Title: **Procedure - Sexual Harassment of Students Prohibited**
Code: 3205P B
Section: WSSDA Model Policies
Section: 3000 - Students

~~The procedure is intended to set forth the requirements of Policy 3205, including the process for a prompt, thorough, and equitable investigation of allegations of sexual harassment and the need to take appropriate steps to resolve such situations. If sexual harassment is found to have created a hostile environment, staff must take immediate action to eliminate the harassment, prevent its reoccurrence, and address its effects.~~

~~This procedure applies to sexual harassment (including sexual violence) targeted at students carried out by other students, employees, or third parties involved in school district activities. Because students can experience the continuing effects of off-campus harassment in the educational setting, the district will consider the effects of off-campus conduct when evaluating whether there is a hostile environment on campus. The district has jurisdiction over these complaints pursuant to Title IX of the Education Amendments of 1972, Chapter 28A.640 RCW, and Chapter 392-190 WAC.~~

- ~~**I. Title IX Coordinator, Investigator, and Decision-maker**~~

~~The district will designate and authorize one employee to act as "Title IX Coordinator" to coordinate the district's state and federal sex discrimination and sexual harassment regulation compliance efforts.~~

~~The decision-maker cannot be the same person who serves as the Title IX Coordinator or the investigator of the Title IX complaint. The decision-maker who reaches the final determination of responsibility for alleged Title IX sexual harassment will be the superintendent or designee.~~

~~The Title IX Coordinator's name, title, office address, telephone number, and email address must be available on the district website; in handbooks/catalogs that are made available to staff, students, and parents; and in the district's nondiscrimination statement.~~

~~Any individual designated as Title IX Coordinator, an investigator, or decision-maker, and any person who facilitates an informal resolution process must not have a conflict of interest or bias for or against the individual(s) who made the complaint ("complainant(s)") or the individual(s) reported to be the perpetrator of the conduct that could constitute sexual harassment ("respondent(s)") in general or individually, and must receive training on the following:~~

1. ~~The definition of sexual harassment under Title IX and state law;~~
2. ~~The scope of the district's education program or activity;~~
3. ~~How to conduct an investigation and grievance process and informal resolution process;~~
4. ~~How to serve impartially;~~
5. ~~Their responsibilities under chapter WAC 392-190 WAC; and~~
6. ~~How to raise awareness of and eliminate bias based on sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal.~~

~~District investigators must also receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.~~

~~District decision-makers must also receive training on any technology to be used during hearings if the district provides for a hearing and on issues of relevance of questions and evidence, including the requirement that questions and evidence about a complainant's sexual predisposition or prior sexual conduct are not relevant unless 1) such questions and evidence are offered to prove that someone other than the respondent committed the alleged conduct or 2) questions and evidence concerning specific incidents of the complainant's prior sexual behavior with respect to the respondent is offered to prove consent.~~

~~Any training materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must not rely on sex stereotypes and must promote impartial investigations and adjudications of complaints.~~

The district shall maintain for a period of seven years records of any informal resolution and the result; and all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, and make such materials available on the district's website.

II. Notice of Sexual Harassment Policy and Procedure

A. Posting of Notices

- Information about the district's sexual harassment policy and complaint procedure will be easily understandable and conspicuously posted throughout each school building, be reproduced in each student, staff, volunteer, and parent handbook. This notice will be provided in a language that each parent and guardian can understand.

- In addition to the posting and reproduction of this procedure and Policy 3205, the district will provide annual notice to employees that complaints pursuant to this procedure may be filed at *insert address of the district administrative office*.

B. Responding to Notice of Sexual Harassment

The district is on notice and required to take action when any employee knows, or in the exercise of reasonable care should know, about possible sexual harassment. Notice includes informal and formal statements or reports made to any staff member.

Upon notice of possible sexual harassment, staff will always notify the Title IX Coordinator. In addition, in the event of an alleged sexual assault, the school principal will immediately inform law enforcement and notify the targeted student(s) and their parents/guardians of their right to file a criminal complaint and a sexual harassment complaint simultaneously.

