



SCHOOL BOARD ACTION REPORT

DATE: February 6, 2018
FROM: Dr. Larry Nyland, Superintendent
LEAD STAFF: Nate Van Duzer, Director of Policy and Board Relations, ntvanduzer@seattleschools.org; Tina Meade, Student Civil Rights Compliance Officer, cmmeade@seattleschools.org; John Cerqui, Deputy General Counsel, jcerqui@seattleschools.org; Dr. Clover Codd, Assistant Superintendent for Human Resources, ccodd@seattleschools.org; Stephen Nielsen, Deputy Superintendent, sjnielsen@seattleschools.org

For Introduction: February 13, 2018

For Action: March 7, 2018

1. TITLE

Amending Board Policy No. 3210, Nondiscrimination, Acts of Hostility and Defamation, and Repeal of Board Policy D51.00 and Board Procedure D51.01, Anti-Retaliation

2. PURPOSE

This action repeals an older, general anti-retaliation policy and procedure and adds anti-retaliation provisions to other relevant policies and procedures.

3. RECOMMENDED MOTION

I move that the School Board repeal Board Policy D51.00 and Board Procedure D51.01, Anti-Retaliation and amend Board Policy No. 3210, Nondiscrimination, Acts of Hostility and Defamation, as attached to this board action report.

4. BACKGROUND INFORMATION

a. Background

On November 1, 2017, the Board reviewed and adopted changes to a suite of policies and procedures related to harassment, intimidation and bullying (HIB), non-discrimination, and retaliation protections. The goal of this work was to separate policies and procedures related to adults from those related students. That Board Action Report included updates to:

- Board Policy No. 5010, Nondiscrimination & Affirmative Action
- NEW Board Policy No. 5207, Prohibition of Harassment, Intimidation, and Bullying
- NEW Board Policy No. 5245, Anti-Retaliation
- NEW Superintendent Procedure 5207SP, Prohibition of Harassment, Intimidation, and Bullying
- NEW Superintendent Procedure 5245SP, Anti-Retaliation
- Superintendent Procedure 5010SP, Nondiscrimination & Affirmative Action, which received further review in the Audit and Finance Committee on December 11

The new Board Policy No. 5245, Anti-Retaliation, provides broad retaliation protections for employees. After this round of edits were completed, staff reviewed the relevancy of an older policy and Board procedure, D51.00 and D51.01, to determine whether the protections in this policy language were found in other policies. Staff reviewed other policies related to HIB, non-discrimination, and sexual harassment to find gaps in retaliation protections. Most of these policies and procedures have retaliation protections embedded in them for both students and employees, with one exception. Staff propose to embed retaliation protections in the Discrimination Complaint Procedure for students, 3210SP.B, in order to fill this gap. That procedural language change, along with updates to 3207SP, are attached to this action report for reference. After a discussion with the Audit and Finance Committee, language regarding retaliation is also proposed to be added to Policy No. 3210, Nondiscrimination, Acts of Hostility and Defamation.

With approval of this motion, students and employees are fully protected from retaliation for HIB, non-discrimination, and sexual harassment. In addition, employees are protected from retaliation for filing whistleblower complaints in Policy No. 5250, Reporting Improper Governmental Actions and Protecting Whistleblowers Against Retaliation. Therefore, staff recommends repealing D51.00 and D51.01.

The table below shows which policies and procedures provide retaliation protections categorized by the protected activity and the type of person filing the report.

Protected Activity	Students	Staff	Volunteers	Parents/Community
HIB report	3207, 3207SP.A, D51.00, D51.01	3207, 3207SP.A 5207SP 5245, 5245SP	3207, 3207SP.A, 5207SP	3207
Discrimination report	D51.00, D51.01 <u>32010, 3210SP.B</u>	5010SP 5245, 5245SP <u>3210, 3210SP.B</u>	<u>3210, 3210SP.B</u>	D51.00, D51.01 <u>3210, 3210SP.B</u>
Whistleblower report	Not applicable	5250SP	Not applicable	Not applicable
Sexual harassment report	3208/3208SP	3208/3208SP	3208/3208SP	3208/3208SP
General Retaliation protections	D51.00, D51.01 Not applicable	D51.00, D51.01 5245	Not applicable	D51.00, D51.01 Not applicable

b. Alternatives

The Board could choose to leave D51.00 and D51.01 in place, but this is not recommended because it would create redundancies in the policy manual.

Alternatively, if the Board believes specific activities other than reporting HIB,

discrimination, or sexual harassment deserve retaliation protections, the Board could amend D51.00 and D51.01 to specifically apply to those other situations in such a way that does not create overlap or redundancy with other policies.

c. **Research**

Staff reviewed the policy manuals of Tacoma Public Schools, Spokane Public Schools, and the state model policies. These policy manuals include references to retaliation in policies specific to HIB, discrimination, sexual harassment, and whistleblowing. None of these manuals had standalone, broad anti-retaliation policies.

5. FISCAL IMPACT/REVENUE SOURCE

There is no fiscal impact to this motion.

Expenditure: One-time Annual Multi-Year N/A

Revenue: One-time Annual Multi-Year N/A

6. COMMUNITY ENGAGEMENT

With guidance from the District's Community Engagement tool, this action was determined to merit the following tier of community engagement:

Not applicable

Tier 1: Inform

Tier 2: Consult/Involve

Tier 3: Collaborate

If this change is approved, the Board's policy website will be updated and relevant stakeholders made aware of the change.

7. EQUITY ANALYSIS

A formal racial equity analysis was not applied to this recommendation. The recommendation does maintain full protections against retaliation for reporting any behavior motivated by racial discrimination.

8. STUDENT BENEFIT

Students benefit from safe learning environments. Policies that protect and encourage the reporting of behavior that negatively affects these environments benefit students.

9. WHY BOARD ACTION IS NECESSARY

Amount of contract initial value or contract amendment exceeds \$250,000 (Policy No. 6220)

- Amount of grant exceeds \$250,000 in a single fiscal year (Policy No. 6114)
- Adopting, amending, or repealing a Board policy
- Formally accepting the completion of a public works project and closing out the contract
- Legal requirement for the School Board to take action on this matter
- Board Policy No. _____, [TITLE], provides the Board shall approve this item
- Other: _____

10. POLICY IMPLICATION

The policies and procedures implicated in this action are discussed in the background section above.

11. BOARD COMMITTEE RECOMMENDATION

This motion was discussed at the Audit and Finance Committee meeting on February 6. The Committee reviewed the motion and moved it forward to the Full Board for consideration.

12. TIMELINE FOR IMPLEMENTATION

Upon approval of this motion, Board Policy and Procedure D51.00 and D51.01, Anti-Retaliation, will be repealed and Board Policy No. 3210 will be amended.

13. ATTACHMENTS

- Board Policy No. 3210, Nondiscrimination, Acts of Hostility and Defamation – clean (for approval)
- Board Policy No. 3210, Nondiscrimination, Acts of Hostility and Defamation – tracked changes (for reference)
- Board Policy D51.00, Anti-Retaliation (for repeal)
- Board Procedure D51.01, Anti-Retaliation (for repeal)
- Superintendent Procedure 3207SP.A, Prohibition of Harassment, Intimidation & Bullying - Students – clean (for reference)
- Superintendent Procedure 3207SP.A, Prohibition of Harassment, Intimidation & Bullying - Students – tracked changes (for reference)
- Superintendent Procedure 3210SP.B, Discrimination Complaint Process – clean (for reference)
- Superintendent Procedure 3210SP.B, Discrimination Complaint Process – tracked changes (for reference)

	<p>NONDISCRIMINATION, ACTS OF HOSTILITY & DEFAMATION</p>	<p>Policy No. 3210</p> <p>DATE</p> <p>Page 1 of 2</p>
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Seattle Public Schools (“the District”) shall provide equal educational opportunity and treatment for all students, and is committed to nondiscrimination in all aspects of the District’s academic, athletic, and activities programs. The District prohibits discrimination on the basis of any of the following categories: sex (gender); race; creed; color; religion; ancestry; national origin; age; economic status; sexual orientation including gender expression or identity; pregnancy; marital status; physical appearance; the presence of any sensory, mental or physical disability; honorably discharged veteran or military status; or the use of a trained dog guide or service animal by a person with a disability.

Acts of discrimination, hostility, defamation, whether verbal or physical, will not be tolerated and constitute grounds for immediate disciplinary action. Further, District programs shall be free from sexual harassment, as provided in Board Policy No. 3208 and Superintendent Procedure 3208SP.

