



REINSTATEMENT OF PREVIOUS VERSION

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HUMAN RESOURCES

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

Complaint Procedure

The district does not discriminate on the basis of sex and prohibits sex discrimination in employment as required by Federal, State, and local laws. Discrimination on the basis of sex includes discrimination on the basis of sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity, and gender expression. The district will not adopt or implement any policy, practice, or procedure or take any employment action that treats individuals differently on the basis of sex.

Sex-based harassment is a form of sex discrimination and is prohibited by the district and will also be investigated under that procedure. "Sex-based harassment" means sexual harassment and other harassment on the basis of sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity, and gender expression.

The district has adopted the definitions in [Procedure 3205P.1](#) for sex-based discrimination, including sex-based harassment, on the basis of sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity, or gender expression.

Examples of sex-based discrimination of employees or applicants for employment include but are not limited to taking any of the following actions on the basis of sex stereotypes, sex characteristics, sexual orientation, gender identity, pregnancy, or related conditions:

- Refusal to hire or promote.
- Firing an employee or forcing them to quit or retire.
- Sex-based harassment, such as "quid pro quo harassment" and "hostile environment harassment."
- Other forms of sex-based harassment, such as specific offenses of sexual assault, dating violence, domestic violence, or stalking.
- Providing unequal benefits or compensation.
- Other materially unequal terms, conditions, or privileges of employment.

Retaliation Prohibited

"Retaliation" means intimidation, threats, coercion, or discrimination against any person for the purpose of interfering with any right or privilege secured by Title IX, this district policy and procedure, or because the person reported information, made a complaint, was a witness or provided information, assisted, or participated or refused to participate in any manner in an investigation or appeal under Title IX or the district's procedure. Retaliation is prohibited from the district, a student, or an employee or other person authorized by the district to provide any aid, benefit, or service under the district's education program or activity.

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When the district has information about conduct that reasonably may constitute retaliation under Title IX or this policy and procedure, the district is obligated to respond promptly and effectively, inform the Title IX Officer, and provide notice of the district's grievance process for addressing complaints of retaliation. Upon receiving a complaint alleging retaliation, the district must initiate its grievance procedures as described below or, as appropriate, an informal resolution process under those procedures.

Grievance Procedure

As discussed in [Procedure 3205P.1](#), the Title IX regulations permit, but do not require, informal resolution processes.

The district has adopted [Procedure 3205P.1](#) to set forth the process for receiving, investigating, and resolving reports or complaints of sex-based discrimination, including harassment based on a person's actual or perceived pregnancy status and retaliation. Such complaints are to be taken seriously and handled in the same manner as other sex-based discrimination and harassment complaints. [Procedure 3205P.1](#) is designed to provide for a prompt, thorough, and equitable investigation of complaints and to take appropriate steps to resolve such situations. If sex-based discrimination or retaliation is found to have occurred, the district must take immediate action to eliminate the discrimination or retaliation, prevent its reoccurrence, and address its effects.

Other forms of discrimination against employees or applicant employees that do not fall under that procedure may be addressed under other district policies and procedures, such as [Policy 5010](#), Affirmative Action and Nondiscrimination.

Staff Responsibilities, Training, and District Notice

[Procedure 3205P.2](#) describes how [Policy 5160](#) will be implemented, including:

- The roles, responsibilities, and training requirements of the Title IX Officer and school employees.
- That age-appropriate information and education to district staff, students, parents, and volunteers will be developed to explain this policy and to aid in the identification, recognition, and prevention of sex-based harassment.
- Where and how district will provide notice about the policy as required by Title IX and other laws.