Once the district is on notice of possible sexual harassment, the Title IX Coordinator will promptly 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 the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. Additionally, staff will also

inform an appropriate supervisor or professional staff member when they receive complaints of sexual harassment, especially when the complaint is beyond their training to resolve or alleges serious misconduct.

- **III. Supportive Measures**

Supportive measures must be offered to the 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.

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:

- An opportunity for the complainant to explain to the alleged harasser that his or her conduct is unwelcome, offensive or inappropriate, either in writing or face-to-face;
- A statement from a staff member to the alleged harasser that the alleged conduct is not appropriate and could lead to discipline if proven or repeated;
- A general public statement from an administrator in a building reviewing the district sexual harassment policy without identifying the complainant;
- Developing a safety plan;
- Modifications of work or class schedules;
- Mutual restrictions on contact between the parties;
- Increased security and monitoring of certain areas of the campus or school building, or
- Providing staff and/or student training.

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

A complainant may file a formal complaint at any time while receiving supportive measures. A complainant, their parent or guardian, or the Title IX Coordinator may file a formal complaint because, for example, they feel the complaint needs to be more thoroughly investigated or discipline may be warranted for an individual alleged to have engaged in sexually harassing conduct.

- **IV. Confidentiality**

- The district will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the district to provide the supportive measures.

- If a complainant requests that their name not be revealed to the alleged perpetrator or asks that the district not investigate or seek action against the alleged perpetrator, the request will be forwarded to the *insert title of appropriate district employee(s)* for evaluation. The *insert title of appropriate district employee(s)* should inform the complainant that the district will need to determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students, staff, and other third parties engaging in district activities, including the person who reported the sexual harassment.

- If the complainant's request that their name not be disclosed to the alleged perpetrator or that the district not investigate or seek action against the alleged perpetrator can be honored, the *insert title of appropriate district employee(s)* should notify the complainant that honoring the request may limit its ability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator. However, the district will use other appropriate means available to address the sexual harassment.

- **V. Retaliation Prohibited**

Title IX and state law prohibit retaliation against any individual who files a complaint under these laws or participates in a complaint investigation. When an informal or formal complaint of sexual harassment is made, the district will take steps to stop further harassment and prevent any retaliation against the person who made the complaint, was the subject of the harassment, or against those

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

VI. Formal Title IX Sexual Harassment Complaint Process

In response to formal complaints of sexual harassment, the district will take prompt and appropriate action to investigate and take prompt and effective steps reasonably calculated to end harassment, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects.

A. Level One – Complaint to District

Anyone may initiate a formal complaint of sexual harassment.

1. Filing of Complaint

- All formal complaints will be in writing and will set forth the specific acts, conditions or circumstances alleged to have occurred and to constitute sexual harassment. The Title IX Coordinator may draft the complaint based on the report of the 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 in his or her possession, regardless of the complainant's interest in filing a formal complaint.

- Complaints must be filed within one 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 the district Title IX Coordinator. Any district employee who receives a complaint that meets these criteria will promptly notify the Coordinator.

2. Discipline and Emergency Removals for Alleged Sexual Harassment under Title IX

A respondent who is accused of sexual harassment under Title IX and this process is presumed not responsible for the alleged conduct until after a determination regarding responsibility is made at the conclusion of the grievance/investigation process.

Until a determination of responsibility for sexual harassment is made, the district may not impose any disciplinary sanctions or other punitive actions against the respondent. (Supportive measures are not disciplinary sanctions and must be non-punitive.)

In rare instances, a district may remove a student from school on an emergency basis consistent with Policy and Procedure 3241 – Student Discipline modify as accurate for your district and the associated student discipline regulations for emergency expulsion.

3. Determining Whether the Complaint Should Proceed Under this Title IX Procedure

Upon receipt of a formal complaint, the Title IX Coordinator will evaluate whether:

(a) the district has jurisdiction over the complainant under Title IX and

(b) the information alleged would meet the criteria for sexual harassment under Title IX, if true.

In some instances, the Title IX Coordinator may need to contact the complainant to obtain more information about the who, what, when, and where of the alleged conduct.

The Title IX Coordinator may also designate someone else to evaluate the formal complaint, if needed, to avoid any potential conflicts of interest. Any designee must be trained on Title IX and sexual harassment.

