Title: **Procedure - Sexual Harassment of Students Prohibited**
Code: 3205P
Section: 3000 - Students

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 targeted at students by other students, employees, or third parties involved in district activities.

A "complainant" refers to an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Commented [A1]: 34 CFR 106.30.

A "respondent" refers to an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Commented [A2]: 34 CFR 106.30.

I. General Response to Sexual Harassment

Under state law, when the district knows or reasonably should know that sexual harassment has occurred, it has an obligation to promptly investigate and take prompt and effective steps reasonably calculated to end the harassment, eliminate the hostile environment if one exists, prevent the harassment from recurring, and remedy the effects of the harassment, as appropriate.

Commented [A3]: WAC 392-190-0555.

Under Title IX, when the district has actual knowledge of sexual harassment in an education program or activity of the district against a person in the United States, it must respond in a manner that is not deliberately indifferent. The district is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

Commented [A4]: 34 CFR 106.44(a).

Once any employee knows, or in the exercise of reasonable care, should know about possible sexual harassment, the Title IX Coordinator must contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without filing a formal complaint, and explain the process for filing a formal complaint.

Commented [A5]: 34 CFR 106.44(a).

Supportive Measures

Supportive measures must be offered to a complainant before or after the filing of a formal complaint, or where no formal complaint has been filed. Supportive measures may also be provided to the respondent.

Commented [A6]: 34 CFR 106.30.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or respondent. Supportive measures should be designed to restore or preserve access to the district's education program or activity without unreasonably burdening the other party. Supportive measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

Commented [A7]: 34 CFR 106.30.

The district will keep any supportive measures provided to an individual confidential to the extent that maintaining confidentiality would not impair its ability to provide the supportive measures.

Commented [A8]: 34 CFR 106.30.

Confidentiality

If a complainant requests that their name not be revealed to the respondent or asks that the district not investigate or seek action against the respondent, the request will be forwarded to the Title IX Coordinator for evaluation. The Title IX Coordinator will inform the complainant that honoring the request may limit its ability to respond fully to the incident, including pursuing disciplinary action against the respondent.

If the complainant still requests that their name not be disclosed to the respondent or that the district not investigate or seek action against the respondent, the district will need to determine whether 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 complainant. 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 sexual harassment.

II. Filing a Formal Complaint

All formal sexual harassment complaints will be in writing and will set forth the specific acts, conditions, or circumstances alleged to have occurred and alleged to constitute sexual harassment. The Title IX Coordinator may draft a formal complaint based on the report of a complainant for the complainant to review and approve. The Title IX Coordinator may also conclude that the district needs to conduct an investigation based on information they possess, regardless of a complainant's interest in filing a formal complaint.

Commented [A9]: WAC 392-190-065(1).

Commented [A10]: 34 CFR 106.30.

A formal complaint must be filed within one year from the date of the occurrence that is the subject matter of the complaint. However, that deadline will not be imposed if the complainant was prevented from filing a complaint because (1) the district made specific misrepresentations 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.

Commented [A11]: WAC 392-190-065(2)(a)-(b).

A formal complaint may be submitted by mail, fax, email, or hand-delivery to the Title IX Coordinator:

Name
Office Address
Telephone Number
Email Address

Commented [A12]: WAC 392-190-065(3).

Any employee who receives a sexual harassment complaint will promptly notify the Title IX Coordinator.

Commented [A13]: WAC 392-190-065(3).

III. Determining which Process to Follow

Upon receiving a formal sexual harassment complaint, the Title IX Coordinator will assess whether a formal complaint of sexual harassment meets the criteria for triggering the complaint process requirements under Title IX. If the criteria are met, the Title IX requirements and the state requirements will be followed. If they aren't met, the state requirements will be followed.

To constitute a formal complaint under Title IX, at the time of filing the complaint, the complainant must be participating in or attempting to participate in the education program or activity of the district. If that criterion isn't met, the district will proceed to process the complaint under the state complaint process, described in Section V (State Complaint Process Only) below.

Commented [A14]: 34 CFR 106.30.

A formal complaint must be dismissed under Title IX if one of the following applies:

1. The conduct alleged in the formal complaint would not constitute sexual harassment as defined in 34 CFR 106.30 even if proved.
2. The conduct alleged in the formal complaint did not occur in the district's education program or activity.
3. The conduct alleged in the formal complaint did not occur against a person in the United States.

Commented [A15]: 34 CFR 106.45(b)(3)(i).

Additionally, the district may dismiss a formal complaint under Title IX if the respondent is no longer enrolled or employed by the district.

