

## Procedure 3210P

### Nondiscrimination

The Bellevue School District is committed to ensuring a safe and productive learning environment in which all students are provided every opportunity to learn. The district will provide equal educational opportunity and treatment for all students in all aspects of its academic and activities programs without discrimination based on race, religion, creed, color, national origin, age, honorably-discharged veteran or military status, sex, sexual orientation, gender expression or identity, marital status, the presence of any sensory, mental or physical disability, or the use of a trained dog guide or service animal by a person with a disability.

Conduct against any student that is based on one of the categories listed above is not tolerated. Conduct that is sufficiently severe, persistent or pervasive as to limit or deny a student's ability to participate in or benefit from the district's course offerings, educational programming or any activity is considered discriminatory harassment.

Anyone may file a complaint alleging that the district has violated anti-discrimination laws related to students. This complaint procedure is designed to assure the resolution of real or alleged violations are directed toward a just solution that is satisfactory to the complainant, the administration and the board of directors consistent with applicable policies and laws. This grievance procedure will apply to the general conditions of the nondiscrimination policy (Policy 3210) and more particularly to policies dealing with guidance and counseling (Policy 2140), co-curricular program (Policy 2150), service animals in schools (Policy 2030) and curriculum development and instructional materials (Policy 2020). As used in this procedure:

- A. **Grievance** means a complaint which has been filed by a complainant relating to alleged violations of any state or federal anti-discrimination laws or allegations of discriminatory harassment as defined above.
- B. **Complaint** means a written charge alleging specific acts, conditions or circumstances, which are in violation of the anti-discrimination laws or constitute discriminatory harassment. 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 compliance officer responsible for investigating discrimination complaints. Any district employee who receives a complaint that meets these criteria will promptly notify the compliance officer.
- C. **Respondent** means the person alleged to be responsible or who may be responsible for the violation alleged in the complaint.

The primary purpose of this procedure is to secure an equitable solution to complaints that fall under this policy. To this end, specific steps will be taken including, where appropriate, a prompt and thorough investigation of allegations of discrimination and interim measures to protect the party(ies) involved as discussed herein. The district is prohibited by law from intimidating, threatening, coercing or discriminating against any individual for the purpose of interfering with their right to file a grievance under this policy and procedure and from retaliating against an individual for filing such a grievance.

This procedure addresses both informal and formal resolution processes, the specifics of which are detailed below.

### **Informal Process for Resolution**

Anyone with an allegation of discrimination may request an *informal meeting* with the compliance officer or designated employee to resolve their concerns. Such a meeting will be at the option of the complainant. If unable to resolve the issue at this meeting, the complainant may submit a written complaint to the compliance officer. During the informal process, the district must and will notify complainant of their right to file a formal complaint.

Informal remedies for a complaint arising under this procedure may include:

- An opportunity for the complainant to explain to the alleged harasser that their conduct is unwelcome, offensive or inappropriate, either in writing or face-to-face;
- 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;
- A public statement from an administrator in a building reviewing the District sexual harassment policy without identifying the complainant;
- Developing a safety plan;
- Separating students;
- Providing staff and/or student training;
- Mediation (facilitated conflict resolution); or
- Restorative practices (peer-mediated small groups to talk, ask questions, and air grievances).
- At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

### ***Subsequent Issues***

As part of an informal resolution, the District will inform the complainant and their parent/guardian how to report any subsequent problems. This information will be provided to the complainant in writing and 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.

### **Formal Process for Resolution**

Anyone with an allegation of discrimination may request their complaint be handled through a formal process resolution, as detailed below.

### **Level One: Complaint to District**

If the complainant elects the formal process, he or she must prepare or participate in the preparation of a written complaint. The written complaint must set forth the specific acts, conditions or circumstances alleged to be in violation.

Upon receipt of a complaint, the compliance officer, or district designee, will provide the complainant a copy of this procedure. Unless the complainant and the district agree otherwise, the compliance officer or district designee will conduct a prompt and thorough investigation of the allegations. Barring exceptional circumstances, this investigation will be completed within 30 calendar days. The compliance officer will provide the superintendent with a full written report of the complaint and the results of the investigation.

The superintendent or designee will respond to the complainant with a written decision as expeditiously as possible, but in no event later than 30 calendar days following receipt of the written complaint, unless otherwise agreed to by the complainant or if 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 decision of the superintendent or designee will include: 1) a summary of the results of the investigation; 2) whether the district has failed to comply with anti-discrimination laws; 3) if non-compliance is found, corrective measures the district deems necessary to correct it; and 4) notice of the complainant's right to appeal to the Disciplinary Appeals Council and the necessary filing information. The superintendent's 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.

Any corrective measures deemed necessary shall be instituted as expeditiously as possible, but in no event later than 30 calendar days following the superintendent's or designee's mailing of a written response to the complaining party unless otherwise agreed to by the complainant.