1.

a. Criteria for proceeding with a Complaint

The district will implement the Title IX complaint procedures in response to a sexual harassment complaint when:

1. The written complaint is filed by the complainant of the alleged sexual harassment, by the complainant's legal guardian, or by the Title IX Coordinator.
2. The complaint requests that the district investigate the allegation(s) of sexual harassment as defined under the Title IX regulations described below.
3. The complainant is participating in or attempting to participate in the district's educational program or activity at the time.
4. The complaint is against a named respondent who, at the time of the alleged harassment, was under the control of the school district (such as a student, employee, or volunteer).
5. The alleged sexually harassing conduct occurred in the United States.
6. The alleged conduct, if true, constitutes "sexual harassment" as defined by the Title IX regulations the section VI.A.2.b, below.

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b. **Definitions of "Sexual Harassment" under Title IX and this Procedure**

Under Title IX, the term "sexual harassment" means:

- **"*Quid Pro Quo* Harassment**," which occurs when "An employee of the district conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct"; or

- **"Hostile Environment Harassment,**" which means unwelcome conduct, based on sex, that is determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the education program or activity; or

- **"Sexual assault,"** as defined in 20 U.S.C. 1092(f)(6)(A)(v), which means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation:

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a. **"Rape,"** which is defined as, "Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the complainant, including instances where the complainant is incapable of giving consent due to their age or because of temporary or permanent mental or physical incapacity."
b. **"Statutory Rape,"** which is defined as, "Nonforcible sexual intercourse with a person who is under the statutory age of consent in Washington."
c. **"Incest,"** which means nonforcible sexual intercourse between related persons within the degrees wherein marriage is prohibited by Washington State law.
d. **"Fondling,"** which is defined as "The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity."
e. **"Sodomy,"** which means oral or anal penetration of the complainant by the respondent without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
f. **"Sexual assault with an object,"** which means respondent's use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of the complainant, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity
g. **"Statutory rape,"** which means sexual intercourse with a person who is (i) under age 16 or (ii) person under the age of 18 (16 or 17) if the other person is more than 5 years (60 months) older than them.

- **Dating Violence, Domestic Violence, or Stalking**
  a. **"Dating violence"** as defined in 34 U.S.C. 12291(a)(11), which means "violence committed by a person who is or has been in a social relationship of a romantic or intimate nature" with the complainant and where the existence of such a relationship shall be determined based on the complainant's statement and with consideration of (i) the length of the relationship, (ii) the type of relationship, and (iii)the frequency of interaction between the persons involved in the relationship.
  b. **"Domestic violence"** as defined in 34 U.S.C. 12291(a)(12), which is defined as "A felony or misdemeanor violent crime by (i) complainant's current or former spouse or intimate partner; (ii) a person the

complainant has a child with; (iii) person who is or has cohabitated with the complainant as a spouse or intimate partner; (iv) a person similarly situated to a spouse under Washington's domestic or family violence laws; or (v) another person who the complainant is protected from under WA's domestic or family violence laws.

c. **"Stalking"** as defined in 34 U.S.C. 12291(a)(36), means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (i) fear for their safety or the safety of others; or (ii) suffer substantial emotional distress.

"Consent" as defined in this procedure must be affirmative and consistent with RCW 28A.300.475, and "affirmative consent means a conscious and voluntary agreement to engage in sexual activity as a requirement before sexual activity." In Washington State, a person under the age of 16 is incapable of giving consent. A person is also considered to be incapable of giving consent if they were incapacitated by drugs, alcohol, medical condition, disability, unconscious, or asleep.

4. **Dismissal of a Formal Complaint/Allegation that Does Not Meet the Criteria Above**

The Title IX Coordinator must dismiss the formal complaint if it does not meet any of the criteria in (a) and (b) above. For example, a complaint will be dismissed if (i) the conduct did not occur in the district's education program or activity, (ii) it did not occur against a person in the United States, (iii) the complainant is not participating in or attempting to participate in the district's educational program or activity, or (iv) the respondent was not under the control of the District at the time of the alleged harassment. The complaint must also be dismissed if, even if proven true, the conduct alleged would not constitute sexual harassment under the definitions of sexual harassment above.