Commented [A16]: 34 CFR 106.45(b)(3)(ii).

If the formal complaint is dismissed under Title IX, the district will notify the parties in writing that it is dismissing the complaint under Title IX and will be following the state complaint process, described in Section V (State Complaint Process Only) below. The notice will also describe the reasons for the dismissal under Title IX. Either party may appeal a dismissal under Title IX, using the appeal process described in Section IV (Combined Title IX-State Complaint Process) below.

Commented [A17]: 34 CFR 106.45(b)(3)(iii).

Commented [A18]: 34 CFR 106.45(b)(8)(i).

IV. Combined Title IX-State Complaint Process

In implementing the combined Title IX-state complaint process, the district will do the following:

1. Treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment

has been made against the respondent and by following the complaint process before imposing disciplinary sanctions or other actions that are not supportive measures against a respondent. However, the district may remove a student respondent on an emergency basis if the district undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. An emergency removal will comply with Procedure 3241P. Further, the district may place an employee respondent on administrative leave during the pendency of the complaint process.

Commented [A19]: 34 CFR 106.45(b)(1)(i); 34 CFR 106.44(c) and (d).

2. Require an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness.

Commented [A20]: 34 CFR 106.45(b)(1)(ii).

3. Presume that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the complaint process.

Commented [A21]: 34 CFR 106.45(b)(1)(iv).

4. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

Commented [A22]: 34 CFR 106.45(b)(1)(x).

Written Notice

Upon receiving a formal sexual harassment complaint, the district will provide written notice to the complainant and respondent that includes the following:

1. Notice of the complaint and investigation processes, including any informal resolution process. The district will include copies of Policy 3205 and this procedure with the written notice.
2. Notice of the allegations of sexual harassment with sufficient time for the parties to prepare a response before any initial interview and with sufficient detail. Sufficient detail includes the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known.
3. Notice that the parties may have an advisor of their choice who may be an attorney or non-attorney, and who may inspect and review evidence of the alleged sexual harassment.
4. Notice that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility for alleged sexual harassment is made at the conclusion of the complaint process.
5. Notice of any provision in student conduct policies and procedures that prohibits false statements or submitting false information.

Commented [A23]: 34 CFR 106.45(b)(2)(i)(A)-(B).

If, in the course of an investigation, the district decides to investigate allegations about the complainant or respondent that are not provided in the original notice, the district will provide notice of the additional allegations to the parties whose identifies are known.

Commented [A24]: 34 CFR 106.45(b)(2)(ii).

The district may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Commented [A25]: 34 CFR 106.45(b)(4).

Informal Resolution Process

The district will not require as a condition of enrollment or continuing enrollment, employment or continuing employment, or enjoyment of any other right, wavier of the right to an investigation and adjudication for formal complaints of sexual harassment. Further, the district cannot require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed.

Commented [A26]: 34 CFR 106.45(b)(9).

However, at any time before a determination regarding responsibility for alleged sexual harassment, the district may permit a complainant to waive the formal complaint process in favor of an informal resolution process not involving a full investigation and adjudication. For that to occur, the following conditions must be met:

1. The district must provide the parties a written notice disclosing the following: the allegations; the requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations; and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
2. The district must obtain the parties' voluntary, written consent to the informal resolution process.
3. The district cannot offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint

Commented [A27]: 34 CFR 106.45(b)(9)(i)-(iii).

Informal remedies may include, but are not limited to, the following:

1. An opportunity for the complainant to explain to the respondent that their conduct is unwelcome, offensive, or inappropriate, either in writing or in person.
2. A statement from a staff member to the respondent that the alleged conduct is inappropriate and could lead to discipline if proven or repeated.

3. A general public statement from an administrator in a building that reviews the district's sexual harassment policy without identifying the complainant.
4. Developing a safety plan.
5. Separating students.
6. Providing staff or student training.

Investigation

Commented [A28]: 34 CFR 106.45(b)(5)(i)-(vii).

The district will investigate the allegations in a formal complaint that aren't resolved through an informal resolution process.

