

PROCEDURE – SEXUAL HARRASSMENT OF STUDENT PROHIBITED**3205P**

The procedure is intended to set forth the requirements of Policy 3205, including the process for a prompt, thorough, and equitable investigation of allegations of sexual harassment and the need to take appropriate steps to resolve such situations. If sexual harassment is found to have created a hostile environment, staff must take immediate action to eliminate the harassment, prevent its reoccurrence, and address its effects.

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

This procedure contains the following sections and subsections:

| Section | Section Name and Subsections |
|----------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>Section 1</u> | <u>Title IX Coordinator, Investigator, and Decision-maker</u> |
| <u>Section 2</u> | <u>Notice of Sexual Harassment Policy and Procedure</u> |
| <u>Section 3</u> | <u>Responding to Notice of Sexual Harassment</u> |
| <u>Section 4</u> | <u>Supportive Measures</u> |
| <u>Section 5</u> | <u>Confidentiality of Complaints and Supportive Measures</u> |
| <u>Section 6</u> | <u>Retaliation Prohibited</u> |
| <u>Section 7</u> | <u>Filing, Initial Assessment, and Dismissal of Formal Complaints</u> <u>A. Filing of Formal Complaints</u> <u>B. Title IX Coordinator’s Initial Assessment of Formal Complaints</u> <u>C. Required Dismissal of Formal Complaints Not Meeting the Title IX Complaint Criteria</u> |
| <u>Section 8</u> | <u>Formal Complaint Process for Non-Title IX Complaints</u> <u>A. Time Period for Filing a Non-Title IX Complaint</u> <u>B. Acknowledging a Formal Complaint</u> <u>C. Investigating a Formal Complaint</u> <u>D. Mediation</u> <u>E. Response of the Superintendent’s Designee to the Complainant</u> <u>F. Response of the Superintendent’s Designee to the Respondent</u> |
| <u>Section 9</u> | <u>Formal Complaint Process for Title IX Complaints</u> <u>A. Timelines and Extensions for Title IX Complaints</u> <u>B. Acknowledging a Title IX Complaint</u> <u>C. Investigating a Title IX Complaint</u> <ol style="list-style-type: none"> <u>1. Interviews of Parties</u> <u>2. Inadmissible Questioning and Evidence</u> <u>3. Ten-Day Opportunity to Review Evidence</u> <u>4. Issuance of Investigative Report</u> <u>D. Issuing a Determination for a Title IX Complaint</u> |

| | |
|----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | <ul style="list-style-type: none"> 1. Ten-Day Opportunity to Submit a Written Response to the Investigative Report 2. Opportunity for Written, Relevant Questions 3. Response of the Superintendent’s Designee to the Parties E. Consolidation and Dismissal of Title IX Complaints F. Discipline and Emergency Removals under Title IX G. Title IX Informal Resolution Process |
| Section 10 | <ul style="list-style-type: none"> Appeals <ul style="list-style-type: none"> A. Appeal to the Superintendent or Designee <ul style="list-style-type: none"> 1. Notice of Appeal 2. Opportunity to Submit Written Statement 3. Appeal Decision B. Complaint to OSPI <ul style="list-style-type: none"> 1. Filing of Complaint 2. Investigation, Determination, and Corrective Action C. Administrative Hearing |
| Section 11 | Investigation Recordkeeping |
| Section 12 | Training and Orientation |
| Section 13 | Policy and Procedure Review |

SECTION 1. TITLE IX COORDINATOR, INVESTIGATOR, AND DECISION-MAKER

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

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

- The definition of sexual harassment under Title IX and state law;
- The scope of the district’s education program or activity;
- How to conduct an investigation and grievance process, including hearings, appeals, and informal resolution processes, as applicable;
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;

- Their responsibilities under Chapter 392-190 WAC; and
- How to raise awareness of and eliminate bias based on protected-class status.

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

District decision-makers must also receive training on any technology to be used during live hearings if the district provides for a hearing. Decision-makers 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 are offered to prove consent.

Any training materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must not rely on sex stereotypes and must promote impartial investigations and adjudications of complaints. Such training materials will be publicly available on the district's website.

SECTION 2. NOTICE OF SEXUAL HARASSMENT POLICY AND PROCEDURE

Information about the district's sexual harassment policy and complaint procedure will be easily understandable and conspicuously posted throughout each school building. Such information will also be reproduced in each student, staff, volunteer, and parent handbook. This notice will be provided in a language that each parent and guardian can understand.

In addition to the posting and reproduction of this procedure and Policy 3205, the district will provide annual notice to employees that complaints pursuant to this procedure may be filed at 305 College Street NE, Lacey WA, 98516.

