

Procedure – Sex Discrimination, Sexual Harassment and Discrimination of Students Prohibited

This procedure is intended to set forth the requirements of Policy 3205 and Policy 3210. The purpose of this procedure is to provide a process to assure that the resolution of complaints alleging violations of sex discrimination, sexual harassment and anti-discrimination include a prompt, thorough, and equitable investigation of the allegations and prompt and effective steps reasonably calculated are taken to end the harassment, eliminate the hostile environment, prevent its reoccurrence, and remedy its effects as appropriate.

Definitions

Complaint allegation that ESD 112 has violated state or federal sex discrimination, sexual harassment or anti-discrimination laws. The complaint must be filed within one year from the date of the occurrence that is the subject matter of the complaint, unless 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 ESD 112 was required to provide under WAC 392-190-065 or WAC 392-190-005.

Complainant means a student, parent, recipient or participant in any ESD 112 program or activity, whether that program or activity is in an ESD 112 facility, on ESD 112 transportation, or at a class or training held elsewhere.

Discrimination means sufficiently severe, persistent or pervasive conduct that limits or denies a student's or participant's ability to participate in or benefit from the ESD 112 course offerings, educational programming or any activity based on a student's sex, race, creed, religion, color, national origin, sexual orientation, gender expression, gender identity, honorably discharged veteran or military status, mental or physical disability, or the use of a trained guide dog or service animal by a person with a disability. (WAC 392-190-0555)

Respondent means a person alleged to be responsible or who may be responsible for the violation alleged in the complaint.

Sex Discrimination means sufficiently severe, persistent or pervasive conduct that limits or denies a student's or participant's ability to participate in or benefit from any ESD 112 course offerings, educational programming or any activity based on sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity, or gender expression. (ESD 112 board policy 3205)

Sexual Harassment means unwelcome conduct or communication of a sexual nature between adult to student, student to student or by a group of students or

adults. The respondent does not have to be an ESD 112 employee or a student. Examples of sexual harassment can be found in ESD 112 board policy 3205.

Informal Complaint Process

Anyone may use informal procedures to report and resolve complaints of sex discrimination, sexual harassment or discrimination except when the allegations are against a respondent who is an employee of ESD 112 or a partnering school district or organization.

Informal reports may be made to any staff member who will notify their supervisor and immediately refer the complainant to the Title IX or Civil Rights Coordinator. The Title IX or Civil Rights Coordinator will provide the complainant with a copy of Policy 3205 or 3210 based on the allegations of the informal complaint, review the appropriate procedures and notify complainants of their right to file a formal complaint.

Additionally, during the informal complaint process, ESD 112 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, ESD 112 will implement supportive measures as defined in this procedure to protect the complainant before the outcome of the investigation.

Informal remedies may include:

- A request for an informal meeting with a program director or the Title IX or Civil Rights Coordinator to discuss their concern and how it might be resolved;
- An opportunity for the complainant to explain to the respondent that his or her conduct is unwelcome, offensive or inappropriate, either in writing or face-to-face;
- A statement from a staff member to the respondent that the alleged conduct is not appropriate and could lead to discipline if proven or repeated;
- A public statement from a supervisor, program director or administrator in a program reviewing ESD 112's sex discrimination, sexual harassment or anti-discrimination policy without identifying the complainant;
- Developing a safety plan;
- Separating students; or
- Providing staff and/or student training.

Informal complaints may become formal complaints at any time during the informal complaint process at the request of the complainant, parent/guardian, or because ESD 112 believes the complaint needs to be more thoroughly investigated.

If the complaint is resolved through the informal complaint process, ESD 112 will inform the complainant and their parent/guardian how to report any subsequent problems. Additionally, ESD 112 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 ESD 112 and the complainant.

If it is determined that the allegations of the complaint, if they were to be proven true, violate federal Title IX sexual harassment laws, the complainant will be advised to file a formal complaint as required by Title IX regulation and then provided the option to utilize the Title IX informal complaint process as outlined below.

