

Northshore School District

ADMINISTRATIVE PROCEDURE

5010P

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PERSONNEL

Nondiscrimination and Affirmative Action

Nondiscrimination

To ensure fairness and consistency, the following grievance procedure is to be used in the district's relationship with its staff members, volunteers, or contractors who work on behalf of the district. It specifically governs employment problems covered by state and federal equal employment opportunity laws and/or this affirmative action program. No such person's status with the district will be adversely affected in any way because the staff member utilized these procedures. As used in this procedure, "grievance" will mean a complaint which has been filed by a complainant relating to alleged violations of any state or federal anti-discrimination laws. A "complaint" will mean a charge alleging specific acts, conditions or circumstances which are in violation of the anti-discrimination laws. A "respondent" will mean 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 and the following steps will be taken:

Affirmative Action Plan

In order to secure an equitable solution to a justifiable complaint the district will:

1. Make efforts to modify the composition of the future workforce in order to work toward a full utilization of aged persons, persons with disabilities, racial and ethnic minorities, women, and Vietnam veterans in the various job categories.
2. Ensure that all applicants and staff are considered on the basis of bona fide job-related qualifications. The purpose of the affirmative action plan is to actively include persons of under-utilized classes in the employment process, not to exclude others from it. The district will continue to emphasize in all recruitment contacts that nondiscrimination is a basic element in the district's personnel procedures.
3. Be responsible for reviewing all employment procedures and programs to assure that there is no indication of discriminatory practices. The district will continue to use aged persons, persons with disabilities, racial and ethnic minorities, women and Vietnam veterans in the recruitment and employment process. Job descriptions for classified staff will be sent to the Washington Employment Service and other organizations which are recruiting sources for groups that may be under-utilized in the district's work force. Recruitment from colleges and universities will include institutions with high percentages of students of various ethnic minorities.

4. Contract and purchase all goods and services from persons, agencies, vendors, contractors, and organizations who comply with the appropriate laws and executive orders regarding discrimination.
5. Take appropriate action to attract and retain aged persons, persons with disabilities, racial and ethnic minorities, women, and Vietnam Veterans at all levels and in all segments of the district's workforce. Criteria for selecting staff will be reviewed regularly to assure that such statements relate directly to the requirements for specific positions. However, pursuant to state law there will be no preferential employment practices based on race or gender.
6. Upgrade present staff by providing management development training to assure that individuals of under-utilized groups are prepared for positions of new and increased responsibility.

Implementation of the affirmative action plan will be the responsibility of the superintendent. Administrators will assist in the attainment of the established goals and purposes of this affirmative action plan.

Dissemination

The district will disseminate information concerning employment and developments under the affirmative action plan on a planned basis to assist in achieving the goals set forth in this plan. Affirmative action information will be disseminated by:

1. Printing and distributing such information to staff, school libraries, and offices;
2. Publicizing such information in district newsletters;
3. Conducting meetings with administrative staff to explain the intent and advantages of the policy and plan;
4. Conducting faculty meetings and meetings with classified staff;
5. Informing appropriate and interested recruiting and hiring sources; and
6. Informing all representative staff groups in the district.

Grievance Procedure

To ensure fairness and consistency, the following review procedures are to be used in the district's relationship with its staff members, volunteers, or contractors who work on behalf of the district. These review procedures specifically govern employment problems covered by state and federal equal employment opportunity laws and/or this affirmative action program. No such person's status with the district will be adversely affected in any way because the person utilized these procedures.

- **Grievance** means a complaint which has been filed by a staff member, volunteer, or contractor relating to alleged violations of any state or federal anti-discrimination laws.
- **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.