SECTION 3. RESPONDING TO NOTICE OF SEXUAL HARASSMENT

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 sexual harassment. This includes (1) verbal reports of sexual harassment made to a staff member, referred to in this procedure as "informal complaints," and (2) formal, written complaints made to the Title IX Coordinator, as described in Section 7.A (Filing of Formal Complaints), below.

Upon notice of possible sexual harassment, the following actions will occur:

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

- In the event of an alleged sexual assault, the school principal will immediately inform law enforcement. The school principal will also inform the Title IX Coordinator so that the district can appropriately respond to the incident consistent with its own procedures.
- The Title IX Coordinator or designee will promptly contact any complainant and their parents/guardians to (1) discuss the availability of supportive measures, (2) consider the complainant's wishes with respect to supportive measures, and (3) inform the complainant of the availability of supportive measures with or without the filing of a formal complaint. Supportive measures are described in Section 4 (Supportive Measures), below.
- The Title IX Coordinator or designee will inform any targeted students and their parents/guardians of their right to file a formal complaint under this procedure and inform them of the process under Section 7 for filing a formal complaint. In the event of an alleged sexual assault, the Title IX Coordinator or designee will also explain the right to simultaneously file both a criminal complaint with law enforcement and a formal complaint of sexual harassment with the district.

The Title IX Coordinator may inquire of the complainant regarding the report of sexual harassment to determine whether a formal complaint is warranted. The Title IX Coordinator may inform the complainant that imposition of disciplinary sanctions or other actions that are not supportive measures against a respondent will not be available unless a formal complaint occurs.

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

SECTION 4. SUPPORTIVE MEASURES

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

Supportive measures may include:

- An opportunity for the complainant to explain to the alleged harasser that the conduct is unwelcome, offensive, or inappropriate, either in writing or face-to-face;
- A statement from a staff member to the alleged harasser that the alleged conduct is not appropriate and could lead to discipline if proven or repeated;
- A general public statement from an administrator in a building reviewing the district sexual harassment policy without identifying the complainant;

- Developing a safety plan;
- Modifications of work or class schedules;
- Mutual restrictions on contact between the parties;
- Increased security and monitoring of certain areas of the campus or school building; or
- Providing staff and/or student training.

The district will maintain confidentiality for supportive measures as discussed in Section 5 (Confidentiality of Complaints and Supportive Measures).

SECTION 5. CONFIDENTIALITY OF COMPLAINTS AND SUPPORTIVE MEASURES

The district will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the district to provide the supportive measures.

If a complainant requests that his or her name not be revealed to the alleged perpetrator or asks that the district not investigate or seek action against the alleged perpetrator, the request will be forwarded to the Title IX Coordinator for evaluation. The Title IX Coordinator should inform the complainant that the district will need to determine whether it can honor such a request while still providing a safe and nondiscriminatory environment for all students, staff, and other parties engaging in district activities, including the person who reported the sexual harassment. The Title IX Coordinator should also inform the complainant that honoring the request may limit the district's ability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator.

If the complainant's request for confidentiality can be honored, the district will use other appropriate means available to address the sexual harassment.

SECTION 6. RETALIATION PROHIBITED

Title IX and state law prohibit retaliation against any individual who files a complaint under these laws or participates in a complaint investigation. When an informal or formal complaint of sexual harassment is made, the district will take steps to stop further harassment and prevent any retaliation against the person who made the complaint, was the subject of the harassment, or provided information as a witness. The district will investigate all allegations of retaliation and take actions against those found to have retaliated.

SECTION 7. FILING, INITIAL ASSESSMENT, AND DISMISSAL OF FORMAL COMPLAINTS

The district will implement the procedures in this section when receiving formal complaints of sexual harassment and performing an initial assessment of such complaints.

A. Filing of Formal Complaints

Anyone may file a formal complaint of sexual harassment. All formal complaints must be in writing and set forth the specific acts, conditions, or circumstances alleged to have occurred and to constitute sexual harassment. The Title IX Coordinator may draft the complaint based on the report of the complainant for the complainant to review and approve. The Title IX Coordinator may also conclude that the district needs to conduct an investigation based on information in the Title IX Coordinator's possession, regardless of the complainant's interest in filing a formal complaint.

Complaints may be submitted by mail, fax, email, or hand-delivery to the district Title IX Coordinator. Any district employee who receives a complaint that meets these criteria will promptly notify the Title IX Coordinator.

B. Title IX Coordinator's Initial Assessment of Formal Complaints

When a formal complaint is filed, the Title IX Coordinator will assess the complaint to determine if it meets the criteria for a Title IX complaint. The Title IX Coordinator may designate someone else with training under this procedure to evaluate the formal complaint if needed to avoid any possible conflict of interest.