Under Title IX regulations, a complaint may be resolved using the informal process only if a formal complaint has been filed. Additionally, at any time prior to a determination regarding responsibility for alleged sexual harassment, ESD 112 may permit a complainant to waive the formal Title IX complaint grievance process in favor of an informal resolution process not involving a full investigation and adjudication, provided that ESD 112 obtains voluntary, written consent from both parties and provides the parties with written notice disclosing the allegations, the requirements for the informal resolution process, and the circumstances in which the parties would be precluded from continuing with a formal complaint process for the same allegations.

Either party has the right to withdraw from the informal resolution process and resume the formal Title IX complaint process at any time prior to agreeing to a resolution. ESD 112 may not require the waiver of the right to an investigation and adjudication of formal complaints of sex discrimination or sexual harassment under Title IX as a condition of enrollment, employment, or enjoyment of any other right, nor may ESD 112 require the parties to participate in an informal resolution process.

Supportive Measures

Once any ESD 112 employee knows, or in the exercise of reasonable care should know, about possible sex discrimination, sexual harassment, or discrimination the Title IX or Civil Rights Coordinator must contact the complainant and offer to provide the complainant with supportive measures (also referred to as “interim measures” under state law). Supportive measures must be offered to the complainant, before or after the filing of a formal complaint, or where no formal complaint has been filed, or the complainant has opted to resolve the matter using the informal complaint process. Under Title IX, supportive measures may also be provided to the respondent.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or under Title IX the respondent. Supportive measures should be designed to restore or preserve access to ESD 112’s education program or activity without unreasonably burdening the other party. Supportive measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

Confidentiality

If a complainant requests that their name not be revealed to the alleged respondent or asks that ESD 112 not investigate or seek action against the alleged respondent, the request will be forwarded to the Title IX or Civil Rights Coordinator for evaluation. The Title IX or Civil Rights Coordinator will inform the complainant that honoring the request may limit ESD 112's ability to respond fully to the incident, including pursuing disciplinary action against the respondent.

If the complainant still requests that their name remain confidential or doesn't want ESD 112 to investigate or seek action against the alleged respondent, ESD 112 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 ESD 112 activities, including the person who reported the sex discrimination, sexual harassment or discriminatory behavior.

Although a complainant's request to have his or her name withheld may limit ESD 112's ability to respond fully to an individual allegation of the sex discrimination, sexual harassment or discriminatory behavior, ESD 112 will use other appropriate means available to address the sex discrimination, sexual harassment or discriminatory behavior allegations.

Retaliation and False Allegations

ESD 112 prohibits retaliation against any individual who files a complaint under state and federal sex discrimination, sexual harassment and discrimination laws or participates in a complaint investigation. When an informal or formal complaint of sex discrimination, sexual harassment or discrimination is made, ESD 112 will take steps to stop further harassment and prevent any retaliation against the complainant, or the person who was subject of the harassment if not the one filing the complaint, or against those who provided information as a witness. ESD 112 will investigate all allegations of retaliation and take actions against those found to have retaliated.

ESD 112 prohibits knowingly reporting false allegations of sexual discrimination, sexual harassment or discrimination. Persons found to knowingly report or corroborate false allegations will be subject to appropriate discipline.

Formal Complaint Process

Level One – Complaint to District

Anyone may initiate a formal complaint of sex discrimination, sexual harassment, or discrimination even if the informal complaint process is being utilized. At any level in the formal complaint, ESD 112 will take interim measures to protect the complainant and provide supportive measures as explained in this procedure before the final outcome of ESD 112's investigation.

In the event of an alleged sexual assault, an ESD 112 administrator or program director will immediately inform:

- The Title IX or Civil Rights Coordinator so that ESD 112 can appropriately respond to the incident; and
- law enforcement. The ESD 112 administrator or program director will notify the targeted student(s) and their parents/guardians of their right to file a criminal complaint and a sexual harassment complaint simultaneously.

Sexual harassment allegations may qualify as sexual harassment under federal Title IX regulations, which require actions in addition to the process for investigating sexual harassment allegations under state law. The Title IX Coordinator will assess whether a formal complaint of sexual harassment meets the criteria for a Title IX complaint as listed below. If so, ESD 112 will implement investigation and response procedures under state law and the additional Title IX procedures as noted within this procedure.

