

Equal Employment Opportunity and Affirmative Action

Purpose

This procedure guides Valley School District staff in recognizing and fulfilling the principles of equal opportunity employment and directs complainants in procedures towards equitable resolution of justifiable complaints concerning employment.

Scope

This procedure applies to all Valley School District employees and applicants for employment.

Procedure

1. INTRODUCTION

The needs of all persons in a pluralistic society must be understood in order to continue to create an employment atmosphere compatible with and receptive to all persons. Staff awareness and attention to nondiscriminatory actions in the employment process will assure that a meaningful educational experience may continue to exist for students and staff alike.

2. EMPLOYMENT OF PERSONS WITH DISABILITIES

- 2.1. No qualified person with disabilities will, solely by reason of a disability, be subjected to discrimination and personnel will 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.
- 2.2. The district will 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 district program. In determining whether or not accommodation would impose an undue hardship on the district, factors to be considered include the nature and cost of the accommodation. Such reasonable accommodations may include:
 - (a) Making facilities used by staff readily accessible and usable by persons with disabilities.
 - (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.
- 2.3. The district will not use any employment test or criteria that screens out persons with disabilities unless the test or criteria is clearly and specifically job-related. Also, the district will not use such tests or criteria if alternative test or criteria (that do not screen out persons with disabilities) are available.
- 2.4. While the district 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.

3. **NONDISCRIMINATION FOR MILITARY SERVICE**

The district 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 initial employment, retention in employment, promotion or any benefit of employment. The district will also not discriminate against any person who has participated in the enforcement of these rights under state or federal law.

4. **AFFIRMATIVE ACTION PLAN**

The district will set forth and periodically update a written Affirmative Action Plan (Form 5010F1). Implementation of the affirmative action plan will be the responsibility of the Superintendent and designee(s). Administrators will assist in the attainment of Affirmative Action, which may include the following goals and/or purposes:

- 4.1. Make efforts to modify the composition of the future work force in order to work toward a full utilization of aged persons, persons with disabilities, racial and ethnic minorities, women, and Vietnam veterans in the various job categories.
- 4.2. Ensure that all applicants and staff are considered on the basis of bona fide job-related qualifications. The purpose of the affirmative action plan is to actively include persons of under-utilized classes in the employment process, not to exclude others from it. The district will continue to emphasize in all recruitment contacts that nondiscrimination is a basic element in the district's personnel procedures.
- 4.3. Be responsible for reviewing all employment procedures and programs to assure that there is no indication of discriminatory practices.
- 4.4. Job descriptions for classified staff will be sent to the Washington Employment Service and other organizations which are recruiting sources for groups that may be under-utilized in the district's work force. Recruitment from colleges and universities will include institutions with high percentages of students of various ethnic minorities.
- 4.5. Contract and purchase all goods and services from persons, agencies, vendors, contractors, and organizations who comply with the appropriate laws and executive orders regarding discrimination.
- 4.6. Take appropriate action to attract and retain aged persons, persons with disabilities, racial and ethnic minorities, women and Vietnam Veterans at all levels and in all segments of the district's work force. Criteria for selecting staff will be reviewed regularly to assure that such statements relate directly to the requirements for specific positions. However, pursuant to state law there will be no preferential employment practices based on race or gender.
- 4.7. Upgrade present staff by providing management development training to assure that individuals of under-utilized groups are prepared for positions of new and increased responsibility.

- 4.8. Policy 5010, this procedure, and the Affirmative Action Plan will be disseminated widely to staff and all interested parties. Progress toward the affirmative action goals established under Policy 5010 will be reported annually to the Board of Directors.

5. RESOLUTION OF GRIEVANCES

- 5.1. To ensure fairness and consistency, the following grievance procedure is to be used in the district's relationship with its staff with regard to employment problems covered by state and federal equal employment opportunity laws and/or the affirmative action program. The primary purpose of the grievance process is to make every reasonable effort to obtain an equitable solution to a justifiable complaint.

5.1.1. No staff member's status with the district will be adversely affected in any way because the staff member utilized these procedures.

5.1.2. The district 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 procedure and from retaliating against an individual for filing such a grievance.

5.2. Definitions

5.2.1. 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.

5.2.2. A "complaint" means a written, charge alleging specific acts, conditions or circumstances, which are in violation of the anti-discrimination laws.

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

5.3. General Provisions

5.3.1. The time period for filing a complaint is one (1) year from the date of the 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:

(a) Specific misrepresentations by the district that it had resolved the problem forming the basis of the complaint.

(b) Withholding of information that the district was required to provide under WAC 392-190-065 or WAC 392-190-005.

5.3.2. Complaints may be submitted by mail, fax, email or hand-delivery to any district, school or to the district compliance officer responsible for investigating discrimination complaints. Any district employee who receives a complaint that meets these criteria will promptly notify the compliance officer.

5.4. Informal Process for Resolution

- 5.4.1. Prior to making a formal complaint as outlined in level one of the formal process below, when a staff member has an employment problem concerning equal employment opportunity, he/she will discuss the problem with the Title IX officer, compliance officer or Superintendent within sixty (60) calendar days of the circumstances which gave rise to the problem. The staff member may also ask the compliance officer to participate in the informal review procedure, if he/she is not otherwise involved. It is intended that the informal discussion will resolve the issue.
- 5.4.2. 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 formal procedures.
- 5.4.3. The Title IX officer, compliance officer or designees will attempt to informally resolve the complaint and will notify the complainant within thirty (30) calendar days of a proposed resolution. If the discussion with the officer(s) or immediate supervisor does not resolve the issue, the staff member may proceed to the formal review process.
- 5.4.4. During the course of the informal process, the district representative will notify the complainant of their right to file a formal complaint.

