

## **Sex Discrimination and Sex-Based Harassment of ESD Employees Prohibited**

The Board of Directors recognizes its responsibility to provide a working and educational environment that is free from sex discrimination, including sex-based harassment. This commitment extends to all employees, applicants for employment, and others involved in educational or other programs and activities of the ESD.

The ESD has jurisdiction over complaints of sex-based discrimination pursuant to the Federal law Title IX of the Education Amendments of 1972 (Title IX) and Washington State laws, including Chapter 28A.640 RCW and Chapter 392-190 WAC.

This policy is developed to meet the ESD's obligations under Title IX and is aligned with Washington State laws and regulations that define sex-based discrimination. The ESD will not adopt or implement any policy, practice, or procedure or take any employment action on the basis of sex, except to meet its obligations related to pregnancy and pregnancy-related conditions.

The ESD will not make any pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is "Miss or Mrs." Pre-employment, the ESD may ask an applicant for employment to self-identify their sex, but only if this question is asked of all applicants and if the response is not used as a basis for discrimination prohibited by Title IX or this policy.

Consistent with the Title IX regulation, the ESD will not implement any policy, practice, or procedure or take any employment action on the basis of sex:

- (1) concerning the current, potential, or past parental, family, or marital status of an employee or applicant for employment, which treats persons differently; or
- (2) that is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit.

The ESD will not discriminate against any employee or applicant for employment on the basis of current, potential, or past pregnancy or related conditions. The ESD must treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions for all job-related purposes, including commencement, duration and extensions of leave; payment of disability income; accrual of seniority and any other benefit or service; and reinstatement; and under any fringe benefit offered to employees by virtue of employment.

For purposes of this policy, "sex discrimination" includes discrimination on the basis of sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity and gender expression, and sex-based harassment.

### **Definitions**

"Sex-based harassment" means sexual harassment and other harassment on the basis of sex stereotypes, sex characteristics, sexual orientation, gender identity, gender expression, pregnancy or related conditions, and marital status.

The term "sexual harassment" includes the following:

- *Quid pro quo* harassment,

- Hostile environment harassment,
- Specific offenses of sexual assault, dating violence, domestic violence, or stalking.

The term "sexual harassment" also includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature between two or more individuals if:

- Submission to that conduct or communication is a condition of obtaining employment or a factor in decisions affecting that individual's employment; or,
- The conduct or communication has the purpose or effect of substantially interfering with an individual's employment or creating an intimidating, hostile or offensive educational environment.

Sex-based harassment may include conduct or communication that involves adult to student, student to adult, student to student, adult to adult, male to female, female to male, male to male, and female to female. ESD 112 will address sex-based harassment in its programs and activities.

### **Investigation and Response**

If ESD 112 knows, or reasonably should know, that sex discrimination has occurred, the ESD will promptly investigate to determine what occurred and will take appropriate steps to resolve the situation. If an investigation reveals that sex-based harassment has created a hostile environment, the ESD will take prompt and effective steps reasonably calculated to end sex-based harassment, eliminate the hostile environment, prevent its occurrence, and, as appropriate, remedy its effects. The ESD will take prompt, equitable, and remedial action within its authority on reports, complaints, and grievances alleging sex discrimination. ESD 112 will take these steps every time a complaint alleging sex discrimination comes to its attention.

Allegations of criminal misconduct will be reported to law enforcement, and suspected child abuse will be reported to law enforcement or Child Protective Services as required by law. Regardless of whether the misconduct is reported to law enforcement, ESD employees will promptly investigate to determine what occurred and take appropriate steps to resolve the situation to the extent that such investigation does not interfere with an ongoing criminal investigation. A criminal investigation does not relieve the ESD of its independent obligation to investigate and resolve sex-based harassment.

Engaging in sex-based harassment will result in appropriate discipline or other appropriate sanctions against offending employees or third parties involved in ESD activities. Anyone else who engages in sex-based harassment on ESD property or ESD workspaces will have their access to ESD property and activities restricted, as appropriate.

The Superintendent will develop and implement procedures for receiving, investigating, and resolving complaints or reports of sex discrimination, including sex-based harassment, and will include reasonable and prompt timelines.

### **Retaliation and False Allegations**

It is a violation of this policy to engage in retaliation, as defined under federal and state laws. Retaliation by an employee against another employee, or against a complainant or witness is prohibited and will result in appropriate discipline. The ESD will take appropriate actions to protect involved persons from retaliation.

It is a violation of this policy to knowingly report false allegations of sex discrimination. Persons found to knowingly report or corroborate false allegations will be subject to appropriate discipline. No party, witness, or others participating in the ESD's grievance process will be disciplined based solely on a determination of whether sex-based

harassment occurred.

### **Employee Responsibilities and Training**

The Superintendent will develop and implement a procedure that identifies the roles, responsibilities, and training requirements of the Title IX Coordinator and ESD employees.

The Superintendent will also develop materials to provide age-appropriate information and education to ESD employees, students, parents, and volunteers regarding this policy and the recognition and prevention of sex-based harassment.

### **Notice**

ESD 112's website will include a statement that the ESD prohibits sex discrimination and sex-based harassment in any education program or activity that it operates, as required by Title IX and other applicable laws. It will also state that questions about Title IX or Civil Rights, and how to locate the ESD's policy and grievance procedure, and how to report sex discrimination or make a complaint may be directed to the District's Title IX Coordinator or Civil Rights Officer. The Title IX Coordinator's and Civil Rights Officer's contact information will also be provided, including their name or title, office address, email address, and telephone number.

This policy and the procedure, which includes the complaint process, will be posted in ESD facilities and included in student, parent and employee handbooks. Such notices will identify the ESD's Title IX Coordinator and Civil Rights Compliance Officer and provide contact information, including the coordinator's and compliance officer's email addresses.

#### *Legal References:*

*RCW 28A.310.220 ESD board – Delegation of powers and duties to superintendent.*

*RCW 28A.640.020 – Regulations, guidelines to eliminate discrimination – Scope – Sexual harassment policies.*

*WAC 392-190-057 – Sexual harassment policy – Required criteria.*

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