



Policy: 3210P Section: 3000 - Students

Procedure - Nondiscrimination

This complaint procedure is adopted in accordance with chapter 392-190 WAC.

Complainant

Anyone may file a complaint against the district alleging that ~~it~~the district has violated anti-discrimination laws. ~~The person filing the complaint is referred to as the "complainant."~~

Commented [A1]: WAC 392-190-065(1).

Formal Complaint

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

Commented [A2]: WAC 392-190-065(1).

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

Commented [A3]: WAC 392-190-065(2)(a)-(b).

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

Commented [A4]: WAC 392-190-065(3).

Informal Complaint

A complainant may bring an informal (i.e., oral) complaint to the district. If that occurs, the compliance officer 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 [A5]: WAC 392-190-065(9).

Receiving a Formal Complaint

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

Commented [A6]: WAC 392-190-065(3).

1. Provide the complainant with a copy of Policy 3210 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 [A7]: 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 [A8]: WAC 392-190-065(8).

Written Response to a Formal Complaint

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

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 [A9]: 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-discrimination laws; notice to the complainant of their right to appeal, including where and to whom the appeal must be filed; and, if the district failed to comply with anti-discrimination laws, the corrective measure deemed necessary to correct the noncompliance. Any corrective measures must be instituted as expeditiously as possible but no later than thirty 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 [A10]: WAC 392-190-065(6)(a)-(d).

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

Commented [A11]: WAC 392-190-065(5).

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.

Commented [A12]: WAC 392-190-065(1)-(2).

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.

Commented [A13]: WAC 392-190-070(3).

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.

Commented [A14]: WAC 392-190-070(3).

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.

Commented [A15]: WAC 392-190-070(4).

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.

Commented [A16]: WAC 392-190-075.

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-discrimination laws; (2) the name and contact information, including address, of the complainant; (3) the name and address of the district subject to the complaint; (4) a copy of the district's written response and appeal decision, if any; and (5) a proposed resolution of the complaint or relief requested. If the allegations regard a specific student, the complaint must also include the student's name and address and the name of the school and school district the student attends. If the student is homeless, the complaint should include contact information.

Upon receipt of a complaint, OSPI may initiate an investigation, which may include conducting an independent on-site review. OSPI may also investigate additional issues related to the complaint that were not included in the initial complaint or appeal to the board.

Following the investigation, OSPI will make an independent determination as to whether the district has failed to comply with chapter 392-190 WAC or OSPI's guidelines and will issue a written decision to the complainant and the district that addresses each allegation in the complaint and any other noncompliance issues it has identified. The written decision will include corrective actions deemed necessary to correct

noncompliance and documentation the district must provide to demonstrate that corrective action has been completed.

All corrective actions must be completed within the timelines established by OSPI in the written decision unless OSPI grants an extension. If timely compliance is not achieved, OSPI may take action including but not limited to referring the district to appropriate state or federal agencies empowered to order compliance.

A complaint may be resolved at any time when, before the completion of the investigation, the district voluntarily agrees to resolve the complaint. OSPI may provide technical assistance and dispute resolution methods to resolve a complaint.

Administrative Hearing

The complainant or the district may appeal OSPI's written decision by filing a written notice of appeal with OPSI within thirty calendar days of receiving the decision. OSPI will conduct a formal administrative hearing in accordance with the Administrative Procedures Act, chapter 34.05 RCW.

Commented [A17]: WAC 392-190-079.

Mediation

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

Commented [A18]: WAC 392-190-0751.

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

The mediator must be impartial, may not be an employee of the district or any agency providing education or related services to a student who is involved in the mediation, and must not have a personal or professional conflict of interest. A person is not disqualified as a mediator solely because the district pays them to serve as a mediator.

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

Recordkeeping

The compliance officer's office will maintain documentation for each complaint received (e.g., the complaint, notices, the investigation report, the written response, the appeal decision, documentation of corrective measures, etc.) for six years.

Commented [A19]: This follows the Local Government Common Records Retention Schedule, which requires that local government agencies are required to maintain records related to civil rights violation complaints for six years after they have been resolved, completed, closed, or a decision has been made not to proceed.

This complaint procedure is designed to assure that the resolution of real or alleged violations are directed toward a just solution that is satisfactory to the complainant, the administration and the board of directors. This grievance procedure will apply to the general conditions of the nondiscrimination policy (Policy 3210) and more particularly to policies dealing with guidance and counseling (Policy 2140), co-curricular program (Policy 2150), service animals in schools (Policy 2030) and curriculum development and instructional materials (Policy 2020). As used in this procedure:

- A. **Grievance** means a complaint which has been filed by a complainant relating to alleged violations of any state or federal anti-discrimination laws.
- B. **Complaint** means a written charge alleging specific acts, conditions or circumstances, which are in violation of the anti-discrimination laws. The time period for filing a complaint is one 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, e-mail or hand-delivery to any district, school or to the district compliance officer responsible for investigating discrimination complaints. Any district employee who receives a complaint that meets these criteria will promptly notify the compliance officer.

