

Prohibition of Harassment, Intimidation, and Bullying

Introduction

The Educational Service District 123 (ESD 123) strives to provide students with optimal conditions for learning by maintaining a programming 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 123 policy for a student to be harassed, intimidated, or bullied by others in the educational program community, at program-sponsored events, or when such actions create a substantial disruption to the educational process. The educational program community includes all students, ESD 123 employees, Board members, contractors, unpaid volunteers, families, patrons, and other visitors. Students will not be harassed because of their race, color, religion, ancestry, national origin, gender, sexual orientation, gender expression, gender identity, mental or physical disability, or other distinguishing characteristics.

Any program 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, intimidation, or bullying, and to prevent its reoccurrence.

Definitions

Aggressor means a student, staff member, or other members of the educational program 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:

- Physically harms a student or damages the student's property.
- Has the effect of substantially interfering with a student's education.
- Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment.
- Has the effect of substantially disrupting the orderly operation of the educational program.

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, or 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 possesses the characteristic that is the basis for the harassment, intimidation, or bullying.

Retaliation occurs when an individual is intimidated, threatened, coerced, or discriminated against for reporting harassment, intimidation, or bullying, or participating in an investigation.

Staff includes, but is not limited to, educators, administrators, counselors, program nurses, cafeteria workers, custodians, bus drivers, athletic coaches, advisors to extracurricular activities, classified staff, substitute and temporary teachers, volunteers, or paraprofessionals (both employees and contractors).

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

Behaviors/Expressions

'Harassment,' 'intimidation,' and 'bullying' are separate but related behaviors. Each must be addressed appropriately. Although this procedure differentiates the three behaviors, this differentiation should not be considered part of the legal definition of these behaviors. Harassment refers to any malicious act, that causes harm to any person's physical well-being. It can be discriminatory harassment, malicious harassment, or sexual harassment. Intimidation refers to implied or overt threats of physical violence. Bullying refers to unwanted aggressive behavior(s) by another youth or group of youths that involves an observed or perceived power imbalance and is repeated multiple times or is highly likely to be repeated. Bullying may inflict harm on the targeted youth including physical or educational harm. Bullying can also occur through technology and is called electronic bullying or cyberbullying.

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:

- RCW 28A.300.285 – Harassment, Intimidation, and Bullying
- RCW 28A.640.020 – Sexual Equality
- RCW 28A.642 – Prohibition of Discrimination in Public Schools
- RCW 49.60.010 – The Law Against Discrimination

ESD 123 will ensure its compliance with all state laws regarding harassment, intimidation, or bullying. Nothing in this procedure prevents a student, parent/guardian, program, or ESD 123 from taking action to remediate harassment or discrimination based on a person's membership in a legally protected class under local, state, or federal law.

Prevention

1. Dissemination

In each program and on ESD 123's website, ESD 123 will prominently post information on reporting harassment, intimidation, or bullying; the name and contact information for making a report to a program administrator; and the name and contact information for ESD 123 Compliance Officer. ESD 123's policy and procedure will be available in each program in a language that families can understand.

Annually, the Superintendent will ensure that a statement summarizing the policy and procedure is provided in student, staff, volunteer, and parent/guardian handbooks, is available in each program and ESD 123 offices and/or hallways, or is posted on ESD 123's website.

Additional distribution of the policy and procedure is subject to the requirements of chapters 392-405 WAC.

2. Education

Annually students will receive age-appropriate information on the recognition and prevention of harassment, intimidation, or bullying at student orientation sessions and other appropriate occasions. The information will include a copy of the Incident Reporting Form or a link to a web-based process.

3. Training

ESD 123 Compliance Officer will participate in at least one mandatory training opportunity offered by OSPI. Staff will receive annual training on ESD 123's policy and procedure, including at a minimum, staff roles, and responsibilities, how to monitor common areas, and the use of ESD 123's Incident Reporting Form.

4. Prevention Strategies

ESD 123 will implement a range of prevention strategies including individual, classroom, program, and ESD 123-level approaches. Whenever possible, ESD 123 will implement evidence-based prevention programs that are designed to increase social competency, improve program climate, and eliminate harassment, intimidation, and bullying in programs.