Under federal law (Title IX), the term "sexual harassment" means conduct based on sex that satisfies one or more of the following:

- An employee of ESD 112 conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively creates a "hostile environment", and denies a person equal access to the education program or activity; or
- Involves any of the following offenses "sexual assault," as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

Filing a Complaint

All formal sex discrimination, sexual harassment and discrimination complaints must be in writing and will set forth the specific acts, conditions or circumstances alleged to have occurred and to constitute sex discrimination, sexual harassment or discrimination. The Title IX or Civil Rights Coordinator may draft the complaint based on the report of the complainant for the complainant to review and approve.

The superintendent, Title IX or Civil Rights Coordinator, may also conclude that ESD 112 needs to conduct an investigation based on information in their possession, regardless of the complainant's interest in filing a formal complaint.

Complaints may be submitted by mail, fax, e-mail or hand-delivery to the ESD 112 Title IX or Civil Rights Coordinator. Any ESD 112 employee who receives a complaint that meets these criteria must promptly notify their supervisor and the Title IX or Civil Rights Coordinator.

ESD 112 will acknowledge receipt of the formal complaint by providing the following written notice to the complainant and respondent(s):

- Notice of the complaint, investigation, and copy of the appropriate policy and procedures;

- Notice of the allegations of sex discrimination, sexual harassment or discrimination with sufficient time for the parties to prepare a response before any initial interview and with sufficient detail. Such sufficient detail includes the identities of the parties involved in the incident if known, the conduct allegedly constituting sex discrimination, sexual harassment, or discrimination and the date and location of the alleged incident if known;
- Notice that the parties may have an advisor of their choice who may be an attorney or non-attorney, and who may inspect and review evidence of the alleged sex discrimination, sexual harassment or discrimination;
- Notice that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility for the alleged sex discrimination, sexual harassment or discrimination is made at the conclusion of the complaint process;
- Notice of any provision in student conduct policies and procedures that prohibits false statements or submitting false information.

ESD 112 will implement additional procedures in response to a sexual harassment complaint when the alleged conduct constitutes sexual harassment as defined by federal Title IX regulations, and:

- The written complaint is filed by the complainant of the alleged sexual harassment, by the complainant's legal guardian, or by the Title IX Coordinator;
- The complainant requests that ESD 112 investigate the allegation(s) of sexual harassment, as defined under Title IX regulations;
- The complaint is against a named respondent(s) who, at the time of the alleged harassment, was under the control of ESD 112 or partnering school district or organization (such as a student, employee, or volunteer);
- The alleged conduct occurred in the United States; and
- The complainant is participating in or attempting to participate in ESD 112's educational program or activity at the time.

If the formal complaint is determined to meet the criteria for a Title IX complaint, ESD 112 will respond promptly in a manner that is not deliberately indifferent. "Deliberately indifferent" means that ESD 112's response is clearly unreasonable in light of the known circumstances.

ESD 112 must investigate allegations contained in a formal complaint following Title IX investigation procedures as described under the investigations section below. If the conduct alleged would not constitute sexual harassment under Title IX regulations even if proved, did not occur in ESD 112's education program or activity, or did not occur against a person in the United States, then the recipient must dismiss the formal complaint under Title IX. Such dismissal does not preclude action under another provision of district policy or procedure or under sex discrimination, sexual harassment or discrimination investigation procedures as required by state law.

Investigations

The Title IX or Civil Rights Coordinator will receive and investigate all formal, written complaints of sex discrimination, sexual harassment and discrimination or information in the coordinator's possession that they believe requires further investigation. The Title IX or Civil Rights Coordinator may delegate their authority to a third-party investigator due to the complexity of a complaint or if such action is necessary to avoid any potential conflicts of interest.

Investigations will be carried out in a manner that is adequate in scope, reliable, and impartial. During the investigation process, the complainant and respondent(s), if the complainant has identified a respondent(s) will have an equal opportunity to present witnesses and relevant evidence. Complainants, witnesses and the respondent(s) may have a trusted adult with them during any ESD 112 initiated investigatory activities. ESD 112 and the complainant may also agree to resolve the complaint in lieu of an investigation.

When the investigation is completed, the assigned investigator will submit a full written report of the complaint and the results of the investigation to the Superintendent.

