

Procedure: Nondiscrimination

This procedure implements Policy 3210 and provides a process to assure that the resolution of real or alleged violations are directed toward a just solution that is satisfactory to the complainant and ESD 112. This grievance procedure will apply to the general conditions of the nondiscrimination policy (Policy 3210).

- A. **Grievance** means a complaint which has been filed by a complainant relating to alleged violations of any state or federal anti-discrimination laws.
- B. **Complaint** means a written charge alleging specific acts, conditions or circumstances, which are in violation of the anti-discrimination laws. 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 be extended if the complainant was prevented from filing due to: 1) Specific misrepresentations by ESD 112 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. Complaints may be submitted by mail, fax, e-mail or hand-delivery to ESD 112 or directly to the ESD 112 compliance officer. Any ESD 112 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 a justifiable complaint. To this end, specific steps will be taken. ESD 112 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.

A. Informal Complaint Process

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 course of the informal process, ESD 112 must notify complainant of their right to file a formal complaint.

B. Formal Complaint Process

Level One: Complaint to ESD 112

The complaint must set forth the specific acts, conditions or circumstances alleged to be in violation. Upon receipt of a complaint, the compliance officer must provide the complainant a copy of this procedure. The compliance officer must investigate the allegations within 30 calendar days. ESD 112 and complainant may agree to resolve the complaint in lieu of an investigation. The officer shall provide the Superintendent with a full written report of the complaint and the results of the investigation.

The Superintendent 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, 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 decision of the Superintendent will include: 1) a summary of the results of the investigation; 2) whether ESD 112 has failed to comply with anti-discrimination laws; 3) if non-compliance is found, corrective measures ESD 112 deems necessary to correct it; and 4) notice of the complainant's right to appeal to the ESD 112 Board and the necessary filing information. The Superintendent'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 mailing of a written response to the complaining party unless otherwise agreed to by the complainant.

Level Two – Appeal to the Board of Directors

If a complainant disagrees with the Superintendent's written decision, the complainant may appeal the decision to the ESD 112 Board of Directors by filing a written notice of appeal to the Superintendent within ten (10) calendar days following the date upon which the complainant received the response.

The Board shall 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 shall 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 hearing and provide the complainant with a copy of the decision. The decision of the Board 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. 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, or if ESD 112 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's decision, unless the Superintendent of Public Instruction grants an extension for good cause, complaints may be submitted by mail, fax, electronic mail, or hand delivery.
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 ESD 112's Superintendent; 4) A copy of ESD 112's 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 ESD 112 has failed to comply with applicable state law 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.

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

If the complainant or ESD 112 desires to appeal the written decision of the Office of the Superintendent of Public Instruction, they 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.

C. Mediation

At any time during the Level III discrimination complaint procedure, ESD 112 may, at its own expense, offer mediation. The complainant and ESD 112 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 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 will be conducted by a qualified and impartial mediator who may not: 1) Be an employee of ESD 112, 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, a school district or charter school or other public or private agency solely because he or she serves as a mediator.

D. Preservation of Records

The files containing copies of all correspondence relative to each complaint communicated to the ESD 112 and the disposition, including any corrective measures instituted by ESD 112, will be retained in the office of the compliance officer in accordance with record retention laws.