### **Level Two – Disciplinary Appeal Council (DAC)**

If the targeted student remains dissatisfied after the initial appeal to the superintendent or designee, the student may appeal to the Disciplinary Appeals Council (DAC) by filing a written notice of appeal with the school support coordinator before or on the tenth (10th) school day following the date upon which the complainant received the superintendent or designee's written decision.

An appeal before the DAC must be heard on or before the twentieth (20<sup>th</sup>) school day following the filing of the written notice of appeal to the disciplinary appeal council. The disciplinary appeal council will review the record and render a written decision on the

merits of the appeal on or before the fifth (5<sup>th</sup>) school day following the termination of the hearing and will provide a copy to all parties involved.

The decision of the DAC will be provided in a language the complainant can understand, which may require language assistance for complainants with limited English proficiency in accordance with Title VI of the Civil Rights Act. The decision will include notice of the complainant's right to appeal to the Superintendent of Public Instruction and will identify where and to whom the appeal must be filed. The district will send a copy of the appeal decision to the office of the superintendent of public instruction.

### **Level Three - Complaint to the Superintendent of Public Instruction**

If a complainant disagrees with the decision of the board of directors, or if the district fails to comply with this procedure, the complainant may file a complaint with the superintendent of public instruction.

1. A complaint must be received by the Superintendent of Public Instruction on or before the twentieth (20) calendar day following the date upon which the complainant received written notice of the board of directors' decision, unless the Superintendent of Public Instruction grants an extension for good cause. Complaints may be submitted by mail, fax, electronic mail, or hand delivery.
2. A complaint must be in writing and include: 1) A description of the specific acts, conditions or circumstances alleged to violate applicable anti-discrimination laws; 2) The name and contact information, including address, of the complainant; 3) The name and address of the district subject to the complaint; 4) A copy of the district's complaint and appeal decision, if any; and 5) A proposed resolution of the complaint or relief requested. If the allegations regard a specific student, the complaint must also include the name and address of the student, or in the case of a homeless child or youth, contact information.
3. 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 conduct a formal administrative hearing in conformance with the Administrative Procedures Act, Chapter 34.05, RCW.

#### **Mediation**

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

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

Mediation must be conducted by a qualified and impartial mediator who may not: 1) Be an employee of any school district, public charter school, or other public or private agency that is providing education related services to a student who is the subject of the complaint being mediated; or 2) Have a personal or professional conflict of interest. A mediator is not considered an employee of the district or charter school or other public or private agency solely because he or she serves as a mediator.

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

#### **Preservation of Records**

The files containing copies of all correspondence relative to each complaint communicated to the district and the disposition, including any corrective measures instituted by the district, will be retained in the office of the compliance officer for a period of six years.

## Notice

- Information about the District's Nondiscrimination Policy and complaints process shall be disseminated annually through District publications, student, staff, volunteer and parent handbooks.
- In addition to the posting and reproduction of administrative procedure 3210P and Policy 3210, the District will provide notice to employees and applicants that complaints pursuant to this procedure maybe filed with Director of Employee Relations, Alexa Allman, Civil Rights Compliance Officer, through any of the following methods:
  - Email: [allmana@bsd405.org](mailto:allmana@bsd405.org)
  - Phone: 425-456.4040
  - US Mail: Alexa Allman, Civil Rights Compliance Officer, P.O. Box 90010, Bellevue, WA 98009
  - In person at the District's Educational Services Center: 12111 NE 1<sup>st</sup> St., Bellevue, WA 98005

### **Employee Responsibilities**

All employees will direct potential complainants to Alexa Allman, Director of Employee Relations and Civil Rights Compliance Officer. Additionally, all employees will also inform an appropriate supervisor or professional staff member when they receive complaints of discrimination.

### **Training and Orientation**

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

### **Retaliation**

Retaliation is defined as adverse action taken against an individual in response to, motivated by or in connection with an individual's complaint of discrimination, participating in an investigation of such complaint and/or opposition to discrimination in the educational setting. Bellevue School District prohibits retaliation against any individual who files a complaint under these laws or participates in a complaint investigation. When a formal complaint of discrimination or discriminatory harassment is made or an informal resolution process is engaged, the District will take steps to prevent any retaliation against the complainant, any individual who was the subject of the harassment, or against individuals who provided information as a witness. The District will investigate all allegations of retaliation and take actions against those found to have retaliated.

### **Other Complaint Options**

*OSPI Equity and Civil Rights Office Phone: 360.725.6162*

*Email: [equity@k12.wa.us](mailto:equity@k12.wa.us)*

*Website: [www.k12.wa.us/Equity/default.aspx](http://www.k12.wa.us/Equity/default.aspx)*

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

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

206-607-1600 | TDD: 1-800-877-8339 | [OCR.Seattle@ed.gov](mailto:OCR.Seattle@ed.gov) | [www.ed.gov/ocr](http://www.ed.gov/ocr)

*Washington State Human Rights Commission (WSHRC)*

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

1-800-233-3247 | TTY: 1-800-300-7525 | [www.hum.wa.gov](http://www.hum.wa.gov)

**Date: 9.14, 10.15, 8.20**