For questions about this procedure, contact the district's Title IX Officer:

Dr. Chad Golden
Assistant Superintendent of Human Resources
3900 Broadway, Everett, WA 98201
cgolden@everettsd.org
Phone: (425) 385-4100

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Other Complaint Options

Office for Civil Rights (O.C.R.), U.S. Department of Education

O.C.R. enforces several federal civil rights laws, which prohibit discrimination in public schools on the basis of race, color, national origin, sex, disability, and age. File complaints with O.C.R. within 180 calendar days of the date of the alleged discrimination.
206-607-1600 | TDD: 1-800-877-8339 | OCR.Seattle@ed.gov | www.ed.gov/ocr

Washington State Human Rights Commission (WSHRC)

WSHRC enforces the Washington Law Against Discrimination (RCW 49.60), which prohibits discrimination in employment and places of public accommodation, including schools. File complaints with WSHRC within six months of the date of the alleged discrimination.
1-800-233-3247 | TTY: 1-800-300-7525 | www.hum.wa.gov

These procedures have been developed for the resolution of sexual harassment complaints of employees or volunteers of the district. No person shall be adversely affected in any way because of the utilization of these procedures.

This policy applies to sexual harassment (including sexual violence) targeted at district employees carried out by a student, employee, or a third party involved in school district activities. A formal complaint filed by an employee or 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](#).

Reports of discrimination and discriminatory harassment will be referred to the district's Title IX/Civil Rights Compliance Officer. Reports of disability discrimination or harassment will be referred to the district's Section 504 Coordinator.

Confidentiality

If a complainant requests their name not be revealed to the alleged aggressor or asks that the district not investigate or seek action against the alleged aggressor, the request will be forwarded to the district Title IX/Civil Rights Compliance Officer for evaluation.

Regardless of whether a formal complaint is filed, the district must take prompt and effective steps reasonably calculated to end harassment, eliminate the hostile environment, prevent its reoccurrence, and as appropriate, remedy its effects.

The district Title IX/Civil Rights Compliance 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 aggressor.

If the complainant still requests their name not be disclosed to the alleged aggressor or that the district not investigate or seek action against the alleged aggressor, 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 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.

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Informal Complaints

At the employee/volunteer's option, attempts will be made to resolve complaints of discriminatory harassment informally, expeditiously and at the closest point of administrative responsibility to the alleged offense. Informal complaints of discriminatory harassment of an employee/volunteer may be reported to the staff members' supervisor, the Affirmative Action 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 Affirmative Action Officer or assistant superintendent of human resources.

The supervisor must provide the complainant with a copy of the district's [Board Policy 5160](#) and this procedure, and notify the complainant of the right to file a formal complaint under that 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.

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. Informal remedies may include, but is not limited to:

- 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; or**
- Providing staff and/or student training.**

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

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

Everett, WA 98201

cgolden@everettsd.org

Phone: (425) 385-4100

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

B. The allegations of discriminatory 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 sexual harassment;
4. Clearly indicate a desire for the district to investigate the allegations; and
5. Be filed with the assistant superintendent of human resources or designee 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 [Board Policy 5160](#) and [Procedure 5160P](#) 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.

D. Before initiating the investigation, the district shall provide written notice of the allegations to both the complainant and the alleged aggressor prior to any discussions or interviews, and provide sufficient details known at the time and sufficient time to prepare a response. Specifically, the written notice must include:

- citations to the complaint process set forth in the district's [Board Policy 5160](#) and [Procedure 5160P](#);
- allegations with sufficient details (identity of parties, conduct alleged to constitute sexual harassment, date, location, implicated policies, etc.);
- a statement indicating the responding party is "presumed not responsible" until a determination is made;
- notice to the right of an advisor of their choice, who may be an attorney;
- notice that the parties may request to inspect and review relevant evidence; and a reminder of the district's policy not to make false statements or intentionally submit false information.

If additional allegations are subsequently added to the investigation, the district shall provide written notice to all parties of the new allegations.

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The investigation process shall:

- **treat all parties to the complaint equitably, including providing supportive measures to all parties, if necessary;**
- **be conducted by investigator who is free of bias against any of the parties, and who is trained on the definition of sexual harassment and how to conduct a sexual harassment investigation; and**
- **utilize the preponderance of the evidence standard to determine whether the conduct violated the definition of sexual harassment as provided in [Board Policy 5160](#) and whether the conduct occurred in the district's education program or activity.**

E. Simultaneously, the district shall determine whether supportive measures are necessary. "Supportive Measures" are defined as non-disciplinary, non-punitive individualized services, offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent(s). Such measures may include, but are not limited to:

- **counseling;**
- **extensions of deadlines or other course-related adjustments;**
- **modifications of work or class schedules;**
- **restrictions on contact between the parties;**
- **increased security and monitoring of certain areas of district grounds; and/or**
- **paid administrative leave of the respondent(s).**

F. 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, including an objective evaluation of all evidence (both inculpatory and exculpatory), unless the matter is resolved to the satisfaction of the complainant without an investigation or prior to the submission of a written report. This report must also be provided to all parties and their representatives, if any, at least ten (10) days before a final decision is made, or in compliance with timelines set forth in any applicable Collective Bargaining Agreement.