Retaliation against any person who makes or is a witness in a discrimination complaint is prohibited and will result in appropriate discipline. The district will take appropriate actions to protect involved persons from retaliation.

The District shall comply with all state or federal laws as may pertain to this subject.

The Superintendent is authorized to designate a staff member to serve as the nondiscrimination compliance officer for this policy. The Superintendent is authorized to develop procedures governing the nondiscrimination complaint process and any other procedures as required by law and this policy.

Adopted: April 2012

Revised: DATE

Cross Reference: Policy Nos. 2015; 2020; 2030; 2140; 2150; Student Rights & Responsibility Handbook

Related Superintendent Procedure: 3210SP.A & 3210SP.B

Previous Policies: D47.00; D49.00; D50.00

Legal References: RCW 28A.640 Sexual Equality; RCW 49.60 Discrimination — Human rights commission; RCW 28A.642 Discrimination prohibition; 42 U.S.C. §§ 12101-12213 Americans

with Disabilities Act; WAC 392-400-215 Student rights; WAC 392-190 Equal Educational Opportunity - Unlawful Discrimination Prohibited
Management Resources: *Policy News*, August 2007

 <p>SEATTLE PUBLIC SCHOOLS</p>	<p>NONDISCRIMINATION, ACTS OF HOSTILITY & DEFAMATION</p>	<p>Policy No. 3210 April 4, 2012 <u>DATE</u> Page 1 of <u>2</u></p>
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	<p>ANTI-RETALIATION POLICY</p>	<p>Policy D51.00 May 2005 Page 1 of 1</p>
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Policy

It is the policy of the Seattle School Board to protect students, parents and employees from retaliation for good faith actions in filing a disability discrimination complaint; referring a matter for investigation or complaint; participating in any manner in an investigation of a complaint or hearing procedures; or representing or serving as an advocate on behalf of their rights or the rights of other disabled person(s). In accordance with this policy and the accompanying procedures every reasonable effort will be made to stop retaliation immediately, to conduct a complete and thorough investigation of alleged acts of retaliation in a timely manner, and to provide prompt corrective action if retaliation is found to have occurred.

Adopted: May 2005

Revised:

Cross Reference:

Related Superintendent Procedure:

Previous Policies: C11.00

Legal References: Section 504 of the Rehabilitation Act of 1973; Title VI of the Civil Rights Act of 1964; Title II of the American Disabilities Act of 1990

Management Resources:

	ANTI-RETALIATION PROCEDURE	Procedure D51.01 February 6, 2014 Page 1 of 2
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Board-Adopted Procedure

Definitions:

As used in this policy and procedures, the following terms shall have the meanings indicated.

1. “Retaliation” means any action taken because a parent, student, or employee has engaged in protected activities and that negatively impacts any of the following:
 - a. Significant terms or conditions of District employee’s employment (such as discipline, salary, demotion, termination, annual evaluation)
 - b. Educational progress (such as grades, entry or advancement through an educational program, suspension, expulsion)
 - c. Working/learning environment (such as harassment, intimidation, threats, coercion, or hostile environment).

2. “Protected activities” means filing a disability discrimination complaint; referring a matter for investigation or complaint; participating in any manner in an investigation of a complaint or hearing procedures; or representing or serving as an advocate on behalf of the rights of a disabled person(s).

STATEMENT:

Seattle Public Schools prohibits retaliation against parents, students and employees who engage in protected activities. Seattle Public Schools will take prompt, equitable and remedial action within its authority on reports, complaints, and grievances alleging retaliation that come to the attention of the District.

RETALIATION COMPLAINT PROCEDURE:

To facilitate resolution or investigation, complaints should be brought forward within thirty days, or as soon as possible, after the alleged act of retaliation. Allegations shall be in writing, and filed with or referred to:

The Office of Equal Employment Opportunity (EEO)
(206) 252-0027

The Manager of Equal Employment Opportunity or other designee of the Superintendent shall receive and respond to complaints alleging retaliation.

The Manager of Equal Employment Opportunity or designee shall ***promptly*** begin the investigative process and determine whether a full investigation is warranted. The complainant will be notified in writing if an investigation is not warranted. No appeal may be made internally of this determination.

When a full investigation is warranted the Manager of Equal Employment Opportunity or designee will acquire information from appropriate sources and conduct an impartial investigation of the allegation. When the investigation is completed the Superintendent's designee shall compile a written report of the grievance and the results of the investigation for the Superintendent and/or designee. No later than thirty calendar days after the report has been written the Manager of Equal Employment Opportunity or designee will provide the complainant with a written investigative summary. No appeal may be made internally of Seattle Public Schools' findings.

Corrective measures deemed necessary by the Superintendent and/or designee will be instituted as quickly as possible. Appropriate corrective measures may include disciplinary action for any District employee found to have engaged in acts of retaliation in violation of the anti-retaliation policy.

CONFIDENTIALITY:

Those involved in investigating a complaint alleging retaliation shall refrain from disclosing information about the case to anyone who does not have legitimate need or right to know.

RECORDS:

The EEO shall maintain records of complaints filed pursuant to these procedures for three years from date the complaint was filed.

Adopted: May 2005
Revised: February 2014 (to correct EEO phone #)
Cross Reference:
Related Superintendent Procedure:
Previous Policies: C11.01
Legal References:
Management Resources:

Superintendent Procedure 3207SP.A Prohibition of Harassment, Intimidation & Bullying - Students



Approved by: _____ Date: _____

Dr. Larry Nyland, Superintendent

A. Introduction

Seattle 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. This procedure applies to all students who are harassed, intimidated, or bullied.

In order to ensure respect and prevent harm, it is a violation of district policy for a student to be harassed, intimidated, or bullied 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, volunteers, families, patrons, and other visitors. No student within the school community will be harassed because of their race, creed, color, religion, ancestry, national origin, age, economic status, gender, sexual orientation including gender expression or identity, pregnancy status, marital status, physical appearance, the presence of any sensory, mental or physical disability, honorably discharged veteran or military status, or the use of a trained dog guide or service animal by a person with a disability, or other distinguishing characteristics.

Any school staff who observes, overhears, or otherwise witnesses harassment, intimidation or bullying, or to whom such actions have been reported, must take prompt and appropriate action to stop the harassment and to prevent its reoccurrence.

B. Definitions

Alleged Aggressor is a student, staff member, or other member of the school community who has allegedly engaged in harassment, intimidation or bullying of a student.

Harassment, intimidation or bullying is an intentional electronic, written, verbal, or physical act that:

1. Physically harms a student or damages the student's property; or
2. Has the effect of substantially interfering with a student's education; or
3. Is so severe, persistent or pervasive that it creates an intimidating or threatening educational environment; or
4. Has the effect of substantially disrupting the orderly operation of the school.

Conduct that is “substantially interfering with a student’s education” will be determined by considering a targeted student’s grades, attendance, demeanor, interaction with peers, interest and participation in activities, and other indicators. Conduct that may rise to the level of harassment, intimidation and bullying may take many forms, including, but not limited to: slurs, rumors, jokes, innuendoes, demeaning comments, drawings, cartoons, pranks, ostracism, physical attacks or threats, gestures, or acts relating to an individual or group whether electronic, written, oral, or physically transmitted messages or images relating to an individual or group. There is no requirement that the targeted student actually possess the characteristic that is the basis for the harassment, intimidation or bullying.

Incident Reporting forms may be used by students, families, or staff to report incidents of harassment, intimidation or bullying. An Incident Reporting form can be found on the Office of Student Civil Rights’ district webpage.

Retaliation is when an alleged aggressor harasses, intimidates, or bullies a student because the student has reported an incident of bullying or who has provided information as a witness during the investigation of a harassment, intimidation, or bullying incident.

Staff includes, but is not limited to, educators, administrators, counselors, school nurses, cafeteria workers, custodians, bus drivers, athletic coaches, advisors to extracurricular activities, classified staff, substitute and temporary teachers, volunteers, or paraprofessionals (both employees and contractors).

Targeted Student is a student against whom harassment, intimidation or bullying has allegedly been perpetrated.

C. Relationship to Other Laws

This procedure applies only to RCW 28A.300.285 - Harassment, Intimidation and Bullying prevention. There are other laws, policies and procedures to address related issues such as sexual harassment or discrimination.

At least four Washington laws may apply to harassment or discrimination:

1. RCW 28.A.300.285 – Harassment, Intimidation and Bullying;
2. RCW 28A.640.020 – Sexual Harassment;
3. RCW 28A.642 – Prohibition of Discrimination in Public Schools; and
4. RCW 49.60.010 – The Law Against Discrimination.

