

## STUDENT

### Sexual Harassment

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

#### *Definitions*

The following definitions apply to this procedure:

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

“Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

#### *Title IX Coordinator, Investigator, Decision-maker*

The district will designate and authorize at least one employee to act as “Title IX Coordinator” to coordinate the district’s state and federal sex discrimination and sexual harassment regulation compliance efforts. The decision-maker who reaches the final determination of responsibility for alleged Title IX sexual harassment will be the superintendent or designee. 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 complainants or respondents in general or individually, and will receive training on the definition of sexual harassment under Title IX, the scope of the district’s education program or activity, how to conduct an investigation and grievance process and informal resolution process, and how to serve impartially. The decision-maker will also receive training on any technology to be used during hearings if the district provides for a hearing, on issues of questions and evidence, and on how to create an investigative report that fairly summarizes relevant evidence.

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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. These training materials will be publicly available on the district website for a period of seven (7) years.

#### *Notice*

Information about the district's sexual harassment policy will be easily understandable and conspicuously posted throughout each school buildings, and be reproduced in each student, staff, volunteer, and parent handbook.

The district will notify applicants for admission and employment, students, parents or legal guardians of students, employees, and all unions holding collective bargaining agreements with the district of the name, title, office address, email address, and telephone number of the Title IX Coordinator. The Title IX Coordinator's contact information will be listed on the district website and in each student, staff, volunteer, and parent handbook.

#### *Retaliation*

Federal and state law prohibit retaliation, including intimidation, threats, coercion, and discrimination, against any individual who files a sexual harassment complaint, participates or refuses to participate in a complaint investigation or proceeding, for the purpose of interfering with any right or privilege under state and federal sex discrimination and sexual harassment laws. 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 any person who made the complaint, was the subject of the harassment, or provided information as a witness, including making follow-up inquiries and ensuring that such individuals know how to report any retaliation. The district will investigate all allegations of retaliation and take action against those found to have retaliated.

#### *Confidentiality*

The identity of a complainant or respondent to a Title IX sexual harassment complaint may be kept confidential until a formal complaint is filed.

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If a complainant requests that their name not be revealed or asks that the district not investigate or seek action against the respondent, the request will be forwarded to the Title IX Coordinator for evaluation. The Title IX Coordinator will inform the complainant that honoring the request may limit the district's ability to respond fully to the incident under either state or federal procedures, including pursuing disciplinary action against the respondent. The Title IX Coordinator will also inform the complainant that retaliation is prohibited, and the district officials will take steps to prevent retaliation and respond if retaliation occurs.

If the complainant still requests that their name not be disclosed to the respondent or that the district not investigate or seek action against the respondent, the district will determine whether it can honor such request while meeting requirements under state and federal regulations and still providing a safe and nondiscriminatory environment for all staff, students, and other third parties engaged in district activities, including the person who reported the sexual harassment. Although a complainant's request to have their name withheld may limit the district's ability to respond fully to an individual allegation of sexual harassment, the district will use other appropriate means available to address the sexual harassment.

### *Informal Complaint Process*

Anyone may use informal procedures to report and resolve complaints of sexual harassment. Informal reports may be made to any staff member, although staff will always notify complainants of their right to file a formal complaint and the process for same. Staff will also direct potential complainants to the Title IX Coordinator who can explain the informal and formal complaint processes and what a complainant can expect. 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.

Informal Resolution may be offered if both parties give voluntary, informed, written consent. Informal remedies include:

- An opportunity for the complainant to explain to the alleged harasser that his or her conduct is unwelcome, offensive or inappropriate, either in writing or face-to-face;
- A statement from a staff member to the alleged harasser that the alleged conduct is not appropriate and could lead to discipline if proven or repeated; or

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#### Informal Complaint Process (continued)

- A general public statement from an administrator in a building reviewing the district sexual harassment policy without identifying the complainant.

At any time prior to agreeing to a resolution, any party has the right to withdraw from informal resolution and resume the grievance process with respect to a formal complaint. Informal resolution is not available where there is alleged that an employee has sexually harassed a student.