The district's investigation must comply with the following requirements:

1. The district will bear the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility for the alleged sexual harassment. The district may not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting or assisting in their professional capacity and made and maintained in connection with the provision of treatment to the party unless the district obtains the party's voluntary, written consent to do so.
2. The district will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
3. The district will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
4. The district will provide the parties with the same opportunities to have others present during any complaint proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be an attorney or non-attorney. The district will apply any restrictions regarding the extent to which an advisor may participate equally to both parties.
5. Before any hearings, interviews, or other meetings, the district will provide to a party who is invited or expected to participate written notice of the date, time, location, participants, and purpose of the hearing, interview, or other meeting with sufficient time for the party to prepare to participate.
6. Before completing an investigative report, the district will provide an equal opportunity for the parties to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation. This includes evidence that the district does not intend to rely on in reaching a determination of responsibility for the alleged sexual harassment, regardless of the source of the evidence. The parties will have at least ten days to submit a written response for the investigator to consider before completing the investigative report.
7. At least ten days before a determination regarding responsibility, the district will create an investigative report that fairly summarizes relevant evidence,

and send the report in an electronic or hard copy format to each party and to each party's advisor for their review and written response.

8. After transmitting the investigative report but before reaching a final determination regarding responsibility, the decision-maker will give each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant unless they are offered to prove that someone other than the respondent committed the conduct alleged by the complainant or unless they concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker must explain to the party proposing the questions any decision to exclude a question as not relevant.

The district may dismiss the complaint under Title IX if any of the following occurs during the investigation:

1. The complainant notifies the Title IX Coordinator in writing that they would like to withdraw the formal complaint or the allegations in the complaint.
2. The respondent is no longer enrolled in or employed by the district.
3. Specific circumstances prevent the district from gathering evidence sufficient to reach a determination as to the complaint or the allegations in the complaint.

Commented [A29]: 34 CFR 106.45(b)(3)(ii).

If the complaint is dismissed under Title IX, the district will notify the parties in writing that it is dismissing the complaint under Title IX and will be following the state complaint process, described in Section V (State Complaint Process Only) below. The notice will also describe the reasons for the dismissal under Title IX. Either party may appeal a dismissal under Title IX, using the appeal process described in Section IV (Combined Title IX-State Complaint Process) for appealing to the board.

Written Determination

At the conclusion of the investigation, the decision-maker must issue a written determination of responsibility regarding the alleged sexual harassment. The decision-maker will either be the superintendent or the superintendent's designee; however, the decision-maker cannot be the same person as the Title IX Coordinator or the investigator.

Commented [A30]: 34 CFR 106.45(b)(7)(i).

The standard of evidence used to determine responsibility is [the preponderance of the evidence or the clear and convincing evidence standard].

Commented [A31]: 34 CFR 106.45(b)(1)(vii).

The written determination will be issued within thirty calendar days of receiving the formal complaint, unless otherwise agreed to by the complainant or if exceptional circumstances related to the complaint require an extension of the time limit. Complying with the investigation requirements under Title IX may constitute exceptional circumstances. If an extension is needed, the district will notify the

Commented [A32]: OSPI has said that it "may consider implementation of the Title IX complaint process as an exceptional circumstance that may require a reasonable timeline extension." See OSPI Bulletin No. 007-25 LA (February 7, 2025).

complainant in writing of the reason for the extension and the anticipated response date.

The written determination will be issued to the parties simultaneously and must include the following:

1. Identification of the allegations constituting sexual harassment.
2. A description of the procedural steps taken from the time the district received the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held.
3. Findings supporting the determination.
4. Conclusions regarding the application of the district's code of conduct policies to the facts.
5. A statement of and rationale for the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and whether remedies or corrective measures designed to restore or preserve equal access to the education program or activity (e.g., sources of counseling, advocacy, and academic support, etc.) will be provided to the complainant.
6. The procedures and bases for appealing the written determination.

The written determination will be provided in a language the complainant and respondent can understand and may require language assistance for parties with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964.

At the time the written determination is issued to the parties, the district will send a copy of it to the Office of the Superintendent of Public Instruction (OSPI). Any remedies or corrective measures deemed necessary will be instituted as quickly as possible, but in no event more than thirty days after the written determination is issued

The district will inform the complainant and their parent or guardian how to report any subsequent problems. Additionally, the district will conduct follow-up inquires to see if there have been any new incidents of sexual harassment or instances of retaliation and will promptly respond and appropriately address continuing or new problems.

Appeal to the Board

Either party may appeal the written determination of responsibility or a dismissal decision to the board or other party designated by the district. To do so, a party must file a written notice of appeal with the superintendent within ten calendar days after receiving the written determination. The only bases for appealing a dismissal decision are a procedural irregularity that affected the outcome of the matter, new evidence coming to light that was not reasonably available at the time the dismissal was made that could affect the outcome of the matter, or a claim that the Title IX Coordinator, investigator, or decision-maker had a conflict of interest or

Commented [A33]: WAC 392-190-065(5).