The district will ensure its compliance with all state laws regarding harassment, intimidation or bullying. Nothing in this procedure prevents a student, parent/guardian, school or district from taking action to remediate harassment or discrimination based on a person’s gender or membership in a legally protected class under local, state, or federal law.

Nothing in this policy or procedure precludes any targeted student or reporter from exercising their rights under the procedures outlined in Federal or State laws.

D. Prevention

1. Dissemination

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

Annually, the Superintendent 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.

Additional distribution of the policy and procedure is subject to the requirements of Washington Administrative Code 392-400-226.

2. Education

Annually students will receive age-appropriate information on the recognition and prevention of harassment, intimidation or bullying 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 form.

3. Training

Staff will receive annual training on the school district's policy and procedure, including staff roles and responsibilities, how to monitor common areas and the use of the district's Incident Reporting Form.

All SPS orientation sessions for staff or regular volunteers shall introduce the elements of the policy and procedure. Staff shall be provided information on recognizing and preventing harassment, intimidation, or bullying. Staff shall be reminded of their responsibility to report instances of suspected child abuse or neglect, and how that responsibility may be implicated by some allegations of harassment, intimidation, and bullying.

4. Prevention Strategies

The district will implement a range of prevention strategies including individual, classroom, school, and district-level approaches. The dissemination of prevention or intervention strategies falls under the purview of the District's Behavior Health Services department.

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

E. Compliance Officer

1. The Superintendent designates the Student Civil Rights Compliance Officer in the Office of Student Civil Rights to be the HIB compliance officer for the district for all complaints brought under this procedure.
2. The district compliance officer shall:

- a. Serve as the district's primary contact regarding harassment, intimidation and bullying.
- b. Receive copies of all formal complaints, Incident Reporting Forms, and letters to parents providing the outcomes of investigations. If a written report of harassment, intimidation, or bullying indicates a potential violation of the district's nondiscrimination policy, the compliance officer must comply with the policies and procedures as set forth in Policy 3210 or 5010 and Superintendent Procedures 3210SP.B or 5010SP, as applicable. .
- c. The compliance officer or his/her designee will ensure implementation of the policy and procedure by overseeing the investigative processes, including ensuring that investigations are prompt, impartial, and thorough.
- d. Serve as the primary contact on the policy and procedure between the school district, the Office of the Education Ombudsman, and the Office of the Superintendent of Public Instruction.
- e. The compliance officer or his/her designee shall assess the training needs of staff and students to ensure successful implementation throughout the district, and ensure staff receives annual fall training.
- f. The compliance officer or his/her designee shall provide support and assistance to school-based leaders in resolving complaints.
- g. The compliance officer or his/her designee shall be familiar with the use of the student information system. The compliance officer may use this information to identify patterns of behavior and areas of concern.
- h. The compliance officer or his/her designee shall provide the OSPI School Safety Center with notification of policy or procedure updates or changes on an annual basis.
- i. The compliance officer or his/her designee shall, in cases where, despite school efforts, a targeted student experiences harassment, intimidation or bullying that threatens the student's health and safety, facilitate a meeting between district staff and the targeted student's parents/guardians to develop a safety plan to protect the student.

F. Staff Intervention

All staff members shall intervene when witnessing or receiving reports of harassment, intimidation or bullying. Minor incidents that staff are able to resolve immediately, or incidents that do not meet the definition of harassment, intimidation or bullying, may require no further action under this procedure.

G. Filing an Incident Reporting Form

Any student who believes he or she has been the target of unresolved, severe, or persistent harassment, intimidation or bullying, or any other person in the school community who observes or receives notice that a student has or may have been the target of unresolved, severe, or persistent harassment, intimidation or bullying may report incidents verbally or in writing to any staff member.

An Incident Reporting Form may be used by students, families, or staff to report alleged incidents of harassment, intimidation or bullying against a student. The form can be found on the SPS website.

H. Addressing Bullying – Reports

Step 1: Filing an Incident Reporting Form

A student need not reveal his or her identity on an Incident Reporting Form. The form may be filed anonymously, confidentially, or the person may choose to disclose his or her identity (non-confidential).

Status of Reporter

1. *Anonymous*: Individuals may file a report 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 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.
2. *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.
3. *Non-confidential*: Individuals may agree to file a report non-confidentially. Reporters agreeing to make their complaints 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 reporters, targeted students, and witnesses.

Step 2: Receiving an Incident Reporting Form

All staff are responsible for receiving oral and written reports. Whenever possible, staff who initially receive an oral or written report of harassment, intimidation or bullying shall attempt to resolve the incident immediately. If the incident is resolved to the satisfaction of the parties involved, or if the incident does not meet the definition of harassment, intimidation or bullying, no further action may be necessary under this procedure.

All reports of unresolved, severe, or persistent harassment, intimidation or bullying will be recorded on a district HIB Incident Reporting Form. Staff, students, or community reporters shall submit such forms to the principal or designee, unless the principal or designee is the subject of the complaint; and to the Office of Student Civil Rights.

Step 3: Investigations of Unresolved, Severe, or Persistent Harassment, Intimidation and Bullying

All reports of unresolved, severe, or persistent harassment, intimidation or bullying will be investigated with reasonable promptness. Any student may have a trusted adult with him or her throughout the reporting and investigation process.

- a. Upon receipt of the Incident Reporting Form that alleges unresolved, severe, or persistent harassment, intimidation or bullying, the school's building leader will contact the district's HIB Compliance Officer or his/her designee and they will determine who shall begin the investigation. In most cases, the investigation will

be conducted by a building leader. If there is potential for clear and immediate physical harm to the targeted student, the district will immediately contact law enforcement and inform the parent/guardian.

- b. During the course of the investigation, the district will take reasonable measures to ensure that no further incidents of harassment, intimidation or bullying occur between the targeted student and the alleged aggressor. If necessary, the district will implement a safety plan for the student(s) involved. The plan may include changing seating arrangements for the targeted student, reporter and/or the alleged aggressor in the classroom, at lunch, or on the bus; identifying a staff member who will act as a safe person for the targeted student; altering the alleged aggressor's schedule and access to the targeted student, and any other measure deemed appropriate that afford all parties with their due process rights.
- c. If, during the course of an investigation, the district employee conducting the investigation becomes aware of a potential violation of the district's nondiscrimination policy (Policy 3210), the investigator will promptly notify the district's Student Civil Rights Compliance Officer. Upon receipt of this information, the civil rights compliance officer must notify the complainant that their complaint will proceed under the discrimination procedure in WAC 392-190-066 through WAC 392-190-075 as well as the HIB complaint procedure. 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 harassment, intimidation, or bullying involves allegations of a violation of the district's nondiscrimination policy.
- d. Within two (2) school days after receiving the Incident Reporting Form, the school designee will notify the families of the students involved that a complaint was received and direct the families to the district's policy and procedure on harassment, intimidation and bullying.
- e. 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 targeted student or the alleged aggressor to involve his or her parent/guardian, the district may initially refrain from contacting the parent/guardian in its investigation of harassment, intimidation or bullying. If professional school personnel suspect that a student is subject to abuse or neglect, they must follow district policy and state law regarding the mandatory reporting of suspected abuse to Child Protective Services.
- f. The investigation shall include, at a minimum:
 - An interview with the reporter and/or targeted student;
 - An interview with the alleged aggressor, if known;
 - A review of any previous complaints involving either the targeted student or the alleged aggressor; and
 - Interviews with other students or staff members who may have knowledge of the alleged incident.
- g. The principal or designee may determine that other steps must be taken before the investigation is complete.
- h. The investigation will be completed as soon as practicable, but generally no later than five (5) school days from the initial complaint or report. If more time is

needed to complete an investigation, the district will provide the parent/guardian and/or the student with weekly updates.

- i. No later than two (2) school days after the investigation has been completed and submitted to the compliance officer, the principal or designee shall respond in writing or verbally to the parent/guardian of the targeted student and the alleged aggressor stating:
 - The results of the investigation;
 - Whether the allegations were found to be factual;
 - Whether there was a violation of policy; and
 - The process for the targeted student to file an appeal if he or she disagrees with results.

Because of the legal requirement regarding the confidentiality of student records, the principal or designee may not be able to report specific information to the targeted student's parent/guardian about any disciplinary action taken unless it involves a directive that the targeted student must be aware of in order to report violations.

If a district chooses to contact the parent/guardian by letter, the letter will be mailed to the parent/guardian of the targeted student and alleged aggressor 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 targeted student 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.

If the incident cannot be resolved at the school level, the principal or designee shall request assistance from the district's HIB Compliance Officer.

