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HUMAN RESOURCES

Affirmative Action and Nondiscrimination and Affirmative Action

This complaint procedure is adopted in accordance with [Chapter 392-190 WAC](#).

Complainant

An employee may file a complaint against the district alleging that it has violated anti-discrimination laws. The person filing the complaint is referred to as the “complainant.”

Informal Complaint

A complainant may bring an informal (i.e., oral) complaint to the district. If that occurs, the assistant superintendent of human resources/designee will schedule a meeting to discuss the informal complaint and how to resolve the complainant’s concerns. Using this informal process does not limit the complainant’s right to file a formal complaint. Further, as part of this informal process, the district will notify the complainant in writing about their right to file a formal complaint. The notice will be in a language the complainant can understand, which may require language assistance in accordance with [Title VI of the Civil Rights Act of 1964](#) for complainants with limited English proficiency.

Formal Complaint

The district’s assistant superintendent of human resources/designee shall be responsible for monitoring and coordinating the district’s compliance with [Chapter 392-190 WAC](#) and related procedures and ensuring that all complaints communicated to the district are promptly investigated and resolved.

The assistant superintendent of human resources is:

Dr. Chad Golden

Everett School District No. 2

3900 Broadway

P.O. Box 2098

Everett, WA 98201

cgolden@everettsd.org

Phone: (425) 385-4100

The assistant superintendent of human resources/designee will receive and investigate formal complaints. School or district administrators who receive a formal complaint of discrimination will promptly notify the assistant superintendent of human resources and forward a copy of the complaint.

A formal complaint must be in writing and describe the specific acts, conditions, or circumstances alleged to violate anti-discrimination laws.

A complaint must be filed with the assistant superintendent of human resources/designee within one (1) year of the occurrence giving rise to the complaint. The deadline will not be imposed if the complainant was prevented from filing a complaint because (1) the district specifically misrepresented that it had resolved the problem forming the basis of the complaint or (2) the district withheld information it was required to provide under Chapter 392-190 WAC.

A complaint may be filed by mail, fax, email, or hand delivery to any district or school administrator or to the compliance officer.

Receiving a Formal Complaint

Any district or school administrator who receives a formal complaint will promptly notify the assistant superintendent of human resources/designee. Once the assistant superintendent of human resources/designee receives a complaint, they will do the following:

1. Provide the complainant with a copy of [Policy 5010](#) and this procedure in a language they can understand, which may require language assistance in accordance with [Title VI of the Civil Rights Act of 1964](#) for complainants with limited English proficiency.
2. Ensure that the district conducts a prompt and thorough investigation into the allegations in the complaint.

In lieu of investigating, the district and the complainant may agree to resolve the complaint. If the complaint is resolved, no further action is necessary.

Written Response to a Formal Complaint

After completing the investigation, the assistant superintendent of human resources/designee will give the superintendent/designee a full written report of the complaint and the investigation results.

The superintendent/designee will issue a written response to the complainant within thirty (30) calendar days after the district receives the formal complaint. The thirty-day timeline can be extended if agreed to by the complainant or if exceptional circumstances related to the complaint require an extension. If an extension is needed, the district will notify the complainant in writing of the reasons for the extension and the anticipated response date. The notice will be in a language the complainant can understand, which may require language assistance in accordance with [Title VI of the Civil Rights Act of 1964](#) for complainants with limited English proficiency.

The district will send a copy of the written response to the Office of the Superintendent of Public Instruction (OSPI) when it sends the response to the complainant.

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The written response by the superintendent/designee must include a summary of the results of the investigation; a finding as to whether the district failed to comply with anti-discrimination laws; notice to the complainant of their right to appeal, including where and to whom the appeal must be filed; and, if the district failed to comply with anti-discrimination laws, the corrective measure deemed necessary to correct the noncompliance. Any corrective measures must be instituted as expeditiously as possible but no later than thirty (30) calendar days after the written response is issued unless otherwise agreed to by the complainant. The written response will be in a language the complainant can understand, which may require language assistance in accordance with [Title VI of the Civil Rights Act of 1964](#) for complainants with limited English proficiency.