C. **Respondent** means the person alleged to be responsible or who may be responsible for the violation alleged in the complaint.

The primary purpose of this procedure is to secure an equitable solution to a justifiable complaint. To this end, specific steps will be taken. The district is prohibited by law from intimidating, threatening, coercing or discriminating against any individual for the purpose of interfering with their right to file a grievance under this policy and procedure and from retaliating against an individual for filing such a grievance.

A. **Informal Process for Resolution**

Anyone with an allegation of discrimination may request an informal meeting with the compliance officer or designated employee to resolve their concerns. Such a meeting will be at the option of the complainant. If unable to resolve the issue at this meeting, the complainant may submit a written complaint to the compliance officer. During the course of the informal process, the district must notify complainant of their right to file a formal complaint.

B. **Formal Process for Resolution**

Level One: Complaint to District

The complaint must set forth the specific acts, conditions or circumstances alleged to be in violation. Upon receipt of a complaint, the compliance officer will provide the complainant a copy of this procedure. The compliance officer will investigate the allegations within 30 calendar days. The school district and complainant may agree to resolve the complaint in lieu of an investigation. The officer shall provide the superintendent with a full written report of the complaint and the results of the investigation.

The superintendent or designee will respond to the complainant with a written decision as expeditiously as possible, but in no event later than 30 calendar days following receipt of the written 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 complainant in writing of the reason for the extension and the anticipated response date. At the time the district responds to the complainant, the district must send a copy of the response to the office of the superintendent of public instruction.

The decision of the superintendent or designee will include: 1) a summary of the results of the investigation; 2) whether the district has failed to comply with anti-discrimination laws; 3) if non-compliance is found, corrective measures the district deems necessary to correct it; and 4) notice of the complainant's 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.

Any corrective measures deemed necessary shall be instituted as expeditiously as possible, but in no event later than 30 calendar days following the superintendent's mailing of a written response to the complaining party unless otherwise agreed to by the complainant.

Level Two – Appeal to the Board of Directors

If a complainant disagrees with the superintendent's or designee's written decision, the complainant may appeal the decision to the district board of directors 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.

The board shall schedule a hearing to commence 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 shall be allowed to present such witnesses and testimony as the board deems relevant and material. Unless otherwise agreed to by the complainant, the board 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 decision of the board will be provided in a language the complainant can understand, which may require language assistance for complainants with limited English proficiency in accordance with Title VI of the Civil Rights Act. 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.

Level Three – 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.

1. 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.
2. A complaint must be in writing and include: 1) A description of the specific acts, conditions or circumstances alleged to violate applicable anti-discrimination laws; 2) The name and contact information, including address, of the complainant; 3) The name and address of the district subject to the complaint; 4) A copy of the district's 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.
3. 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.

Level Four – Administrative Hearing

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.

C. Mediation

At any time during the discrimination complaint procedure set forth in WAC 392-190-065 through 392-190-075, a district may, at its own expense, offer mediation. The complainant and the district may agree to extend the discrimination complaint process deadlines in order to pursue mediation.

The purpose of mediation is to provide both the complainant and the district an opportunity to resolve disputes and reach a mutually acceptable agreement through the use of an impartial mediator. Mediation must be voluntary and requires the mutual agreement of both parties. It may be terminated by either party at any time during the mediation process. It may not be used to deny or delay a complainant's right to utilize the complaint procedures.

Mediation must be conducted by a qualified and impartial mediator who may not: 1) Be an employee of any school district, public charter school, or other public or private agency that is

~~providing education related services to a student who is the subject of the complaint being mediated; or 2) Have a personal or professional conflict of interest. A mediator is not considered an employee of the district or charter school or other public or private agency solely because he or she serves as a mediator.~~

~~If the parties reach agreement through mediation, they may execute a legally binding agreement that sets forth the resolution and states that all discussions that occurred during the course of mediation will remain confidential and may not be used as evidence in any subsequent complaint, due process hearing or civil proceeding. The agreement must be signed by the complainant and a district representative who has authority to bind the district.~~

~~D.~~ **Preservation of Records**

~~The files containing copies of all correspondence relative to each complaint communicated to the district and the disposition, including any corrective measures instituted by the district, will be retained in the office of the compliance officer for a period of six years.~~

Last Revised: ~~January 01, 2015 December 1, 2024~~ Adopted: 01/19/17
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