When dismissing a complaint, the Title IX Coordinator will provide the complainant with written notice that the complaint has been dismissed. The notice should also inform the complainant whether the complaint has been:

- Referred for consideration under the district's nondiscrimination, policy including sex-based discrimination Policy 3210 - modify as accurate for your district and its procedures for investigating a complaint under that policy.
- Referred for consideration under the district's policy prohibiting discrimination against staff, including sex-based discrimination Policy 5010 – modify as accurate for your district, and its procedures for investigating a complaint under that policy.

- Referred for other action or consideration under another District policy and procedure.
- Dismissed with no further action anticipated because the information provided does not suggest a potential violation of District policy or state or federal law.

The complainant must be provided notice of the right to appeal any dismissal decision(s) to the superintendent or designee.

Dismissal of a prior complaint shall not be a basis for refusing to consider any new formal complaints filed by the same complainant, their parent or guardian, or their legal representative.

5. **Notice of a Formal Title IX Complaint Investigation**

The Title IX Coordinator will provide notice to both the complainant and respondent and ensure that an investigation is initiated when it is determined that allegations in a formal complaint require investigation under this procedure.

Notice of the investigation must be in writing and sent to the respondent(s) and complainant at the same time. The notice must include:

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- A copy of the school's discrimination complaint procedure in a language the parties can understand.
- Notice of the allegations of sexual harassment with enough time and detail for the parties to prepare a response before any initial interview. Such 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.
- 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.
- 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 grievance process.
- Notice of any provision in student conduct policies and procedures that prohibits false statements or submitting false information.

Additionally, the Title IX Coordinator must offer supportive measures to the respondent, as well as the complainant.

6. Title IX Informal Resolution Process

The district will not offer an informal resolution process unless a formal complaint is filed.

Once a formal complaint has been filed, at any time prior to a final determination, the district may offer or one or both parties may request to waive the formal complaint investigation/grievance process in favor of an informal resolution process.

The district does not offer an informal resolution of sexual harassment allegations against a respondent who is an employee of the district.

If informal dispute resolution is offered or requested, the district must inform the parties of the following:

- Both parties will be provided with a written notice disclosing the allegations.
- An informal resolution does not involve a full investigation and adjudication.
- What an informal resolution process may involve, including the timeline for a reasonably prompt process and any participation requirements.
- Informal resolution may only occur if both parties provide voluntary, written consent.
- A party has the right to withdraw from the informal resolution process and resume the formal Title IX grievance process at any time prior to agreeing to an informal resolution.
- The circumstances that may prevent the parties from continuing with a formal complaint investigation and resolution process with the district for the same allegations.
- The district may not require any party to waive their right to an investigation and adjudication of a formal complaint of sexual harassment under Title IX as a condition of enrollment, employment, or enjoyment of any other right, nor may the district require the parties to participate in an informal resolution process.

7. Investigation of a Formal Complaint of Title IX Sexual Harassment

The district adopts preponderance of the evidence/clear and convincing evidence as the standard or proof it will use in reaching decisions regarding complaints.

The Title IX Coordinator may investigate the allegations or may assign another investigator who is trained in conducting sexual harassment investigations under Title IX. The investigator must be able to be impartial and unbiased, and have no potential conflict of interest.

The district's investigation of a Title IX sexual harassment complaint must:

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- Include a prompt and thorough investigation into the allegations in the complaint;
- Ensure that the district bears the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility for the alleged sexual harassment;

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- Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and
- Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

a. **Interviews of Parties**

- The parties must be provided with the same opportunities to have others present during any grievance proceeding, including the opportunity to have an advisor of their choice who may be an attorney or non-attorney.
- Any restrictions regarding the extent to which an advisor may participate must be applied equally to both parties;
- Provide a party with written notice of the date, time, location, participants, and purpose of all interviews, hearings, or other meetings with sufficient time for the parties to prepare to participate.

b. **Inadmissible Evidence**

- 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.

c. **10-days to Review Evidence Directly Related to the Allegations**

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- Prior to the completion of an investigative report, both parties must be provided an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the

allegations. 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 (10) days to submit a written response to the evidence for the investigator to consider before completing the investigative report.

d. **10-days to Review Investigative Report**

- The investigator will create an investigative report that fairly summarizes relevant evidence.
- The investigator's report will include:
  - Identification of the allegations potentially constituting sexual harassment under Title IX regulations;
  - A description of the procedural steps taken from the time of the district's receipt of 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 any meetings held; and
  - A summary of the findings of fact/results of the investigation for each allegation.

