

## **Nondiscrimination**

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## A. Introduction

The Spokane School District strives to provide students with optimal conditions for learning by maintaining a school environment where everyone is treated with respect, and no one is physically or emotionally harmed.

In order to promote respect and prevent harm, it is a violation of district policy for a student to be discriminated against by others in the school community, at school sponsored events, or when such actions create a substantial disruption to the educational process. The school community includes all students, school employees, school board members, contractors, unpaid volunteers, families, patrons, and other visitors. Student(s) will not be discriminated against because of their race, color, religion, ancestry, national origin, gender, sexual orientation, including gender expression or identity, mental, physical, or sensory handicap, or other distinguishing characteristics.

Any school staff who observes, overhears, or otherwise witnesses acts of discrimination, which includes microaggressions(see definitions) or to whom such actions have been reported must take prompt and appropriate action to stop the discrimination and to prevent its reoccurrence.

Anyone may file a complaint against the district alleging that the district has violated anti-discrimination laws or may file a complaint alleging discrimination by an individual in the school community. This complaint procedure is designed to assist with the resolution of real or alleged violations and direct them 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).

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.

## B. Relevant Laws

1. Title VI of the Civil Rights Act of 1964 - prohibits discrimination on the bases of race, color, and national origin
2. Title IX of the Education Amendments of 1972 - prohibits sex discrimination
3. Section 504 of the Rehabilitation Act of 1973 - prohibits disability discrimination
4. Title II of the Americans with Disabilities Act of 1990 (ADA) - prohibits discrimination on the basis of disability. (Title II prohibits discrimination on the basis of disability by public entities, whether or not they receive federal financial assistance)
5. Age Discrimination Act of 1975 - prohibits age discrimination

## C. Definitions

1. **Grievance** means a complaint which has been filed by a complainant relating to alleged violations of any state or federal anti-discrimination laws.

2. **Complaint** means a written charge alleging specific acts, conditions or circumstances, which are in violation of the anti-discrimination laws. A complaint is considered filed when any staff member receives a written complaint or an [Incident Reporting Form](#), or receives an oral complaint and then completes an [Incident Reporting Form](#).
3. **Respondent** means the person alleged to be responsible or who may be responsible for the violation alleged in the complaint.
4. **Discrimination:** Unfair or unequal treatment of a person or a group because they are part of a defined group, known as a protected class. Discrimination can occur when a person is treated differently or denied access to programs, services, or activities because they are part of a protected class. Discrimination can also occur when a school or school district fails to accommodate a student or employee's disability. Harassment (based on protected class) and sexual harassment can be forms of discrimination when it creates a hostile environment.
5. **Microaggressions** are the everyday verbal, nonverbal, and environmental slights, snubs, or insults, whether intentional or unintentional that communicates hostile, derogatory, or negative messages to target persons based solely upon their marginalized group membership. (From Diversity in the Classroom, UCLA 2014) It is not about being opinionated or unkind or having varying opinions on matters that do not concern gender, race, or orientation. The context of the relationship and situation is critical.
6. **Retaliation** occurs when an individual is intimidated, threatened, coerced, or discriminated against for reporting harassment, intimidation, or participating in an investigation.

#### **D. Prevention**

##### **1. Dissemination**

In each school and on the district's website the district will prominently post information on reporting discrimination; the name and contact information for making a report to a school administrator; and the name and contact information for the district civil rights officer. The district's policy and procedure will be available in each school in a language that families can understand.

Annually, the superintendent or designee will ensure that a statement summarizing the policy and procedure is provided in student, staff, volunteer, and parent handbooks, is available in school and district offices and/or hallways, or is posted on the district's website.

##### **2. Education**

Annually students will receive age-appropriate information on the recognition and prevention of discrimination at student orientation sessions and on other appropriate occasions. The information will include a copy of the Incident Reporting Form or a link to a web-based process.

##### **3. Training**

The district civil rights officer will participate in at least one mandatory training opportunity offered by Office of Superintendent of Public Instruction (OSPI). Staff will receive annual training on the school district's policy and procedure, including at a

minimum, staff roles and responsibilities, how to monitor common areas and the use of the district's Incident Reporting Form.