Appeal to a Hearing Officer

If a complainant disagrees with the superintendent's/designee's written response, they may appeal to a hearing officer. The appeal must be in writing and filed with the superintendent within ten (10) calendar days of receiving the written response.

The hearing officer must issue a written appeal decision within thirty (30) calendar days of receiving the appeal unless the complainant agrees otherwise. The appeal decision must include notice of the complainant's right to file a complaint with OSPI under [WAC 392-190-075](#). The district will send a copy of the appeal decision to OSPI.

The appeal decision will be in a language the complainant can understand, which may require language assistance in accordance with [Title VI of the Civil Rights Act of 1964](#) for complainants with limited English proficiency.

Complaint to OSPI

If a complainant disagrees with the hearing officer's decision, or if the district fails to comply with this procedure, the complainant may file a complaint with OSPI.

A complaint must be received by OSPI on or before the twentieth (20th) calendar day following the date upon which the complainant received the hearing officer's decision unless OSPI grants an extension for good cause.

Complaints may be submitted by mail, fax, email, or hand delivery.

A complaint must be in writing and include the following: (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 written response 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 student's name and address and the name of the school and school district the student attends. If the student is homeless, the complaint should include contact information.

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Upon receipt of a complaint, OSPI 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 board.

Following the investigation, OSPI will make an independent determination as to whether the district has failed to comply with [Chapter 392-190 WAC](#) or OSPI's guidelines 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.

Administrative Hearing

The complainant or the district may appeal OSPI's written decision by filing a written notice of appeal with OSPI within thirty (30) calendar days of receiving the decision. OSPI will conduct a formal administrative hearing in accordance with the Administrative Procedure Act, [Chapter 34.05 RCW](#).

Mediation

The district may offer mediation, at its expense, at any time during the complaint procedure. The purpose of mediation is to offer the complainant and the district an opportunity to resolve disputes and reach an acceptable agreement concerning the complaint using an impartial mediator. The parties may agree to extend the complaint procedure deadlines to pursue mediation.

Mediation is voluntary, requires the agreement of both parties, and may be terminated by either party at any time.

The mediator must be impartial, may not be an employee of the district, and must not have a personal or professional conflict of interest. A person is not disqualified as a mediator solely because the district pays them to serve as a mediator.

If the parties resolve a dispute through mediation, they may execute a legally binding agreement that describes the resolution, states that all discussions that occurred during mediation will remain confidential and may not be used as evidence in any subsequent complaint or civil proceeding and is signed by the complainant and the district's representative.

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Recordkeeping

The Title IX/Civil Rights Compliance Officer's office will maintain documentation for each complaint received (e.g., the complaint, notices, the investigation report, the written response, the appeal decision, documentation of corrective measures, etc.) for six (6) years.

Affirmative Action

The board of directors of the Everett School District recognizes that an Affirmative Action Employment Plan is a sound employment practice, as well as a positive approach toward achieving lasting and equitable human resources policies and procedures.

In accordance with state and federal requirements, the district shall develop an Affirmative Action Plan. Such a plan shall include a work force analysis, a projection of possible work force vacancies, an analysis of activities designed to take appropriate affirmative action and a grievance procedure.

The superintendent or designee shall be responsible for the development, implementation and annual reporting of the Affirmative Action Plan. The overall responsibility for monitoring and auditing this plan shall be assigned to the human resources department.

Nondiscrimination

The district shall provide equal employment opportunity for all applicants and employees in recruitment, hiring, retention, assignment, transfer, promotion and training. The district shall also make reasonable accommodation to the known sensory, mental or physical limitations of an otherwise qualified disabled applicant or employee unless an accommodation would impose an undue hardship on the operation of the district program. District employees shall be free from harassment based on legally protected attributes or characteristics.

In cases where employees or applicants believe that they have been discriminated against on the basis of their legally protected status, that their disabilities have not been reasonably accommodated, or that they have been harassed on the basis of their legally protected status, the employee or applicant may file a complaint using the complaint process set forth in this procedure.

