

Procedure - Prohibition of Harassment, Intimidation and Bullying

A. Introduction

ESD 112 strives to provide students with optimal conditions for learning by maintaining a program environment where everyone is treated with respect and no one is physically or emotionally harmed.

In order to ensure respect and prevent harm, it is a violation of ESD 112 policy for a student to be harassed, intimidated, or bullied by others in the program community, at ESD 112 sponsored events, or when such actions create a substantial disruption to the educational process. Student(s) will not be harassed because of their race, color, religion, ancestry, national origin, gender, sexual orientation, including gender expression or identity, mental or physical disability, or other distinguishing characteristics.

Any ESD 112 staff who observes, overhears or otherwise witnesses harassment intimidation or bullying or to whom such actions have been reported must take prompt and appropriate action to stop the harassment and to prevent its reoccurrence.

B. Definitions

Aggressor means a student, staff member, or other member of the ESD 112 community who engages in the harassment, intimidation or bullying of a student.

Harassment, intimidation or bullying means an intentional electronic, written, verbal, or physical act that:

1. Physically harms a student or damages the student's property;
2. Has the effect of substantially interfering with a student's education;
3. Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or
4. Has the effect of substantially disrupting the orderly operation of ESD 112.

Conduct that is "substantially interfering with a student's education" will be determined by considering a targeted student's grades, attendance, demeanor, interaction with peers, participation in activities, and other indicators.

Conduct that may rise to the level of harassment, intimidation and bullying may take many forms, including, but not limited to: slurs, rumors, jokes, innuendoes, demeaning comments, drawings, cartoons, pranks, ostracism, physical attacks or threats, gestures, or acts relating to an individual or group whether electronic, written, oral, or physically transmitted messages or images. There is no requirement that the targeted student actually possess the characteristic that is the basis for the harassment, intimidation or bullying.

Incident Reporting Forms may be used by students, families, or staff to report incidents of harassment, intimidation or bullying. A sample form is provided on the Office of Superintendent of Public Instruction's (OSPI) School Safety Center website:
www.k12.wa.us/SafetyCenter/BullyingHarassment/default.aspx.

Retaliation occurs an aggressor harasses, intimidates, or bullies a student who has reported incidents of bullying.

Staff includes, but is not limited to, part time and full time classified, certificated, professional, administrators, substitute and temporary employees, volunteers, or paraprofessionals (both employees and contractors).

Targeted Student means a student against whom harassment, intimidation or bullying has allegedly been perpetrated.

C. Relationship to Other Laws

This procedure applies only to [RCW 28A.300.285 – Harassment, Intimidation and Bullying prevention](#). There are other laws and procedures to address related issues such as sexual harassment or discrimination.

At least four Washington laws may apply to harassment or discrimination:

1. [RCW 28A.300.285 – Harassment, Intimidation and Bullying](#)
2. [RCW 28A.640.020 – Sexual Harassment](#)
3. [RCW 28A.642 – Prohibition of Discrimination in Public Schools](#)
4. [RCW 49.60.010 – The Law Against Discrimination](#)

ESD 112 will ensure its compliance with all state laws regarding harassment, intimidation or bullying. Nothing in this procedure prevents a student, parent/guardian, ESD 112 from taking action to remediate harassment or discrimination based on a person’s gender or membership in a legally protected class under local, state, or federal law.

D. Compliance Officer

The ESD 112 compliance officer will:

1. Serve as the ESD 112’s primary contact for harassment, intimidation and bullying. If the allegations in a written report of harassment, intimidation or bullying indicate a potential violation of Policy 3207, the ESD 112 staff member who receives the report must promptly notify the ESD 112 compliance officer. During the course of an investigation of harassment, intimidation or bullying, if ESD 112 becomes aware of a potential violation of Policy 3207, the ESD 112 investigator must promptly notify the compliance officer. In response, the compliance officer must notify the complainant that their complaint will proceed under the discrimination complaint procedure in WAC 392-190-065 through 392-190-075. The investigation and response timeline begins when ESD 112 knows or should have known that a written report of harassment, intimidation or bullying involves allegations that ESD 112 has violated its Policy 3207;
2. Provide support and assistance in resolving complaints;
3. Receive copies of all Incident Reporting Forms, discipline Referral Forms, and letters to parents providing the outcomes of investigations. If a written report of harassment, intimidation or bullying indicates a potential violation of ESD 112’s nondiscrimination policy [Policy 3210], the compliance officer must promptly notify ESD 112’s civil rights compliance coordinator;
4. Ensure implementation of the policy and procedure by overseeing the investigative processes, including ensuring that investigations are prompt, impartial, and thorough;
5. In cases where, despite ESD 112 efforts, a targeted student experiences harassment, intimidation or bullying that threatens the student’s health and safety, the compliance officer will facilitate a meeting between ESD 112 staff and the child’s parents/guardians to develop a safety plan to protect the student. A sample student safety plan is available on

the OSPI website: www.k12.wa.us/SafetyCenter/default.aspx.

E. Staff Intervention

All staff members will intervene when witnessing or receiving reports of harassment, intimidation or bullying. Minor incidents that staff are able to resolve immediately, or incidents that do not meet the definition of harassment, intimidation or bullying, may require no further action under this procedure.

F. Filing an Incident Reporting Form

Any student who believes he or she has been the target of unresolved, severe, or persistent harassment, intimidation or bullying, or any other person in the school community who observes or receives notice that a student has or may have been the target of unresolved, severe, or persistent harassment, intimidation or bullying may report incidents verbally or in writing to any staff member. If the allegations in a written report of harassment, intimidation or bullying indicate a potential violation of this procedure, the ESD 112 employee who receives the report must promptly notify the HIB compliance officer. Alternatively, during the course of an investigation, if the ESD 112 staff member becomes aware of a potential violation of this procedure, the ESD 112 employee investigating the report must promptly notify the HIB compliance officer.

Upon receipt of this information, the HIB compliance officer must notify the complainant that their complaint will proceed under the discrimination complaint procedure in WAC 392-190-065 through WAC 392-190-075.

G. Addressing Bullying – Reports

Step 1: Filing an Incident Reporting Form

In order to protect a targeted student from retaliation, a student need not reveal his identity on an Incident Reporting Form. The form may be filed anonymously, confidentially, or the student may choose to disclose his or her identity (non-confidential).

Status of Reporter

1. Anonymous

Individuals may file a report without revealing their identity. No disciplinary action will be taken against an alleged aggressor based solely on an anonymous report. Programs may identify complaint boxes or develop other methods for receiving anonymous, unsigned reports. Possible responses to an anonymous report include enhanced monitoring of specific locations at certain times of day or increased monitoring of specific students or staff.

2. Confidential

Individuals may ask that their identities be kept secret from the accused and other students. Like anonymous reports, no disciplinary action will be taken against an alleged aggressor based solely on a confidential report.

3. Non-confidential

Individuals may agree to file a report non-confidentially. Complainants agreeing to make their complaint non-confidential will be informed that due process requirements may require that ESD 112 release all of the information that it has regarding the complaint to any individuals involved in the incident, but that even then, information will still be restricted to those with a need to know, both during and after the investigation. ESD 112 will, however, fully implement the anti-retaliation provision of this policy and procedure to protect complainants and witnesses.

Step 2: Receiving an Incident Reporting Form

All staff are responsible for receiving oral and written reports. Whenever possible staff who initially receive an oral or written report of harassment, intimidation or bullying will attempt to resolve the incident immediately. If the incident is resolved to the satisfaction of the parties involved, or if the incident does not meet the definition of harassment, intimidation or bullying, no further action may be necessary under this procedure.

All reports of unresolved, severe, or persistent harassment, intimidation or bullying will be recorded and submitted to the Assistant Superintendent of Teaching and Learning or designee, unless the Assistant Superintendent of Teaching and Learning or designee is the subject of the complaint.

Step 3: Investigations of Unresolved, Severe, or Persistent Harassment, Intimidation and Bullying

All reports of unresolved, severe, or persistent harassment, intimidation or bullying will be investigated with reasonable promptness. Any student may have a trusted adult with them throughout the report and investigation process.