#### **4. Other Prevention Strategies**

The district will implement a range of prevention strategies including individual, classroom, school, and district-level approaches.

Whenever possible, the district will implement evidence-based prevention programs that are designed to increase social competency, improve school climate, and eliminate discrimination in schools.

### **E. The Civil Rights Officer**

The superintendent will appoint a district Civil Rights Officer. The Civil Rights Officer shall:

1. Serve as the district's primary contact for discrimination complaints;
2. Provide support and assistance to the principal or designee in resolving complaints;
3. Receive copies of all Incident Reporting Forms;
4. Ensure that all impacted parties to a complaint are aware of the services provided by the district ombudsperson, and will work closely with the district ombudsperson to identify and encourage opportunities for restorative interventions to resolve complaints;
5. Be familiar with the use of the student information system. The civil rights officer may use this information to identify patterns of behavior and areas of concern;
6. Ensure implementation of the policy and procedure by overseeing the investigative processes, including ensuring that investigations are prompt, impartial, thorough, and are conducted in a manner that reflects the district's commitment to restorative practices, procedural fairness and equity;
7. Assess the training needs of staff and students to ensure successful implementation throughout the district, and ensure staff receive annual training;
8. Provide the OSPI School Safety Center with notification of policy or procedure updates or changes on an annual basis; and
9. In cases where, despite school efforts, a targeted student experiences discrimination that threatens the student's health and safety, the civil rights officer will facilitate a meeting between district staff and the child's parents/guardians to develop a safety plan to protect the student. A sample student safety plan is available on the OSPI website: [www.k12.wa.us/SafetyCenter/default.aspx](http://www.k12.wa.us/SafetyCenter/default.aspx).

### **F. District Ombudsperson(s)**

The district ombudsperson(s) will:

1. Support the restorative resolution of complaints as a neutral facilitator;
2. Serve as a resource to students, parents and district staff to clarify policy and procedure;
3. Have access to all documentation of complaints under this policy and procedure; and
4. Work with the district civil rights officer to track trends to identify needs for additional training and changes to policy and procedure.

If a student or family prefers to have an external ombudsperson-representative, the district ombudsperson will connect the student or family with a trained community member who is contracted with the district to provide this service.

If both the complaining party and the respondent request an Ombudsperson, they shall be put in contact with different Ombudspersons to preclude any conflict-of-interest concerns.

## G. Staff Intervention

All staff members will receive training on how to appropriately intervene when witnessing or receiving verbal or written reports of discrimination. All staff witnesses should intervene and should attempt to resolve the concern immediately. Incidents that staff are able to resolve immediately, or incidents that do not meet the definition of discrimination, may require no further action under this procedure.

## H. Reporting Discrimination

### 1. Incident Reporting Form.

- a. Anyone who feels that they have been discriminated against by a member of the school community or by a district policy or procedure may file a complaint in writing or through the district Incident Reporting Form. Any staff person who receives an oral report of alleged discrimination must ensure the complainant is aware of the reporting process and Incident Reporting Form and should complete an Incident Reporting Form if the complainant chooses not to make a written complaint.
- b. The time period for filing a complaint through an Incident Reporting Form 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. Incident Reporting Forms may be submitted by mail, fax, e-mail, through the district website, or hand-delivery to any district, school or to the district civil rights officer responsible for investigating discrimination complaints. Any district employee who receives a complaint that meets these criteria will promptly notify the civil rights officer.
- c. The information provided in the Incident Reporting Form must set forth the specific acts, conditions or circumstances alleged to be in violation.

### 2. Status of Reporter

- a. **Anonymous.** Individuals may file an Incident Reporting Form without revealing their identity. No disciplinary action will be taken against an alleged aggressor based solely on an anonymous report. Schools may identify complaint boxes, use online reporting processes, or develop other methods for receiving anonymous, unsigned reports. Possible responses to an anonymous report include enhanced monitoring of specific locations at certain times of day or increased monitoring of specific students or staff. (Example: An unsigned Incident Reporting Form dropped on a teacher's desk led to the increased monitoring of the boys' locker room in 5th period.)
- b. **Confidential.** Individuals may ask that their identities be kept secret from the accused and other students. Like anonymous reports, no disciplinary action will be taken against an alleged aggressor based solely on a confidential report.

