

1 **Sexual Harassment of District Staff Prohibited**

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

7
8 This procedure applies to sexual harassment (including sexual violence) targeted at district
9 employees carried out by other students, employees or third parties involved in school district
10 activities. The district has jurisdiction over these complaints pursuant to Title IX of the
11 Education Amendments of 1972, Chapter 28A.640, RCW and Chapter 392-190 WAC.

12 13 **Notice**

14 Information about the district's sexual harassment policy will be easily understandable and
15 conspicuously posted throughout each school building, provided to each employee and
16 reproduced in each staff, volunteer, and parent handbook.

17 In addition to the posting and reproduction of this Procedure and Policy 5011, the district will
18 provide annual notice to employees that complaints pursuant to this procedure may be filed at 71
19 E. Campus Dr., Belfair, WA. 98528.

20 21 **Staff Responsibilities**

22 In the event of an alleged sexual assault, the school principal will immediately inform: 1) the
23 Title IX/Civil Rights Compliance Coordinator so that the district can appropriately respond to
24 the incident consistent with its own grievance procedures; and 2) law enforcement. The principal
25 will notify the targeted district staff person of their right to file a criminal complaint and a sexual
26 harassment complaint simultaneously.

27 28 **Confidentiality**

29 If a complainant requests to have his or her name not be revealed to the alleged perpetrator or
30 asks that the district not investigate or seek action against the alleged perpetrator, the request will
31 be forwarded to the building principal for evaluation. The principal should inform the
32 complainant that honoring the request may limit its ability to respond fully to the incident,
33 including pursuing disciplinary action against the alleged perpetrator.

34
35 If the complainant still requests that his or her name not be disclosed to the alleged perpetrator or
36 that the district not investigate or seek action against the alleged perpetrator, the district will need
37 to determine whether or not it can honor such a request while still providing a safe and
38 nondiscriminatory environment for all students, staff and other third parties engaging in district
39 activities, including the person who reported the sexual harassment. Although a complainant's
40 request to have his or her name withheld may limit the district's ability to respond fully to an
41 individual allegation of sexual harassment, the district will use other appropriate means available
42 to address the sexual harassment.

43 44 **Retaliation**

45 Title IX prohibits retaliation against any individual who files a complaint under these laws or
46 participates in a complaint investigation. When an informal or formal complaint of sexual
47 harassment is made, the district will take steps to stop further harassment and prevent any
48 retaliation against the person who made the complaint, was the subject of the harassment, or

1 against those who provided information as a witness. The district will investigate all allegations
 2 of retaliation and take actions against those found to have retaliated.

3
 4 **Informal Complaint Process**

5 Anyone may use informal procedures to report and resolve complaints of sexual harassment.
 6 Informal reports may be made to any staff member. Staff shall always notify complainants of
 7 their right to and the process for filing a formal complaint. Staff shall also direct potential
 8 complainants to the district’s Title IX Coordinator, Mark Swofford. Additionally, staff shall also
 9 inform an appropriate supervisor or professional staff member when they receive complaints of
 10 sexual harassment, especially when the complaint is beyond their training to resolve or alleges
 11 serious misconduct.

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

18
 19 Informal remedies may include:

- 20 • An opportunity for the complainant to explain to the alleged harasser that his or her
 21 conduct is unwelcome, offensive or inappropriate, either in writing or face-to-face;
- 22 • A statement from a staff member to the alleged harasser that the alleged conduct is not
 23 appropriate and could lead to discipline if proven or repeated;
- 24 • A general public statement from an administrator in a building reviewing the district
 25 sexual harassment policy without identifying the complainant;
- 26 • Developing a safety plan;
- 27 • Separating staff persons; or
- 28 • Providing staff and/or student training

29 Informal complaints may become formal complaints at the request of the complainant,
 30 parent, guardian, or because the district believes the complaint needs to be more thoroughly
 31 investigated.