Informal complaints may become formal complaints at *the* request of the complainant, parent, guardian, or because the district believes the complaint needs to be more thoroughly investigated.

#### Formal Complaint Process

##### **Level One – Complaint to District**

Anyone may initiate a formal complaint of sexual harassment, even if the informal complaint process is being utilized. Potential complainants who wish to have the district hold their identity confidential will be informed that the district will almost assuredly face due process requirements that will make available to the accused all of the information that the district has related to the complaint. The district will, however, fully implement the anti-retaliation provisions of this policy to protect complainants and witnesses. The parties may have a trusted adult or other trusted advisor in addition to their parent/guardian with them during any district-initiated investigatory activities. The superintendent or Title IX Coordinator may conclude that the district needs to conduct an investigation based on information in his or her possession, regardless of the complainant's interest in filing a formal complaint. The following process will be followed:

- The Title IX Coordinator will receive and investigate all formal, written complaints of sexual harassment, or information in the Title IX Coordinator's possession that the Title IX Coordinator believes requires further investigation. Upon receipt of a complaint, the Title IX Coordinator will provide the complainant a copy of this procedure.
- All formal complaints will be in writing and will 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 time period for filing a complaint is one year from the date of the occurrence that is the subject matter of the complaint. However, a complaint filing deadline

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#### Formal Complaint Process (continued)

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 WAC 392-190-065 or WAC 392-190-005.

- Complaints may be submitted by mail, fax, e-mail or hand-delivery to any district, school or to the Title IX Coordinator. Any district employee who receives a complaint that meets these criteria will promptly notify the Title IX Coordinator.
- The school district and complainant may agree to resolve the complaint in lieu of an investigation. However, the Title IX Coordinator or designee who is not also the designated decision-maker will investigate the allegations within thirty (30) calendar days.
- When the investigation is completed the Title IX Coordinator or designated investigator will compile a full written report of the complaint and the results of the investigation. If the matter has not been resolved to the complainant's satisfaction, the superintendent will take further action on the report.
- The superintendent will respond in writing to the complainant and the accused 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 complainant 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 the office of the superintendent of public instruction.
- The response of the superintendent or designee will include: 1) a summary of the results of the investigation; 2) a statement as to whether the district has failed to comply with sexual harassment laws; 3) if non-compliance is found, corrective measures the district deems necessary to correct it; and 4) notice of the complainant's right to appeal to the school board and the necessary filing information. The superintendent's or designee's response will be provided in a language 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 deemed necessary will be instituted as quickly as possible, but in no event more than thirty (30) days after the superintendent's mailing of a written response, unless the accused is appealing the imposition of discipline and the district is barred by due process considerations or a lawful order from imposing the discipline until the appeal process is concluded. Staff

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#### Formal Complaint Process (continued)

- may also pursue complaints through the appropriate collective bargaining agreement process or anti-discrimination policy.

#### *Title IX Sexual Harassment Complaint Procedures*

This section outlines the federal Title IX procedures that must be implemented at Level One of the grievance process in addition to the above procedures when the alleged conduct also constitutes sexual harassment under Federal Title IX regulations. 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.

Once an employee knows, or in the exercise of reasonable care should know, about possible sexual harassment and informs the Title IX Coordinator, the Title IX Coordinator will promptly contact the complainant and explain the process for filing a formal complaint.

The Title IX coordinator will receive and investigate all formal, written complaints of sexual harassment or information in the Title IX Coordinator's possession that they believe requires further investigation. The Title IX Coordinator will delegate their authority to participate in this process if such action is necessary to avoid any potential conflicts of interest.

#### *Determining Whether Additional Title IX Complaint Procedures Apply*

The Title IX Coordinator will assess whether a formal sexual harassment complaint also meets the criteria for a Title XI complaint and requires implementation of these additional Title IX Sexual Harassment Complaint Procedures.