If the formal complaint meets the criteria for a Title IX complaint, then the district will follow the procedures of Section 9 (Formal Complaint Process for Title IX Complaints), below. If the formal complaint does not meet the criteria for a Title IX complaint, then the district will follow any dismissal procedures of Section 7.C (Required Dismissal for Formal Complaints Not Meeting the Title IX Complaint Criteria) and then implement the procedures of Section 8 (Formal Complaint Process for Non-Title IX Complaints), below.

A formal complaint meets the criteria for a Title IX complaint when each of the following conditions are met:

- The written complaint is filed by the complainant of the alleged sexual harassment, by the complainant's legal guardian, or by the Title IX Coordinator;
- The complaint requests that the district investigate the allegation(s) of sexual harassment, as defined under Title IX regulations;
- The complainant is participating in or attempting to participate in the district's educational program or activity at the time of the complaint;
- The alleged conduct occurred within the district's education program or activity, which includes locations, events or circumstances over which the district exercised control over both the named respondent and the context in which the alleged conduct occurred; and
- The alleged conduct, if true, constitutes "sexual harassment" as defined by the Title IX regulations, which are included below.

Under Title IX, the term "sexual harassment" means conduct based on sex that satisfies one or more of the following:

- **“Quid pro quo harassment,”** which occurs when an employee of the district conditions the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct;
- **“Hostile environment harassment,”** which means unwelcome conduct that is determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the education program or activity;
- **“Sexual assault,”** as defined in 20 U.S.C. § 1092(f)(6)(A)(v), which means offenses classified as forcible or nonforcible sex offenses under the uniform crime reporting system of the Federal Bureau of Investigation, including the following:
 - **“Rape,”** which means the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of the complainant, or by a sex-related object, without consent, including instances where the complainant is incapable of giving consent due to their age or because of temporary or permanent mental or physical incapacity;
 - **“Fondling”** or **“Criminal Sexual Contact,”** meaning (1) the intentional touching of the clothed or unclothed body parts of the complainant without consent and for the purpose of sexual degradation, sexual gratification, or sexual humiliation or (2) the forced touching by the complainant of the actor’s clothed or unclothed body parts, without consent and for the purpose of sexual degradation, sexual gratification, or sexual humiliation;
 - **“Incest,”** which means nonforcible sexual intercourse between related persons within the degrees wherein marriage is prohibited by Washington State law; and
 - **“Statutory rape,”** meaning nonforcible sexual intercourse with a person who is under the statutory age of consent in Washington (e.g., either under age 16 or under the age of 18 if the other person is more than 60 months older than them).
- **“Dating violence”** as defined in 34 U.S.C. § 12291(a)(11), which means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant and where the existence of such a relationship shall be determined based on the complainant’s statement and with consideration of (i) the length of the relationship, (ii) the type of relationship, and (iii) the frequency of interaction between the persons involved in the relationship.
- **“Domestic violence”** as defined in 34 U.S.C. § 12291(a)(12), which means felony or misdemeanor violence crimes by (i) the complainant’s current or former spouse or intimate partner, or a person similarly situated to the complainant’s spouse; (ii) a person who is cohabitating, or has cohabitated, with the complainant as a spouse or intimate partner; (iii) a person the complainant shares a child with; or (iv) a person who commits acts against a complainant who is protected from those acts under Washington’s family or domestic violence laws.
- **“Stalking,”** as defined in 34 U.S.C. § 12291(a)(36), which means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (i) fear for his or her safety or the safety of others or (ii) suffer substantial emotional distress.

“Consent” as defined in this procedure means, consistent with RCW 9A.44.010(2), that at the time of sexual intercourse or sexual contact there were actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact. A person is considered to be incapable of giving consent under this procedure if they were incapacitated by reason of unconsciousness, sleep, drugs, alcohol, a medical condition, or a permanent or temporary mental or physical disability.

C. Required Dismissal of Formal Complaints Not Meeting the Title IX Complaint Criteria

The Title IX Coordinator must dismiss the formal complaint or an allegation in the formal complaint if it does not meet all the criteria for a Title IX complaint in Section 7.B (Title IX Coordinator’s Initial Assessment of Formal Complaints), above. This includes but is not limited to circumstances in which the conduct, even if proven true, would not constitute sexual harassment under the definitions of sexual harassment above, did not occur in the district’s education program or activity, or did not occur against a person in the United States.

When dismissing a complaint or allegation, the Title IX Coordinator will simultaneously provide both the complainant and the respondent with written notice of the dismissal and the reasons for the dismissal. The notice also must include the parties’ right to appeal any dismissal decision under Section 10 (Appeals) of this procedure.