Grievance Procedure

To ensure fairness and consistency, these procedures are to be used in the district's relationship with its staff members, volunteers, or contractors who work on behalf of the district. It specifically governs employment problems covered by state and federal equal employment opportunity laws and/or this affirmative action program, including the Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), Titles VII and IX of the Civil Rights Act, the Washington Law Against Discrimination, and/or the district's Affirmative Action Plan. No such person's status with the district will be adversely affected in any way because the staff member utilized these procedures. The assistant superintendent of human resources or designee shall investigate all allegations of noncompliance or discrimination.

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1. "Grievance" means a complaint which has been filed by a staff member, volunteer, or contractor relating to alleged violations of any state or federal anti-discrimination laws.
2. "Complaint" means a written charge alleging specific acts, conditions or circumstances, which are in violation of the anti-discrimination laws. The time period for filing a complaint is one (1) year from the date of the occurrence that is the subject matter of the complaint. However, a 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 [WAC 392-190-065](#) or [WAC 392-190-005](#). Complaints may be submitted by mail, fax, email or hand-delivery to any district, school or to the district compliance officer responsible for investigating discrimination complaints. Any district employee who receives a complaint that meets these criteria will promptly notify the compliance officer.
3. "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, specific steps will be taken. The district is prohibited by law from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with their right to file a grievance under this procedure and from retaliating against an individual for filing such a grievance.

Informal Complaints

With regard to ADA matters, a distinction is to be made between a request for accommodation and a complaint. A request for accommodation should be submitted to the assistant superintendent of human resources. The parties should cooperate to resolve any issues of accommodation through an interactive process prior to the filing of a formal complaint. A complaint is to be filed only in the event there is a complaint of noncompliance after a request for accommodation has been made.

At the employee's option, attempts will be made to resolve complaints of discrimination informally, expeditiously and at the closest point of administrative responsibility to the alleged offense. Informal complaints of discrimination of an employee may be reported to the employee's supervisor, the Title IX/Civil Rights Compliance Officer, or the assistant superintendent of human resources. The supervisor will be responsible for investigation and resolution of informal complaints. The supervisor may seek assistance or guidance from the district's Title IX/Civil Rights Compliance Officer or assistant superintendent of human resources. The supervisor must notify the complainant of their right to file a formal complaint under this policy and procedure. 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.

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Formal Complaints

A. The district's assistant superintendent of human resources or designee shall be responsible for monitoring and coordinating the district's compliance with Chapter 392-190 WAC and related procedures and ensuring that all complaints communicated to the district are promptly investigated and resolved.

The assistant superintendent of human resources is:

Chad Golden

Everett School District No. 2

3900 Broadway

P.O. Box 2098

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Phone: (425) 385-4100

The assistant superintendent of human resources or designee will receive and investigate formal complaints. School or district administrators who receive a formal complaint of discrimination will promptly notify the assistant superintendent of human resources and forward a copy of the complaint.

B. The allegations of discrimination shall:

1. Be written;

2. Describe the specific acts, conditions, or circumstances alleged to violate the district's policies or obligations with regard to sexual harassment; and

3. Be filed with the 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 Chapter 392-190 WAC or related guidelines.

C. Upon receipt of the complaint, the district's assistant superintendent of human resources or designee will provide the complainant a copy of Procedure 5010P 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 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 (OSPI).

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 [Chapter 392-190 WAC](#) or related guidelines;
3. If the district failed to comply with [Chapter 392-190 WAC](#) or related guidelines, the corrective measures deemed necessary to correct the noncompliance; and
4. Notice of the complainant's right to appeal under [WAC 392-190-070](#), 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 appeal decision 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 OSPI. The district will send a copy of the appeal decision to OSPI.

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 [WAC 392-190-070](#), the complainant may file a complaint with OSPI 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.

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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 and who has no personal or professional conflict of interest.~~

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.~~

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 Title IX/Civil Rights Compliance Officer following the State of Washington's [Public Schools Records Retention Schedule](#).~~

Cross reference: [Board Policy 5010](#)

~~Affirmative Action and~~ Nondiscrimination
and Affirmative Action

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