

STUDENTS

Sexual Harassment of Students

I. ~~Dissemination of the Policy~~

This 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](#).

Notice

Reasonable efforts shall be made to inform all students and their parents of the district's sexual harassment policy and procedures. ~~These efforts~~ Information about the district's sexual harassment shall include publication of the policy and procedures will be reproduced in the *Student Rights and Responsibilities Policies Handbook*, in each schools' student/parent handbook, staff handbook, and volunteer handbook, posting the policy and procedures in each school building, and discussion of the policy and procedures at each school.

The name and telephone numbers of the building Title IX Officer, as well as the district Title IX/Civil Rights Compliance Officer, and assistant superintendent of human resources shall be posted in such locations in buildings as to be commonly and easily viewed by students and staff.

Staff Responsibilities

In the event of an alleged sexual assault, the school principal will immediately inform: 1) the Title IX/Civil Rights Compliance Coordinator so that the district can appropriately respond to the incident consistent with its own grievance procedures; and 2) law enforcement.

The principal will notify the targeted student(s) and their parents/guardians of their right to file a criminal complaint and a sexual harassment complaint simultaneously.

IN REVISION

3205P

Page 2 of 8

Confidentiality

If a complainant requests their 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 district Title IX Officer for evaluation.

The district Title IX Officer should inform the complainant that honoring the request may limit its ability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator.

If the complainant still requests their name not be disclosed to the alleged perpetrator or that the district not investigate or seek action against the alleged perpetrator, the district will need to determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students, staff and other third parties engaging 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.

Retaliation

Title IX prohibits 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 against those who provided information as a witness. The district will investigate all allegations of retaliation and take actions against those found to have retaliated.

H. Types of Harassment

~~Sexual harassment is one form of prohibited harassment. Conduct that may constitute sexual harassment includes repeated, unsolicited verbal comments, gestures, or physical conduct of a sexual nature which is unwelcome, personally offensive and interferes with a student's education. Examples of such conduct include:~~

- ~~a. unwelcome sexual advances; or~~
- ~~b. requests for sexual favors; or~~
- ~~c. sexually motivated physical conduct; and~~
- ~~d. other verbal or physical conduct or communication of a sexual nature, when that conduct or communication has the purpose or effect of substantially or unreasonably interfering with a student's education or creating an intimidating, hostile or offensive educational environment.~~

~~Examples of behavior which may be considered sexual harassment include without limitation:~~

- ~~• staring or leering that has sexual overtones;~~
- ~~• unwanted sexual comments;~~
- ~~• suggestive gestures;~~
- ~~• sexually demeaning jokes, statements or comments;~~

- ~~spreading sexual gossip;~~
- ~~unwanted physical contact of a sexual nature, including feigned “accidental” contact as well as pinches, embraces, slaps or pats;~~
- ~~pressure for sexual activity;~~
- ~~displaying pornographic or sexually explicit materials;~~
- ~~offering benefits, favors or rewards in exchange for sexual contact.~~

~~These same principles apply to prohibited conduct based on an individual’s legally protected status or characteristic other than sex. Examples of other types of prohibited harassment include the following:~~

- ~~Verbal abuse, slurs and jokes. This includes oral or written ethnic and racial jokes and slurs and comments that stereotype individuals based on their race, color, religion, national origin, sexual orientation, disability or other legally protected status or characteristic.~~
- ~~Graffiti, cartoons or other graphic materials. This includes written materials, pictures and other depictions that are demeaning or hostile and that are based on the race, color, religion, national origin, sexual orientation, disability or other legally protected status or characteristic of an individual or group.~~
- ~~Threats, pranks or vandalism. This includes intimidating comments and/or conduct directed at individuals based on their race, color, religion, national origin, sexual orientation, disability or other legally protected status or characteristic.~~

III. The Complaint Process

~~To ensure fairness and consistency, the following procedure is to be used with regard to problems covered by state and federal equal educational opportunity laws.~~

Informal Complaints Process

~~At the student and parent/guardian’s option, attempts will be made~~ Anyone may use informal procedures to report and resolve complaints of ~~discriminatory sexual~~ harassment ~~informally, expeditiously and at the closest point of administrative responsibility to the alleged offense.~~ Informal complaints of ~~discriminatory sexual~~ harassment of students shall be reported to the building principal or designee. The building principal or designee will be responsible for investigation and resolution of informal complaints. The building principal or designee may seek assistance or guidance from the district’s Title IX/Civil Rights Compliance Officer. The building principal or designee must notify the complainant of ~~his/her the~~ right to file a formal complaint ~~under this policy.~~ The notice shall be provided in a language 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 of 1964.