Upon dismissal, the Title IX Coordinator must also provide notice to the complainant and respondent about whether the complaint will continue under a different section of this procedure, such as Section 8 (Formal Complaint Process for Non-Title IX Complaints) or another district policy or procedure.

The district may but is not required to dismiss a formal complaint on additional grounds, as discussed in Section 9.E (Consolidation and Dismissal of Title IX Complaints), below.

SECTION 8. FORMAL COMPLAINT PROCESS FOR NON-TITLE IX COMPLAINTS

The district will utilize the complaint process in this section if, based on the Title IX Coordinator’s assessment in Section 7.B (Title IX Coordinator’s Initial Assessment of Formal Complaints), the formal complaint does not meet the criteria for a Title IX complaint.

A. Time Period for Filing a Non-Title IX Complaint

For these types of formal complaints, the time period for filing the complaint is one year from the date of the occurrence that is the subject matter of the complaint. However, this complaint filing deadline may not be imposed if the complainant was prevented from filing due to: (1) specific misrepresentations by the district that it had resolved the problem forming the basis of the complaint; or (2) withholding of information that the district was required to provide under Chapter 392-190 WAC or guidelines supplementing that chapter issued by the Office of Superintendent of Public Instruction (“OSPI”). This time limit does not apply to a complaint that meets the criteria of a Title IX complaint.

If the formal complaint was not filed within the one-year time period for filing a complaint, then the decision-maker (superintendent's designee), who can be the Title IX Coordinator in these circumstances, will provide written notice of dismissal to the complaining party, along with the complaining party's right to appeal the decision under Section 10 (Appeals).

If the formal complaint was filed within the one-year time period for filing a complaint, then the district will continue with the formal complaint process under this section of the procedure.

B. Acknowledging a Formal Complaint

Upon receipt of a formal complaint, the Title IX Coordinator will provide the complainant with a copy of this procedure in a language that the complainant can understand.

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

To that end, the Title IX Coordinator will receive and ensure the investigation of all formal, written complaints of sexual harassment or information in the Coordinator's possession that the Coordinator believes require further investigation. The Title IX Coordinator will also offer supportive measures to the complainant and may offer such measures to the respondent(s).

The Coordinator will delegate authority to participate in this process if such action is necessary to avoid any potential conflicts of interest.

C. Investigating a Formal Complaint

Investigations will be carried out in a manner that is prompt, thorough, reliable, and impartial. During the investigation process, the complainant and respondent(s), if the complainant has identified an accused harasser(s), will have an equal opportunity to present witnesses and relevant evidence. Complainants, respondents, and witnesses may have a trusted adult with them during any district-initiated investigatory activities. The district and complainant may also agree to resolve the complaint in lieu of an investigation.

When the investigation is completed, the investigator will compile a full written report of the complaint and the results of the investigation.

The complainant and the district may agree to resolve the complaint in lieu of an investigation. If the complaint is resolved to the satisfaction of the complainant and the district, no further action is necessary.

D. Mediation

At any time during the complaint procedure set forth in WAC 392-190-065 through -075, a district may, at its own expense, offer mediation. The complainant and the district may agree to extend the complaint process deadlines in order to pursue mediation.

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

Mediation must be conducted by a qualified and impartial mediator who may not: (a) be an employee of any 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 (b) have a personal or professional conflict of interest. A mediator is not considered an employee of the district or charter school or other public or private agency solely because he or she serves as a mediator.

If the parties reach agreement through mediation, they may execute a legally binding agreement that sets forth the resolution and states that all discussions that occurred during the course of mediation will remain confidential and may not be used as evidence in any subsequent complaint, due process hearing, or civil proceeding. The agreement must be signed by the complainant and a district representative who has the authority to bind the district.

E. Response of the Superintendent's Designee to the Complainant

The superintendent's designee will respond in writing to the complainant within thirty (30) calendar days of receipt of the complaint, unless otherwise agreed to by the complainant or if exceptional circumstances related to the complaint require an extension of the time limit. In the event an extension is needed, the district will notify the parties in writing of the reason for the extension and the anticipated response date. At the time the district responds to the complainant, the district must send a copy of the response to OSPI.

The response of the superintendent's designee to the complainant will include: (1) a summary of the results of the investigation; (2) a statement as to whether a preponderance of the evidence establishes that the complainant was sexually harassed; (3) if sexual harassment is found to have occurred, the corrective measures or remedies for the complainant the district will take (e.g., sources of counseling, advocacy, and academic support), including assurance that the district will take steps to prevent recurrence and remedy its effects on the complainant and others, if appropriate; (4) notice of the right to appeal to the superintendent or designee and the necessary filing information; and (5) a statement concerning whether the district has failed to comply with Chapter 392-190 WAC or guidelines supplementing that chapter issued by OSPI and, in the event of noncompliance, the corrective measures deemed necessary to correct the

noncompliance.