Step 4: Corrective Measures for the Aggressor

After completion of the investigation, the school or district designee will institute any corrective measures necessary. Corrective measures will be instituted as quickly as possible, but in no event more than five (5) school days after contact has been made to the families or guardians regarding the outcome of the investigation. Depending on the severity of the conduct, remedial action may include, but it is not limited to, counseling, education, change in classrooms, discipline, and/or referral to law enforcement. If the accused aggressor is appealing the imposition of discipline, the district may be prevented by due process considerations or a lawful order from imposing the discipline until the appeal process is concluded.

If in an investigation a principal or principal's designee found that a student knowingly made a false allegation of harassment, intimidation or bullying, that student may be subject to corrective measures, including discipline.

Step 5: Targeted Student's Right to Appeal

1. If the targeted student or parent/guardian is dissatisfied with the results of the investigation, they may appeal to the compliance officer, the Superintendent's designee for appeals, by filing a written notice of appeal within five (5) school days of receiving the written decision. The compliance officer will review the investigative report and issue a written decision on the merits of the appeal within five (5) school days of receiving the notice of appeal. This right of appeal does not afford the targeted student or targeted student's parent/guardian a right to appeal the corrective action or discipline imposed against another student.
2. If the targeted student remains dissatisfied after the initial appeal to the compliance officer, an appeal may be filed with the Superintendent or disciplinary appeal council by filing a written notice of appeal on or before the fifth (5) school day following the date upon which the targeted student received the compliance officer's written decision. Upon receipt of a timely appeal, the Superintendent shall copy the School Board and delegate hearing and deciding the appeal to a neutral hearing examiner hired by the District.
3. An appeal before the Hearing Examiner or disciplinary appeal council must be heard on or before the tenth (10) school day following the filing of the written notice of appeal to the Superintendent. The appeal shall be based on the facts previously raised by the complainant and/or investigated by the District and the written decision of the compliance officer. This hearing shall be recorded.
4. The Hearing Examiner or disciplinary appeal council will review the record and render a written decision on the merits of the appeal on or before the fifth (5) school day following the termination of the hearing, and shall provide a copy to all parties involved. The Hearing Examiner or disciplinary appeal council's decision will be the final district decision.

Step 6: Discipline/Corrective Action

The district will take prompt and equitable corrective measures within its authority on findings of harassment, intimidation or bullying.

Corrective measures for a student who commits an act of harassment, intimidation or bullying will be varied and graded according to the nature of the behavior, the developmental age of the student, or the student's history of problem behaviors and performance. Corrective measures that involve student discipline will be implemented according to district policy.

If the conduct was of a public nature or involved groups of students or bystanders, the district will strongly consider school-wide training or other activities to address the incident.

Step 7: Support for the Targeted Student

Students found to have been subjected to harassment, intimidation or bullying will have appropriate district support services made available to them, and the adverse impact of the harassment on the student shall be addressed and remedied as appropriate.

I. Retaliation

No school employee, student, or volunteer may engage in reprisal or retaliation against a targeted student, witness, or other person who brings forward information about an alleged act of harassment, intimidation or bullying. Retaliation is prohibited and will result in appropriate discipline.

J. Other Resources

Staff, students and families should use the district's complaint and appeal procedures as a first response to allegations of harassment, intimidation and bullying. However, nothing in this procedure prevents a student, parent/guardian, school, or district from taking action to remediate discrimination or harassment based on a person's membership in a legally protected class under local, state or federal law. A harassment, intimidation or bullying complaint may also be reported to the following state or federal agencies:

- OSPI Equity and Civil Rights Office
360.725.6162
Email: equity@k12.wa.us
www.k12.wa.us/Equity/default.aspx
- Washington State Human Rights Commission
800.233.3247
www.hum.wa.gov/index.html
- Office for Civil Rights, U.S. Department of Education, Region IX
206.607.1600
Email: OCR.Seattle@ed.gov
www.ed.gov/about/offices/list/ocr/index.html
- Department of Justice Community Relations Service
877.292.3804
www.justice.gov/crt/
- Office of the Education Ombudsman
866.297-2597
Email: OEOinfo@gov.wa.gov
www.governor.wa.gov/oeo/default.asp
- OSPI Safety Center
360.725-6044
www.k12.wa.us/SafetyCenter/BullyingHarassment/default.aspx

K. Other District Policies and Procedures

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

L. 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: December 2016

Revised: Date

Cross Reference: Policy Nos. 3207; 3208; D50.00; D51.00; F11.00; 3200; 3210; 3240; 3241; 3207SP.B; 3208SP; RCW 28A.300.285 Harassment, intimidation and bullying prevention policies and procedures – Model policy and procedure – Training materials – Posting on web site – Rules – Advisory committee

Superintendent Procedure 3207SP.A Prohibition of Harassment, Intimidation & Bullying - Students



Approved by: _____ Date: _____

Dr. Larry Nyland, Superintendent

A. Introduction

Seattle 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. This procedure applies to all students who are harassed, intimidated, or bullied.

In order to ensure respect and prevent harm, it is a violation of district policy for a student to be harassed, intimidated, or bullied 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, volunteers, families, patrons, and other visitors. No student within the school community will be harassed because of their race, creed, color, religion, ancestry, national origin, age, economic status, gender, sexual orientation including gender expression or identity, pregnancy status, marital status, physical appearance, the presence of any sensory, mental or physical disability, honorably discharged veteran or military status, or the use of a trained dog guide or service animal by a person with a disability, or other distinguishing characteristics.

Any school staff who observes, overhears, or otherwise witnesses harassment, intimidation or bullying, or to whom such actions have been reported, must take prompt and appropriate action to stop the harassment and to prevent its reoccurrence.

B. Definitions

Alleged Aggressor is a student, staff member, or other member of the school community who has allegedly engaged s in ~~the~~ harassment, intimidation or bullying of a student.

Harassment, intimidation or bullying is an intentional electronic, written, verbal, or physical act that:

1. Physically harms a student or damages the student's property; or
2. Has the effect of substantially interfering with a student's education; or
3. Is so severe, persistent or pervasive that it creates an intimidating or threatening educational environment; or
4. Has the effect of substantially disrupting the orderly operation of the school.

Conduct that is “substantially interfering with a student’s education” will be determined by considering a targeted student’s grades, attendance, demeanor, interaction with peers, interest and participation in activities, and other indicators. Conduct that may rise to the level of harassment, intimidation and bullying may take many forms, including, but not limited to: slurs, rumors, jokes, innuendoes, demeaning comments, drawings, cartoons, pranks, ostracism, physical attacks or threats, gestures, or acts relating to an individual or group whether electronic, written, oral, or physically transmitted messages or images relating to an individual or group. There is no requirement that the targeted student actually possess the characteristic that is the basis for the harassment, intimidation or bullying.

Incident Reporting forms may be used by students, families, or staff to report incidents of harassment, intimidation or bullying. An Incident Reporting form can be found on the Office of Student Civil Rights’ district webpage. ~~There is also a sample form on the Office of Superintendent of Public Instruction’s (OSPI) School Safety Center website: www.k12.wa.us/SafetyCenter/BullyingHarassment/default.aspx.~~

Retaliation is when an alleged aggressor harasses, intimidates, or bullies a student because the student has reported an incident of bullying or who has provided information as a witness during the investigation of a harassment, intimidation, or bullying incident.

Staff includes, but is not limited to, educators, administrators, counselors, school nurses, cafeteria workers, custodians, bus drivers, athletic coaches, advisors to extracurricular activities, classified staff, substitute and temporary teachers, volunteers, or paraprofessionals (both employees and contractors).

Targeted Student is a student against whom harassment, intimidation or bullying has allegedly been perpetrated.

C. Relationship to Other Laws

This procedure applies only to RCW 28A.300.285 - Harassment, Intimidation and Bullying prevention. There are other laws, policies and procedures to address related issues such as sexual harassment or discrimination.

At least four Washington laws may apply to harassment or discrimination:

1. RCW 28A.300.285 – Harassment, Intimidation and Bullying;
2. RCW 28A.640.020 – Sexual Harassment;
3. RCW 28A.642 – Prohibition of Discrimination in Public Schools; and
4. RCW 49.60.010 – The Law Against Discrimination.

The district will ensure its compliance with all state laws regarding harassment, intimidation or bullying. Nothing in this procedure prevents a student, parent/guardian, school or district from taking action to remediate harassment or discrimination based on a person’s gender or membership in a legally protected class under local, state, or federal law.

Nothing in this policy or procedure precludes any targeted student or reporter from exercising their rights under the procedures outlined in Federal or State laws.

