

PROPOSED REVISION



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HUMAN RESOURCES

Sex Discrimination and Sexual Sex-Based Harassment of District Staff Prohibited

~~All employees and volunteers will be provided a~~ This district is committed to a positive and productive working environment free from discrimination, including sex-based discrimination and sexual harassment. This commitment extends to all employees, applicants for employment, and others involved in academic, educational, extracurricular, athletic, and other programs or activities of the district, whether that program or activity is in a school facility, on school transportation, or at a class training held elsewhere. Sexual harassment is a form of misconduct which undermines the integrity of the employment relationship. Such conduct, whether committed by supervisory or nonsupervisory personnel, is specifically prohibited.

This policy is developed to meet the district's obligations under Title IX and is aligned with Washington State laws and regulations that define sex-based discrimination. The district will not adopt or implement any policy, practice, or procedure or take any employment action on the basis of sex, except to meet its obligations related to pregnancy and pregnancy-related conditions.

The district will not make any pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is "Miss or Mrs." During pre-employment, the district may ask an applicant for employment to self-identify their sex, but only if this question is asked of all applicants and if the response is not used as a basis for discrimination prohibited by Title IX or this policy.

Consistent with the Title IX regulation, the district will not implement any policy, practice, or procedure or take any employment action on the basis of sex:

- (1) Concerning the current, potential, or past parental, family, or marital status of an employee or applicant for employment, which treats persons differently; or
- (2) That is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit.

The district will not discriminate against any employee or applicant for employment on the basis of current, potential, or past pregnancy or related conditions. The district must treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions for all job-related purposes, including commencement, duration and extensions of leave; payment of disability income; accrual of seniority and any other benefit or service; and reinstatement; and under any fringe benefit offered to employees by virtue of employment.

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

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Definitions

“Sex-based harassment” means sexual harassment and other harassment on the basis of sex stereotypes, sex characteristics, sexual orientation, gender identity, gender expression, pregnancy or related conditions, and marital status.

The term “sexual harassment” includes the following, which Title IX defines at 34 C.F.R. § 106.2:

- **“Quid pro quo harassment;”**
- **“Hostile environment harassment;” and**
- **Specific offenses of sexual assault, dating violence, domestic violence, or stalking.**

The term “sexual harassment” is also prohibited under state law as defined at [WAC 392-190-056](#) and includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature between two or more individuals if:

- (a) Submission to that conduct or communication is condition of obtaining employment;**
- (b) A factor in decisions affecting that individual’s employment; or**
- (c) The conduct or communication has the purpose or effect of substantially interfering with an individual’s employment or of creating an intimidating, hostile, or offensive educational environment.**

Harassment based on sexual orientation, gender expression, or gender identity is also prohibited under Washington state law as defined at [RCW 49.60.040](#) and [WAC 162.32-040](#).

For the purpose of these definitions, sexual harassment may include conduct or communication that involves adult to student, student to adult, student to student, adult to adult, male to female, female to male, male to male, and female to female.

The district will address all sex-based harassment in its program and activities, even when some conduct alleged to be contributing to a hostile environment occurs outside of its program or activities.

The district has also developed other specific related policies for district employees to comply with its obligations under state and federal laws, including Title IX, and to create an inclusive and welcoming work environment, including [WSSDA Model Policies or modified for your district equivalent] Policy 5210 (Prohibiting Discrimination of Staff), Policy 5012 (Parental, family, or marital status; pregnancy or related conditions), and 5404 (Family Medical and Maternity Leave).

For the purposes of this policy, sexual harassment is defined by state and federal laws as any unwelcome sexual advance, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature that:

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- ~~Conditions the provision of employment or an aid, benefit, or service of the district, either explicitly or implicitly, on the employee's participation in such conduct (quid pro quo harassment); and/or~~
- ~~Makes the submission to or rejection of that conduct or communication a factor in decisions affecting that individual's employment; and/or~~
- ~~A reasonable person would find so severe, pervasive, and objectively offensive that it effectively denies an employee equal access to a district program or activity; and/or~~
- ~~Has the purpose or effect of substantially interfering with an employee's job performance, or of creating an intimidating, hostile, or offensive educational environment; and/or~~
- ~~Constitutes sexual assault as defined in the Clery Act, 20 U.S.C. 1092(f)(6)(A)(v)), dating violence as defined in 34 U.S.C. 12291(a)(10), domestic violence as defined in 34 U.S.C. 12291(a)(8), or stalking as defined in the Violence Against Women Act ("VAWA"), 34 U.S.C. 12291(a)(30).~~

Investigation and Response

The superintendent will develop and implement procedures for receiving, investigating, and resolving complaints or reports of sex discrimination, including sex-based harassment, and will include reasonable and prompt timelines and delineate roles and responsibilities for such.

If the district knows, or reasonably should know, that sex-based discrimination has occurred, the district will promptly investigate to determine what occurred and will take appropriate steps to resolve the situation. If an investigation reveals that sex-based harassment has created a hostile environment, the district will take prompt and effective steps reasonably calculated to end sex-based harassment, eliminate the hostile environment, prevent its occurrence, and, as appropriate, remedy its effects. The district will take prompt, equitable, and remedial action within its authority every time a report, complaint, and grievance alleging sex-based harassment comes to the attention of the district, either formally or informally.