The response of the superintendent's designee will be provided in a language that the complainant can understand and may require language assistance for complainants with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964.

Any corrective measures for the complainant deemed necessary will be instituted as quickly as possible, but in no event more than thirty (30) days after the mailing of the written response, unless otherwise agreed to by the complainant. Discipline of any respondent is not considered corrective action for the complainant.

If sexual harassment has occurred, the district will inform the complainant and any parent/guardian how to report any subsequent problems. Additionally, the district will conduct follow-up inquiries to see if there have been any new incidents and to promptly respond and appropriately address continuing or new problems.

The decision of the superintendent's designee may be appealed as provided in Section 10 (Appeals).

F. Response of the Superintendent's Designee to the Respondent

If the complaint alleges harassment by a named respondent or respondents, the district will provide the respondent(s) with notice of the outcome of the investigation, notice of any discipline or corrective action imposed by the district on the respondent, and notice of their right to appeal any discipline under relevant policies and procedures.

SECTION 9. FORMAL COMPLAINT PROCESS FOR TITLE IX COMPLAINTS

The district will utilize the complaint process in this section if, based on the Title IX Coordinator's assessment in Section 7.B (Title IX Coordinator's Initial Assessment of Formal Complaints), the formal complaint meets the criteria for a Title IX complaint.

A. Timelines and Extensions for Title IX Complaints

The Title IX complaint process, concluding with a written response to the parties by the superintendent's designee, must occur within thirty (30) calendar days of receipt of the complaint, unless otherwise agreed to by the complainant or if exceptional circumstances related to the complaint require an extension of the time limit.

A need to complete all stages of the Title IX complaint process is generally considered exceptional circumstances requiring extension of the time limit beyond thirty (30) days. In addition, the district will extend the timeline for a Title IX complaint in other exceptional circumstances, such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

In the event an extension beyond thirty (30) days is needed, the district will notify the parties in writing of the reason for the extension and the anticipated response date.

B. Acknowledging a Title IX Complaint

The Title IX Coordinator will receive and ensure the investigation of all formal, written complaints of sexual harassment or information in the Coordinator's possession that the Coordinator believes require further investigation. The Title IX Coordinator will also offer supportive measures to the complainant and may offer such measures to the respondent(s). The Title IX Coordinator will delegate authority to participate in this process if such action is necessary to avoid any potential conflicts of interest.

The district will acknowledge receipt of the formal complaint by providing the following written notice to any complainant and respondent:

- A copy of the district's discrimination complaint procedure in a language the parties can understand.
- Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Such sufficient detail includes the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known.
- Notice that the parties may have an advisor of their choice, who may be an attorney or non-attorney and who may inspect and review evidence of the alleged sexual harassment.
- Notice that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility for alleged sexual harassment is made at the conclusion of the grievance process.
- Notice of any provision in student conduct policies and procedures that prohibits false statements or submitting false information.

If, in the course of an investigation, the district decides to investigate allegations about the complainant or respondent that are not included in the initial notice described above, the district must provide notice of the additional allegations to the parties whose identities are known.

Requirements for the consolidation of Title IX complaints or the dismissal of allegations or the entirety of a Title IX complaint are found in Section 9.E (Consolidation and Dismissal of Title IX Complaints).

Section 9.F (Discipline and Emergency Removals Under Title IX) contains additional information about the discipline and emergency removal of a respondent before the conclusion of the Title IX complaint process.

C. Investigating a Title IX Complaint

The district must investigate allegations contained in a formal complaint. The district adopts "preponderance of the evidence" as the standard of proof it will use in reaching decisions regarding complaints. After a formal complaint is filed, the district may offer the

Title IX informal resolution process if permitted under Section 9.G (Title IX Informal Resolution Process).

If the Title IX informal resolution process is not offered or utilized, the Title IX Coordinator may investigate the allegations or may assign another investigator who is trained in conducting sexual harassment investigations under Title IX. The investigator must be able to be impartial and unbiased and have no potential conflict of interest.

The district's investigation of a Title IX complaint must:

- Include a prompt and thorough investigation into the allegations in the complaint.
- Ensure that the district bears the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility for the alleged sexual harassment.
- Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
- Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

1. Interviews of Parties

The district must provide all parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be an attorney or non-attorney. The district will apply any restrictions regarding the extent to which an advisor may participate equally to both parties.

The district must provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, interviews, or other meetings, with sufficient time for the party to prepare to participate.

2. Inadmissible Questioning and Evidence

The district will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege (e.g., the attorney-client privilege), unless the person holding such privilege has waived the privilege.

