**Operating Procedure No. 1020P**

**Foundations and General Commitments**

**PREVENTION OF HARASSMENT, INTIMIDATION, AND BULLYING:**

**NOTICE, EDUCATION AND COMPLAINT PROCEDURE FOR EMPLOYEES**

Puget Sound Educational Service District (PSESD) will take prompt, equitable, and remedial action within its authority on reports, complaints, and grievances alleging harassment that come to the attention of the ESD, either formally or informally. While it is not required, complainants are encouraged to attempt informal procedures prior to filing a formal complaint. 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 all forms of harassment, including sexual harassment, intimidation and bullying targeted at ESD employees carried out by other employees, students or third parties involved in ESD activities.

Separate harassment, intimidation or bullying (including sexual harassment) policies and procedures apply when students attending ReLife School are targeted. These policies and procedures for students include Operating Policy No. 3207 and Procedure No. 3207P, Prohibition of Harassment, Intimidation and Bullying - Students and Operating Policy No. 3205 and Procedure No. 3205P, Sexual Harassment of Students Prohibited. PSESD has jurisdiction over these complaints pursuant to Title IX of the Education Amendments of 1972, Chapter 28A.640, RCW and Chapter 392-190 WAC.

A PSESD employee who has knowledge or reasonable cause to believe that a student involved in any PSESD program or activity has been a victim of physical abuse or sexual misconduct by another PSESD employee or third party involved in ESD activities, shall report such abuse or misconduct to their supervisor and inform the Executive Director, Human Resources & Organizational Development in their capacity as Title IX Compliance Coordinator. The administrator shall cause a report to be made to the proper law enforcement district if they have reasonable cause to believe that the misconduct or abuse has occurred as required under RCW 28A.400.317. Allegations of criminal misconduct shall be reported to law enforcement; suspected child abuse shall be reported to law enforcement and Child Protective Services, as required by law.

In the event of an alleged sexual assault of a PSESD employee, the PSESD employee, who has knowledge of the alleged assault, will immediately inform: 1) the Executive Director, Human Resources & Organizational Development so that the ESD can appropriately respond to the incident consistent with its own grievance procedures; and 2) law enforcement. The ESD Executive Director, Human Resources & Organizational Development will notify the targeted ESD staff person of their right to file a criminal complaint and a sexual harassment complaint simultaneously.

Allegations of abuse or intimidation by electronic means shall be reported to PSESD supervisors and to local law enforcement, the internet service provider, or the phone service provider.

According to PSESD policy or other agreements, appropriate discipline or sanctions will be imposed for:

1. Engaging in harassment, intimidation, and/or bullying on or adjacent to PSESD property, through PSESD electronic communication systems or devices, or at PSESD-sponsored functions;

2. Coercion, discrimination, or reprisals taken against persons filing complaints or persons acting as witnesses to complaints of harassment;

3. Knowingly filing false allegations or reporting or corroborating false allegations of harassment.

**Notice**

Information about PSESD’s prevention of harassment, intimidation and bullying policies will be provided in a format easily understandable. Policies and procedures will be posted on the PSESD’s external website and provided to new employees, volunteers, and interns during orientation.

In addition to the posting of this procedure, PSESD will provide periodic notice to employees that complaints pursuant to this procedure may be filed at the ESD’s main campus - 800 Oakesdale Ave. SW, Renton, WA 98057.

Staff members shall be reminded of their legal responsibility to report suspected child abuse, and how that responsibility may be implicated in some allegations of harassment. PSESD shall maintain verification that each employee and regular volunteer or intern has reviewed this policy and procedure, as well as information on dates and content of the employees, volunteers or interns training.

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Annually, the Superintendent or designee shall review the use and efficacy of this policy and procedure. Based upon the review, the Superintendent or designee shall recommend changes in policy or procedure to the Superintendent’s executive leadership team.