Compliance Officer

ESD 123 Compliance Officer will:

1. Serve as ESD 123's primary contact for harassment, intimidation, or bullying.
2. Assure ESD 123's Risk Manager is fully aware of any issues, to permit appropriate coordination and in-service claims notification.
3. Provide support and assistance to the program administrator or designee in resolving complaints.
4. Receive copies of all Incident Reporting Forms, discipline referral forms, and letters to parents/guardians providing the outcomes of investigations.
5. Communicate with ESD 123's designated civil rights compliance coordinator. If a written report of harassment, intimidation, or bullying indicates a potential violation of ESD 123's nondiscrimination policy (Policy 3210), or if during the course of an investigation, ESD 123 becomes aware of a potential violation of ESD 123's nondiscrimination policy, the compliance officer must promptly notify ESD 123's Title IX/Civil Rights Compliance Officer. At that time, the compliance officers must promptly notify the complainant that his/her complaint will proceed under both this policy/procedure and the nondiscrimination policy/procedure. The investigation and response timeline for the nondiscrimination procedure begins when ESD 123 knows or should have known that a written report or investigation of Harassment, Intimidation, or Bullying involves a potential violation of ESD 123's nondiscrimination policy.
6. Be familiar with the use of the student information system. The Compliance Officer may use this information to identify patterns of behavior and areas of concern.
7. Ensure implementation of the policy and procedure by overseeing the investigative processes, including ensuring that investigations are prompt, impartial, and thorough.
8. Assess the training needs of staff and students to ensure successful implementation throughout ESD 123, and ensure staff receives annual fall training.

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9. Provide the OSPI School Safety Center with notification of policy or procedure updates or changes on an annual basis.
 10. In cases where, despite program 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 123 staff and the student'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.

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, other than tracking, to ensure they are not repeated.

Filing an Incident Reporting Form

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

Any student or students who believe they have been the target of unresolved, severe, or persistent harassment, intimidation, or bullying, or any other person in the educational program 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.

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, or 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, use online reporting processes, 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 the day or increased monitoring of specific students or staff. (Example: An unsigned Incident Reporting Form dropped on a teacher's desk led to the increased monitoring of the boys' locker room in the 5th period.)

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. (Example: A student tells a lunchroom supervisor about a classmate being bullied but asks that nobody know who reported the incident. The supervisor says, "I won't be able to punish the bullies unless you or someone else who saw it

is willing to let me use their names, but I can start hanging out near the lunchroom if that would help.”)

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 123 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 123 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 members 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 on an ESD 123 Incident Reporting Form and submitted to the program administrator or designee unless the program administrator 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 program or ESD 123 designee will begin the investigation. If there is potential for clear and immediate physical harm to the complainant, ESD 123 will immediately contact law enforcement and inform the parent/guardian.
2. During the course of the investigation, ESD 123 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 123 will implement a safety plan (<https://www.k12.wa.us/student-success/health-safety/school-safety-center/safety-planning-toolkit>) for the student(s) involved. The plan may include changing seating arrangements for the complainant and/or the alleged aggressor in the classroom, at lunch, or on the bus; identifying a staff member who will act as a safe person for the complainant; altering the alleged aggressor's schedule and access to the complainant, and other measures.

If during the course of an investigation, ESD 123 designee conducting the investigation becomes aware of a potential violation of ESD 123's nondiscrimination policy (Policy 3210), the investigator will promptly notify ESD 123's Title IX/Civil Rights Compliance Officer. Upon receipt of this information, the Title IX/Civil Rights Compliance Officer must notify the complainant that his/her complaint will proceed under the discrimination complaint procedure in WAC 392-190-065 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