The district may not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting or assisting in their professional capacity and made and maintained in connection with the provision of treatment to the party unless the district obtains the party's voluntary, written consent to do so.

3. Ten-Day Opportunity to Review Evidence

Prior to the completion of an investigative report, the investigator must provide an equal opportunity for the parties to inspect and review any evidence obtained as part of the

investigation that is directly related to the allegations raised in the formal complaint so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation. This includes evidence that the district does not intend to rely on in reaching a determination of responsibility for the alleged sexual harassment, regardless of the source of the evidence. The district may, but is not required to, provide a draft investigative report along with the evidence.

The parties will have at least ten (10) days to submit a written response to the evidence for the investigator to consider prior to completion of the final investigative report.

4. Issuance of Investigative Report

Following the opportunity for the parties to review the evidence, the investigator must create a final investigative report that fairly summarizes relevant evidence. The investigator must send the investigative report in an electronic or hard copy format to each party and each party's advisor for their review.

D. Issuing a Determination for a Title IX Complaint

After the investigator issues an investigative report, the decision-making steps of the Title IX complaint process occur.

The district's decision-making will include an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence. Credibility determinations may not be based on a person's status as a complainant, respondent, or witness. The district's Title IX investigative and grievance process is not required to include investigative hearings.

1. Ten-Day Opportunity to Submit a Written Response to the Investigative Report

The district will provide each party with at least ten (10) days from receipt of the investigative report to submit a written response to such report. The decision-maker will consider any responses received within the timeline when issuing a written determination.

2. Opportunity for Written, Relevant Questions

After issuance of the investigative report and before reaching a final determination, the decision-maker must give each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness. This opportunity may occur at the same time as each party's opportunity to submit written responses to the investigative report.

The decision maker will provide each party with the answers and allow for additional, limited follow-up questions from each party. The decision-maker must explain to the party proposing the questions any decision to exclude a question as not relevant.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant unless they are offered to prove that someone other than the

respondent committed the conduct alleged by the complainant or unless they concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

3. Response of the Superintendent's Designee to the Parties

The superintendent's designee will respond to the Title IX complaint as the decision-maker. The designee will not be the Title IX Coordinator or the investigator.

The decision-maker must issue a written determination of responsibility regarding the alleged sexual harassment within the timelines explained in Section 9.A (Timelines and Extensions for Title IX Complaints). At the time the district issues the written determination to the parties, the district must send a copy of the written determination to OSPI. The written determination of the decision-maker must be issued to the parties simultaneously.

The written determination of the decision-maker will be provided in a language the complainant and respondent can understand and may require language assistance for complainants with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964.

The written determination must include the following:

- Identification of the allegations potentially constituting sexual harassment under Title IX regulations;
- A description of the procedural steps taken from the time of the district's receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings supporting the determination (i.e., a summary of the results of the investigation);
- Conclusions regarding the application of the district's code of conduct policies to the facts, including a statement as to whether a preponderance of the evidence establishes that the complainant was sexually harassed and rationale for the result as to each allegation;
- Any disciplinary or other sanctions imposed on the respondent;
- A statement about whether remedies designed to restore or preserve equal access to the education program or activity will be provided to the complainant (e.g., sources of counseling, advocacy, and academic support);
- If sexual harassment is found to have occurred, any other corrective measures the district deems necessary, including assurance that the district will take steps to prevent recurrence and remedy its effects on the complainant and others, if appropriate;
- A statement concerning whether the district has failed to comply with Chapter 392-190 WAC or guidelines supplementing that chapter issued by OSPI and, in the event of noncompliance, the corrective measures deemed necessary to correct the noncompliance.; and
- Notice of each party's right to appeal to the district's superintendent or designee

under Section 10 (Appeals) of this procedure, and the necessary filing information.

Any corrective measures for the complainant deemed necessary will be instituted as quickly as possible, but in no event more than thirty (30) days after the mailing of the written response, unless otherwise agreed to by the complainant. Discipline of any respondent is not considered corrective action for the complainant.

Disciplinary sanctions for students that may be implemented following any determination of responsibility include those corrective actions described in Policy 3241 and Procedure 3241P including, without limitation, short- and long-term suspension, expulsion, and emergency expulsion. Disciplinary sanctions for employees that may be implemented following any determination of responsibility include, without limitation, written reprimands, suspensions without pay, demotion, transfer, nonrenewal, and termination consistent with any relevant collective bargaining agreement and district policy and procedure.

The decision of the superintendent's designee may be appealed as provided in Section 10 (Appeals).

E. Consolidation and Dismissal of Title IX Complaints

The district may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

The District is required to dismiss a Title IX complaint if it does not meet the criteria for a Title IX complaint, which are outlined in Section 7.B (Title IX Coordinator's Initial Assessment of Formal Complaints). In such circumstances, the District will follow the procedures described in Section 7.C (Required Dismissal of Formal Complaints Not Meeting the Title IX Complaint Criteria).