Commented [A34]: 34 CFR 106.45(b)(7)(iii).

Commented [A35]: 34 CFR 106.45(b)(7)(ii)(A)-(F) WAC 392-190-065(6)(a)-(d).

Commented [A36]: WAC 392-190-065(7).

Commented [A37]: WAC 392-190-065(5).

Commented [A38]: WAC 392-190-065(5).

Commented [A39]: 34 CFR 106.45(b)(8)(i).

Commented [A40]: WAC 392-190-070(2).

bias against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

When the district receives a notice of appeal, it will provide written notice to the other party.

The decision-maker for the appeal cannot be the decision-maker who issued the written determination, the decision-maker who dismissed the complaint under Title IX, the investigator, or the Title IX Coordinator. Further, the decision-maker for the appeal must have received the training required for decision-makers as required by this procedure.

Both parties will be given a reasonable opportunity to submit a written statement in support of or challenging the outcome of the written determination or the dismissal. The board or other party designated by the district will issue a written appeal decision within thirty calendar days of receiving the appeal unless otherwise agreed to by the parties. The board or other party designated by the district may hold a meeting to hear from the parties and district representatives before issuing its decision. If a meeting isn't held, the board or other party designated by the district will consider, as applicable, the dismissal decision, the investigative report, the written determination, and any statements submitted by the parties before making the decision.

The appeal decision must include notice of the complainant's rights to file a complaint with OSPI under WAC 392-190-075. This does not apply to appeal decisions related to dismissals under Title IX.

The appeal decision will be provided in a language the complainant and respondent can understand and may require language assistance for parties with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964. The district will send a copy of the appeal decision to OSPI. This does not apply to appeal decisions related to dismissals under Title IX.

Complaint to OSPI

If a complainant disagrees with the appeal 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 calendar day following the date upon which the complainant received the appeal 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-sexual harassment 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 determination and appeal decision, if any; and (5) a proposed resolution of the complaint or relief requested. If the allegations regard a

Commented [A41]: 34 CFR 106.45(b)(8)(i)(A)-(B).

Commented [A42]: 34 CFR 106.45(b)(8)(iii)(A).

Commented [A43]: 34 CFR 106.45(b)(8)(iii)(B).

Commented [A44]: 34 CFR 106.45(b)(8)(iii)(C).

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Commented [A48]: WAC 392-190-070(4).

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Commented [A50]: WAC 392-190-075.

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.
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.

Training for the Title IX Coordinator, Investigators, and Decision-Makers

Commented [A51]: 34 CFR 106.45(b)(1)(iii).

Any individual designated as the Title IX Coordinator, an investigator under Title IX, or a decision-maker under Title IX, and any person who facilities an informal resolution process under Title IX must not have a conflict of interest or bias for or against complainants or respondents generally or individually, and must receive training on the definition of sexual harassment under Title IX, the scope of the district's education program or activity, how to conduct an investigation and complaint process and informal resolution process, and how to serve impartially. Decision-makers must also receive training on any technology to be used during hearings, if the district provides a hearing, on issues regarding the relevance of questions and evidence, and on how to create an investigative report that fairly summarizes relevant evidence.

Any training materials used to provide the training described above must not rely on sex stereotypes and must promote impartial investigations and adjudications of complaints.

Title IX Investigation Recordkeeping

The district will maintain the following records for seven years:

1. Records related to each Title IX sexual harassment investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the district's education program or activity.

2. Records related to any appeal and the results of the appeal.
3. Records related to any informal resolution process and the results of the process.
4. All materials used to train Title IX Coordinators, investigators under Title IX, decision-makers under Title IX, and any person who facilities an informal resolution process under Title IX. The district must make these training materials publicly available on its website. [If your district doesn't have a website, you can replace this last sentence with the following: The district must make these training materials available upon request for inspection by members of the public.]
5. Records of any actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment as required by 34 CFR 106.44. In each instance, the district must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the district's education program or activity. If the district does not provide a complainant with supportive measures, then it must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the district in the future from providing additional explanations or detailing additional measures taken.

Commented [A52]: 34 CFR 106.45(b)(10)(i)(A)-(D).

Commented [A53]: 34 CFR 106.45(b)(10)(ii).

V. State Complaint Process Only

Informal Complaint

A complainant may bring an informal (i.e., oral) complaint to the district. If that occurs, the Title IX Coordinator or their 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.

Commented [A54]: WAC 392-190-065(9).