1. Upon receipt of the Incident Reporting Form that alleges unresolved, severe, or persistent harassment, intimidation or bullying, the ESD 112 designee will begin the investigation. If there is potential for clear and immediate physical harm to the complainant, ESD 112 will immediately contact law enforcement and inform the parent/guardian.
2. During the course of the investigation, ESD 112 will take reasonable measures to ensure that no further incidents of harassment, intimidation or bullying occur between the complainant and the alleged aggressor. If necessary, ESD 112 will implement a safety plan for the student(s) involved.
3. If, during the course of an investigation, the ESD 112 employee conducting the investigation becomes aware of a potential violation of ESD 112's nondiscrimination policy [Policy 3210], the investigator will promptly notify ESD 112's compliance officer must notify the complainant that their complaint will proceed under the discrimination complaint procedure in WAC 392-190-066 through WAC 392-190-075 as well as the HIB complaint procedure. The notice must be provided in a language that the complainant can understand. The investigation and response timeline for the discrimination complaint procedure will follow that set forth in WAC 392-190-065 and begins when ESD 112 knows or should have known that a written report of harassment, intimidation or bullying involves allegations of a violation ESD 112's nondiscrimination policy.
4. Within two (2) program days after receiving the Incident Reporting Form, the ESD 112 designee will notify the families of the students involved that a complaint was received and direct the families to ESD 112's policy and procedure on harassment, intimidation and bullying.
5. In rare cases, where after consultation with the student and appropriate staff (such as a psychologist, counselor, or social worker) ESD 112 has evidence that it would threaten the health and safety of the complainant or the alleged aggressor to involve his or her parent/guardian, ESD 112 may initially refrain from contacting the parent/guardian in its investigation of harassment, intimidation and bullying. If professional program personnel suspect that a student is subject to abuse and neglect, they must follow ESD 112 policy for reporting suspected cases to Child Protective Services.
6. The investigation will include, at a minimum:
 - a. An interview with the complainant;
 - b. An interview with the alleged aggressor;
 - c. A review of any previous complaints involving either the complainant or the alleged aggressor; and
 - d. Interviews with other students or staff members who may have knowledge of the alleged incident.

7. The Assistant Superintendent of Teaching and Learning or designee may determine that other steps must be taken before the investigation is complete.
8. The investigation will be completed as soon as practicable but generally no later than five (5) program days from the initial complaint or report. If more time is needed to complete an investigation, ESD 112 will provide the parent/guardian and/or the student with weekly updates.
9. No later than two (2) program days after the investigation has been completed and submitted to the compliance officer, the Assistant Superintendent of Teaching and Learning or designee will respond in writing or in person to the parent/guardian of the complainant and the alleged aggressor stating:
 - a. The results of the investigation;
 - b. Whether the allegations were found to be factual;
 - c. Whether there was a violation of policy; and
 - d. The process for the complainant to file an appeal if the complainant disagrees with the results.

Because of the legal requirement regarding the confidentiality of student records, the Assistant Superintendent of Teaching and Learning or designee may not be able to report specific information to the targeted student's parent/guardian about any disciplinary action taken unless it involves a directive that the targeted student must be aware of in order to report violations.

If ESD 112 chooses to contact the parent/guardian by letter, the letter will be mailed to the parent/guardian of the complainant and alleged aggressor by United States Postal Service with return receipt requested unless it is determined, after consultation with the student and appropriate staff (psychologist, counselor, social worker) that it could endanger the complainant or the alleged aggressor to involve his or her family. If professional school personnel suspect that a student is subject to abuse or neglect, as mandatory reporters they must follow district policy for reporting suspected cases to Child Protective Services.

Step 4: Corrective Measures for the Aggressor

After completion of the investigation, the Assistant Superintendent of Teaching and Learning or designee will institute any corrective measures necessary. Corrective measures will be instituted as quickly as possible, but in no event more than five (5) program days after contact has been made to the families or guardians regarding the outcome of the investigation. Corrective measures that involve student discipline will be implemented according to Policy 3241. If the accused aggressor is appealing the imposition of discipline, ESD 112 may be prevented by due process considerations or a lawful order from imposing the discipline until the appeal process is concluded.