Under a Title IX investigation, in addition to the procedures listed above, ESD 112 will also:

- Ensure that ESD 112 bears the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility for the alleged sexual harassment. ESD 112 may not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting or assisting in their professional capacity and made and maintained in connection with the provision of treatment to the party unless ESD 112 obtains the party's voluntary, written consent to do so.
- Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
- Provide to a party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all hearings, interviews, or other meetings, with sufficient time for the parties to prepare to participate;
- Prior to the completion of an investigative report, provide an equal opportunity for the parties to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation. This includes evidence that ESD 112 does not intend to rely on in reaching a determination of responsibility for the alleged sexual harassment, regardless of the source of the evidence. The parties will have at least ten (10) days to submit a written response for the investigator to consider prior to completion of the investigative report.;
- At least ten (10) days prior to a determination regarding responsibility, create an investigative report that fairly summarizes relevant evidence, and

send the investigative report in an electronic or hard copy format to each party and each party's advisor for their review and written response.

- After transmitting the investigative report to the parties, but before reaching a final determination regarding responsibility, the decision maker must give each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant unless they are offered to prove that someone other than the respondent committed the conduct alleged by the complainant or unless they concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker must explain to the party proposing the questions any decision to exclude a question as not relevant.

Superintendent Response

The superintendent will respond in writing to the complainant and the respondent(s) 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, ESD 112 will notify the complainant in writing of the reason for the extension and the anticipated response date. At the time ESD 112 responds to the complainant, ESD 112 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:

- A summary of the results of the investigation;
- A statement as to whether a preponderance of the evidence establishes that the complainant experienced sex discrimination, was sexually harassed, or was discriminated against;
- If sex discrimination, sexual harassment or discrimination is found to have occurred, the corrective measures ESD 112 deems necessary, including assurance that ESD 112 will take steps to prevent recurrence and remedy its effects on the complainant and others, if appropriate;
- Notice of the complainant's right to appeal to the ESD 112 board and the necessary filing information; and
- Any corrective measures ESD 112 will take, remedies for the complainant (e.g., sources of counseling, advocacy and academic support), and notice of potential sanctions for the responder(s) (e.g., discipline).

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. If the complaint alleges discriminatory harassment by a named party or parties, the coordinator will provide the respondent(s) or parties with notice of the outcome of the investigation and notice of their right to appeal any discipline or corrective action imposed by ESD 112.

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 respondent(s) is appealing the imposition of discipline and ESD 112 is barred by due process considerations or a lawful order from imposing the discipline until the appeal process is concluded.

Title IX sexual harassment corrective measures procedures do not preclude ESD 112 from removing a student from their educational program on an emergency basis consistent with Policy and Procedure 3241 – Student Discipline and the associated student discipline regulations for emergency expulsion.

ESD 112 will inform the complainant and their parent/guardian how to report any subsequent problems. Additionally, ESD 112 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 ESD 112 and the complainant.

Under Title IX federal regulations, the superintendent's written determination must be issued to the parties simultaneously and must include the following:

- Identification of the allegations potentially constituting sexual harassment under Title IX regulations;
- A description of the procedural steps taken from the time of ESD 112's receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; 3) findings supporting the determination;
- Conclusions regarding the application of ESD 112's code of conduct policies to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and whether remedies designed to restore or preserve equal access to the education program or activity will be provided to the complainant; and
- The procedures for both the complainant and the respondent(s) to appeal the superintendent's determination regarding responsibility or ESD 112's dismissal of any allegations contained in the formal complaint in addition to the complainant's rights to appeal under state requirements and the respondent's potential appeal rights under student discipline provisions of district policy and state requirements.

Under Title IX, a party may appeal the determination regarding responsibility on the following bases:

- Procedural irregularity affecting the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the matter;

- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or individually that affected the outcome of the matter; or
- Additional bases as determined by ESD 112.

Regarding appeal, ESD 112 must:

- Provide written notice to the other party when an appeal is filed;
- Implement appeal procedures equally for both parties;
- Ensure that the decision-maker for the appeal is not the same decision-maker who reached the determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator;
- Ensure that the decision-maker for the appeal has received the training required for decision-makers as required by this procedure.
- Provide both parties with a reasonable, equal opportunity to submit a written statement in support of or challenging the outcome of the initial determination; and
- Issue a written decision describing the result of the appeal and the rationale for the result.