G. After review of the investigative report, the superintendent or designee shall utilize the preponderance of the evidence standard to determine whether the conduct violated the definition of sexual harassment as provided in [Board Policy 5160](#), whether the conduct occurred in the district's education program or activity, and whether the district complied with [Chapter 392-190 WAC](#) and/or related guidelines.

H. The superintendent or designee shall respond in writing to the parties within thirty (30) calendar days after the district received the written complaint by the district, unless otherwise agreed to by the parties or if exceptional circumstances related to the complaint require an extension of the time limit.

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If an extension is needed, the district must notify the parties in writing of the reasons for the extension and the anticipated response date in a language the parties can understand, which may require language assistance for a party with limited-English proficiency, in accordance with Title VI. At the time the district responds to the parties, the district will send a copy of the response to the office of the superintendent of public (OSPI) instruction.

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

- 1. A summary of the results of the investigation, including whether the alleged conduct violated the definition of sexual harassment as provided in [Board Policy 5160](#) and whether the conduct occurred in the district's education program or activity;**
- 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 parties' 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 parties can understand, which may require language assistance for a party with limited-English proficiency in accordance with Title VI.

J. 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 parties, unless otherwise agreed to by the complainant.

K. Any party 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 parties received the superintendent or designee's response. The hearing officer shall not have been involved in the initial complaint or investigation.

L. Upon receipt of an appeal, the hearing officer shall provide a written appeal decision to the parties 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 party. The appeal decision will include notice of the parties' 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 parties can understand, which may require language assistance for a party with limited-English proficiency in accordance with Title VI. The decision of the hearing officer will include notice of the parties' right to file a complaint with OSPI. The district will send a copy of the appeal decision to OSPI.

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M. In the event a party 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](#), that party may file a complaint with OSPI under [WAC 392-190-075](#). A complaint must be received by OSPI within twenty (20) calendar days after the parties 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 all parties;**
- 3. May be terminated by any 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 all of the parties and a district representative.**

C. The parties and district may agree to extend the complaint timelines to pursue mediation.

The complaint procedure outlined above does not prohibit the processing of complaints by an employee pursuant to complaint procedures established in applicable collective bargaining agreements.

Protection Against Retaliation

Retaliation for filing complaints or otherwise participating, or refusing to participate, in the investigation of an allegation of sexual harassment is strictly prohibited. No individual may intimidate, threaten, coerce, or discriminate against any other individual for the purpose of interfering with any right or privilege secured under the district's policies and procedures and/or state or federal law, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation or proceeding under this Procedure.

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Training and Orientation

A fixed component of all district orientation sessions for staff and regular volunteers will introduce the elements of the district's sexual harassment policies and procedures. Staff will be provided information on recognizing and preventing sexual harassment, including the definition of sexual harassment. Staff will be fully informed of the formal and informal complaint processes and their roles and responsibilities under the policies and procedures.

All of the schools' Title IX Coordinators, district investigators, decisionmakers designated under this Procedure, and any person who facilitates an informal resolution process under this Procedure, shall receive training that includes, but is not limited to, the definition of sexual harassment, the scope of the district's education program and activities, how to properly conduct an investigation and the district's complaint process, appeal rights, informal resolution processes, investigating allegations impartially, conflicts of interest, issues of relevance of evidence including when questions and evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant, and how to create a report that fairly summarizes relevant evidence.

As part of the information on the recognition and prevention of sexual harassment staff and volunteers 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;
- 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.

All materials used to implement the trainings described above shall be available to members of the public on the district's website and through the district's public records process pursuant to district [Board Policy 4340](#) and [Procedure 4340P](#).

Cross reference:

[Board Policy 5160](#)

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

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