32 The district will inform the complainant how to report any subsequent problems. Additionally,
 33 the district will conduct follow-up inquiries to see if there have been any new incidents or
 34 instances of retaliation, and to promptly respond and appropriately address continuing or new
 35 problems. Follow-up inquiries will follow a timeline agreed to by the district and complainant.
 36

37 **Formal Complaint Process**

38 **Level One – Complaint Process**

39 Anyone may initiate a formal complaint of sexual harassment, even if the informal complaint
 40 process is being utilized. At any level in the formal complaint process, the district will take
 41 interim measures to protect the complainant before the final outcome of the district’s
 42 investigation.

43 The following process shall be followed:

1 Filing of Complaint

- 2 • All formal complaints shall be in writing; and shall set forth the specific acts, conditions
3 or circumstances alleged to have occurred and to constitute sexual harassment. The Title
4 IX Coordinator may draft the complaint based on the report of the complainant, for the
5 complainant to review and approve. The superintendent or Title IX Coordinator may
6 conclude that the district needs to conduct an investigation based on information in his or
7 her possession regardless of the complainant's interest in filing a formal complaint.
- 8 • The time period for filing a complaint is one year from the date of the occurrence that is
9 the subject matter of the complaint. However, a complaint filing deadline may not be
10 imposed if the complainant was prevented from filing due to: 1) Specific
11 misrepresentations by the district that it had resolved the problem forming the basis of the
12 complaint; or 2) Withholding of information that the district was required to provide
13 under WAC 392-190-065 or WAC 392-190-005.
- 14 • Complaints may be submitted by mail, fax, e-mail or hand-delivery to the district Title IX
15 Coordinator, Mark Swofford at 71 E Campus Dr. Belfair WA 998528, 360.277.2165 or
16 mwofford@northmasonschoools.org. Any district employee who receives a complaint
17 that meets these criteria will promptly notify the Coordinator.

18 Investigation and Response

- 19 • The Title IX Coordinator shall receive and investigate all formal, written complaints of
20 sexual harassment, or information in the Coordinator's possession that the officer
21 believes requires further investigation. The Coordinator will delegate his or her authority
22 to participate in this process if such action is necessary to avoid any potential conflicts of
23 interest. Upon receipt of a complaint, the Coordinator will provide the complainant a
24 copy of this procedure.
- 25 • Investigations will be carried out in a manner that is adequate in scope, reliable and
26 impartial. During the investigation process, the complainant and accused party or parties,
27 if the complainant has identified an accused harasser(s), will have an equal opportunity to
28 present witnesses and relevant evidence. Complainants and witnesses may have a trusted
29 adult with them during any district-initiated investigatory activities. The school district
30 and complainant may also agree to resolve the complaint in lieu of an investigation.
31 When the investigation is completed, the Coordinator shall compile a full written report of the
32 complaint and the results of the investigation.

33 Superintendent Response

- 34 • The superintendent shall respond in writing to the complainant and the alleged
35 perpetrator within thirty (30) calendar days of receipt of the complaint, unless otherwise
36 agreed to by the complainant or if exceptional circumstances related to the complaint
37 require an extension of the time limit. In the event an extension is needed, the district
38 will notify the complainant in writing of the reason for the extension and the anticipated
39 response date. At the time the district responds to the complainant, the district must send
40 a copy of the response to the Office of the Superintendent of Public Instruction.
41 The response of the superintendent or designee will include:
 - 42 1) a summary of the results of the investigation;
 - 43 2) a statement as to whether a preponderance of the evidence establishes that the
44 complainant was sexually harassed;

- 1 3) if sexual harassment is found to have occurred, the corrective measures the district
- 2 deems necessary, including assurance that the district will take steps to prevent
- 3 recurrence and remedy its effects on the complainant and others, if appropriate;
- 4 4) notice of the complainant’s right to appeal to the school board and the necessary filing
- 5 information; and
- 6 5) any corrective measures the district will take, remedies for the complainant (e.g.,
- 7 sources of counseling, advocacy and other support), and notice of potential sanctions for
- 8 the perpetrator(s) (e.g., discipline).
- 9 • The superintendent’s or designee’s response will be provided in a language the
- 10 complainant can understand and may require language assistance for complainants with
- 11 limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964.
- 12 If the complaint alleges discriminatory harassment by a named party or parties, the
- 13 coordinator will provide the accused party or parties with notice of the outcome of the
- 14 investigation and notice of their right to appeal any discipline or corrective action
- 15 imposed by the district.
- 16 • Any corrective measures deemed necessary will be instituted as quickly as possible, but
- 17 in no event more than thirty (30) days after the superintendent's mailing of a written
- 18 response, unless the accused is appealing the imposition of discipline and the district is
- 19 barred by due process considerations or a lawful order from imposing the discipline until
- 20 the appeal process is concluded. Staff may also pursue complaints through the
- 21 appropriate collective bargaining agreement process or anti-discrimination policy.
- 22 • The district will inform the complainant how to report any subsequent problems.
- 23 Additionally, the district will conduct follow-up inquiries to see if there have been any
- 24 new incidents or instances of retaliation, and to promptly respond and appropriately
- 25 address continuing or new problems. Follow-up inquiries will follow a timeline agreed to
- 26 by the district and complainant.
- 27