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

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

1. Informal Process for Resolution

When a staff member, volunteer, or contractor has an employment problem concerning equal employment opportunity, will discuss the problem with the immediate supervisor, personnel director or superintendent. The staff member, volunteer, or contractor may also ask the compliance officer to participate in the informal review procedure. It is intended that the informal discussion will resolve the issue. If the staff member, volunteer, or contractor feels they cannot approach the supervisor because of the supervisor's involvement in the alleged discrimination, the person may directly contact the compliance officer before pursuing formal procedures. If the discussion with the officer or immediate supervisor does not resolve the issue the person may proceed to the formal review procedures. During the course of the informal process, the district will notify complainant of their right to file a formal complaint.

2. Formal Process for Resolution

If the complainant chooses not to follow the informal complaint process or is not satisfied with a proposed informal complaint resolution, the complainant may make a formal complaint. According to due process requirements, the district will not be able to hold the complainant's identity confidential. The district will, however, fully implement the anti-retaliation provisions of this procedure to protect complainants and witnesses. Student complainants and witnesses may have a trusted adult with them during any district-initiated investigatory activities. The superintendent or compliance coordinator/Title IX Compliance Officer may conclude that the district needs to act based on information available regardless of the complainant's interest in participating in the formal complaint process.

Level 1: Formal Complaint

A. A formal complaint shall:

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

3. Be submitted to any district school, district office, or the compliance coordinator/Title IX Compliance Officer as soon as possible, but no later than one year after the occurrence that is the subject of the complaint.

Any employee who receives a complaint meeting the above criteria shall promptly notify the compliance coordinator/Title IX Compliance Officer. The above 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 392-190-005.

- B. Upon receipt of a formal complaint, the compliance coordinator/Title IX Compliance Officer/designee shall:

1. Provide the complainant with a copy of this procedure;
2. Investigate the allegations set forth in the complaint. This investigation shall be completed within 30 calendar days from the date of receipt of the formal complaint

The district and the complainant may agree to resolve the complaint in lieu of an investigation. If the complaint is resolved to the satisfaction of the parties involved, no further action is necessary under this procedure. Otherwise, the compliance officer shall provide the superintendent with a full written report of the complaint and the results of the investigation.

- C. The superintendent/designee shall:

1. Prepare a written decision which includes (a) a summary of the results of the investigation; (b) whether the district has failed to comply with anti-discrimination laws; (c) if non-compliance is found, corrective measures the district deems necessary to correct it; and (d) notice of the complainant's right to appeal to the school board and the necessary filing information.
2. Transmit this decision to the complainant 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.
3. Send a copy of the decision to the Office of Superintendent of Public Instruction at the time it is transmitted to the complainant.

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 2: Appeal to the Board of Directors

- A. If a complainant remains aggrieved by the decision of the superintendent/designee, he or she may appeal to the Board of Directors by filing a written notice of appeal with the administrative assistant of the school board on or before the tenth (10th) calendar day following the date the complainant received the written decision.
- B. Upon receipt of a notice of appeal, the Board of Directors shall schedule a hearing at which both the complainant and the district shall be allowed to present such witnesses and testimony as the board deems relevant and material.
- C. Unless otherwise agreed to by the complainant, the Board of Directors 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 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 Superintendent of Public Instruction.

Level 3: Complaint to the Superintendent of Public Instruction

If a complainant remains aggrieved 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 under WAC 392-190-075.

- A. A complaint must be received by the Superintendent of Public Instruction on or before the twentieth (20th) 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.
- B. 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.
- C. 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 which 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 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.

Notices to Complainant

All notices and decisions to the complainant under this formal process for resolution 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 of 1964.

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.

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 district compliance officer/Title IX Compliance Officer for a period of 6 years.

Resources

District Contact
Jerred Kelly
Director of Human Resources
425-408-7622
jkelly@nsd.org

State Contacts
Superintendent of Public Instruction
Equity and Civil Rights Office
P.O. Box 47200
Olympia, WA 98504-7200
360.725.6162

Washington State Human Rights Commission
711 South Capitol Way, Suite 402
P.O. Box 42490
Olympia, WA 98504-2490
360.753.6770

Office for Civil Rights
U.S. Department of Education
915 Second Avenue, Room 3310
Seattle, WA 98174
206.607.1600

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