If in an investigation the Assistant Superintendent of Teaching and Learning or designee found that a student knowingly made a false allegation of harassment, intimidation or bullying, that student may be subject to corrective measures, including discipline.

Step 5: Targeted Student's Right to Appeal

1. If the complainant or parent/guardian is dissatisfied with the results of the investigation, they may appeal to the Superintendent or his or her designee by filing a written notice of appeal within five (5) program days of receiving the written decision. The Superintendent or his or her designee will review the investigative report and issue a written decision on the merits of the appeal within five (5) program days of receiving the notice of appeal.

2. If the targeted student remains dissatisfied after the initial appeal to the Superintendent, the student may appeal to the ESD 112 Board of Directors by filing a written notice of appeal with the Superintendent on or before the fifth (5) program day following the date upon which the complainant received the Superintendent's written decision.
3. An appeal before the ESD 112 Board of Directors must be heard on or before the tenth (10th) program day following the filing of the written notice of appeal to the Board. The Board will review the record and render a written decision on the merits of the appeal on or before the fifth (5th) program day following the termination of the hearing, and will provide a copy to all parties involved. The Board's decision will be the final ESD 112 decision.

Step 6: Discipline/Corrective Action

ESD 112 will take prompt and equitable corrective measures within its authority on findings of harassment, intimidation or bullying. Depending on the severity of the conduct, corrective measures may include counseling, education, discipline, and/or referral to law enforcement.

Corrective measures for a student who commits an act of harassment, intimidation or bullying will be varied and graded according to the nature of the behavior, the developmental age of the student, or the student's history of problem behaviors and performance. Corrective measures that involve student discipline will be implemented according to Policy 3241.

If staff have been found to be in violation of this policy and procedure, ESD 112 may impose employment disciplinary action, up to and including termination. If a certificated educator is found to have committed a violation of [WAC 181-87](#), commonly called the Code of Conduct for Professional Educators, OSPI's Office of Professional Practices may propose disciplinary action on a certificate, up to and including revocation. Contractor violations of this policy may include the loss of contracts.

Step 7: Support for the Targeted Student

Persons found to have been subjected to harassment, intimidation or bullying will have appropriate ESD 112 support services made available to them, and the adverse impact of the harassment on the student will be addressed and remedied as appropriate.

H. Immunity/Retaliation

No ESD 112 employee, student, or volunteer may engage in reprisal or retaliation against a targeted student, witness, or other person who brings forward information about an alleged act of harassment, intimidation or bullying. Retaliation is prohibited and will result in appropriate discipline.

I. Other Resources

Students and families should use ESD 112's complaint and appeal procedures as a first response to allegations of harassment, intimidation and bullying. However, nothing in this procedure prevents a student, parent/guardian, or ESD 112 from taking action to remediate discrimination or harassment based on a person's membership in a legally protected class under local, state or federal law. A harassment, intimidation or bullying complaint may also be reported to the following state or federal agencies:

- OSPI Equity and Civil Rights Office
360.725.6162
Email: equity@k12.wa.us
www.k12.wa.us/Equity/default.aspx
- Washington State Human Rights Commission
800.233.3247
www.hum.wa.gov/index.html
- Office for Civil Rights, U.S. Department of Education, Region IX
206.607.1600
Email: OCR.Seattle@ed.gov

www.ed.gov/about/offices/list/ocr/index.html

- Department of Justice Community Relations Service
877.292.3804
www.justice.gov/crt/
- Office of the Education Ombuds
866.297-2597
Email: OEInfo@gov.wa.gov
<http://oeo.wa.gov/>
- OSPI Safety Center
360.725-6044
www.k12.wa.us/SafetyCenter/BullyingHarassment/default.aspx

J. **Other ESD 112 Policies and Procedures**

Nothing in this policy or procedure is intended to prohibit discipline or remedial action for inappropriate behaviors that do not rise to the level of harassment, intimidation or bullying as defined in this policy but which are, or may be, prohibited by other ESD 112 rules.