D. Prevention

1. Dissemination

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

Annually, the Superintendent 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.

Additional distribution of the policy and procedure is subject to the requirements of Washington Administrative Code 392-400-226.

2. Education

Annually students will receive age-appropriate information on the recognition and prevention of harassment, intimidation or bullying 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 form.

3. Training

Staff will receive annual training on the school district's policy and procedure, including staff roles and responsibilities, how to monitor common areas and the use of the district's Incident Reporting Form.

All SPS orientation sessions for staff or regular volunteers shall introduce the elements of the policy and procedure. Staff shall be provided information on recognizing and preventing harassment, intimidation, or bullying. Staff shall be reminded of their responsibility to report instances of suspected child abuse or neglect, and how that responsibility may be implicated by some allegations of harassment, intimidation, and bullying.

4. Prevention Strategies

The district will implement a range of prevention strategies including individual, classroom, school, and district-level approaches. The dissemination of prevention or intervention strategies falls under the purview of the District's Behavior Health Services department.

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

E. Compliance Officer

1. The Superintendent designates the ~~HIB~~ Student Civil Rights Compliance Officer in the Office of Student Civil Rights to be the ~~HIB c~~ Compliance officer for the district for all complaints brought under this procedure.

2. The district compliance officer shall:
 - a. Serve as the district's primary contact regarding harassment, intimidation and bullying.
 - b. Receive copies of all formal ~~and informal~~ complaints, Incident Reporting Forms, ~~discipline Referral Forms~~, and letters to parents providing the outcomes of investigations. If a written report of harassment, intimidation, or bullying indicates a potential violation of the district's nondiscrimination policy, the compliance officer must comply with the policies and procedures as set forth in Policy 3210 or 5010 and Superintendent Procedures 3210SP.B or 5010SP, as applicable. ~~(Policy 3210), the HIB Compliance Officer must promptly notify the district's Student Civil Rights Compliance Officer.~~
 - c. The compliance officer or his/her designee will ~~E~~ensure implementation of the policy and procedure by overseeing the investigative processes, including ensuring that investigations are prompt, impartial, and thorough.
 - d. Serve as the primary contact on the policy and procedure between the school district, the Office of the Education Ombudsman, and the Office of the Superintendent of Public Instruction.
 - e. The compliance officer or his/her designee shall assess the training needs of staff and students to ensure successful implementation throughout the district, and ensure staff receives annual fall training.
 - f. The compliance officer or his/her designee shall provide support and assistance to ~~the principal or designee~~ school-based leaders in resolving complaints.
 - g. The compliance officer or his/her designee shall be familiar with the use of the student information system. The compliance officer may use this information to identify patterns of behavior and areas of concern.
 - h. The compliance officer or his/her designee shall provide the OSPI School Safety Center with notification of policy or procedure updates or changes on an annual basis.
 - i. The compliance officer or his/her designee shall, in cases where, despite school efforts, a targeted student experiences harassment, intimidation or bullying that threatens the student's health and safety, facilitate a meeting between district staff and the targeted student's parents/guardians to develop a safety plan to protect the student.

F. Staff Intervention

All staff members shall intervene when witnessing or receiving reports of harassment, intimidation or bullying. Minor incidents that staff are able to resolve immediately, or incidents that do not meet the definition of harassment, intimidation or bullying, may require no further action under this procedure.

G. Filing an Incident Reporting Form

Any student who believes he or she has been the target of unresolved, severe, or persistent harassment, intimidation or bullying, or any other person in the school community who observes or receives notice that a student has or may have been the target of unresolved, severe, or persistent harassment, intimidation or bullying may report incidents verbally or in writing to any staff member.

An Incident Reporting Forms may be used by students, families, or staff to report alleged incidents of harassment, intimidation or bullying against a student. ~~A sample form~~The form can be found on the SPS website.

H. Addressing Bullying – Reports

Step 1: Filing an Incident Reporting Form

~~In order to protect a targeted student from retaliation,~~ A student need not reveal his or her identity on an Incident Reporting Form. The form may be filed anonymously, confidentially, or the person may choose to disclose his or her identity (non-confidential).

Status of Reporter

1. *Anonymous*: Individuals may file a report 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 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.
2. *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.
3. *Non-confidential*: Individuals may agree to file a report non-confidentially. Reporters agreeing to make their complaints 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 reporters, targeted students, and witnesses.

Step 2: Receiving an Incident Reporting Form

All staff are responsible for receiving oral and written reports. Whenever possible, staff who initially receive an oral or written report of harassment, intimidation or bullying shall attempt to resolve the incident immediately. If the incident is resolved to the satisfaction of the parties involved, or if the incident does not meet the definition of harassment, intimidation or bullying, no further action may be necessary under this procedure.

All reports of unresolved, severe, or persistent harassment, intimidation or bullying will be recorded on a district HIB Incident Reporting Form. Staff, students, or community reporters shall submit such forms to the principal or designee, unless the principal or designee is the subject of the complaint; and to the Office of Student Civil Rights.

Step 3: Investigations of Unresolved, Severe, or Persistent Harassment, Intimidation and Bullying

All reports of unresolved, severe, or persistent harassment, intimidation or bullying will be investigated with reasonable promptness. Any student may have a trusted adult with him or her throughout the reporting and investigation process.

- a. Upon receipt of the Incident Reporting Form that alleges unresolved, severe, or persistent harassment, intimidation or bullying, the school's building leader will contact the district's HIB Compliance Officer or his/her designee and they will determine who shall begin the investigation. In most cases, the investigation will be conducted by a building leader. If there is potential for clear and immediate physical harm to the targeted student, the district will immediately contact law enforcement and inform the parent/guardian.
- b. During the course of the investigation, the district will take reasonable measures to ensure that no further incidents of harassment, intimidation or bullying occur between the targeted student and the alleged aggressor. If necessary, the district will implement a safety plan for the student(s) involved. The plan may include changing seating arrangements for the targeted student, reporter and/or the alleged aggressor in the classroom, at lunch, or on the bus; identifying a staff member who will act as a safe person for the targeted student; altering the alleged aggressor's schedule and access to the targeted student, and any other measure deemed appropriate that afford all parties with their due process rights.
- c. If, during the course of an investigation, the district employee conducting the investigation becomes aware of a potential violation of the district's nondiscrimination policy (Policy 3210), the investigator will promptly notify the district's Student Civil Rights Compliance Officer. Upon receipt of this information, the civil rights compliance officer must notify the complainant that their complaint will proceed under the discrimination procedure in WAC 392-190-066 through WAC 392-190-075 as well as the HIB complaint procedure. 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 harassment, intimidation, or bullying involves allegations of a violation of the district's nondiscrimination policy.
- d. Within two (2) school days after receiving the Incident Reporting Form, the school designee will notify the families of the students involved that a complaint was received and direct the families to the district's policy and procedure on harassment, intimidation and bullying.
- e. 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 targeted student or the alleged aggressor to involve his or her parent/guardian, the district may initially refrain from contacting the parent/guardian in its investigation of harassment, intimidation or bullying. If professional school personnel suspect that a student is subject to abuse or neglect, they must follow district policy and state law regarding the mandatory reporting of suspected abuse to Child Protective Services.
- f. The investigation shall include, at a minimum:
 - An interview with the reporter and/or targeted student, ~~if known~~;
 - An interview with the alleged aggressor, if known;
 - A review of any previous complaints involving either the targeted student or the alleged aggressor; and

- Interviews with other students or staff members who may have knowledge of the alleged incident.
- g. The principal or designee may determine that other steps must be taken before the investigation is complete.
- h. The investigation will be completed as soon as practicable, but generally no later than five (5) school days from the initial complaint or report. If more time is needed to complete an investigation, the district will provide the parent/guardian and/or the student with weekly updates.
- i. No later than two (2) school days after the investigation has been completed and submitted to the compliance officer, the principal or designee shall respond in writing or verbally to the parent/guardian of the targeted student and the alleged aggressor stating:
 - The results of the investigation;
 - Whether the allegations were found to be factual;
 - Whether there was a violation of policy; and
 - The process for the targeted student to file an appeal if he or she disagrees with results.

Because of the legal requirement regarding the confidentiality of student records, the principal or designee may not be able to report specific information to the targeted student's parent/guardian about any disciplinary action taken unless it involves a directive that the targeted student must be aware of in order to report violations.

If a district chooses to contact the parent/guardian by letter, the letter will be mailed to the parent/guardian of the targeted student and alleged aggressor 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 targeted student 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.

If the incident cannot be resolved at the school level, the principal or designee shall request assistance from the district's HIB Compliance Officer.