28 **Level Two - Appeal to the Board of Directors**

- 29 • Notice of Appeal and Hearing: If a complainant disagrees with the superintendent’s
- 30 or designee’s written decision , the complainant may appeal to the district Board of
- 31 Directors, by filing a written notice of appeal with the secretary of the board within
- 32 ten (10) calendar days following the date upon which the complainant received the
- 33 response. The board shall schedule a hearing to commence by the twentieth (20th)
- 34 calendar day following the filing of the written notice of appeal, unless otherwise
- 35 agreed to by the complainant and the superintendent or for good cause.
- 36 • Both parties shall be allowed to present such witnesses and testimony as the board
- 37 deems relevant and material.

38 **Decision**

- 39 • Unless otherwise agreed to by the complainant, the board shall render a written decision
- 40 within thirty (30) calendar days following the filing of the notice of appeal and shall
- 41 provide the complainant a copy of the decision.
- 42 • The decision will be provided in a language that the complainant can understand which
- 43 may require language assistance for complainants with limited English proficiency in
- 44 accordance with Title VI of the Civil Rights Act.
- 45

- The decision will include notice of the complainant’s right to appeal to the Superintendent of Public Instruction and will identify where and to whom the appeal must be filed. The district will send a copy of the appeal decision to the Office of the Superintendent of Public Instruction.

Level Three – Complaint to the Superintendent of Public Instruction

Filing of a Complaint

- If a complainant disagrees with the decision of the Board of Directors, or if the district fails to comply with this procedure, the complainant may file a complaint with the Superintendent of Public Instruction.
- A complaint must be received by the Superintendent of Public Instruction on or before the twentieth (20th) calendar day following the date upon which the complainant received written notice of the board’s decision, unless the Superintendent of Public Instruction grants an extension for good cause. Complaints may be submitted by mail, fax, electronic mail, or hand delivery.
- A complaint must be in writing and include: 1) A description of the specific acts, conditions or circumstances alleged to violate applicable anti-sexual harassment laws; 2) The name and contact information, including address, of the complainant; 3) The name and address of the district subject to the complaint; 4) A copy of the district’s complaint and appeal decision, if any; and 5) A proposed resolution of the complaint or relief requested. If the allegations regard a specific student, the complaint must also include the name and address of the student, or in the case of a homeless child or youth, contact information.

Investigation, Determination and Corrective Action

- Upon receipt of a complaint, the Office of the Superintendent of Public Instruction may initiate an investigation, which may include conducting an independent on-site review. OSPI may also investigate additional issues related to the complaint that were not included in the initial complaint or appeal to the superintendent or board.
- Following the investigation, OSPI will make an independent determination as to whether the district has failed to comply with RCW 28A.642.010 or Chapter 392-190, WAC and will issue a written decision to the complainant and the district that addresses each allegation in the complaint and any other noncompliance issues it has identified. The written decision will include corrective actions deemed necessary to correct noncompliance and documentation the district must provide to demonstrate that corrective action has been completed.
- All corrective actions must be completed within the timelines established by OSPI in the written decision unless OSPI grants an extension. If timely compliance is not achieved, OSPI may take action including but not limited to referring the district to appropriate state or federal agencies empowered to order compliance.

A complaint may be resolved at any time when, before the completion of the investigation, the district voluntarily agrees to resolve the complaint. OSPI may provide technical assistance and dispute resolution methods to resolve a complaint.

