

**NONDISCRIMINATION GRIEVANCE PROCEDURE**

To ensure fairness and consistency, the following review procedures are to be used in the NWESD 189's relationship with its staff with regard to employment problems covered by state and federal equal employment opportunity (nondiscrimination) laws. No staff member's status with the NWESD 189 will be adversely affected in any way because the staff member utilized these procedures. As used in this procedure,

"Grievance" means a complaint which has been filed by an employee relating to alleged violations of any state or federal anti-discrimination laws.

"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 (1) year from the date of the alleged 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 NWESD 189 that it had resolved the problem forming the basis of the complaint; and/or 2) withholding of information that the NWESD 189 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 the NWESD 189 operations office, any NWESD 189 student program office, or to the NWESD 189 Compliance Officer responsible for investigating discrimination complaints. Any NWESD 189 employee who receives a complaint that meets these criteria will promptly notify the Compliance Officer.

"Respondent" will mean the person alleged to be responsible or who may be responsible for the violation alleged in the complaint.

"Compliance Officer" will mean the Compliance Officer designated pursuant to Policy 5010.

The primary purpose of this procedure is to secure an equitable solution to a justifiable complaint. To this end, specific steps will be taken. The NWESD 189 is prohibited by law from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with his/her right to file a grievance under this procedure and from retaliating against an individual for filing such a grievance.

**Informal Process for Resolution**

When a staff member has an employment problem concerning equal employment opportunity, he/she will discuss the problem with the immediate supervisor, personnel director or Superintendent. The staff member may also ask the Compliance Officer to participate in the informal review procedure. It is intended that the informal discussion will resolve the issue. If the staff member feels he/she cannot approach the supervisor because of the supervisor's involvement in the alleged discrimination, the staff member may directly contact the Compliance Officer before pursuing informal or formal procedures. If the discussion with the immediate supervisor, personnel director, Superintendent or Compliance Officer does not resolve the issue the staff member may proceed to

the formal review procedures. During the course of the informal process, the NWESD 189 will notify complainant of his/her right to file a formal complaint.

### **Formal Process for Resolution**

#### **Level One – Complaint to the Superintendent**

The complaint must be written and signed by the complainant, and set forth the specific acts, conditions, or circumstances alleged to be in violation. Form 5274-F1 should be used for the purpose of filing the complaint. Upon receipt of a complaint, the Compliance Officer will provide the complainant a copy of this procedure and investigate the allegations within thirty (30) calendar days. The NWESD 189 and complainant may agree to resolve the complaint in lieu of an investigation. The Compliance Officer will provide the Superintendent with a full written report of the complaint and the results of the investigation.

The Superintendent, or designee, will respond to the complainant with a written decision as expeditiously as possible, but in no event later than thirty (30) calendar days following receipt of the written complaint, unless otherwise agreed to by the complainant or if exceptional circumstances related to the complaint require an extension of the time limit. In the event an extension is needed, the NWESD 189 will notify the complainant in writing of the reason for the extension and the anticipated response date. At the time the NWESD 189 responds to the complainant, the NWESD 189 must send a copy of the response to OSPI.

The written response of the Superintendent, or designee, will include:

- 1) a summary of the results of the investigation;
- 2) whether the NWESD 189 has failed to comply with anti-discrimination laws;
- 3) if non-compliance is found, corrective measures the NWESD 189 deems necessary to correct it; and
- 4) notice of the complainant's right to appeal to the governing board and the necessary filing information.

The Superintendent's or designee's response will be provided in a language the complainant can understand and may require language assistance for complainants with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964.

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

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

If a complainant disagrees with the Superintendent's or designee's written decision, the complainant may file 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 at its next regularly scheduled meeting 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 hearing and will 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 Office of the Superintendent of Public Instruction (OSPI) and will identify where and to whom the appeal must be filed. The NWESD 189 will send a copy of the appeal decision to OSPI.