**Training and Orientation**

A fixed component of PSESD orientation sessions for staff, students and regular volunteers will introduce the elements of this the ESD’s Operating Policies and Procedures prohibiting harassment, intimidation and bullying, including sexual harassment. . Staff will be provided information on recognizing and preventing sexual harassment. Staff will be fully informed of the formal and informal complaint processes and their roles and responsibilities under these policies and procedures.

Regular volunteers will get the portions of this component of orientation relevant to their rights and responsibilities.

Students will be provided with age-appropriate information on the recognition and prevention of harassment, intimidation and bullying, including sexual harassment, and their rights and responsibilities under Operating Policy and Procedure 3207 and Operating Policy and Procedure 3205 and rules at student orientation sessions and on other appropriate occasions, which may include parents.

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:

* Demands for sexual favors in exchange for preferential treatment or something of value;
* Stating or implying that a person will lose something if they do not submit to a sexual request;
* Penalizing a person for refusing to submit to a sexual advance, or providing a benefit to someone who does;
* 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;
* Using derogatory sexual terms for a person;
* Standing too close, inappropriately touching, cornering or stalking a person; or
* Displaying offensive or inappropriate sexual illustrations on PSESD property.

**Confidentiality**

Complainants requesting that their name not be revealed to the alleged perpetrator or asks that PSESD not investigate or seek action against the alleged perpetrator, shall make that request to the Executive Director, Human Resources & Organizational Development. The Executive Director, Human Resources & Organizational Development shall inform the complainant that honoring the request may limit the ESD’s ability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator.

If the complainant still requests that their name not be disclosed to the alleged perpetrator or that PSESD not investigate or seek action against the alleged perpetrator, the Executive Director, Human Resources & Organizational Development will determine whether or not they can honor such a request while still providing a safe and nondiscriminatory environment for all staff and other third parties engaging in ESD activities, including the person who reported the sexual harassment. Although a complainant’s request to have their name withheld may limit the agency’s ability to respond fully to an individual allegation of sexual harassment, the ESD will use other appropriate means available to address the sexual harassment allegation.

**Retaliation**

Retaliation is prohibited 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, PSESD 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. PSESD will investigate all allegations of retaliation and take actions against those found to have retaliated.

**Complaint Procedures**

Informal Complaint Process

Anyone may use informal procedures to report and resolve complaints of harassment, intimidation, or bullying. Informal reports may be made to the appropriate supervisor or executive administrator. The supervisor or executive administrator will notify complainants of their right to file a formal complaint and the process for same. The supervisor or executive administrator may also direct potential complainants to the Executive Director, Human Resources & Organizational Development for additional guidance, particularly when the complaint of sexual harassment beyond their training to resolve or alleges serious misconduct.

During the course of the informal complaint process, PSESD 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 ESD will take interim measures to protect the complainant before the outcome of the ESD’s investigation (e.g., allowing the complainant to change work functions or academic activities or break times to avoid contact with the alleged perpetrator).

Informal remedies 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 concerning the ESD’s sexual harassment policy without identifying the complainant or the alleged harasser;
* Developing a safety plan;
* Separating staff persons; or
* Providing staff and/or student training.

Informal complaints may become formal complaints at the request of the complainant or because the ESD believes the complaint needs to be more thoroughly investigated. PSESD will inform the complainant how to report any subsequent problems. Additionally, the ESD will conduct follow-up inquiries to mitigate any 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 ESD and complainant.

Formal Complaint Process

**Level One – Complaint to District**

Anyone may initiate a formal complaint of harassment, intimidation or bullying, even if the informal complaint process is being utilized. At any level in the formal complaint process, PSESD will take interim measures to protect the complainant before the final outcome of the investigation.

The following process will be followed:

* **Filing of Complaint** All formal complaints will be in writing and will set forth the specific acts, conditions or circumstances alleged to have occurred and to constitute sexual harassment. The Executive Director, Human Resources & Organizational Development may draft the complaint based on the report of the complainant for the complainant to review and approve. The superintendent or Executive Director, Human Resources & Organizational Development may also conclude that the ESD needs to investigate based on information in their 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 ESD 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 hand-delivery to the Human Resources & Organizational Development Department – Attention: Executive Director, Human Resources & Organization Development at PSESDs main campus (800 Oakesdale Ave. SW, Renton, WA 98057; or phone 425.917.7600 or FAX 425.917.7683; or email HROffice@psesd.org .