Level Four - Administrative Hearing

A complainant or school district that desires to appeal the written decision of the Office of the Superintendent of Public Instruction may file a written notice of appeal with OSPI within thirty (30) calendar days following the date of receipt of that office’s written decision. OSPI will

1 conduct a formal administrative hearing in conformance with the Administrative Procedures Act,
 2 Chapter 34.05, RCW.

3
 4 **Other Complaint Options**

5
 6 *Office for Civil Rights (OCR), U.S. Department of Education*

7 OCR enforces several federal civil rights laws, which prohibit discrimination in public schools on the
 8 basis of race, color, national origin, sex, disability, and age. File complaints with OCR within 180
 9 calendar days of the date of the alleged discrimination.

10 206-607-1600 | TDD: 1-800-877-8339 | OCR.Seattle@ed.gov | www.ed.gov/ocr

11
 12 *Washington State Human Rights Commission (WSHRC)*

13 WSHRC enforces the Washington Law Against Discrimination (RCW 49.60), which prohibits
 14 discrimination in employment and in places of public accommodation, including schools. File
 15 complaints with WSHRC within six months of the date of the alleged discrimination.

16 1-800-233-3247 | TTY: 1-800-300-7525 | www.hum.wa.gov

17
 18 **Mediation**

19 At any time during the complaint procedure set forth in WAC 392-190-065 through 392-190-
 20 075, a district may, at its own expense, offer mediation. The complainant and the district may
 21 agree to extend the complaint process deadlines in order to pursue mediation.

22
 23 The purpose of mediation is to provide both the complainant and the district an opportunity to
 24 resolve disputes and reach a mutually acceptable agreement through the use of an impartial
 25 mediator. Mediation must be voluntary and requires the mutual agreement of both parties. It
 26 may be terminated by either party at any time during the mediation process. It may not be used to
 27 deny or delay a complainant’s right to utilize the complaint procedures.

28
 29 Mediation must be conducted by a qualified and impartial mediator who may not:

- 30 1) Be an employee of any school district, public charter school, or other public or private agency
 31 that is providing education related services to a student who is the subject of the complaint being
 32 mediated; or 2) Have a personal or professional conflict of interest. A mediator is not considered
 33 an employee of the district or charter school or other public or private agency solely because he
 34 or she serves as a mediator.

35
 36 If the parties reach agreement through mediation, they may execute a legally binding agreement
 37 that sets forth the resolution and states that all discussions that occurred during the course of
 38 mediation will remain confidential and may not be used as evidence in any subsequent
 39 complaint, due process hearing or civil proceeding. The agreement must be signed by the
 40 complainant and a district representative who has authority to bind the district.

41
 42 **Training and Orientation**

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

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

1 Students shall be provided with age-appropriate information on the recognition and prevention of
2 sexual harassment and their rights and responsibilities under this and other district policies and
3 rules at student orientation sessions and on other appropriate occasions, which may include
4 parents. As part of the information on the recognition and prevention of sexual harassment staff,
5 volunteers, students and parents shall be informed that sexual harassment may include, but is not
6 limited to:

- 7 A. Demands for sexual favors in exchange for preferential treatment or something of value;
- 8 B. Stating or implying that a person will lose something if he or she does not submit to a sexual
9 request;
- 10 C. Penalizing a person for refusing to submit to a sexual advance, or providing a benefit to
11 someone who does;
- 12 D. Making unwelcome, offensive or inappropriate sexually suggestive remarks, comments,
13 gestures, or jokes; or remarks of a sexual nature about a person's appearance, gender or
14 conduct;
- 15 E. Using derogatory sexual terms for a person;
- 16 F. Standing too close, inappropriately touching, cornering or stalking a person; or
- 17 G. Displaying offensive or inappropriate sexual illustrations on school property.

18
19 **Policy and Procedure Review**

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

26
27 Management Resources: 2015 – July Policy Alert
28 2014 – March Issue
29
30
31
32
33
34
35

36 **Adopted: 08/27/98**
37 **Revised: 11/18/09**
38 **Revised: 12/15/11**
39 **Revised: 04/10/14**
40 **Revised: 08/20/15**