Step 4: Corrective Measures for the Aggressor

After completion of the investigation, the school or district designee will institute any corrective measures necessary. Corrective measures will be instituted as quickly as possible, but in no event more than five (5) school days after contact has been made to the families or guardians regarding the outcome of the investigation. Depending on the severity of the conduct, remedial action may include, but it is not limited to, counseling, education, change in classrooms, discipline, and/or referral to law enforcement. If the accused aggressor is appealing the imposition of discipline, the district may be prevented by due process considerations or a lawful order from imposing the discipline until the appeal process is concluded.

If in an investigation a principal or principal's designee found that a student knowingly made a false allegation of harassment, intimidation or bullying, that student may be subject to corrective measures, including discipline.

Step 5: Targeted Student's Right to Appeal

1. If the targeted student or parent/guardian is dissatisfied with the results of the investigation, they may appeal to the compliance officer, the Superintendent's designee for appeals, by filing a written notice of appeal within five (5) school days of receiving the written decision. The compliance officer will review the investigative report and issue a written decision on the merits of the appeal within five (5) school days of receiving the notice of appeal. This right of appeal does not afford the targeted student or targeted student's parent/guardian a right to appeal the corrective action or discipline imposed against another student.
- ~~2.~~ If the targeted student remains dissatisfied after the initial appeal to the compliance officer, ~~an~~ the person may appeal may be filed with the Superintendent or disciplinary appeal council ~~to the School Board~~ by filing a written notice of appeal on or before the fifth (5) school day following the date upon which the targeted student received the compliance officer's written decision. Upon receipt of a timely appeal, the Superintendent shall copy the School Board and delegate hearing and deciding the appeal to a neutral hearing examiner hired by the District.
- ~~2.~~
3. An appeal before the Hearing Examiner or disciplinary appeal council must be heard on or before the tenth (10) school day following the filing of the written notice of appeal to the Superintendent. The appeal shall be based on the facts previously raised by the complainant and/or investigated by the District and the written decision of the compliance officer. This hearing shall be recorded.
- ~~3.4.~~ The Hearing Examiner or disciplinary appeal council will review the record and render a written decision on the merits of the appeal on or before the fifth (5) school day following the termination of the hearing, and shall provide a copy to all parties involved. The Hearing Examiner or disciplinary appeal council's decision will be the final district decision. An appeal before the School Board or disciplinary appeal council must be heard on or before the tenth (10) school day following the filing of the written notice of appeal to the School Board. The School Board or disciplinary appeal council will review the record and render a written decision on the merits of the appeal on or before the fifth (5) school day following the termination of the hearing, and shall provide a copy to all parties involved. The Board or council's decision will be the final district decision.

Step 6: Discipline/Corrective Action

The district will take prompt and equitable corrective measures within its authority on findings of harassment, intimidation or bullying. ~~Depending on the severity of the conduct, corrective measures may include, but are not limited to, counseling, education, discipline, restricted access to District property, and/or referral to law enforcement.~~

Corrective measures for a student who commits an act of harassment, intimidation or bullying will be varied and graded according to the nature of the behavior, the developmental age of the student, or the student's history of problem behaviors and

performance. Corrective measures that involve student discipline will be implemented according to district policy.

If the conduct was of a public nature or involved groups of students or bystanders, the district will strongly consider school-wide training or other activities to address the incident.

~~If staff have been found to be in violation of this policy and procedure, school districts may impose employment disciplinary action, up to and including termination. If a certificated educator is found to have committed a violation of WAC 181-87, commonly called the Code of Conduct for Professional Educators, OSPI's Office of Professional Practices may propose disciplinary action on a certificate, up to and including revocation. Contractor violations of this policy may include the loss of contracts.~~

Step 7: Support for the Targeted Student

~~Students~~**Persons** found to have been subjected to harassment, intimidation or bullying will have appropriate district support services made available to them, and the adverse impact of the harassment on the student shall be addressed and remedied as appropriate.

I. ~~Immunity~~/Retaliation

No school employee, student, or volunteer may engage in reprisal or retaliation against a targeted student, witness, or other person who brings forward information about an alleged act of harassment, intimidation or bullying. Retaliation is prohibited and will result in appropriate discipline.

~~A school employee, student, or volunteer who in good faith promptly reports an incident of harassment, intimidation, or bullying to an appropriate school official, and who makes this report in compliance with this procedure, is immune from a cause of action for damages arising from any failure to remedy the reported incident.~~

J. Other Resources

Staff, students and families should use the district's complaint and appeal procedures as a first response to allegations of harassment, intimidation and bullying. However, nothing in this procedure prevents a student, parent/guardian, school, or district from taking action to remediate discrimination or harassment based on a person's membership in a legally protected class under local, state or federal law. A harassment, intimidation or bullying complaint may also be reported to the following state or federal agencies:

- OSPI Equity and Civil Rights Office
360.725.6162
Email: equity@k12.wa.us
www.k12.wa.us/Equity/default.aspx
- Washington State Human Rights Commission
800.233.3247
www.hum.wa.gov/index.html
- Office for Civil Rights, U.S. Department of Education, Region IX

206.607.1600

Email: OCR.Seattle@ed.gov

www.ed.gov/about/offices/list/ocr/index.html

- Department of Justice Community Relations Service
877.292.3804
www.justice.gov/crt/
- Office of the Education Ombudsman
866.297-2597
Email: OEOinfo@gov.wa.gov
www.governor.wa.gov/oeo/default.asp
- OSPI Safety Center
360.725-6044
www.k12.wa.us/SafetyCenter/BullyingHarassment/default.aspx

K. Other District Policies and Procedures

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

L. 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: December 2016

Revised: Date

Cross Reference: Policy Nos. 3207; 3208; D50.00; D51.00; F11.00; 3200; 3210; 3240; 3241; 3207SP.B; 3208SP; RCW 28A.300.285 Harassment, intimidation and bullying prevention policies and procedures – Model policy and procedure – Training materials – Posting on web site – Rules – Advisory committee

Superintendent Procedure 3210SP.B Discrimination Complaint Process



Approved by: _____ Date: _____

Dr. Larry Nyland, Superintendent

A. INTRODUCTION

The District is committed to nondiscrimination in all of its education activities. Discrimination has no place in District schools or workplace. The Superintendent, in compliance with federal and state regulations and Board Policy 3210, has established this procedure for resolving discrimination complaints.

Students, parents, employees, or other individuals may use this procedure to file a complaint pertaining to discrimination against a student on the basis of sex (gender); race; creed; color; religion; ancestry; national origin; age; economic status; sexual orientation including gender expression or identity; pregnancy; marital status; physical appearance; the presence of any sensory, mental or physical disability; honorably discharged veteran or military status; or the use of a trained dog guide or service animal by a person with a disability.

B. INVESTIGATIONS

Complaints of discrimination will be taken seriously and will be investigated as described in this procedure.

Designated Investigator – For all formal complaints brought under this procedure, the Superintendent has designated the following office to investigate:

When a complaint alleges that a District staff member; another District student or parent; or third party vendor with a contractual relationship with the District has discriminated against a student and/or parent/guardian; or when a complaint alleges that a program, activity, or practice of the District discriminates against a protected class of students or parents: **Office of Student Civil Rights (OSCR)**

When a complaint alleges that a District employee has engaged in discriminatory actions toward a student and/or parent combined with other alleged acts of employee misconduct; or allegations of employment discrimination: **Human Resources (“HR”).**

If the complaint is against a designated investigator from OSCR or HR, the investigator of the complaint shall be that person’s immediate supervisor or an impartial internal or external investigator.

The District shall, at a minimum, publish annual notice in a manner which is reasonably calculated to inform all students, parents, and employees of the name, office address, and telephone number of the offices designated to investigate complaints under this procedure.

C. COMPLAINTS

Complaints may be in the form of an informal complaint, where a person submits an oral complaint or an unsigned written complaint, or a formal complaint, which shall be in writing and signed. If a complaint is submitted via email, the District reserves the right to request that the complainant submit a signed discrimination complaint form or other signed document affirming that the email constitutes a formal complaint. If the complainant does not provide a written signature after notification, the District may treat the emailed complaint as an informal complaint.

All complaints must be filed within one (1) year after the act, condition, or circumstance that is the subject matter of the complaint. Exceptions to the one year filing requirement will be granted if the complainant was prevented from filing a complaint due to: (a) specific misrepresentation by the school district that it had resolved the problem forming the basis of the complaint or (b) withholding of information by the school district that was required to be provided under state law related to elimination of unlawful discrimination in public schools or state guidelines under WAC 392-190-005.