For purposes of determining when the Title IX Sexual Harassment Complaint Procedures must be implemented, the term sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- An employee of the district conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
- Conduct that creates a "hostile environment" under Title IX, meaning unwelcome conduct 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;

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#### Formal Complaint Process (continued)

- “Sexual assault,” meaning an offense classified as a forcible or non-forcible sex offense under the FBI’s uniform crime reporting system under 20 U.S.C. § 1092(f)(6)(A) such as rape, fondling, and statutory rape; or
- “Dating violence,” “domestic violence,” or “stalking,” as defined under the federal Violence Against Women Act, 34 U.S.C. § 12291(a).

The district will implement the additional Title IX Sexual Harassment Complaint Procedures when the alleged conduct constitutes sexual harassment as defined by Title IX regulations, and:

- The written complaint is filed by the complainant or by the Title IX Coordinator;
- The complaint requests that the district investigate the allegation(s) of sexual harassment, as defined by Title IX regulations.
- The complaint is against a named respondent who, at the time of the alleged sexual harassment, was under control of the school district (such as a student, employee, or volunteer);
- The alleged sexual harassment occurred in the United States; and
- The complainant is participating in or attempting to participate in the district’s educational program or a district activity at the time of the alleged sexual harassment.

If the Title IX Coordinator determines that the complaint does not meet the criteria for a Title IX complaint, the district will not be required to implement the additional Title IX Sexual Harassment Complaint Procedures.

If the Title IX Coordinator determines that the Title IX Sexual Harassment Complaint Procedures must also be implemented, the Title IX Coordinator will acknowledge receipt of the formal complaint by providing the following written notice to the complainant and respondent:

- A copy of the school’s discrimination complaint procedure in a language the parties can understand;
- Notice of the allegations of sexual harassment with sufficient time for the parties to prepare a response before any initial interview and with sufficient detail, including the identities of the parties involved in the incident, if known, and the conduct allegedly constituting sexual harassment under Title IX regulations;
- Notice that the parties may have an advisor of their choice who may be an attorney or a non-attorney, and who may inspect and review evidence of the alleged sexual harassment;

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#### Formal Complaint Process (continued)

- 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; and
- Notice of any provision in district conduct policies and procedures that prohibit false statements or submitting false information.

#### *Supportive Measures under Title IX*

“Supportive measures” are non-disciplinary, non-punitive individualized services offered to the complainant or respondent as appropriate, as reasonable available, and without fee or charge to the complainant or respondent.

Once the Title IX Coordinator is informed about possible sexual harassment, the Title IX Coordinator will contact the complainant to discuss the availability of supportive measures, consider the complainant’s wishes with respect to supportive measures, and inform the complainant that supportive measures are available with or without the filing of a complaint. Supportive measures may will 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 may include, but are not limited to: counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, leaves of absence, increased security and monitoring of certain areas of campus, and other similar measures.

#### *Investigation of a Formal Title IX Complaint*

The district will investigate allegations contained in the Title IX complaint. If any conduct alleged in the complaint would not constitute sexual harassment under Title IX even if proved, did not occur in the district’s educational program or activity, or did not occur against a person in the United States, the district will dismiss such allegations as to that conduct under Title IX. The district may dismiss the complaint or any allegation therein if the complainant notifies the Title IX Coordinator in writing at any time during the investigation that the complainant would like to withdraw such complaint or allegation therein. If the Title IX complaint is dismissed, the district will promptly send written notice of the dismissal and the reason(s) for the dismissal simultaneously to the complainant and the respondent. Such dismissal does not preclude the district from

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#### Formal Complaint Process (continued)

investigating the alleged sexual harassment under its non-Title IX sexual harassment policy and/or other applicable district policies.

The district's investigation of the allegations in a Title IX complaint must be prompt and thorough, and:

- 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. 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 or paraprofessional 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;
- 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;
- Provide the 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;
- Provide to a party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all hearing, interviews, or other meetings, with sufficient time for the parties to prepare to participate;
- Prior to the completion of an investigative report, 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 parties will have at least ten (10) days to submit a written response for the investigator to consider prior to the completion of the investigative report;
- At least ten (10) days prior to a determination regarding responsibility, create an investigative report that fairly summarizes the relevant evidence, and send the investigative report in an electronic or hard copy format to each party and each party's advisor for their review and written response;

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#### Formal Complaint Process (continued)

- After transmitting the investigative report to the parties, but before reaching a final determination regarding responsibility, the decision-maker must give each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. Questions and evidence about the complainant's sexual predisposition or prior sexual behaviors 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. The decision-maker must explain to the party proposing the questions any decision to decision to exclude a question as not relevant.