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- At least ten (10) days prior to a determination regarding responsibility, the investigative report will be sent to each party and the party's advisor for their review and written response.
- The investigative report can be sent in an electronic or hard copy format.

e. **Opportunity for Written, Relevant Questions about the Report**

- After the parties receive the investigative report, both parties have the opportunity to submit written, relevant questions to the decision-maker before any determination is made.
- The questions should be directed to the decision-maker and should identify any questions for any party or witness.
- The decision-maker will seek answers to relevant questions, provide each party with the answers, and allow for additional, limited follow-up questions from each party.
- If the decision-maker deems any question irrelevant, the decision-maker will not seek answers but will explain their reasoning to the party asking the question.
- Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant and will not be pemitted unless:

- they are offered to prove that someone other than the respondent committed the conduct alleged by the complainant or
- they concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

The district's Title IX investigative and grievance process is not required to include investigative hearings.

8. **Superintendent's Response to a Formal Title IX Complaint**

At the conclusion of the investigation, the decision-maker (the superintendent or designee) must issue a written determination of responsibility regarding the alleged sexual harassment within thirty (30) calendar days of receipt of the complaint, unless otherwise agreed to by the complainant or if exceptional circumstances related to the complaint require an extension of the time limit. In the event an extension is needed, the district will notify the parties in writing of the reason for the extension and the anticipated response date.

The superintendent's written determination must be issued to the parties simultaneously and must include the following:

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- Identification of the allegations potentially constituting sexual harassment under Title IX regulations.
- A description of the procedural steps taken from the time of the district's receipt of 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.
- A summary of the findings of fact/results of the investigation for each allegation.
- A statement of, and rationale for, the result as to each allegation, including
  - A statement as to whether a preponderance of the evidence establishes that the complainant was sexually harassed,
  - A determination regarding the respondent's responsibility, and
  - Any conclusions regarding the application of the district's code of conduct policies to the facts.
- If sexual harassment is found to have occurred and be the responsibility of the respondent:
  - A statement of any disciplinary or other sanctions imposed on the respondent

- A statement of remedies, if any, designed to restore or preserve equal access to the education program or activity will be provided to the complainant; and
- the corrective measures the district deems necessary to prevent recurrence and remedy its effects on the complainant and others, if appropriate.

- Notice of the parties' right to appeal to the school board and the necessary filing information.

The superintendent's or designee's response will be provided in a language the complainant can understand and may require language assistance for complainants with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964.

At the time the district responds to the parties, the district must send a copy of the response to the Office of the Superintendent of Public Instruction (OSPI).

Any corrective measures deemed necessary will be instituted as quickly as possible, but in no event more than thirty (30) days after the superintendent's mailing of a written response, unless the respondent appeals the imposition of discipline. If the respondent appeals, then the district is barred by due process considerations or a lawful order from imposing the discipline until the appeal process is concluded.

Staff may also pursue complaints through the appropriate collective bargaining agreement process or anti-discrimination policy.

B. **Level Two - Appeal to designate appropriate decision maker**

1. **Requesting an Appeal and Notice of Appeal**

If the complainant or respondent(s) disagrees with the superintendent's or designee's written decision, the disagreeing party may appeal the decision by filing a written notice of appeal with the secretary of the board within ten (10) calendar days following the date upon which the complainant received the response.

If the complaint involves a named respondent, the district will implement appeal procedures equally for both parties and provide written notice to the other party when an appeal is filed.