Informal remedies may, but are not limited to, include the following:

1. An opportunity for the complainant to explain to the respondent that their conduct is unwelcome, offensive, or inappropriate, either in writing or in person.
2. A statement from a staff member to the respondent that the alleged conduct is inappropriate and could lead to discipline if proven or repeated.
3. A general public statement from an administrator in a building that reviews the district's sexual harassment policy without identifying the complainant.
4. Developing a safety plan.
5. Separating students.
6. Providing staff or student training.

Receiving a Formal Complaint

Any district or school administrator who receives a formal complaint will promptly notify the Title IX Coordinator. Once the Title IX Coordinator receives a complaint, they will do the following:

1. Provide the complainant with a copy of Policy 3205 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.

Commented [A55]: WAC 392-190-065(4)(a)-(b).

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.

Commented [A56]: WAC 392-190-065(8).

Written Response to a Formal Complaint

After completing the investigation, the Title IX Coordinator or their designee will give the superintendent a full written report of the complaint and the investigation results.

Commented [A57]: WAC 392-190-065(5).

The superintendent or their designee will issue a written response to the complainant within thirty 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.

Commented [A58]: WAC 392-190-065(5).

The written response must include a summary of the results of the investigation; a finding as to whether the district failed to comply with anti-sexual harassment 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 ant-sexual harassment 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 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.

Commented [A59]: WAC 392-190-065(6)(a)-(d).

Commented [A60]: WAC 392-190-065(7).

The district will send a copy of the written response to OSPI when it sends the response to the complainant.

Commented [A61]: WAC 392-190-065(5).

The district will inform the complainant and their parent or guardian how to report any subsequent problems. Additionally, the district will conduct follow-up inquiries to see if there have been any new incidents of sexual harassment or instances of retaliation and will promptly respond to and address continuing or new problems.

Appeal to the Board

If a complainant disagrees with the superintendent's written response, they may appeal to the board. The appeal must be in writing and filed with the superintendent within ten calendar days of receiving the written response. The board must issue a written appeal decision within thirty calendar days of receiving the appeal unless the complainant agrees otherwise. The board may schedule a meeting to hear from the complainant and district representatives before issuing its decision. If it doesn't schedule a meeting, the board will consider the investigation report, the written response, and any documentation the complainant submits before making its decision.

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 board'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 calendar day following the date upon which the complainant received the board'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-sexual harassment 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.

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

Commented [A62]: WAC 392-190-070(2).

Commented [A63]: WAC 392-190-070(3).

Commented [A64]: WAC 392-190-065(6)(a)-(d).

Commented [A65]: WAC 392-190-075.

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.

VI. Retaliation
State and federal law prohibit retaliation against any individual who files a sexual harassment complaint 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 complainant or against those who provide information as witnesses. The district will investigate all allegations and take actions against those found to have retaliated.

VII. False Allegations
Individuals are prohibited from knowingly reporting false allegations of sexual harassment. Individuals found to knowingly report or corroborate false allegations will be subject to appropriate corrective action. Merely finding that allegations of sexual harassment were not substantiated doesn't mean the allegations are false.

VIII. Training and Orientation
A component of district orientation for staff, students, and regular volunteers will introduce elements of Policy 3205 and this procedure. Staff will be fully informed of the formal and informal complaint processes and their roles and responsibilities under Policy 3205 and this procedure.

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 receive portions of this training related to their responsibilities.

Students will be provided age-appropriate information on the recognition and prevention of sexual harassment.

As part of what's shared with staff, students, and regular volunteers, they will be informed that sexual harassment may include, but is not limited to, the following:

1. Demands for sexual favors in exchange for preferential treatment or something of value.
2. Stating or implying that a person will lose something if they do not submit to a sexual request.
3. Penalizing a person for refusing to submit to a sexual advance or providing a benefit to someone who does.

4. Making unwelcome, offensive, or inappropriate sexually suggestive remarks, comments, gestures, or joke; or remarks of a sexual nature about a person's appearance, gender, or conduct.
5. Using derogatory sexual terms for a person.
6. Standing too close, inappropriately touching, cornering, or stalking a person.
7. Displaying offensive or inappropriate sexual illustrations on school property.

Last Revised:
Classification: **Critical**
Prior Revised Dates: **08.06; 10.11; 03.14; 01.15; 07.15; 08.20**

Management Resources:

- 2020 - August Issue
- 2015 - July Policy Alert
- 2015 - January Policy Alert
- 2014 - March Policy Alert
- 2011 - October Issue

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