

PERSONNEL

Employment Practices: Nondiscrimination and Affirmative Action

1. Nondiscrimination

The district shall provide equal employment opportunity and treatment for all applicants and employees in recruitment, hiring, retention, assignment, transfer, promotion and training. Such equal employment opportunity shall be provided without discrimination with respect to race, creed, religion, color, national origin, age, sex, sexual orientation including gender expression or identity, marital status, honorably-discharged veteran status, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability.

The superintendent shall designate an employee to serve as Affirmative Action/Title IX compliance officer. The superintendent shall also designate an employee to serve as Section 504/ADA Coordinator.

2. Affirmative Action

The district, as a recipient of public funds, is committed to undertake affirmative action which shall make effective equal employment opportunities for employees and applicants for employment. Such affirmative action shall include a review of programs, the setting of goals and the implementation of corrective employment procedures to increase the ratio of aged, qualified individuals with disabilities, ethnic minorities, women and Vietnam veterans who are under-represented in the job classifications in relationship to the availability of such persons having requisite qualifications. Such affirmative action may include, but not be limited to, recruitment, selection, training, education and other programs. Affirmative action plans may not include hiring or employment preferences based on gender or race, including color, ethnicity or national origin.

The superintendent shall develop an affirmative action plan which specifies the personnel procedures to be followed by the district and shall ensure that no such procedures discriminate against any individual. Reasonable steps shall be taken to promote employment opportunities of those classes that are recognized as protected groups – aged, handicapped, ethnic minorities, women and Vietnam veterans.

This policy, as well as the affirmative action plan, regulations and procedures developed according to it, shall be disseminated widely to staff in all classifications and to all interested patrons and organizations. Progress toward the goals established under this policy shall be reported annually to the board.

Legal References:	RCW 28A.400.310	Law against discrimination applicable to district's employment practices
	RCW 28A.640.020	Regulations, guidelines to eliminate discrimination
	RCW 49.60	Law Against Discrimination
	RCW 73.16	Veterans and Veteran's Affairs – Employment and Re- Employment
	WAC 392-200	Employment Discrimination
	WAC 392-200-015	Public school employment – Affirmative action program
	42 U.S.C. 2000c et seq.	Title VII of the Civil Rights Act of 1964
	42 U.S.C. 2000h et seq.	Title IX of the Educational Amendments of 1972
	42 U.S.C. § 12101-12213	Americans with Disabilities Act
	29 U.S.C. 706	
	8 U.S.C. 1324a and 1324b	(IRCA) Immigration Reform and Control Act of 1986
	38 U.S.C. § 2021-2024	Uniformed Services Employment and Reemployment Rights Act
	45 C.F.R. 84, Sec. 504	Vocational Rehabilitation Act of 1973
	Executive Order 11246, Amended by Executive Order 11375	

Adoption Date: June 28, 2011

PERSONNEL

Nondiscrimination and Affirmative Action

To ensure fairness and consistency, the following informal and formal complaint procedure is to be used by and on behalf of employees and by the district to address complaints covered by the nondiscrimination policy and/or the affirmative action program. The deadline for filing a complaint is one (1) year after the date of occurrence that is the subject matter of the complaint, unless the complaint is otherwise allowed by WAC 392-190-065. The district may not intimidate, threaten, coerce, or discriminate against any individual who exercises their rights under this policy and procedure. No employee's status with the district shall be adversely affected in any way because the employee utilized these procedures.

As used in this procedure, the following definitions will apply:

- A. "Grievance" means an informal complaint which has been made by a complainant relating to alleged violations of any state or federal anti-discrimination laws. "Grievance" for purposes of this policy and procedure is distinguished from contractual grievance procedures contained in an applicable collective bargaining agreement; and
- B. "Complaint" means a formal written charge describing specific acts, conditions, or circumstances alleged to violate this policy or state or federal discrimination laws.
- C. "Complainant" means an employee making the complaint or grievance; and
- D. "Respondent" means the person alleged to be responsible, or who may be responsible, for the violation alleged in the complaint.

The primary purpose of this procedure is to secure an equitable solution to a justifiable complaint. To this end, the following steps shall be taken:

A. Informal Process for Resolution (Informal Complaint)

When a staff member has an employment problem concerning equal employment opportunity, he or she shall discuss the problem with the immediate supervisor, personnel director or superintendent within 60 days of the circumstances which gave rise to the problem. The staff member may also ask the Title IX officer to participate in the informal review procedure. It is intended that the informal discussion shall resolve the issue. If the staff member feels he or she cannot approach the supervisor because of the supervisor's involvement in the alleged discrimination, the staff member may directly contact the Title IX officer before pursuing formal procedures. If the discussion with the officer or immediate supervisor does not resolve the issue, the staff member may proceed to the formal review procedure. During the course of the informal process, the district will notify the complainant of the right to file a formal complaint.

B. Formal Process for Resolution (Formal Complaint)

**1. Level One-Superintendent/Designee**

The complaint must be signed by the complaining party and set forth the specific acts, conditions, or circumstances alleged to be in violation. The Title IX officer shall investigate the allegations set forth within 30 calendar days of the filing of the charge. The complainant and Title IX officer may agree to resolve the complaint in lieu of an investigation. The officer shall provide the superintendent with a full written report of the complaint and the results of the investigation.

The superintendent or designee shall respond in writing to the complainant as expeditiously as possible, but in no event later than 30 calendar days following receipt of the written 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 decision of the superintendent or designee will include: 1) a summary of the results of the investigation; 2) whether the district has failed to comply with anti-discrimination 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 shall be instituted as expeditiously as possible, but in no event later than 30 calendar days following the superintendent's mailing of a written response to the complainant.

**2. Level Two – Appeal to the Board of Directors**

If a complainant disagrees with the decision of the superintendent/designee, he or she may file 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 shall schedule a hearing to commence by the 20<sup>th</sup> calendar day following the filing of the written notice of appeal unless otherwise agreed to by the complainant and superintendent for good cause. Both parties shall be allowed to present such witnesses and testimony as the board deems relevant and material. The board shall render a written decision within thirty (30) calendar days following the filing of the notice of appeal. The complainant shall be provided with a copy of the board's decision in a language the complainant can understand. 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.

**3. Level Three – Appeal 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.

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-discrimination laws; 2) The name and contact information, including address, of the complainant; 3) The name and address of the district subject to the complaint; 4) 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.

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.

#### **4. 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.

##### **C. Mediation**

At any time during the discrimination 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 discrimination 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.

##### **D. Preservation of Records**

The files containing copies of all correspondence relative to each complaint communicated to the district and the disposition, including any corrective measures instituted by the district, shall be retained in the office of the district compliance officer for a period of 5 years.