected student or district employee.

2. Determining What Procedure Applies

The Title IX Coordinator or a designee will determine what procedure applies. If the sex discrimination alleged occurred prior to August 1, 2024, and is not ongoing, the Title IX Coordinator will inform the affected student or district employee of the policies and procedures



in effect at the time of the alleged discriminatory act or conduct and proceed accordingly under those.

If the alleged sex-based discriminatory act or conduct occurred on or after August 1, 2024, this procedure will apply.

When ongoing sex-based harassment is alleged, the district will consider the totality of circumstances and, therefore, will look at all incidents of alleged harassment and apply the policy that was in place on the date of the latest incident of harassment.

If more than one discriminatory event is alleged or other types of discrimination are alleged, the district will consider each alleged discriminatory act and may apply different policies to each event or may apply a single policy provided it is the policy that provides the highest level of due process.

C. Other Considerations

1. Students with Disabilities

If either party is a student with a disability, the Title IX Coordinator or a designee will consult with one or more members, as appropriate, of the student's Section 504 or Individualized Education Program (I.E.P.) team to determine how to comply with Section 504 and IDEA requirements throughout the implementation of this grievance procedures.

2. Discipline Prohibit Until Determination

A Respondent who is accused of sex discrimination under Title IX is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. The district may not impose any disciplinary sanctions or other actions that are not supportive measures against the Respondent until the district has determined that the Respondent was responsible for the sex discrimination at the conclusion of the grievance process.

3. Emergency Removals for Alleged Sex-Based Harassment under Title IX

The district may remove a student Respondent from school on an emergency basis consistent with Policy and Procedure 3241 and the associated student discipline regulations for emergency expulsion *provided* that the district:

- (1) undertakes an individualized safety and risk analysis,
- (2) 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, and
- (3) provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

Such removal does not modify any rights of students under the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, or the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq.

The district may also place an employee Respondent on administrative leave from employment responsibilities during the grievance process. Such leave does not modify any rights under Section



504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, or the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq.

IV. Definitions of Prohibited Conduct

The sections below describe the specific forms of legally prohibited sex discrimination, sex-based harassment, and retaliation that are also prohibited under District Policy. Speech or conduct protected by the First Amendment will not be considered a violation of the District’s Policy, though supportive measures will be offered to those impacted.

All offense definitions below encompass actual and/or attempted offenses.

“Consent,” as defined in this policy, must be affirmative and consistent with RCW 28A.300.475, “affirmative consent means a conscious and voluntary agreement to engage in sexual activity as a requirement before sexual activity.”

“Sex discrimination” means discriminatory different treatment with respect to a person’s employment or participation in a District education program or activity based on sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. There are three types of sex discrimination, which are defined below: (A) different (or disparate) treatment, (B) disparate impact, d (C) sex-based harassment

A. “Different (or disparate) treatment discrimination” means any intentional differential treatment of a person or persons that is based on a person’s actual or perceived sex and that:

- Excludes a person from participation in;
- Denies a person benefits of; or
- Otherwise adversely affects a term or condition of a person’s participation in a Recipient program or activity

B. “Disparate Impact Discrimination” means policies or practices that appear to be neutral unintentionally result in a disproportionate impact on the basis of sex that:

- Excludes a person from participation in;
- Denies a person benefits of; or
- Otherwise adversely affects a term or condition of a person’s participation in a Recipient program or activity.

C. “Sex-based harassment” is a form of sex discrimination and means

- sexual harassment and other harassment
 - on the basis of sex, including on the basis of
 - sex stereotypes,
 - sex characteristics,
 - pregnancy or related conditions,
 - sexual orientation, and
 - gender identity.



There are different types of sex harassment, including “quid pro quo harassment,” “hostile environment harassment,” and certain specific sexual offenses defined further below.

4. “Quid pro quo harassment”

- An employee, agent, or other person authorized by the district
- to provide an aid, benefit, or service under the district’s education program or activity
- explicitly or impliedly conditioning the provision of such an aid, benefit, or service
- on a person’s participation in unwelcome sexual conduct.