The additional Title IX procedures do not preclude the district from placing an employee-respondent on administrative leave during the Title IX grievance process consistent with district policies and procedures or from removing a student-respondent from school on emergency basis consistent with Policy 3310.

#### *Superintendent's Response to a Formal Title IX Complaint*

The decision-maker cannot be the same person as the Title IX Coordinator or the investigator. At the conclusion of the investigation of the formal Title IX complaint, the decision-maker (superintendent or designee) must issue a written determination of responsibility regarding the alleged sexual harassment under Title IX within thirty (30) calendar days of receipt of the formal 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 that an extension is needed, the district will notify the parties in writing of the reason for the extension and the anticipated response date.

The decision-maker's written determination must be issued to the parties simultaneously and must include:

- 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;

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#### Formal Complaint Process (continued)

- Findings supporting the determination;
- A summary of the results of the investigation;
- Conclusions regarding the application of the district's conduct policies to the facts;
- A statement as to whether a preponderance of the evidence establishes that the complainant was sexually harassed under Title IX;
- A statement or, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary or other sanctions imposed on the respondent, and whether remedies designed to restore or preserve equal access to the education program or activity will be provided to the complainant;
- If sexual harassment is found to have occurred, the corrective measures the district deems necessary, including assurance that the district will take steps to prevent recurrence and remedy its effects on the complainant and others, if appropriate; and
- Notice of the parties' right to appeal to the board of directors and necessary filing information.

The decision-maker's response will be provided in a language that the complainant can understand. At the time that the district responds to the parties, the district will send a copy of the decision-maker's response to the office of the superintendent of public instruction.

Any corrective measures deemed necessary will be instituted as quickly as possible, but in no event more than thirty (30) days after the decision-maker's written response is transmitted to the parties, unless the respondent is appealing the imposition of discipline and the district is barred by due process considerations from imposing the discipline until the appeal process is concluded. The Title IX Coordinator is responsible for the effective implementation of any remedies.

#### *Title IX Informal Resolution Process*

At any time prior to a determination regarding a formal Title IX complaint, the district may permit a complainant to waive the formal Title IX complaint and grievance process in favor of an informal resolution process not involving a full investigation and adjudication, provided that the respondent to the Title IX investigation is not an employee of the district, and:

- the district obtains the complainant's voluntary, written consent;

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#### Formal Complaint Process (continued)

- the district provides reasonably prompt timeframes for the informal resolution process; and
- the district provides the parties with written notice disclosing the allegations, the requirements for the informal resolution process, and notice of the circumstances in which the parties would be precluded from continuing with a formal resolution process for the same allegations.

A party has the 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. 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.

#### **Level Two -Appeal to Board of Directors**

If a complainant disagrees with the superintendent's or designee's written decision, the complainant may appeal the decision to the district board of directors, by filing a written notice of appeal with the secretary of the board within ten (10) calendar days following the date upon which the complainant received the response.

The board will schedule a hearing to commence by the twentieth (20<sup>th</sup>) calendar day following the filing of the written notice of appeal, unless otherwise agreed to by the complainant and the superintendent or for good cause. Both parties will be allowed to present such witnesses and testimony as the board deems relevant and material. Unless otherwise agreed to by the complainant, the board will render a written decision within thirty (30) calendar days following the filing of the notice of appeal and provide the complainant with a copy of the decision. The decision will be provided in a language that the complainant can understand, which may require language assistance for complainants with limited English proficiency in accordance with Title VI of the Civil Rights Act. The decision will include notice of the complainant's right to appeal to the Superintendent of Public Instruction and will identify where and to whom the appeal must be filed. The district will send a copy of the appeal decision to the office of the superintendent of public instruction.