In addition, the district may, but is not required to, dismiss a Title IX formal complaint in the following circumstances: (1) a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; (2) the respondent is no longer enrolled in or employed by the district; or (3) specific circumstances prevent the district from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein. Upon dismissal for any of the above reasons, the district must promptly send written notice of dismissal to the complainant and the respondent, including the reasons for the dismissal and the parties' right to appeal the dismissal under Section 10 (Appeals).

F. Discipline and Emergency Removals under Title IX

A respondent who is accused of sexual harassment 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 the respondent was responsible for the sexual harassment at the conclusion of the grievance process.

The Title IX complaint process does not preclude a district from removing a student from school on an emergency basis consistent with Policy 3241 and Procedure 3241P (“Student Discipline”) and the associated OSPI regulations for emergency removal.

G. Title IX Informal Resolution Process

At any time prior to a determination in a formal Title IX complaint, the district may permit a complainant to waive the formal complaint grievance process in favor of an informal resolution process not involving a full investigation and adjudication, provided that the district obtains both parties’ voluntary, written consent. The district must not offer informal resolution of sexual harassment allegations against a respondent who is an employee of the district.

When facilitating an informal resolution process, the district will provide the parties with written notice disclosing: (1) the allegations; (2) the requirements for the informal resolution process; (3) the circumstances in which the parties would be precluded from continuing with a formal resolution process for the same allegations; (4) a party’s right to withdraw from the informal resolution process and resume the formal Title IX grievance process at any time prior to agreeing to a resolution; and (5) any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

The district may not require the waiver of the right to an investigation and adjudication of formal complaints of sexual harassment under Title IX as a condition of enrollment, employment, or enjoyment of any other right, nor may the district require the parties to participate in an informal resolution process. The district will not offer an informal resolution process unless a formal complaint is filed.

The Title IX informal resolution process will conclude within forty-five (45) calendar days of the complainant’s decision to waive the formal complaint process, unless good cause exists for extension of the timeframe. If the informal resolution process has not concluded by that time and the complainant has not withdrawn the complaint, the Title IX Coordinator will proceed with the investigation of the formal complaint in accordance with this procedure.

SECTION 10. APPEALS

A. Appeal to the Superintendent or Designee

1. Notice of Appeal

A party who is permitted to appeal under this procedure may file a written notice of appeal with the superintendent. Appeals must be filed with the superintendent within ten (10) calendar days following the date upon which the party received notice of the decision being appealed.

For formal complaints that are not Title IX complaints, a complainant may file a notice of appeal if the complainant disagrees with the written response of the superintendent's designee under Section 8.E (Response of the Superintendent's Designee to the Complainant) or a decision that the complaint has been filed outside the one-year time period to file a complaint under Section 8.A (Time Period for Filing a Non-Title IX Complaint).

For Title IX complaints, any complainant or respondent may file a notice of appeal if the party disagrees with the written response/determination of the superintendent's designee under Section 9.D.3 (Response of the Superintendent's Designee to the Parties) or from the dismissal of any allegation or the complaint under Sections 7.C (Required Dismissal of Formal Complaints Not Meeting the Title IX Complaint Criteria) and 9.E (Consolidation and Dismissal of Title IX Complaints). For any Title IX complaint appeals, the district will notify any other parties in writing that an appeal has been filed. Appeal procedures will apply equally to all parties.

2. Opportunity to Submit Written Statement

The appealing party will be allowed a reasonable opportunity to submit a written statement for the appeal. The written statement should clearly identify the reason(s) for the appeal, explain the party's arguments in support of or challenging the outcome of the initial determination, and set forth the party's desired remedy (if any). Any written statement must be submitted to the decision-maker within twenty (20) calendar days following the filing of the notice of appeal, unless good cause exists for extension of the timeframe.

For appeals of Title IX complaints, all parties will be provided an equal opportunity to submit a written statement.

3. Appeal Decision

The decision-maker for the appeal will be the superintendent or the superintendent's designee. The decision-maker who reached the determination regarding responsibility or dismissal, the investigator, and the Title IX Coordinator will not be the decision-maker for purposes of an appeal under this procedure. The district will ensure that any individual serving as a decision-maker for an appeal under this procedure has received the training required for decision-makers as described by this procedure.

The decision-maker for the appeal will review any written statements by the parties, the investigative report and associated evidence, the written response or determination, and other material deemed relevant and material. The decision-maker will provide a written appeal decision to the complainant within thirty (30) calendar days following the filing of the notice of appeal, unless the complainant agrees otherwise. For appeals of Title IX complaints, the written appeal decision will be simultaneously sent to all parties, and all parties must agree to extend the 30-day time frame for a written decision.