5. “Hostile environment harassment,” which is defined as

- “Unwelcome sex-based conduct that,
- based on the totality of the circumstances,
- is subjectively and objectively offensive and
- is so severe or pervasive
- that it limits or denies a person’s ability to participate in or benefit from the recipient’s education program or activity (i.e., creates a hostile environment).”

Because students and employees 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. Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (1) The degree to which the conduct affected the Complainant’s ability to access the recipient’s education program or activity;
- (2) The type, frequency, and duration of the conduct;
- (3) The parties’ ages, roles within the recipient’s education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- (4) The location of the conduct and the context in which the conduct occurred; and
- (5) Other sex-based harassment in the recipient’s education program or activity.

6. “Sexual assault” means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. This includes:

a. Rape:

- Penetration by the Respondent, no matter how slight,
- of the vagina or anus,
- with any body part or object, or
- oral penetration by a sex organ of the Respondent,
- without the consent of the Complainant.

**b. Fondling:**

- The touching of the private body parts of the Complainant (buttocks, groin, breasts) by the Respondent,
- for the purpose of sexual gratification,
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent because of their age or because of a temporary or permanent mental or physical incapacity.

c. Sodomy

- Oral or anal penetration,
- Of the Complainant by the Respondent
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent
 - because of their age or
 - because of their temporary or permanent mental or physical incapacity

d. Sexual Assault with an Object

- Respondent's use of an object or instrument
- to unlawfully penetrate, however slightly, the genital or anal opening
- of the body of the Complainant,
- without the consent of the Complainant,
- including instances where the Complainant is incapable of giving consent
 - because of their age or
 - because of their temporary or permanent mental or physical incapacity

e. Statutory Rape:

- Sexual intercourse,
- with a person who is under the statutory age of consent
 - A person who is under age 16 OR
- A person under the age of 18 (16 or 17) if the other person is more than 5 years (60 months) older than them

f. Incest:

- Sexual intercourse,
- between persons who are related to each other,
- within the degrees wherein marriage is prohibited by Washington State law.

7. "Dating violence" means violence committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the victim and
- Where the existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship, (2) the type of relationship, and (3) the frequency of interaction between the persons involved in the relationship.



8. “Domestic violence” means felony or misdemeanor crimes committed by a person who:

- Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the district, or a person similarly situated to a spouse of the victim;
- Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- Shares a child in common with the victim; or
- Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

9. “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for the person’s safety or the safety of others; or
- Suffer substantial emotional distress.

Under State law, sex-based harassment may also be:

- acts of sexual violence
- unwelcome sexual or gender-directed conduct or communication that interferes with an individual’s educational performance or creates an intimidating, hostile, or offensive environment;
- unwelcome sexual advances;
- unwelcome requests for sexual favors;
- sexual demands when submission is a stated or implied condition of obtaining an educational benefit;
- sexual demands where submission or rejection is a factor in an academic or other school-related decision affecting an individual.

D. “Retaliation” means intimidation, threats, coercion, or discrimination

- against any person
- for the purpose of interfering with any right or privilege secured by Title IX or this procedure or
- because the person
 - reported information, made a complaint, was a witness or
 - provided information, assisted, or participated or
 - refused to participate in any manner
- in an investigation or appeal under Title IX or this process.

V. Other Complaint Options

Office for Civil Rights (O.C.R.), U.S. Department of Education

O.C.R. enforces several federal civil rights laws, which prohibit discrimination in public schools on the basis of race, color, national origin, sex, disability, and age. File complaints with O.C.R. 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 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

For Complaints involving employee-on-employee conduct:

Equal Employment Opportunity Commission (EEOC)

Seattle Field Office

Federal Office Building

909 First Avenue, Suite 400

Seattle, WA 98104-1061

Phone 1-800-669-4000

Fax 206-220-6911

TTY 1-800-669-6820

ASL Video Phone 844-234-5122

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