- c. **Non-confidential.** Individuals may agree to file a report non-confidentially. Complainants agreeing to make their complaint non-confidential will be informed that due process requirements may require that the district release all of the information that it has regarding the complaint to any individuals involved in the incident, but that even then, information will still be restricted to those with a need to know, both during and after the investigation. The district will, however, fully implement the anti-retaliation provision of this policy and procedure to protect complainants and witnesses.

### **3. Staff who Receive Reports of Discrimination**

All staff are responsible for receiving oral and written reports. Whenever possible staff who initially receive an oral or written report of discrimination will attempt to resolve the incident immediately.

Upon receiving a report of alleged discrimination, staff are responsible for ensuring the complainant is aware of the district's reporting process and incident reporting form. If the complainant does not put the complaint in writing, the staff member should fill out an incident reporting form to ensure the complaint is documented.

### **4. Informal Process for Resolution**

Anyone with an allegation of discrimination may request an informal meeting with the civil rights officer or designated employee to resolve their concerns. The Ombudsperson(s) may also be present at this meeting. The civil rights officer or designee will inform the person of their right to file a complaint in writing or through the Incident Reporting Form. Such a meeting will be at the option of the complainant.

## **I. Investigations of Discrimination**

The civil rights officer will promptly analyze all reports of discrimination alleged in any written complaint or Incident Reporting Form. If the complaint was not resolved through the informal resolution process, the Civil Rights Officer will ensure the complainant understands their right to an investigation through the formal investigation process following the procedure outlined below.

1. Within two (2) school days after receiving the Incident Reporting Form, the civil rights officer will notify the families of the students involved that a complaint was received and provide the families with the district's policy and procedure on discrimination, as well as connect them with the district ombudsperson.
2. If there is potential for clear and immediate physical harm to the complainant, the civil rights officer will immediately contact the Director of Campus Safety and Security and inform the parent or guardian.
3. The civil rights officer will work closely with the district ombudsperson(s) to identify and encourage opportunities for restorative interventions to resolve complaints.
4. During the course of the investigation, the district will take reasonable measures to ensure that no further incidents of discrimination occur between the complainant and the respondent. If necessary, the district will implement a safety plan

(<https://www.k12.wa.us/student-success/health-safety/school-safety-center/safety-planning-toolkit>) for the student(s) involved. The plan may include changing seating arrangements for the complainant and/or the respondent in the classroom, at lunch, or on the bus; identifying a staff member who will act as a safe person for the complainant; altering the respondent's schedule and access to the complainant, and other measures.

5. During the course of an investigation, the civil rights officer will follow discrimination complaint procedure in WAC 392-190-065 through WAC 392-190-075. The complainant must be provided a copy of this policy. The notice must be provided in a language that the complainant can understand. The investigation and response timeline for the discrimination complaint procedure will follow that set forth in WAC 392-190-065 and begins when the district knows or should have known that a written report of discrimination was filed.
6. In rare cases, where after consultation with the student and appropriate staff (such as a psychologist, counselor, or social worker) the district has evidence that it would threaten the health and safety of the complainant or the respondent to involve his or her parent/guardian, the civil rights officer may initially refrain from contacting the parent or guardian in its investigation of discrimination. If professional school personnel suspect that a student is subject to abuse and neglect, they must follow district policy for reporting suspected cases to Child Protective Services.
7. The investigation will be conducted in a way that reflects the district's commitment to restorative practices, procedural fairness and equity. The civil right's officer will keep organized and detailed records of all elements of the investigation. The investigation will include, at a minimum:
  - a. An interview with the complainant;
  - b. An interview with the respondent(s);
  - c. An interview with the guardians of all interviewed students, if possible;
  - d. A review of any previous complaints involving either the complainant or the respondent(s); and
  - e. Interviews with other students or staff members who may have knowledge of or who may have been impacted by the alleged incident.
8. The civil rights officer may determine that other steps must be taken before the investigation is complete.
9. Prior to any student interview, the civil rights officer will inform students of their right to have a trusted adult present during the interview.
10. The investigation will be completed as soon as practicable but generally within 30 calendar days from the initial complaint or report pursuant to WAC 392-190-065. In the event an extension is needed, the district will notify the complainant in writing of the reason for the extension, the anticipated response date, and will provide the complainant with weekly updates.