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#### Level Two -Appeal to Board of Directors (continued)

##### *Additional Procedures for Level Two Appeal of Title IX Determination of Responsibility*

If either the complainant or respondent to a Title IX sexual harassment formal complaint disagrees with the superintendent's or designee's written decision, the disagreeing party may file a written notice of appeal with the secretary of the board within ten (10) calendar days following the date when the disagreeing party received the response. The other party will be noticed in writing that an appeal has been filed.

Request for appeals is limited to the following grounds:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainant or respondent that affected the outcome of the matter.

If the appeal does not meet the request for appeal grounds, the appeal shall be denied by the Superintendent or designee and the parties and their advisors will be notified in writing of the denial and the rationale.

If the complaint involved a named respondent, the district will implement appeal procedures equally for both parties.

The District will ensure that the decision-maker for the appeal is not the same decision-maker who reached the determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator. The decision-maker(s) for the Level Two appeal must not have a conflict of interest or bias for or against complainants or respondents generally or individually. The decision-maker(s) for the appeal will receive the same training that is required for the decision-maker for the initial determination regarding responsibility. Both parties will be allowed a reasonable, equal opportunity to submit a written statement in support of or challenging the outcome of the initial determination.

#### **Level Three - Complaint to the Superintendent of Public Instruction**

If a complainant disagrees with the decision of the board of directors, or if the district fails to comply with this procedure, the complainant may file a complaint with the superintendent of public instruction.

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Level Three - Complaint to the Superintendent of Public Instruction (continued)

1. A complaint must be received by the Superintendent of Public Instruction on or before the twentieth (20) calendar day following the date upon which the complainant received written notice of the board of directors' decision, unless the Superintendent of Public Instruction grants an extension for good cause. Complaints may be submitted by mail, fax, electronic mail, or hand delivery.
2. 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.
3. Upon receipt of a complaint, the Office of the Superintendent of Public Instruction may initiate an investigation, which may include conducting an independent on-site review. OSPI may also investigate additional issues related to the complaint that were not included in the initial complaint or appeal to the superintendent or board. Following the investigation, OSPI will make an independent determination as to whether the district has failed to comply with RCW 28A.642.010 or Chapter 392-190, WAC and will issue a written decision to the 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.

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#### Level Three - Complaint to the Superintendent of Public Instruction (continued)

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.

#### **Level Four - Administrative Hearing**

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

#### **Mediation**

At any time during the complaint procedure set forth in WAC 392-190-065 through 392-190-075, 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:

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 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 authority to bind the district.

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#### **Training and Orientation**

A fixed component of all district orientation sessions for staff, students and regular volunteers will introduce the elements of this policy. Staff will be provided information on recognizing and preventing sexual harassment. Staff will be fully informed of the formal and informal complaint processes 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 get the portions of this component of orientation relevant to their rights and responsibilities.

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

A copy of the district's sexual harassment policy must be included in any publication of the district or of a school that sets forth the rules, regulations, procedures, and standards of conduct for the school or school district. The policy must also be conspicuously posted in each school district, and provided to each employee, volunteer, and student.

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.

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The superintendent or designee shall make an annual report to the board reviewing the use and efficacy of this policy and related procedures. Recommendations for changes to this policy, if applicable, shall be included in this report. The superintendent or designee is encouraged to involve staff, students, volunteers, and parents in the review process.

### **Preservation of Records**

The district will maintain records of all sexual harassment investigations under state or federal regulations in the office of the district compliance officer for a period of seven (7) years. Such records include files containing copies of all correspondence relative to each complaint communicated to the district; records of supportive measures or any other actions taken in response to a report or formal complaint of sexual harassment; any informal resolution and the result; any disposition or determination regarding responsibility; any audio or audiovisual recording or transcript; any disciplinary sanctions imposed on respondents; any remedies provided to complainants; and any appeal from the result of a determination regarding responsibility. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process will be publicly available on the district website for a period of seven (7) years.

Submitted     November 25, 2020  
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