During the course of the informal complaint process, the district will take prompt and effective steps reasonably calculated to end any harassment and to correct any discriminatory effects on the complainant. If an investigation is needed to determine what occurred, the district will take interim measures to protect the complainant before the final outcome of the district’s investigation (e.g., allowing the complainant to change academic or extracurricular activities or break times to avoid contact with the alleged perpetrator).

IN REVISION

3205P

Page 4 of 8

Informal remedies 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;
- Separating students; or
- Providing staff and/or student training.

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.

The district will inform the complainant and their 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 or instances of retaliation, and to promptly respond and appropriately address continuing or new problems. Follow-up inquiries will follow a timeline agreed to by the district and complainant.

Formal Complaints Process

- A. The district's Title IX/Civil Rights Compliance Officer, assistant superintendent of human resources or designee shall be responsible for monitoring and coordinating the district's compliance with [WAC 392-190](#) and related procedures and ensuring that all complaints communicated to the district are promptly investigated and resolved.

The Title IX/Civil Rights Compliance Officer ("Compliance Officer") is:

Mary O'Brien
Everett School District No. 2
3900 Broadway
P.O. Box 2098
Everett, WA 98201
mobrien@everettsd.org
Phone: (425) 385-4106

The Assistant Superintendent of Human Resources, Equity and Access is:

Debra Kovacs
Everett School District No. 2
3900 Broadway
P.O. Box 2098
Everett, WA 98201
dkovacs@everettsd.org
Phone: (425) 385-4100

The compliance officer or designee will receive and investigate formal complaints that involve only students. The assistant superintendent of human resources or designee will receive and investigate formal complaints when allegations of **discriminatory sexual** harassment are brought against employees or other adults. School or district administrators who receive a formal complaint of **discriminatory sexual** harassment will promptly notify the compliance officer or assistant superintendent of human resources and forward a copy of the complaint.

B. The allegations of **discriminatory sexual** harassment shall:

1. be written;
2. be signed by the complainant;
3. describe the specific acts, conditions, or circumstances alleged to violate the district's policies or obligations with regard to discrimination; and
4. be filed with the compliance officer or assistant superintendent of human resources within one (1) year after the occurrence that is the subject of the complaint, unless the delay is due to specific misrepresentations by the district that it had resolved the problem forming the basis of the complaint or the district withheld information that was required to be provided under [WAC 392-190](#) or related guidelines.

C. Upon receipt of the complaint, the district's compliance officer, the assistant superintendent of human resources, or designee will provide the complainant a copy of [Procedure 3210P](#) in a language the complainant can understand, which may require language assistance for complainants with limited-English proficiency, in accordance with Title VI. The district will promptly and thoroughly investigate the complaint. Following completion of the investigation, the compliance officer or the assistant superintendent of human resources shall provide the superintendent or designee with a full written report of the complaint and the results of the investigation, unless the matter is resolved to the satisfaction of the complainant without an investigation or prior to the submission of a written report.

D. The superintendent or designee shall respond in writing to the complainant within thirty (30) calendar days after the district received the written complaint by the district, unless otherwise agreed to by the complainant or if exceptional circumstances related to the complaint require an extension of the time limit. If an extension is needed, the district will notify the complainant in writing of the reasons for the extension and the anticipated response date in a language the complainant can understand, which may require language assistance for complainants with limited-English proficiency, in accordance with Title VI. At the time the district responds to the complainant, the district will send a copy of the response to the Office of the Superintendent of Public Instruction.