The written appeal decision will describe the result of the appeal and the rationale for the

result. The decision will include notice of the complainant's right to file a complaint with OSPI and will identify where and to whom the complaint must be filed. The district will send a copy of the appeal decision to OSPI.

The decision will be provided in a language that the parties receiving the decision can understand, which may require language assistance for parties with limited English proficiency in accordance with Title VI of the Civil Rights Act.

B. Complaint to OSPI

1. Filing of Complaint

If a complainant disagrees with the appeal decision of the district's superintendent or designee, or if the district fails to comply with the procedures in WAC 392-190-065 through -070, the party may file a complaint with OSPI.

A complaint must be received by OSPI on or before the twentieth (20) calendar day following the date upon which the complainant received written notice of the appeal decision of the superintendent or designee, 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: (1) a description of the specific acts, conditions, or circumstances alleged to violate applicable anti-sexual harassment laws; (2) the name and contact information, including address, of the complainant; (3) the name and address of the district subject to the complaint; (4) a 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, and the name of the school district that the student attends.

2. Investigation, Determination, and Corrective Action

Upon receipt of a complaint, OSPI may initiate an investigation, which may include conducting an independent onsite review. OSPI may also investigate additional issues related to the complaint that were not included in the initial complaint or appeal to the superintendent or designee.

Following an investigation, OSPI will make an independent determination as to whether the district has failed to comply with Chapter 392-190 WAC or the guidelines supplementing that chapter issued by OSPI 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.

C. Administrative Hearing

A complainant or the district desiring to appeal the written decision of OSPI may file a written notice of appeal with OSPI within thirty (30) calendar days following the date of receipt of OSPI's written decision. OSPI will conduct a formal administrative hearing in conformance with the Washington Administrative Procedures Act, Chapter 34.05 RCW.

SECTION 11. INVESTIGATION RECORDKEEPING

The district will maintain for a period of seven years records of:

- Each sexual harassment investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript required by federal law, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the district's education program or activity.
- Any appeal and the result therefrom.
- Any informal resolution and the result therefrom.
- Records of any actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment under Title IX.
- All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

SECTION 12. TRAINING AND ORIENTATION

A fixed component of all district orientation sessions for staff, students, and regular volunteers will introduce the elements of this procedure and the corresponding policy. Staff will be provided information on recognizing and preventing sexual harassment. Staff will be fully informed of their responsibilities when on notice of sexual harassment, the formal complaint procedures, and their roles and responsibilities under the policy and procedure.

Certificated staff will be reminded of their legal responsibility to report suspected child abuse and how that responsibility may be implicated by some allegations of sexual harassment. Regular volunteers will receive the portions of this component of orientation relevant to their rights and responsibilities.

Students will be provided with age-appropriate information on the recognition and prevention of sexual harassment and their rights and responsibilities under this and other district policies and rules at student orientation sessions and on other appropriate occasions, which may include parents/guardians.

As part of the information on the recognition and prevention of sexual harassment staff, volunteers, students, and parents will be informed that sexual harassment may include, but is not limited to:

- Demands for sexual favors in exchange for preferential treatment or something of value;
- Stating or implying that a person will lose something if he or she does not submit to a sexual request;
- Penalizing a person for refusing to submit to a sexual advance, or providing a benefit to someone who does;
- Making unwelcome, offensive, or inappropriate sexually suggestive remarks, comments, gestures, or jokes, or remarks of a sexual nature about a person’s appearance, gender, or conduct;
- Using derogatory sexual terms for a person;
- Standing too close, inappropriately touching, cornering, or stalking a person; or
- Displaying offensive or inappropriate sexual illustrations on school property.

SECTION 13. POLICY AND PROCEDURE REVIEW

The superintendent or designee will ensure an internal review of the use and efficacy of this policy and related procedure, including, at a minimum, a report to the board at least once every three years. Any recommendations for changes to the policy will be included in that report. As part of the internal review process, the superintendent or designee may convene an ad hoc committee composed of representatives from different stakeholder groups, such as certificated and classified staff, volunteers, students, and parents, to review the use and efficacy of this policy and procedure. The Title IX Coordinator will be included in any committee. The superintendent will consider adopting changes to this procedure if recommended by the committee. The superintendent may also recommend changes to the policy or adopt changes to this procedure more frequently if such changes are necessary or would be beneficial.

| | | |
|--------------|-----------------------------------------------------|-------------------------------|
| Implemented: | January 10, 2020 | North Thurston Public Schools |
| Updated: | May 31, 2022 April 10, 2025 February 23, 2026 | |