

Sexual Harassment

The procedure is intended to set forth the requirements of Policy 5011, including the process for a prompt, thorough, and equitable investigation of allegations of sexual harassment and the need to take appropriate steps to resolve such situations. If sexual harassment is found to have created a hostile environment, staff must take immediate action to eliminate the harassment, prevent its reoccurrence, and address its effects.

This procedure applies to sexual harassment (including sexual violence) targeted at district employees carried out by other students, employees or third parties involved in school district activities. The district has jurisdiction over these complaints pursuant to Title IX of the Education Amendments of 1972, Chapter 28A.640, RCW and Chapter 392-190 WAC. The procedure is intended to set forth the requirements of Policy 5011, including the process for a prompt, thorough, and equitable investigation of allegations of sexual harassment and the need to take appropriate steps to resolve such situations. If sexual harassment is found to have created a hostile environment, staff must take immediate action to eliminate the harassment, prevent its reoccurrence, and address its effects.

Notice

Information about a copy of the district's sexual harassment policy will be easily understandable and conspicuously posted throughout each school building, provided to each employee and reproduced in each staff, volunteer and parent handbook must be included in any publication of the district or of a school that sets forth the rules, regulations, procedures, and standards of conduct for the school or school district. The policy must also be conspicuously posted in each school district, and provided to each employee, volunteer, and student.

In addition to the posting and reproduction of this procedure and Policy 5011 as required by that policy, the district will provide annual notice to employees that complaints pursuant to this procedure may be filed at: P.O. Box 225, Reardan, WA 99029.

Staff Responsibilities

In the event of an alleged sexual assault, the school principal will immediately inform: 1) the Title IX/Civil Rights Compliance Coordinator so that the district can appropriately respond to the incident consistent with its own grievance procedures; and 2) law enforcement.

The principal will notify the targeted district staff person of their right to file a criminal complaint and a sexual harassment complaint simultaneously. The district will provide notice to the student or their parent/guardian or the employee of interim measures available to protect the individual in the educational setting. The district will ensure that appropriate interim measures are taken to ensure the individual's safety (e.g., creating and implementing a safety plan and designating a support person during and after the investigation).

Confidentiality

If a complainant requests that his or her name not be revealed to the alleged perpetrator or asks that the district not investigate or seek action against the alleged perpetrator, the request will be forwarded to the [insert title of appropriate district employee(s)] for evaluation. The [insert title

of appropriate district employee(s)] should inform the complainant that honoring the request may limit its ability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator.

If the complainant still requests that his or her name not be disclosed to the alleged perpetrator or that the district not investigate or seek action against the alleged perpetrator, the district will need to determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment for all students, staff and other third parties engaging in district activities, including the person who reported the sexual harassment. Although a complainant's request to have his or her name withheld may limit the district's ability to respond fully to an individual allegation of sexual harassment, the district will use other appropriate means available to address the sexual harassment.

Retaliation

Title IX, Title VI, Section 504 and Title II prohibits retaliation against any individual who files a complaint under these laws or participates in a complaint investigation. When an informal or formal complaint of sexual harassment is made, the district will take steps to stop further harassment and prevent any retaliation against the person who made the complaint, was the subject of the harassment, or against those who provided information as a witness. The district will investigate all allegations of retaliation and take actions against those found to have retaliated.

Informal Complaint Process

Anyone may use informal procedures to report and resolve complaints of sexual harassment. Informal reports may be made to any staff member, although staff shall always inform complainants of their right to and the process for filing a formal complaint. Staff shall also direct potential complainants to the superintendent who can explain the informal and formal complaint processes and what a complainant can expect. Staff shall also inform an appropriate supervisor or professional staff member when they receive complaints of sexual harassment, especially when the complaint is beyond their training to resolve or alleges serious misconduct.

During the course of the informal complaint process, the district will take prompt and effective steps reasonably calculated to end any harassment and to correct any discriminatory effects on the complainant. If an investigation is needed to determine what occurred, the district will take interim measures to protect the complainant before the final outcome of the district's investigation (e.g., allowing the complainant to change academic or extracurricular activities or break times to avoid contact with the alleged perpetrator).