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- investigation and response timeline for the discrimination complaint procedure will follow that set forth in WAC 392-190-065 and begins when ESD 123 knows or should have known, that a written report of harassment, intimidation, or bullying involves allegations of a violation of ESD 123's nondiscrimination policy.
3. Within two (2) school days after receiving the Incident Reporting Form, the program designee will notify the families of the students involved that a complaint was received and direct the families to ESD 123's policy and procedure on harassment, intimidation, and bullying.
 4. In rare cases, where after consultation with the student and appropriate staff (such as a psychologist, counselor, or social worker) ESD 123 has evidence that it would threaten the health and safety of the complainant or the alleged aggressor to involve his/her parent/guardian, ESD 123 may initially refrain from contacting the parent/guardian in its investigation of harassment, intimidation, or bullying. If professional program personnel suspect that a student is subject to abuse and neglect, they must follow the ESD 123 policy for reporting suspected cases to Child Protective Services.
 5. The investigation will include, at a minimum:
 - An interview with the complainant;
 - An interview with the alleged aggressor;
 - A review of any previous complaints involving either the complainant or the alleged aggressor; and,
 - Interviews with other students or staff members who may have knowledge of the alleged incident.
 6. The program administrator or designee may determine that other steps must be taken before the investigation is complete.
 7. The investigation will be completed as soon as practicable but generally no later than five (5) school days from the initial complaint or report. If more time is needed to complete an investigation, ESD 123 will provide the parent/guardian and/or the student with weekly updates.
 8. No later than two (2) school days after the investigation has been completed and submitted to the Compliance Officer, the program administrator or designee will respond in writing or in person to the parent/guardian of the complainant and the alleged aggressor stating:
 - The results of the investigation;
 - Whether the allegations were found to be factual;
 - Whether there was a violation of policy; and,
 - 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 program administrator 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 an ESD 123 chooses to contact the parent/guardian by letter, the letter will be mailed to the parent/guardian of the complainant and alleged aggressor by the United States Postal Service with a 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/her family. If professional program personnel suspect that a student is subject to abuse or neglect, as mandatory reporters they must follow the ESD 123 policy for reporting suspected cases to Child Protective Services.

If the incident cannot be resolved at the program level, the program administrator or designee will request assistance from the HIB compliance officer.

Step 4: Corrective Measures for the Aggressor

After completion of the investigation, the program or ESD 123 designee will institute any corrective measures necessary. Corrective measures will be instituted as quickly as possible, but in no event more than five (5) school days after contact has been made with the families or guardians regarding the outcome of the investigation. Corrective measures that involve student discipline will be implemented according to ESD 123 Policy 3241, Classroom Management, Corrective Actions or Punishment. If the accused aggressor is appealing the imposition of discipline, ESD 123 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 a program administrator 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, he/she/they may appeal to the Superintendent or his/her designee by filing a written notice of appeal within five (5) school days of receiving the written decision. The Superintendent or his/her designee will review the investigative report and issue a written decision on the merits of the appeal within five (5) school 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 123 Board by filing a written notice of appeal with the Secretary of the Board on or before the fifth (5) school day following the date upon which the complainant received the Superintendent's written decision.
3. An appeal before the NWESD Board must be heard at the Board's next regularly scheduled meeting. The NWESD Board will review the record and render a written decision on the merits of the appeal on or before the fifth (5th) school day following the hearing and will provide a copy to all parties involved. The Board's decision will be the final ESD 123 decision.

Step 6: Discipline/Corrective Action

ESD 123 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 ESD 123 Policy 3241, Classroom Management, Corrective Actions or Punishment.

If the conduct was of a public nature or involved groups of students or bystanders, ESD 123 should strongly consider program-wide training or other activities to address the incident.

If the staff has been found to be in violation of this policy and procedure, ESD 123 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 Targeted Students

Persons found to have been subjected to harassment, intimidation, or bullying will have appropriate ESD 123 support services made available to them, and the adverse impact of the harassment on the student will be addressed and remedied as appropriate.

Immunity/Retaliation

No ESD 123 employee, student, or volunteer may engage in reprisal or retaliation against a targeted student, witness, or another person who brings forward information about an alleged act of harassment, intimidation, or bullying. Retaliation is prohibited and will result in appropriate discipline.

Other Resources

Students and families should use ESD 123's complaint and appeal procedures as a first response to allegations of harassment, intimidation, or bullying. However, nothing in this procedure prevents a student, parent/guardian, program, or ESD 123 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 (for discrimination complaints)
360.725.6162
Email: equity@k12.wa.us
<https://www.k12.wa.us/policy-funding/equity-and-civil-rights>
- 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 Ombudsman

866.297-2597

Email: OEInfo@gov.wa.gov

www.governor.wa.gov/oeo/default.asp

- OSPI Safety Center

360.725-6044

<https://www.k12.wa.us/student-success/health-safety/school-safety-center>

Other ESD 123 Policies and Procedures

Nothing in ESD 123 Policy 3207 or Procedure 3207-P 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 herein, but which are, or may, be prohibited by other ESD 123 or program rules.

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