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 anti-retaliation provisions contained within this procedure to protect both complainants and witnesses.

Upon receipt of the complaint, the designated investigator will investigate the allegations and effect a prompt resolution of the complaint. As the District strongly supports Alternative Dispute Resolution (“ADR”) processes, the complainant and the District may agree to resolve a formal complaint via ADR in lieu of an investigation. 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.

1. Informal Complaint Process – Anyone may use these informal procedures to report and resolve complaints of discrimination. Complaints may be made orally, in writing, and may also be made anonymously. Complainants should understand that an anonymous complaint might not be resolved to the complainant’s satisfaction due to the limitations placed on the investigation by the anonymity. All attempts shall be made to keep the identity of the complainant confidential, although confidentiality cannot be guaranteed.

The District may use a variety of approaches to address informal complaints, including but not limited to ADR and/or supervisor intervention. The District shall timely inform the complainant to the extent permitted by law of what corrective measures it took, if any to eliminate the alleged discriminatory behavior.

2. Formal Complaint Process – Anyone may initiate a formal complaint of discrimination even if the informal complaint process was initially utilized. All formal complaints shall be in writing; shall be signed by the complainant; and shall describe the specific acts, conditions, or circumstances alleged to have occurred that constitute discrimination.

When the formal complaint investigation is complete, the investigator will provide the Deputy Superintendent with a full written report of the complaint and the results of the investigation.

The Deputy Superintendent will respond in writing to a formal complaint no later than thirty (30) calendar days following the district's receipt of the complaint, unless otherwise agreed to by the complainant or if exceptional circumstances related to the complaint require an extension of the time limit. If an extension of time is needed, the District will notify the complainant in writing of the reason for the extension and the anticipated response date. Such notice shall 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. The Deputy Superintendent's written response shall clearly state whether the District:

- (1) Denies the allegations contained in the complaint; or
- (2) Confirms the allegations and lists the corrective measures that the District intends to take to eliminate the discrimination.

The Deputy Superintendent's response shall also include notice of the complainant's right to appeal as set forth in state law and this policy, including an identification of where and to whom the appeal shall be filed. A copy of the response shall also be sent to the Office of Superintendent of Public Instruction ("OSPI").

Corrective measures deemed necessary by the Deputy Superintendent, in consultation with other appropriate District staff, will be instituted as quickly as possible, but in no event later than thirty (30) calendar days after the Deputy Superintendent's written response, unless the accused is appealing the imposition of discipline and the District is prevented by due process considerations or a lawful order from imposing the discipline until the appeal process is concluded.

3. Bargaining Agreements – Nothing in the complaint procedure prohibits the processing of grievances by an employee bargaining representative

and/or a member of a bargaining unit pursuant to grievance procedures established at the District level or by a local bargaining agreement.

D. DISCIPLINE/REMEDIAL ACTION

The District will take prompt, equitable, and remedial action within its authority on formal and informal complaints alleging discrimination that come to the attention of the District. Engaging in discrimination will result in appropriate discipline or other sanctions against offending staff. Others who engage in discrimination on District property or while at District activities may have access to District property and activities restricted or contracts cancelled, as appropriate. The District affirms its commitment that persons found to have been subjected to discrimination will have appropriate District services made reasonably available to them and adverse consequences of the discrimination shall be reviewed and remedied as appropriate.

E. APPEAL PROCEDURE

Level One

If the Deputy Superintendent denies the allegation(s) of discrimination, the complainant may appeal to the Superintendent by filing a written notice of appeal with the Superintendent as the secretary of the board on or before the tenth (10th) calendar day following the date upon which the complainant received the Deputy Superintendent's response. The notice of appeal must include a brief statement explaining the basis for the appeal; the appeal will be considered received only when it contains such a statement. In the event the Deputy Superintendent does not timely respond to a complaint or obtain an extension, the complainant may appeal the Deputy Superintendent's inaction to the Superintendent on or before the tenth (10th) calendar day following the expiration of the thirty (30th) calendar day response period specified above. Upon receipt of a timely appeal, the Superintendent shall appoint a neutral hearing examiner hired by the District to hear the matter and issue findings of fact and a recommended decision.

The appeal shall be based on the facts previously raised by the complainant and/or investigated by the District. The complainant, District staff, and the person or persons alleged to have violated this procedure shall have the right to present such witnesses and testimony to the Hearing Examiner as the Hearing Examiner deems relevant and material. This hearing shall be recorded.

The Hearing Examiner's findings of fact and recommended decision will be transmitted to the School Board for a closed record review. The Board shall not accept new information, written or oral, regarding the appeal, and will confine its review to the Hearing Examiner's decision and record from the hearing. Upon such review, the School Board may either adopt the decision or issue a different decision based on the facts found by the Hearing Examiner. The Board may also provide direction to the Superintendent regarding organizational or policy improvements it deems necessary based on the issues identified during the appeal. The Board's decision will be communicated to the complainant and other parties on or before the thirtieth (30th) calendar day from the date the District

received the appeal. The written decision shall include notice of the complainant's right to appeal to OSPI as set forth below. The appeal decision must also be sent to OSPI.

If the Board has not conducted its review of the Hearing Examiner's decision and issued the Board's final decision within 30 days of the date the appeal was filed, the Hearing Examiner's decision will be considered the final decision of the District. In such event, however, the Board may still provide direction to the Superintendent regarding organizational or policy improvements it deems necessary based on the issues identified during the appeal. The District will notify the appellant in writing that the Hearing Examiner's decision is the final decision of the District and shall include notice of the complainant's right to appeal to OSPI as set forth below.

Level Two

If a complainant remains aggrieved as a result of the final decision under a Level One appeal in resolving a complaint, the complainant may appeal to OSPI by filing a written notice of appeal with OSPI by the twentieth (20th) calendar day following the date upon which the complainant received written final decision. Such appeal shall be in writing, include a concise statement of the parts of the final decision that are being appealed, and the relief requested.

F. TRAINING

All District orientation sessions for staff and volunteers shall introduce the elements of this procedure. District staff and volunteers will be provided information on recognizing and preventing discrimination and shall be fully informed of the formal and informal complaint processes and their roles and responsibilities under this procedure.

RETALIATION/FALSE REPORTING

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 discrimination. Reprisal or retaliation is prohibited and will result in appropriate discipline.

It is a violation of this procedure to knowingly report false allegations of discrimination. Person found to knowingly report or corroborate false allegations will be subject to appropriate discipline.

H. OTHER LAWS

Nothing in this procedure is intended to prohibit any complainant from exercising their rights under any complaint procedure in Federal or State laws.

I. 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 discrimination as defined herein, but which are or may be prohibited by other District rules.

J. NOTICE

Any notice required under this procedure must be provided in a language understood by the complainant.

Approved: May 2016

Revised: Date

Cross Reference: 2015; 2020; 2030; 2140; 2150; 5010; Superintendent Procedure 3210SP.A

Superintendent Procedure 3210SP.B ~~and 5010SP~~ Discrimination Complaint Process



Approved by: _____ Date: _____

Dr. Larry Nyland, Superintendent

A. INTRODUCTION

~~Seattle Public Schools~~ (“The District”) is committed to nondiscrimination in all of its education ~~and employment~~ activities. ~~Discrimination has no place in District schools or workplace.~~ The Superintendent, in compliance with federal and state regulations and Board Policy ~~5010 and Policy~~ 3210, has established this procedure for resolving discrimination complaints. ~~.~~

Students, parents, employees, or other individuals may use this procedure to file a complaint pertaining to discrimination against a student on the basis of sex (gender); race; creed; color; religion; ancestry; national origin; age; economic status; sexual orientation including gender expression or identity; pregnancy; marital status; physical appearance; the presence of any sensory, mental or physical disability; honorably discharged veteran or military status; or the use of a trained dog guide or service animal by a person with a disability.

B. INVESTIGATIONS

Complaints of discrimination will be taken seriously and will be investigated as described in this procedure.

Designated Investigator – For all formal complaints brought under this procedure, the Superintendent has designated the following office to investigate:

When a complaint alleges that a District staff member; another District student or parent; or third party vendor with a contractual relationship with the District has discriminated against a student and/or parent/guardian; or when a complaint alleges that a program, activity, or practice of the District discriminates against a protected class of students or parents: ~~applicant alleges discrimination:~~ **Human Resources (HR)**

~~When a student, parent, or other individual alleges discrimination:~~ **Office of Student Civil Rights (OSCR)**

When a complaint alleges that a District employee has engaged in discriminatory actions toward a student and/or parent combined with other alleged acts of employee misconduct; or allegations of employment discrimination: **Human Resources (“HR”).**

If the complaint is against a designated investigator from ~~HR or OSCR~~ or HR, the investigator of the complaint shall be that person's immediate supervisor or an impartial internal or external investigator.