Informal remedies include:

1. An opportunity for the complainant to explain to the alleged harasser that his or her conduct is unwelcome, offensive or inappropriate, either in writing or face-to-face;
2. A statement from a staff member to the alleged harasser that the alleged conduct is not appropriate and could lead to discipline if proven or repeated; or

3. A general public statement from an administrator in a building reviewing the district sexual harassment policy without identifying the complainant;
4. Developing a safety plan;
5. Separating staff persons; or
6. Providing staff and/or student training.

Informal complaints may become formal complaints at the request of the complainant, parent, guardian, or because the district believes the complaint needs to be more thoroughly investigated. Additionally, the district will conduct follow-up inquiries to see if there have been any new incidents or instances of retaliation, and to promptly respond and appropriately address continuing or new problems. Follow-up inquiries will follow a timeline agreed to by the district and complainant.

Formal Complaint Process

Level One – Complaint to District

Anyone may initiate a formal complaint of sexual harassment, even if the informal complaint process is being utilized. At any level in the formal complaint process, the district will take interim measures to protect complainant before the final outcome of the district's investigation. Potential complainants who wish to have the district hold their identity confidential shall be informed that the district will almost assuredly face due process requirements that will make available all of the information that the district has to the accused. The district will, however, fully implement the anti-retaliation provisions pursuant to protect complainants and witnesses.

The following process shall be followed:

Filing of Complaint

All formal complaints shall be in writing; and shall set forth the specific acts, conditions or circumstances alleged to have occurred and to constitute sexual harassment. The compliance officer may draft the complaint based on the report of the complainant, for the complainant to review and approve. The compliance officer Title IX Coordinator may also conclude that the district needs to conduct an investigation based on information in his or her possession, regardless of the complainant's interest in filing a formal complaint.

The time period for filing a complaint is one year from the date of the occurrence that is the subject matter of the complaint. However, a complaint filing deadline may not be imposed if the complainant was prevented from filing due to: 1) specific misrepresentations by the district that it had resolved the problem forming the basis of the complaint; or 2) withholding of information that the district was required to provide under WAC 392-190-065 or WAC 392-190-005.

Complaints may be submitted by mail, fax, e-mail or hand-delivery to any district, school or to the district Title IX Coordinator Compliance Officer responsible for investigating sexual harassment complaints. Any district employee who receives a complaint that meets these criteria

will promptly notify the compliance officer.

The district is prohibited by Title IX, Title VI, Section 504, and Title II law from intimidating, threatening, coercing or discriminating against any individual for the purpose of interfering with their right to file a complaint under this policy and procedure and from retaliating against an individual for filing such a complaint.

Investigation and Response

The Title IX/Civil Rights Coordinator will receive and investigate all formal, written complaints of sexual harassment, or information in the coordinator's possession that they believe requires further investigation. The Coordinator will delegate his or her authority to participate in this process if such action is necessary to avoid any potential conflicts of interest. Upon receipt of a complaint, the Coordinator will provide the complainant a copy of this procedure. However, the coordinator compliance officer will investigate the allegations within thirty (30) calendar days.

Investigations will be carried out in a manner that is adequate in scope, reliable and impartial. During the investigation process, the complainant and accused party or parties, the complainant has identified an accused harasser(s), will have an equal opportunity to present witnesses and relevant evidence. Complainants and witnesses may have a trusted adult with them during any district-initiated investigatory activities. The school district and complainant may also agree to resolve the complaint in lieu of an investigation.

When the investigation is completed the compliance officer shall compile a full written report of the complaint and the results of the investigation.

Superintendent Response

If the matter has not been resolved to the complainant's satisfaction, the superintendent will take further action on the report.

The superintendent will respond in writing to the complainant and the alleged perpetrator accused within thirty (30) calendar days of receipt of the complaint, unless otherwise agreed to by the complainant or if the exceptional circumstances related to the complaint require an extension of the time limit. In the event an extension is needed, the district will notify the complainant in writing of the reason for the extension and the anticipated response date. At the time the district responds to the complainant, the district must send a copy of the response to the Office of the Superintendent of Public Instruction.