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

If a complainant disagrees with the decision of the Board of Directors, or if the NWESD 189 fails to comply with the procedure, the complainant may file a complaint with the Office of the Superintendent of Public Instruction (OSPI).

- 1) A complaint must be received by OSPI on or before the twentieth (20th) calendar day following the date upon which the complainant received written notice of the Board of Directors' decision, unless OSPI 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:
  - A) a description of the specific acts, conditions, or circumstances alleged to violate applicable anti-discrimination laws;
  - B) the name and contact information, including address, of the complainant;
  - C) the name and address of the NWESD 189 subject to the complaint;
  - D) a copy of the NWESD 189's complaint and appeal decision, if any; and
  - E) 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, OSPI 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 NWESD 189 has failed to comply with RCW 28A.642.010 or Chapter 392-190, WAC and will issue a written decision to the complainant and the NWESD 189 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 NWESD 189 must provide to demonstrate that corrective action has been completed.

All corrective actions must be completed within the timelines established by OSPI in the written decision unless OSPI grants an extension. If timely compliance is not achieved, OSPI may take action including, but not limited to, referring the NWESD 189 to appropriate state or federal agencies empowered to order compliance.

A complaint may be resolved at any time when, before the completion of the investigation, the NWESD 189 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 the NWESD 189 may appeal the written decision of the Office of the Superintendent of Public Instruction (OSPI) by filing a written notice of appeal with OSPI within thirty (30) calendar days following the date of receipt of its written decision. OSPI will conduct a formal administrative hearing in conformance with the Administrative Procedures Act, Chapter 34.05, RCW.

#### **Mediation**

At any time during the discrimination complaint procedure set forth in WAC 392-190-065 through 392-190-075, the NWESD 189 may, at its own expense, offer mediation. The complainant and the NWESD 189 may agree to extend the discrimination complaint process deadlines in order to pursue mediation.

The purpose of mediation is to provide both the complainant and the NWESD 189 an opportunity to resolve disputes and reach a mutually acceptable agreement through the use of an impartial mediator. Mediation must be voluntary and requires the mutual agreement of both parties. It may be terminated by either party at any time during the mediation process. It may not be used to deny or delay a complainant's right to utilize the complaint procedures.

Mediation must be conducted by a qualified and impartial mediator who may not:

- 1) be an employee of any school district, public charter school, or other public or private agency that is providing education related services to a student who is the subject of the complaint being mediated; or
- 2) have a personal or professional conflict of interest.

A mediator is not considered an employee of the district or charter school or other public or private agency solely because he or she serves as a mediator.

If the parties reach agreement through mediation, they may execute a legally binding Agreement that sets forth the resolution and states that all discussions that occurred during the course of mediation will remain confidential and may not be used as evidence in any subsequent complaint, due process hearing or civil proceeding. The Agreement must be signed by the complainant and a NWESD 189 representative who has authority to bind the NWESD 189.

If a complainant remains aggrieved, they may seek resolution with federal or state agencies empowered with the authority to resolve such complaint.

### **Preservation of Records**

The files containing copies of all correspondence relative to each complaint communicated to the NWESD 189 and the disposition, including any corrective measures instituted by the NWESD 189, will be retained in the office of the Compliance Officer for a period of six (6) years.

### **Resources**

1) NWESD 189 Contact

NWESD Compliance Officer  
Assistant Superintendent for Operations  
1601 R Avenue  
Anacortes, WA 98221  
360-299-4000  
360-299-4070 fax

2) State Contacts

Superintendent of Public Instruction  
Equity and Civil Rights Office  
P.O. Box 47200  
Olympia, WA 98504-7200  
360-725-6162

Washington State Human Rights Commission  
711 South Capitol Way, Suite 402  
P.O. Box 42490  
Olympia, WA 98504-2490  
360-753-6770

Office for Civil Rights  
U.S. Department of Education  
915 Second Avenue, Room 3310  
Seattle, WA 98174  
206-607-1600

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