## **J. Investigation Findings**

1. Generally, within 30 calendar days from receipt of the initial complaint, the civil rights officer or designee will issue written Investigation Findings and will deliver the Findings by mail or in person to the parent/guardian of the complainant and the respondent(s).

The civil rights officer or designee will also deliver the Investigation Findings to the Superintendent of Public Instruction.

2. The Investigation Findings will include: 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.
3. Any corrective measures deemed necessary shall be instituted as expeditiously as possible, but in no event later than 30 calendar days following the mailing of the Investigation Findings to the complaining party unless otherwise agreed to by the complainant.
4. If a district chooses to issue the Investigation Findings by mail, it be mailed to the parent or guardian of the complainant and respondent(s) by United States Postal Service with return receipt requested unless it is determined, after consultation with the student and appropriate staff (psychologist, counselor, social worker) that it could endanger the complainant or the alleged aggressor to involve his or her family. If professional school personnel suspect that a student is subject to abuse or neglect, as mandatory reporters they must follow district policy for reporting suspected cases to Child Protective Services.
5. In communicating the Investigation Findings, the civil rights officer or designee will make all reasonable attempts to ensure the recipients receive the Findings and have an opportunity to ask the civil rights officer or designee questions. The written Investigation Findings will be provided in the language spoken by the recipient and may require language assistance for complainants with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964.
6. The officer shall provide the superintendent or designee with a full written report of the complaint and the results of the investigation.
7. Because of the legal requirement regarding the confidentiality of student records, the civil rights officer or designee may not be able to report specific information to the targeted student's parent or guardian about any disciplinary action taken unless it involves a directive that the targeted student must be aware of in order to report violations.

#### **K. 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 will schedule a hearing to commence by the twentieth (20<sup>th</sup>) calendar day following the filing of the written notice of appeal, unless otherwise agreed to by the complainant and the superintendent or designee 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.

#### **L. 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<sup>th</sup>) 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-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), and the name of the school and school district the student attends.

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, at its discretion, investigate additional issues related to the complaint that were not included in the initial complaint or appeal to the school district.

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 that OSPI has identified in the investigation. The written decision will include corrective actions deemed necessary to correct any noncompliance and any documentation the district must provide to ensure that corrective action is 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 necessary to resolve a complaint.

#### **M. 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.

## **N. Alternative Complaint Resolution**

The district ombudsperson is available throughout the complaint process to facilitate an alternative process to resolve the complaint, at the request of the parties. The purpose of the district ombudsperson is to support the resolution of conflicts and concerns through processes that embody the district's commitment to equity, restorative practices, procedural fairness, and Excellence for Everyone.

The ombudsperson operates under the following principles:

- a. Independence: The ombudsperson is independent in structure, function, and appearance to the highest degree possible within the organization.
- b. Neutrality: The ombudsperson supports conflict resolution by serving as a neutral facilitator.
- c. Confidentiality: The ombudsperson holds all communications with those seeking support in confidence and does not disclose confidential communications unless given permission or summoned to do so.
- d. Informality: The ombudsperson operates outside of the formal processes for complaints to resolve issues at the lowest level using restorative interventions.

In cases where both the complainant and the respondent request an ombudsperson, each party will be assigned a different ombudsperson to prevent any allegations of a breach of confidentiality or conflict of interest. Where any party requests an external ombudsperson or where the district ombudsperson has a conflict of interest, the district will contract with a trained community member to facilitate the alternative complaint resolution process. All parties to the complaint must approve of the facilitator.

### **b. 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 civil rights officer for a period of six years.

Adopted: 11/18/2015  
Amended: 08/11/2021  
Superintendent: Dr. Adam Swinyard