The District shall, at a minimum, publish annual notice in a manner which is reasonably calculated to inform all students, parents, and employees of the name, office address, and telephone number of the offices designated to investigate complaints under this procedure ~~olney~~.

C. COMPLAINTS

Complaints may be in the form of an informal complaint, where a person submits an oral complaint or an unsigned written complaint, or a formal complaint, which shall be in writing and signed. If a complaint is submitted via email, the District reserves the right to request that the complainant submit a signed discrimination complaint form or other signed document affirming that the email constitutes a formal complaint. If the complainant does not provide a written signature after notification, the District may treat the emailed complaint as an informal complaint.

All complaints must be filed within one (1) year after the act, condition, or circumstance that is the subject matter of the complaint. Exceptions to the one year filing requirement will be granted if the complainant was prevented from filing a complaint due to: (a) specific misrepresentation by the school district that it had resolved the problem forming the basis of the complaint or (b) withholding of information by the school district that was required to be provided under state law related to elimination of unlawful discrimination in public schools or state guidelines under WAC 392-190-005.

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 anti-retaliation provisions contained within this procedure ~~District policy~~ to protect both complainants and witnesses.

Upon receipt of the complaint, the designated investigator ~~an investigator from HR or OSCR~~ will investigate the allegations and effect a prompt resolution of the complaint. As the District strongly supports Alternative Dispute Resolution ("ADR") processes, the complainant and the District may agree to resolve a formal complaint via ADR in lieu of an investigation. 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.

1. Informal Complaint Process – Anyone may use these informal procedures to report and resolve complaints of discrimination. ~~Complaints may be made orally, in writing, and may also be made anonymously.~~ Complainants should understand that an anonymous complaint might not be resolved to the complainant's satisfaction due to the limitations placed

on the investigation by the anonymity. All attempts shall be made to keep the identity of the complainant confidential, although confidentiality cannot be guaranteed.

The District may use a variety of approaches to address informal complaints, including but not limited to ADR and/or supervisor intervention. The District shall timely inform the complainant to the extent permitted by law of what corrective measures it took, if any to eliminate the alleged discriminatory behavior.

2. Formal Complaint Process – Anyone may initiate a formal complaint of discrimination even if the informal complaint process was initially utilized. All formal complaints shall be in writing; shall be signed by the complainant; and shall ~~describe~~^{set forth} the specific acts, conditions, or circumstances alleged to have occurred that constitute discrimination.

~~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 anti-retaliation provisions contained within District policy to protect both complainants and witnesses.~~

~~Upon receipt of the complaint, an investigator from IIR or OSCR will investigate the allegations and effect a prompt resolution of the complaint. When the formal complaint investigation is complete, the investigator will provide the Deputy Superintendent with a full written report of the complaint and the results of the investigation.~~

The Deputy Superintendent will respond in writing to a formal complaint no later than thirty (30) calendar days following the district's receipt of the complaint, unless otherwise agreed to by the complainant or if exceptional circumstances related to the complaint require an extension of the time limit. If an extension of time is needed, the District will notify the complainant in writing of the reason for the extension and the anticipated response date. Such notice shall 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. The Deputy Superintendent's written response shall clearly state whether the District:

- (1) Denies the allegations contained in the complaint; or
- (2) Confirms the allegations and lists the corrective measures that the District intends to take to eliminate the discrimination.

The Deputy Superintendent's response shall also include notice of the complainant's right to appeal ~~to the school board~~ as set forth in state law and this policy, including an identification of where and to whom the

appeal shall be filed. A copy of the response shall also be sent to the Office of Superintendent of Public Instruction (“OSPI”).

Corrective measures deemed necessary by the Deputy Superintendent, in consultation with other appropriate District staff, will be instituted as quickly as possible, but in no event later than thirty (30) calendar days after the Deputy Superintendent’s written response, unless the accused is appealing the imposition of discipline and the District is prevented by due process considerations or a lawful order from imposing the discipline until the appeal process is concluded.

3. Bargaining Agreements – Nothing in the complaint procedure prohibits the processing of grievances by an employee bargaining representative and/or a member of a bargaining unit pursuant to grievance procedures established at the District level or by a local bargaining agreement.

D. DISCIPLINE/REMEDIAL ACTION

The District will take prompt, equitable, and remedial action within its authority on formal and informal complaints alleging discrimination that come to the attention of the District. ~~Engaging in discrimination will result in appropriate discipline or other sanctions against offending staff. Others who engage in discrimination on District property or while at District activities may have access to District property and activities restricted or contracts cancelled, as appropriate.~~ The District affirms its commitment that persons found to have been subjected to discrimination will have appropriate District services made reasonably available to them and adverse consequences of the discrimination shall be reviewed and remedied as appropriate.

E. APPEAL PROCEDURE

Level One

If ~~a complainant remains aggrieved as a result of the action or inaction of the~~ Deputy Superintendent denies the allegation(s) of discrimination, the complainant may appeal to the ~~School Board (“Board”) Superintendent~~ Superintendent by filing a written notice of appeal with the ~~Secretary of the School Board, who shall direct it to the Board Office~~ Superintendent as the secretary of the board; on or before the tenth (10th) calendar day following the date upon which the complainant received the Deputy Superintendent’s response. ~~The notice of appeal must include a brief statement explaining the basis for the appeal; the appeal will be considered received only when it contains such a statement. In the event the Deputy Superintendent does not timely respond to a complaint or obtain an extension, the complainant may’s appeal the Deputy Superintendent’s inaction to the Superintendent shall be filed with the Secretary of the School Board~~ on or before the tenth (10th) calendar day following the expiration of the thirty (30th) calendar day response period specified above. Upon receipt of a timely appeal, the Superintendent shall appoint a neutral hearing examiner hired by the District to hear the matter and issue findings of fact and a recommended decision.

The appeal shall be based on the facts previously raised by the complainant and/or investigated by the District. ~~before the Board shall be heard on or before 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~~ The complainant, District staff, and the person or persons alleged to have violated this procedure shall have the right to present such witnesses and testimony to the Hearing Examiner as the Hearing Examiner ~~Board~~ deems relevant and material. This hearing shall be recorded.

~~Unless otherwise agreed to by the complainant and the Superintendent, or for good cause, the Board shall render a written decision on or before the tenth (10th) calendar day following the termination of the hearing and shall provide a copy to all parties involved. The written decision shall include notice of the complainant's right to appeal to the Office of the Superintendent of Public Instruction as set forth below.~~

The Hearing Examiner's findings of fact and recommended decision will be transmitted to the School Board for a closed record review. The Board shall not accept new information, written or oral, regarding the appeal, and will confine its review to the Hearing Examiner's decision and record from the hearing. Upon such review, the School Board may either adopt the decision or issue a different decision based on the facts found by the Hearing Examiner. The Board may also provide direction to the Superintendent regarding organizational or policy improvements it deems necessary based on the issues identified during the appeal. The Board's decision will be communicated to the complainant and other parties on or before the thirtieth (30th) calendar day from the date the District received the appeal. The written decision shall include notice of the complainant's right to appeal to OSPI as set forth below. The appeal decision must also be sent to OSPI.

If the Board has not conducted its review of the Hearing Examiner's decision and issued the Board's final decision within 30 days of the date the appeal was filed, the Hearing Examiner's decision will be considered the final decision of the District. In such event, however, the Board may still provide direction to the Superintendent regarding organizational or policy improvements it deems necessary based on the issues identified during the appeal. The District will notify the appellant in writing that the Hearing Examiner's decision is the final decision of the District and shall include notice of the complainant's right to appeal to OSPI as set forth below.

Level Two

If a complainant remains aggrieved as a result of the ~~final Board's~~ decision under a Level One appeal in resolving a complaint, the complainant may appeal to OSPI ~~the Office of the Superintendent of Public Instruction~~ by filing a written notice of appeal with OSPI ~~the Superintendent of Public Instruction~~ by the twentieth (20th) calendar day following the date upon which the complainant received written ~~notice of the Board's~~ final decision. Such appeal shall be in writing, include a concise statement of the ~~Board's~~ parts of the final decision that ~~is~~ are being appealed, and the relief requested.

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Approved: May 2016

Revised: Date

Cross Reference: 2015; 2020; 2030; 2140; 2150; 5010; Superintendent Procedure 3210SP.A