2. **Appeal Hearing**

This is aligned with the appeal process of WSSDA Model Policy 3210. If your policy 3210 differs from the WSSDA model policy, you may use your 3210-

appeal process. However, OSPI' s position is that while the superintendent can delegate their decision-making authority for Level One, the person is nonetheless acting in the superintendent's place. Thus, an appeal at Level Two has to be made by an authority above the superintendent, i.e. the School Board who can delegate its authority to a board appeal officer or whoever they choose.

The district will ensure that the decision-maker for the appeal is not the same decision-maker who reached the determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator.

The district will ensure that the decision-maker for the appeal has received the training required for decision-makers as required by this procedure.

The board will ensure that a hearing commences by the twentieth (20th) calendar day following the filing of the written notice of appeal, unless otherwise agreed to by the complainant and the superintendent or for good cause.

Both parties will be allowed a reasonable, equal opportunity to submit a written statement in support of or challenging the outcome of the initial determination.

3. **Decision on Appeal**

Unless otherwise agreed to by the complainant, the decision maker on appeal will render a written decision within thirty (30) calendar days following the filing of the notice of appeal and provide the complainant with a copy of the decision.

The written decision will describe the result of the appeal and the rationale for the result.

The decision will include notice of the complainant's right to appeal to the superintendent of Public Instruction and will identify where and to whom the appeal must be filed. The district will send a copy of the appeal decision to the office of the superintendent of public instruction.

The decision will be provided in a language that 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.

C. **Level Three - Complaint to the Superintendent of Public Instruction**

1. **Filing of Complaint Filing a Complaint to the Superintendent of Public Instruction**

If a complainant disagrees with the decision of the board of directors, or if the district fails to comply with this procedure, the complainant may file a complaint with the superintendent of public instruction.

A complaint must be received by the superintendent of Public Instruction on or before the twentieth (20) calendar day following the date upon which the complainant received written notice of the board of directors' decision, unless the superintendent of Public Instruction grants an extension for good cause. Complaints may be submitted by mail, fax, electronic mail, or hand delivery.

A complaint must be in writing and include: 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 complaint 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 name and address of the student, or in the case of a homeless child or youth, contact information.

2. **Investigation, Determination and Corrective Action**

Upon receipt of a complaint, the Office of the Superintendent of Public Instruction 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 superintendent or board.

Following the investigation, OSPI will make an independent determination as to whether the district has failed to comply with RCW 28A.642.010 or Chapter 392-190, WAC 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.

D. **Level Four - Administrative Hearing, State Requirement**

A complainant or school district that desires to appeal the written decision of the Office of the Superintendent of Public Instruction may file a written notice of appeal with OSPI within thirty (30) calendar days following the date of receipt of that office's written decision. OSPI will conduct a formal administrative hearing in conformance with the Administrative Procedures Act, Chapter 34.05, RCW.

VII. **Investigation Recordkeeping**

The district will maintain, for a period of X years, records of all sexual harassment investigations.

The district will maintain, for a period of seven years, records of 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; and any appeal from the result of a determination regarding responsibility.

The district will maintain, for a period of seven years, records of any actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment under Title IX.

VIII. **Training and Orientation**

A fixed component of all district orientation sessions for staff, students and regular volunteers will introduce the elements of this procedure and the corresponding policy. Staff will be provided information on recognizing and preventing sexual harassment. Staff will be fully informed of their responsibilities when on notice of sexual harassment, of the formal complaint procedures, and their roles and responsibilities under the policy and procedure.

Certificated staff will be reminded of their legal responsibility to report suspected child abuse, and how that responsibility may be implicated by some allegations of sexual harassment. Regular volunteers will get the portions of this component of orientation relevant to their rights and responsibilities.

Students will be provided with age-appropriate information on the recognition and prevention of sexual harassment and their rights and responsibilities under

this and other district policies and rules at student orientation sessions and on other appropriate occasions, which may include parents.

As part of the information on the recognition and prevention of sexual harassment staff, volunteers, students and parents will be informed that sexual harassment may include, but is not limited to:

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- Demands for sexual favors in exchange for preferential treatment or something of value;
- Stating or implying that a person will lose something if he or she 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.

- **IX. Policy and Procedure Review**

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

Adopted: **April 16, 2025**
Classification: **Critical**

Management Resources:

- 2025 - April Issue

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