5.5. Formal Process, Level One: Complaint to the District

- 5.5.1. The complaint must set forth the specific acts, conditions, or circumstances alleged to be in violation. Upon receipt of a complaint, the Title IX officer or compliance officer will provide the complainant a copy of this procedure. The officer will investigate the allegations within thirty (30) calendar days. The school district and complainant may agree to resolve the complaint in lieu of an investigation.
- 5.5.2. The officer will provide the Superintendent with a full written report of the complaint and the results of the investigation. The complaint will be recorded in the district log of discrimination complaints maintained at the Superintendent's office.
- 5.5.3. 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.
 - 5.5.3.1. In the event an extension is needed, the district will notify the complainant in writing of the reason for the extension and the anticipated response date.

- 5.5.3.2. At the time the district responds to the complainant, the district must send a copy of the response to the Office of Superintendent of Public Instruction (OSPI).
- 5.5.4. The decision of the Superintendent or designee will include:
 - (a) A summary of the results of the investigation.
 - (b) Whether the district has failed to comply with anti-discrimination laws.
 - (c) If non-compliance is found, corrective measures the district deems necessary to correct it.
 - (d) Notice of the complainant's right to appeal to the Board of Directors and the necessary filing information.
- 5.5.5. 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.
- 5.5.6. Any corrective measures deemed necessary will 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, unless otherwise agreed to by the complainant.
- 5.6. **Formal Process, Level Two: Appeal to the Board of Directors**
 - 5.6.1. 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.
 - 5.6.2. The Board will schedule a hearing to commence by the twentieth (20) 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.
 - 5.6.3. 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.
 - 5.6.4. The decision response 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.
 - 5.6.5. The decision will include notice of the complainant's right to appeal to the Office of Superintendent of Public Instruction and will identify where and

to whom the appeal must be filed. The district will send a copy of the appeal decision to OSPI.

5.7. Formal Process, Level Three: Complaint to the Superintendent of Public Instruction

- 5.7.1. If a complainant disagrees with the decision of the Board of Directors, or if the district fails to comply with this procedure, the complainant may file a complaint with the Office of Superintendent of Public Instruction.
- 5.7.2. A complaint must be received by the Office of 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 Office of Superintendent of Public Instruction grants an extension for good cause. Complaints may be submitted by mail, fax, electronic mail, or hand-delivery.
- 5.7.3. 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 district subject to the complaint.
 - (d) A copy of the district's complaint and appeal decision, if any.
 - (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.
- 5.7.4. 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.
- 5.7.5. Following the investigation, OSPI will make an independent determination as to whether the district has failed to comply with RCW 28A.642.010 or WAC 392-190, and will issue a written decision to the complainant and the district 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 district must provide to demonstrate that corrective action has been completed.
- 5.7.6. 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 district to appropriate state or federal agencies empowered to order compliance.

- 5.7.7. A complaint may be resolved at any time when, before the completion of the investigation, the district voluntarily agrees to resolve the complaint. OSPI may provide technical assistance and dispute resolution methods to resolve a complaint.

5.8. Formal Process, Level Four: Administrative Hearing

A complainant or school district that desires to appeal the written decision of Office of 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.

5.9. Option of Mediation

- 5.9.1. At any time during the discrimination complaint procedure set forth in WAC 392-190-065 through 392-190-075, a district may, at its own expense, offer mediation. The complainant and the district may agree to extend the discrimination complaint process deadlines in order to pursue mediation.
- 5.9.2. The purpose of mediation is to provide both the complainant and the district 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 pursued to deny or delay a complainant's right to utilize the complaint procedures.
- 5.9.3. Mediation must be conducted by a qualified and impartial mediator who may not:
- (a) 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.
 - (b) 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.
- 5.9.4. 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 district representative who has authority to bind the district.

6. PRESERVATION OF RECORDS

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

7. RESOURCES

7.1. District Contacts

- (a) *Ben Ferney, Superintendent and Compliance Officer*; 3030 Huffman Road, Valley, Washington, 99181; (509) 937-2770; Ben.Ferney@valleysd.org
- (b) *Danielle Tupek, Human Resources Manager and Title IX Officer*; 3030 Huffman Road, Valley, Washington, 99181; (509) 937-2773; Danielle.Tupek@valleysd.org
- (c) *Ken Davis, Special Services Director and 504/ADA Coordinator*; 3030 Huffman Road, Valley, Washington, 99181; (509) 937-2642; Ken.Davis@valleysd.org

7.2. State Contacts

- (a) *Equity and Civil Rights Office, Superintendent of Public Instruction*, P.O. Box 47200; 600 Washington St. S.E., Olympia, Washington, 98504-7200 (360)725-6162; TTS (360) 664-3631; FAX: (360) 664-2967
Email: equity@k12.wa.us
<https://www.k12.wa.us/policy-funding/equity-and-civil-rights>
- (b) *Washington State Human Rights Commission*, 711 South Capital Way, Suite 402; P.O. Box 42490, Olympia, Washington, 98504-2490; (360) 753-6770; FAX: (360) 586-2282; Toll Free: (800) 233-3247; TTY: (360) 586-2585
www.hum.wa.gov/index.html
- (a) *Office of Civil Rights, U.S. Department of Education, Region IX*
915 Second Avenue, Room 3310, Seattle, Washington, 98174
(360) 607-1600; TDD: (800) 877-8339
Email: OCR.Seattle@ed.gov
<https://www2.ed.gov/about/offices/list/ocr/index.html?src=oc>

Supporting Documentation

5010F1-Affirmative Action Plan

Document History

Action:	Date:
New	March 18, 2015
Revised	February 19, 2020