**Investigation and Response**

* The Executive Director, Human Resources & Organizational Development will receive and investigate all formal, written complaints of harassment, intimidation, or bullying or other information that they believe requires further investigation. The Executive Director, Human Resources & Organizational Development will delegate their authority to participate in this process if such action is necessary to avoid any potential conflicts of interest. Upon receipt of a complaint, the Executive Director, Human Resources & Organizational Development will provide the complainant a copy of this procedure.
* 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 - if 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 -initiated investigatory activities. PSESD and complainant may also agree to resolve the complaint in lieu of an investigation.
* When the investigation is completed, the Executive Director, Human Resources & Organizational Development will compile a written report of the complaint and the results of the investigation.
* 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 ESD is barred by due process considerations or a lawful order from imposing the discipline until the appeal process is concluded

**Superintendent Response**

* The Superintendent will respond in writing to the complainant and the alleged perpetrator within thirty (30) calendar days of 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.  In the event an extension is needed, PSESD will notify the complainant in writing of the reason for the extension and the anticipated response date.
* The response 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 harassed ; 3) if sexual harassment is found to have occurred, the corrective measures PSESD deems necessary, including assurance that the ESD will take steps to prevent recurrence and remedy its effects on the complainant and others, if appropriate; 4) notice of the complainant’s right to appeal to the PSESD board and the necessary filing information; and 5) any corrective measures the ESD 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 response will be provided in a language the complainant can understand and may require language assistance for complainants who are English language learners in accordance with Title VI of the Civil Rights Act of 1964. If the complaint alleges discriminatory harassment by a named party or parties, PSESD’s Civil Rights Compliance 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 corrective action imposed by PSESD.
* The response will inform the complainant how to report any subsequent problems and PSESD’s commitment to conduct follow-up inquiries to mitigate any future 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 ESD and complainant.

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

**Notice of Appeal and Hearing**

* If a complainant disagrees with the Superintendent’s written decision, the complainant may appeal the decision to the PSESD Board of Directors, by filing a written notice of appeal with the secretary of the Board within ten (10) calendar days following the date upon which the complainant received the response.
* The Board will schedule a hearing to commence by 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 will be allowed to present such witnesses and testimony as the board deems relevant and material.

**Decision**

* Unless otherwise agreed to by the complainant, the Board will render a written decision within thirty (30) calendar days following the filing of the notice of appeal and provide the complainant with a copy of the decision.
* The decision will be provided in a language that 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. PSESD 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 Complaint**

* If a complainant disagrees with the decision of PSESD’s Board of Directors, or if PSESD 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 (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.
* A complaint must be in writing and include: 1) A description of the specific acts, conditions or circumstances alleged to violate applicable anti-harassment laws; 2) The name and contact information, including address, of the complainant; 3) The name and address of the ESD subject to the complaint; 4) A copy of PSESD’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 ESD has failed to comply with RCW 28A.642.010 or Chapter 392-190, WAC and will issue a written decision to the complainant and PSESD 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 ESD 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 PSESD 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, PSESD 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, who desires to appeal the written decision of the Office of the Superintendent of Public Instruction, or PSESD 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.

Other Complaint Options

*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 ǀ TDD: 1-800-877-8339 ǀ OCR.Seattle@ed.gov ǀ [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 ǀ TTY: 1-800-300-7525 ǀ [www.hum.wa.gov](http://www.hum.wa.gov)

Staff may also pursue complaints through their collective bargaining agreement process or PSESD nondiscrimination policy

Mediation

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

The purpose of mediation is to provide both the complainant and the ESD 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 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 PSESD or other public or private agency solely because they serve 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 PSESD representative who has authority to bind the ESD.

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