Level Two - Appeal to ESD 112 Board of Directors

If a complainant disagrees with the superintendent's or designee's written decision, the complainant may appeal the decision to the ESD 112 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.

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. ESD 112 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 ESD 112 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:

- A description of the specific acts, conditions or circumstances alleged to violate applicable anti-sexual harassment laws;
- The name and contact information, including address, of the complainant;
- The name and address of the Educational Service District subject to the complaint;
- A copy of ESD 112's complaint and appeal decision, if any; and
- 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.

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 ESD 112 has failed to comply with RCW 28A.642.010 or Chapter 392-190, WAC and will issue a written decision to the complainant and ESD 112 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 ESD 112 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 ESD 112 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, ESD 112 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 ESD 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.

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 | TDD: 1-800-877-8339 | OCR.Seattle@ed.gov | 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

Mediation

At any time during the complaint procedure set forth in WAC 392-190-065 through 392-190-075, ESD 112 may, at its own expense, offer mediation. The complainant and ESD 112 may agree to extend the complaint process deadlines in order to pursue mediation.

The purpose of mediation is to provide both the complainant and ESD 112 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 ESD 112 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 an ESD representative who has authority to bind ESD 112.

Notice

Information about ESD 112's sex discrimination and sexual harassment policy will be easily understandable and conspicuously posted throughout each program

building, in each student, parent and employee handbook and available on the ESD 112 public website.

ESD 112's nondiscrimination statement will be published on the ESD website and in written communications including bulletins, announcements, publications, catalogs, applications forms or recruitment materials that are made available to applicants, students, families of children and participants in ESD 112 programs.

In addition to the posting and reproduction of this procedure and Policy 3205 and Policy 3210, ESD 112 will provide annual notice to employees that complaints pursuant to this procedure may be filed with the Title IX or Civil Rights Coordinator.

Employee Responsibilities and Training

ESD 112 is on notice and required to take action when any employee knows, or in the exercise of reasonable care should know, about possible sex discrimination, sexual harassment or discrimination.

In the event of an alleged sexual assault, the program director will immediately inform the Title IX or Civil Rights Coordinator so that ESD 112 can appropriately respond to the incident consistent with its own complaint procedures and will also notify law enforcement. The program director will notify the targeted student(s) and their parents/guardians of their right to file a criminal complaint and a sexual harassment complaint simultaneously.

ESD 112 will designate and authorize at least one employee to act as "Title IX Coordinator" to coordinate ESD 112's state and federal sex discrimination and sexual harassment regulation compliance efforts and one employee to serve as the "Civil Rights Coordinator" to coordinate ESD 112's state and federal anti-discrimination compliance efforts. The decision-maker who reaches the final determination of responsibility for alleged sex discrimination, sexual harassment, Title IX sexual harassment or discrimination will be the Superintendent or designee. The decision-maker cannot be the same person who serves as the Title IX Coordinator or the investigator of a Title IX complaint.

Any individual designated as Title IX Coordinator, an investigator, or decision-maker, and any person who facilitates an informal resolution process must not have a conflict of interest or bias for or against complainants or respondents in general or individually, and will receive training as required by state and federal laws.

ESD 112 will ensure all employees receive training on sex discrimination, sexual harassment, Title IX and discrimination as required by state and federal laws.

Recordkeeping

Sex Discrimination, Sexual Harassment, and Title IX Sexual Harassment
ESD 112 shall maintain the following records for a period of seven years:

- Records of any informal resolution and the result;
- Records of any formal sex discrimination or sexual harassment complaints;

- Records of sex discrimination, sexual harassment and Title IX sexual harassment investigations, including any determination regarding responsibility and any audio or audiovisual recording or transcript;
- Any remedies and or supportive measures provided to the complainant;
- Any disciplinary sanctions imposed on the respondent;
- Any appeal from the result of a determination regarding responsibility;
- All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

Discrimination

ESD 112 will retain files containing copies of all correspondence relative to each complaint of discrimination communicated to the ESD and the disposition, including any corrective measures instituted by ESD 112 for a period of six years.

Revised Dates: **10.24; 5.25**