

Superintendent Procedure 5245SP **Anti-Retaliation**

Approved by: s/Larry Nyland Date: 11/1/17

Dr. Larry Nyland, Superintendent



I. INTRODUCTION

The District prohibits retaliation against employees who have: (i) reported violations or suspected violations of District policies or procedures or (ii) engaged in protected activities. The District will take prompt, equitable, and remedial action within its authority on known reports, complaints, and grievances alleging retaliation.

II. DEFINITIONS

As used in Board Policy No. 5245 and this procedure, the following terms shall have the meanings indicated.

1. “Retaliation” means any “retaliatory action” taken because an employee has, in good-faith (a) reported violations or suspected violations of District policies or procedures or (b) has engaged in protected activities.
2. “Retaliatory action” means: (a) a significant adverse change in an employee’s employment status or the terms and conditions of employment, including denial of adequate employees to perform duties, frequent employee changes, frequent and undesirable office changes, refusal to assign meaningful work, unwarranted and unsubstantiated letters of reprimand, unwarranted or unsubstantiated performance evaluations, demotion, transfer, reassignment, reduction in pay, denial of a promotion, suspension, dismissal, or any other disciplinary action; (b) hostile actions by one employee towards another employee that were encouraged by a supervisor or senior District manager or official; (or) significantly impacting the educational setting or work environment for an employee’s immediate family member.
3. “Protected activities” means filing a complaint, referring a matter for investigation, participating in any manner in an investigation of a complaint, participating in litigation or a hearing, requesting union representation, performing required job duties, filing a grievance, or advocating for your legal rights or the legal rights of a student or other employee.

III. COMPLAINTS

All complaints must be filed within one (1) year after the act, condition, or circumstance that is the subject matter of the complaint. Complaints may be submitted orally or in writing. If the complaint raises retaliation based on a complaint of discrimination, the District will investigate the complaint under the Non-Discrimination procedures.

Complainants shall be informed that due process requirements may require that the District release all of the information regarding the complaint to the accused, thus the identity of the complainant may not remain confidential. The District will, however, fully implement the nonretaliation provisions contained within District policy to protect both complainants and witnesses.

The complainant and the District may agree to resolve the complaint in lieu of an investigation. The District strongly supports Alternative Dispute Resolution (“ADR”) processes. The District will establish a fair and neutral process for ADR resolutions to take place, with the goal being a prompt resolution via an impartial facilitator.

IV. COMPLAINT PROCEDURE

Complaints of retaliation by an employee must be filed with or referred to:

The Assistant Superintendent for Human Resources
(206) 252-0027

The Assistant Superintendent for Human Resources or designee shall receive and respond to complaints alleging retaliation.

The Assistant Superintendent for Human Resources or designee shall ***promptly*** begin the investigative process and determine whether a full investigation is warranted. The complainant will be notified in writing if a full investigation is not warranted. This procedure may be held in abeyance if a collective bargaining agreement (“CBA”) process for resolving allegations of retaliation are being utilized. No appeal may be made internally of a determination to not conduct a formal investigation.

When a full investigation is warranted, the Assistant Superintendent for Human Resources or designee will assign the complaint to an investigator to acquire information from appropriate sources and conduct an impartial investigation. When the investigation is completed, the investigator shall prepare a written report and provide the report to the Assistant Superintendent for Human Resources or designee for review and a decision. No later than thirty (30) calendar days after the report has been finalized, an outcome letter will be issued to the complainant.

Corrective measures deemed necessary by the Assistant Superintendent for Human Resources or designee will be instituted promptly. Appropriate corrective measures may include disciplinary action for any District employee found to have engaged in acts of retaliation in violation of the non-retaliation policy.

V. DISCIPLINE/REMEDIAL ACTION

The District will take prompt, equitable, and remedial action within its authority on formal and informal complaints alleging HIB that come to the attention of the District. Engaging in HIB will result in appropriate discipline or other sanctions against offending employees. Others who engage in HIB on District property or at District activities may have access to District property and District activities restricted, as appropriate. Persons found to have been subjected to HIB will have appropriate District

services made reasonably available to them and adverse consequences of the harassment shall be reviewed and remedied as appropriate.

VI. APPEAL

If the District finds that retaliation did not occur, the complainant may appeal that decision to the Deputy Superintendent by filing a written notice of appeal on or before the tenth (10th) calendar day following the date upon which the complainant received the Assistant Superintendent for Human Resources or designee's response. The Deputy Superintendent may hear the appeal or delegate the appeal to his or her designee. The Deputy Superintendent may not delegate appeals involving allegations of retaliation by an Associate or Assistant Superintendent, an Executive Director, Chief, Director, or Building Principal or Assistant Principal. District employees and the complainant shall have the opportunity to submit written materials to the Deputy Superintendent or his or her designee. A final decision will be based on a paper review and shall be issued within thirty (30) calendar days following the filing of the written notice of appeal. Any appeal of the Deputy Superintendent's or designee's decision shall be made to King County Superior Court under the terms and timelines contained in RCW 28A.645.

VII. TRAINING AND PREVENTION/INTERVENTION

The District will provide employees with information on recognizing and preventing retaliation and shall provide a copy of the policy and this procedure to staff in its orientation materials.

VIII. RETALIATION

No employee or volunteer may engage in reprisal or retaliation against a victim, witness, or other person who brings forward information about an act of retaliation. Reprisal or retaliation is prohibited and will result in appropriate discipline.

It is a violation of District policy and procedure to knowingly report false allegations of retaliation. Persons found to knowingly report or corroborate false allegations will be subject to appropriate discipline.

IX. OTHER LAWS

Nothing in this procedure precludes any complainant from exercising their rights under the procedures outlined in Federal or State laws.

X. OTHER DISTRICT POLICIES AND PROCEDURES

Nothing in this procedure is intended to prohibit discipline or remedial action for inappropriate behaviors that do not rise to the level of retaliation as defined herein, but which are or may be prohibited by other District rules.

XI. DISCLAIMER OF LIABILITY

Pursuant to established School Board Policy, nothing in this policy or procedure shall be construed to provide a private right of action in the courts.

Approved: November 2017
Revised:
Cross Reference: School Board Policy No. 5245