Allegations of criminal misconduct will be reported to law enforcement, and suspected child abuse will be reported to law enforcement or Child Protective Services as required by law. Regardless of whether the misconduct is reported to law enforcement, school staff will promptly investigate to determine what occurred and take appropriate steps to resolve the situation to the extent that such investigation does not interfere with an ongoing criminal investigation. A criminal investigation does not relieve the district of its independent obligation to investigate and resolve sex-based harassment.

Engaging in sex-based discrimination will result in appropriate discipline or other appropriate sanctions against offending staff or third parties involved in district activities. Anyone else who engages in sex-based discrimination on district property or district workspaces will have their access to school property and activities restricted, as appropriate.

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Any employee or volunteer who believes they have been subjected to sexual harassment on the job should bring this to the immediate attention of their supervisor, the Affirmative Action officer, or the assistant superintendent of human resources.

All such complaints will be promptly investigated and, where appropriate, immediate corrective action will be taken to end sexual harassment and prevent its recurrence. Corrective action may include disciplinary action, up to and including suspension or termination, against those who violate the sexual harassment policy and support and/or assistance, as appropriate, for individuals who have been subjected to sexual harassment. Disciplinary actions shall be in compliance with collective bargaining agreements and state and federal law. To the highest degree possible, allowing for a fair investigation, complaints will be treated in a confidential manner. Retaliation against employees or volunteers shall not occur because they have made complaints of sexual harassment to management.

Retaliation and False Allegations

It is a violation of this policy to engage in retaliation, as defined under federal and state laws and Procedure 5160P, against any person who makes or is a witness in a sex-based discrimination complaint and will result in appropriate discipline. The district will take appropriate actions to protect involved persons from retaliation.

It is a violation of this policy to knowingly report false allegations of sex-based discrimination. Persons who found to knowingly report or corroborate false allegations of sexual harassment or corroborate false allegations of sexual harassment will be subject to appropriate discipline or other sanctions. However, no party, witness, or others participating in the district's grievance process will be disciplined based solely on a determination of whether sex-based discrimination occurred under Procedure 5160P.

Reasonable efforts shall be made to inform all employees and volunteers of the district's sexual harassment policy and procedures. These efforts shall include insertion of the policy and procedures in new employee information and volunteer orientation materials.

Informal complaints of sexual harassment by employees or volunteers shall be reported to the employee's or volunteer's supervisor, the Affirmative Action officer, or the assistant superintendent of human resources. The administrator receiving the complaint will be responsible for coordinating the investigation of such complaint with the district's Affirmative Action officer or assistant superintendent of human resources. Formal complaints of sexual harassment shall be processed in accordance with the complaint procedures set forth in [Procedure 5160P](#).

A formal complaint filed by or on behalf of a student complainant against an employee respondent will be investigated under the definitions, requirements, and procedures of [Board Policy 3205](#) and [Procedure 3205P](#).

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Staff Responsibilities and Training

The superintendent will develop and implement a procedure that identifies the roles, responsibilities, and training requirements of the Title IX Coordinator and school employees.

The superintendent will also develop materials to provide age-appropriate information and education to district staff, students, parents, and volunteers regarding this policy and the recognition and prevention of sex-based harassment.

District Notice

At a minimum, the district's website will include a statement that the district prohibits sex discrimination and sex-based harassment in any education program or activity that it operates, as required by Title IX and other laws, and employment. It will also state that questions about Title IX, how to locate the district's policy and grievance procedure, and how to report sex discrimination or make a complaint may be directed to the district's Title IX Coordinator. The Title IX Coordinator's contact information will also be provided, including their name or title, office address, email address, and telephone number.

This policy and the accompanying procedure, which includes the complaint process, will be conspicuously posted in each district building in a place accessible to staff, students, parents, volunteers, and visitors. Information about the policy and procedure will be clearly stated and posted throughout each school building, provided to each employee, and reproduced in each student, staff, volunteer, and parent handbook. Such notices will identify the district's Title IX coordinator and provide contact information, including the coordinator's email address.

Additionally, sex-based harassment recognition and prevention and the elements of this policy will be included in staff, student, and regular volunteer orientations.

Policy Review

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

Annually in conjunction with the report to the board of directors on the Affirmative Action Plan, the Affirmative Action officer will review the use and efficacy of the sexual harassment policy and procedures.

Cross references:

[Board Policy 2152](#)

Nondiscrimination on the Basis of
Sex in Education Programs and
Activities and Title IX

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Board Policy 3204	Prohibition of Harassment, Intimidation and Bullying of Students
Board Policy 3205	Sexual Discrimination and Sex-Based Harassment of Students Prohibited
Board Policy 3210	Nondiscrimination
Board Policy 3213	Gender-Inclusive Schools
Board Policy 3421	Child Abuse, Neglect and Exploitation
Board Policy 5010	Affirmative Action and Nondiscrimination
Procedure 5160P	Sexual Harassment
Board Policy 5161	Civility in the Workplace
Legal references:	
Chapter 28A.640 RCW	Sexual equality
RCW 28A.640.020	Regulations, guidelines to eliminate discrimination—Scope—Sexual harassment policies
Chapter 49.60 RCW	Discrimination—Human Rights Commission
Chapter 392-190 WAC	Equal educational opportunity—Unlawful discrimination prohibited
WAC 392-190-056	Sexual harassment—Definitions
WAC 392-190-057	Sexual harassment policy—Required criteria
WAC 392-190-058	Sexual harassment policy—Notification
20 U.S.C. §§ 1681-1688	Discrimination Based on Sex or Blindness
29 CFR § 1604.11	Sexual Harassment
34 CFR 106 et seq	Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance

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