The response of the superintendent or designee will include: 1) a summary of the results of the investigation; 2) a statement as to whether a preponderance of the evidence establishes that the complainant was sexually harassed or the district has failed to comply with sexual harassment laws; 3) if sexual harassment is found to have occurred, the non-compliance is found, corrective measure the district deems necessary to correct it, including assurance that the district will take steps to prevent recurrence and remedy its effects on the complainant and others, if appropriate; and 4) notice of the complainant's right to appeal to the school board and the necessary filing information; and 5) any corrective measures the district will take, remedies for the complainant (e.g., sources of counseling, advocacy and other support), and notice of potential sanctions for

the perpetrator(s) (e.g., discipline).

The superintendents' or designee's response will be provided in a language the complainant can understand and may require language assistance for complainants with Limited English Proficiency in accordance with title VI of the Civil Rights Act of 1964. If the complaint alleges discriminatory harassment by a names party or parties, the coordinator will provide the accused party or parties with notice of the outcome of the investigation and notice of their right to appeal any discipline or corrected action imposed by the district.

Any corrective measures deemed necessary will be instituted as quickly as possible, but in no event more than thirty (30) days after the superintendent's mailing of a written response, unless the accused is appealing the imposition of discipline and the district is barred by due process considerations or a lawful order from imposing the discipline until the appeal process is concluded. Staff may also pursue complaints through the appropriate collective bargaining agreement process or anti-discrimination policy.

The district will inform the complainant how to report any subsequent problems. Additionally, the district will conduct follow-up inquiries to see if there have been any new incidents or instances of retaliation, and to promptly respond and appropriately address continuing or new problems. Follow-up inquiries will follow a timeline agreed to by the district and complainant.

Level Two – Appeal to Board of Directors

If a complainant remains aggrieved as a result of the decision of the board in resolving a complaint, the complainant may appeal to the superintendent of public instruction by filing a written notice of appeal with the superintendent of public instruction by the 10th calendar day following the date upon which the complainant received written notice of the board's decision.

The superintendent of public instruction shall schedule a hearing to commence by the 40th calendar day following the filing of the written notice of appeal. The notice of appeal must state the areas of disagreement and the relief requested.

Appeals to the superintendent of public instruction shall be conducted de novo and in compliance with the state Administrative Procedures Act. The complainant shall present his or her case and the school district shall defend the decision rendered by the board.

A fixed component of all district orientation sessions for staff, students and regular volunteers shall introduce the elements of this policy. Staff will be provided information on recognizing and preventing sexual harassment. Staff shall be fully informed of the formal and informal complaint processes and their roles and responsibilities under the policy and procedure.

Certificated staff shall be reminded of their legal responsibility to report suspected child abuse, and how that responsibility may be implicated by some allegations of sexual harassment. Regular volunteers shall get the portions of this component of orientation relevant to their rights and responsibilities.

**Procedure: 5011P
Personnel**

Students will be provided with age-appropriate information on the recognition and prevention of sexual harassment and their rights and responsibilities under this and other district policies and rules at student orientation sessions and on other appropriate occasions, which may include parents. Parents shall be provided with copies of this policy and procedure and appropriate materials on the recognition and prevention of sexual harassment.

As part of the information on the recognition and prevention of sexual harassment staff, volunteers, students and parents will be informed that sexual harassment may include, but is not limited to:

1. Demands for sexual favors in exchange for preferential treatment or something of value;
2. Stating or implying that a person will lose something if he or she does not submit to a sexual request;
3. Penalizing a person for refusing to submit to a sexual advance, or providing a benefit to someone who does;
4. Making unwelcome, offensive or inappropriate sexually suggestive remarks comments, gestures, or jokes; or remarks of a sexual nature about a person's appearance, gender or conduct;
5. Using derogatory sexual terms for a person;
6. Standing too close, inappropriately touching, cornering or stalking a person; or
7. Displaying offensive or inappropriate sexual illustrations on school property.

As needed, the superintendent or designee will convene an ad hoc committee composed of representatives of certificated and classified staff, volunteers, students and parents to review the use and efficacy of this policy and procedure. The compliance officer will be included in the committee. Based on the review of the committee, the superintendent shall prepare a report to the board including, if necessary, any recommended policy changes. The superintendent shall consider adopting changes to this procedure if recommended by the committee.

Adopted:

School District Name: Reardan-Edwall School District No. 009

Revision Date: 08.06; 04.12