

3400 NONDISCRIMINATION

ESD 105 shall provide equal employment opportunity and treatment for all applicants and staff in recruitment, hiring, retention, assignment, transfer, promotion, and training. Such equal employment opportunity shall be provided without discrimination with respect to race, creed, religion, color, national origin, age, honorably-discharged veteran or military status, sex, sexual orientation including gender expression or identity, marital status, the presence of any sensory, mental or physical disability, or the use of a trained dog guide or service animal by a person with a disability. Domestic partners registered with the state of Washington will be offered the same rights/benefits as spouses to the extent that treatment is not in conflict with state or federal law. The Superintendent shall designate a staff member to serve as the compliance officer.

Employment of Persons with Disabilities

In order to fulfill its commitment of nondiscrimination to those with disabilities, the following conditions shall prevail:

- 1) No qualified person with disabilities shall, solely by reason of a disability, be subjected to discrimination, and the ESD 105 shall not limit, segregate or classify any applicants for employment or any staff member in any way that adversely affects his/her opportunities or status because of a disability. This prohibition applies to all aspects of employment from recruitment to promotions and includes fringe benefits and other elements of compensation.
- 2) ESD 105 shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified disabled applicant or staff member unless it is clear that an accommodation would impose an undue hardship on the operation of the ESD 105 program. The Superintendent or designee shall appoint an Accommodation Committee to consider employee requests for such accommodations pursuant to Forms 3400-F1 and 3400-F2. Such reasonable accommodations may include:
 - A) making facilities used by staff readily accessible and usable by persons with disabilities; and,
 - B) job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters and other similar actions.

In determining whether or not accommodation would impose an undue hardship on the ESD 105, factors to be considered include the nature and cost of the accommodation.

- 3) ESD 105 shall not make use of any employment test or criteria that screens out persons with disabilities unless.
 - A) the test or criteria is clearly and specifically job-related; and
 - B) alternative tests or criteria that do not screen out persons with disabilities are not available.
- 4) While ESD 105 may not make pre-employment inquiry as to whether an applicant has a disability or as to the nature and severity of any such disability, it may inquire into an applicant's ability to perform job-related functions.

- 5) Any staff member who believes that there has been a violation of this policy or the law prohibiting discrimination because of a disability may initiate a grievance through the procedures for staff complaints.

Nondiscrimination for Military Service

ESD 105 will not discriminate against any person who is a member of, applies to be a member or, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service, on the basis of that participation in a uniformed service. This includes in initial employment, retention in employment, promotion, or any benefit of employment. The ESD 105 will also not discriminate against any person who has participated in the enforcement of these rights under state or federal law.

ESD 105 Board Approved: 1/15/13

Reference:

RCW 28A.310.010
RCW 28A.640.020
RCW 28A.642
RCW 49.60
RCW 49.60.030
RCW 49.60.180
RCW 49.60.400
RCW 73.16
WAC 162-22-025
WAC 392-190
WAC 392-200
WAC 392-190-0592
42 USC 2000e1-2000e10
20 USC § 1681-1688
42 USC §§ 12101-12213
38 USC §§ 4301-4333
8 USC 1324
29 USC 794
34 CFR § 104

3400-P Nondiscrimination Grievance

To ensure fairness and consistency, the following grievance procedure is to be used with regard to employment problems covered by state and federal equal employment opportunity (nondiscrimination) laws. No staff member's status with ESD 105 shall be adversely affected in any way because the staff member utilized these procedures. As used in this procedure,

"Grievance" shall mean a complaint which has been filed by a complainant (a student, an employee, a parent or guardian, an applicant) relating to alleged violations of any anti-discrimination law including Title IX regulations and Washington Administrative Code (WAC) 392-190, Section 504 of the Rehabilitation Act of 1973, 42 U.S.C. §§ 12101-12213 Americans With Disabilities Act (ADA) or Title VII of the Civil Rights Act of 1964.

A complaint shall mean a charge alleging specific acts, conditions or circumstances, which are in violation of the anti-discrimination laws. A respondent shall mean 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; hence, the following steps shall be taken:

Informal Review Procedures

When a staff member has an employment problem concerning equal employment opportunity, he/she shall discuss the problem with the immediate supervisor, personnel director or Superintendent within sixty (60) days of the circumstances which gave rise to the problem. The staff member may also ask the Title IX officer to participate in the informal review procedure. It is intended that the informal discussion shall 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 Title IX officer before pursuing informal or formal procedures. If the discussion with the immediate supervisor or Title IX officer does not resolve the issue the staff member may proceed to the formal review procedures.

Formal Review

The complaint must be signed by the complaining party and set forth the specific acts, conditions, or circumstances alleged to be in violation. The Title IX officer shall investigate the allegations set forth within thirty (30) calendar days of the filing of the charge. The officer shall provide the Superintendent with a full written report of the complaint and the results of the investigation. The Superintendent shall respond in writing to the complainant as expeditiously as possible, but in no event later than thirty (30) calendar days following receipt of the written complaint. The Superintendent shall state that ESD 105 either:

- 1) denies the allegations contained in the written complaint received by ESD 105, or
- 2) shall implement reasonable measures to eliminate any such act, conditions, or circumstance.

Such corrective measures deemed necessary shall be instituted as expeditiously as possible, but in no event later than thirty (30) calendar days following the Superintendent's mailing of a written response to the complaining party.

**Preservation of
Records**

The files containing copies of all correspondence relative to each complaint communicated to ESD 105 and the disposition, including any corrective measures instituted by ESD 105, shall be retained in the office of the ESD 105 compliance officer for a period of five (5) years.

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