E. The response by the superintendent or designee will include:

1. A summary of the results of the investigation;
2. Whether the district failed to comply with [WAC 392-190](#) or related guidelines;
3. If the district failed to comply with [WAC 392-190](#) or related guidelines, the corrective measures deemed necessary to correct the noncompliance; and
4. Notice of the complainant's right to appeal under [WAC 392-190-005](#), including where and with whom the appeal should be filed.

The district's response to the complaint will be provided in a language the complainant can understand, which may require language assistance for complainants with limited-English proficiency in accordance with Title VI.

- F. Corrective measures necessary to correct any noncompliance shall be instituted as expeditiously as possible, but no later than thirty (30) calendar days after the district's written response to the complainant, unless otherwise agreed to by the complainant.
- G. A complainant may appeal the superintendent or designee's decision to a hearing officer designated by the district to hear the appeal by filing a written notice of appeal with the superintendent on or before the tenth (10th) calendar day from the date the complainant received the superintendent or designee's response. The hearing officer shall not have been involved in the initial complaint or investigation.
- H. Upon receipt of an appeal, the hearing officer shall provide a written appeal decision to the complainant in a timely manner, not to exceed thirty (30) calendar days from the date the district received the appeal, unless otherwise agreed to by the complainant. The appeal decision will include notice of the complainant's right to file a complaint with the superintendent of public instruction under [WAC 392-190-075](#). The decision of the hearing officer will be provided in a language the complainant can understand, which may require language assistance for complainants with limited-English proficiency in accordance with Title VI. The decision of the hearing officer will include notice of the complainant's right to file a complaint with the Office of the Superintendent of Public Instruction. The district will send a copy of the appeal decision to the Office of the Superintendent of Public Instruction.
- I. In the event a complainant disagrees with the appeal decision of the hearing officer or if the district fails to comply with the procedures in [WAC 392-190-065](#) or [392-190-070](#), the complainant may file a complaint with the Office of the Superintendent of Public Instruction under [WAC 392-190-075](#). A complaint must be received by the Office Superintendent of Public Instruction within twenty (20) calendar days after the complainant received the hearing officer's written appeal decision.

Mediation of Complaints

- A. The district may offer mediation, at its expense, to resolve a complaint at any time during the complaint procedure. Mediation:
 - 1. Must be voluntary;
 - 2. Requires the agreement of the district and the complainant;
 - 3. May be terminated by either party during the mediation process;
 - 4. Cannot be used to deny or delay a complainant's right to utilize the complaint procedure; and
 - 5. Be conducted by a qualified and impartial mediator, who is not an employee of the district or providing services to a student who is the subject of the mediation.

- B. If the parties resolve the complaint through mediation, the parties may execute a legally binding agreement that:
1. Sets forth the resolution;
 2. States that all discussions that occurred during the mediation process will remain confidential and not be used as evidence in any future complaint, due process hearing, or civil proceeding; and
 3. Is signed by both the complainant and a district representative.
- C. The complainant and district may agree to extend the complaint timelines to pursue mediation.

IV. Disciplinary and Corrective Action

The district will take such disciplinary action as it deems necessary and appropriate to end harassment and to prevent its reoccurrence. Such disciplinary action will be consistent with state and federal law. When deemed appropriate by the district, the district shall provide support and/or assistance for individuals who have been subjected to harassment in the district's educational environment.

Training and Orientation

A fixed component of all district orientation sessions for staff, students and regular volunteers will introduce the elements of the sexual harassment 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.

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 the person does not submit to a sexual request;**

IN REVISION

3205P

Page 8 of 8

- 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.

V. Reports to the Board

Annually, in conjunction with the report to the board of directors on the district's Affirmative Action Plan, the Title IX/Civil Rights Compliance Officer will review the use and efficacy of the sexual harassment policy and procedures.

Policy and Procedure Review

Annually, the superintendent or designee will convene an ad hoc committee composed of representatives of certificated and classified staff, volunteers, students and parents to review the use and efficacy of this policy and procedure. The compliance officer will be included in the committee. Based on the review of the committee, the superintendent or designee will prepare a report to the board including, if necessary, any recommended policy changes. The superintendent will consider adopting changes to this procedure if recommended by the committee.

Cross reference:

[Board Policy 3205](#)

Harassment

Adopted: May 23, 1994
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