

## **Policy: 3210P**

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### **Nondiscrimination**

Anyone may file a complaint against the ESD alleging that the ESD has violated anti-discrimination laws. The purpose of this procedure is to provide a process to assure that the resolution of complaints alleging violations of anti-discrimination laws is directed toward a solution that is satisfactory to the complainant and ESD 112.

This procedure applies to complaints that allege violations of state and federal laws that prohibit discrimination, except laws that apply to sex discrimination or sex-based harassment. For purposes of this procedure:

**Complaint** means an oral or written allegation that ESD 112 has violated state or federal 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 ESD that it had resolved the problem forming the basis of the complaint; or 2) Withholding of information that the ESD 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 the ESD, program director or the ESD Civil Rights Compliance Officer. Any ESD employee who receives a complaint will notify the compliance officer.

**Complainant** means a student, parent, recipient or participant in an ESD 112 program.

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

The ESD is prohibited by law from intimidating, threatening, coercing or discriminating against any individual for the purpose of interfering with their right to file a complaint under this procedure and from retaliating against an individual for filing a complaint.

### **Informal Resolution**

Anyone with an allegation of discrimination may request an informal meeting with a program director or the Civil Rights Compliance Officer to discuss their concern and how it might be resolved. The informal resolution meeting is an option for a complainant. If the program director or compliance officer is unable to resolve the complainant's concerns at an informal resolution meeting, the complainant may submit a written complaint. The ESD program director or compliance officer will inform complainants who request an informal resolution meeting of their right to file a formal written complaint.

## **Formal Process for Resolution**

Formal resolution is initiated by filing a written complaint with specific acts, conditions or circumstances alleged to be discriminatory in violation of state and federal laws. Upon receipt of a complaint, the ESD program director or compliance officer will provide the complainant a copy of this procedure. The compliance officer will initiate an investigation within 14 calendar days. The ESD and complainant may agree to resolve the complaint in lieu of an investigation. If an investigation is done, the compliance officer will 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 ESD will notify the complainant in writing of the reason for the extension and the anticipated response date.

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

## **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 ESD 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 ESD will send a copy of the appeal decision to the Office of the Superintendent of Public Instruction (OSPI).

### **Review by the Superintendent of Public Instruction**

If a complainant disagrees with the decision of the board of directors, or if the ESD 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 ESD subject to the complaint; 4) A copy of the ESD'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, 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 superintendent or board. Following the investigation, OSPI will make an independent determination as to whether the ESD 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 ESD 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 ESD 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 ESD 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 ESD voluntarily agrees to resolve the complaint. OSPI may provide technical assistance and dispute resolution methods to resolve a complaint.

### **Administrative Hearing**

A complainant or ESD 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.

### **Preservation of Records**

The files containing copies of all correspondence relative to each complaint

communicated to the ESD and the disposition, including any corrective measures instituted by the ESD, will be retained for a period of six years.