PROCEDURE 5010P – NONDISCRIMINATION AND AFFIRMATIVE ACTION

Nondiscrimination

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 this affirmative action program. No staff member's status with the district will be adversely affected in any way because the staff member utilized these procedures. As used in this procedure, "grievance" will mean a complaint which has been filed by a complainant relating to alleged violations of any state or federal anti-discrimination laws. A "complaint" will mean a charge alleging specific acts, conditions or circumstances which are in violation of the anti-discrimination laws. A "respondent" will 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 to this and the following steps will be taken:

Affirmative Action Plan

In order to secure an equitable solution to a justifiable complaint the district will:

A. Make efforts to modify the composition of the future work force in order to work toward a full utilization of aged, persons with disabilities, ethnic minorities, women and Vietnam veterans in the various job categories.

B. 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.

C. Be responsible for reviewing all employment procedures and programs to assure that there is no indication of discriminatory practices. The district will continue to use aged, persons with disabilities, ethnic minorities, women and Vietnam veterans in the recruitment and employment process. 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.

D. 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.

E. Take appropriate action to attract and retain aged, persons with disabilities, 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.

F. 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.

Implementation of the affirmative action plan will be the responsibility of the Superintendent. Administrators will assist in the attainment of the established goals and purposes of this affirmative action plan.

Dissemination

The district will disseminate information concerning employment and developments under the affirmative action plan on a planned basis to assist in achieving the goals set forth in this plan. Affirmative action information will be disseminated by:

A. Printing and distributing such information to staff, school libraries and offices;

B. Publicizing such information in district newsletters;

C. Conducting meetings with administrative staff to explain the intent and advantages of the policy and plan;

D. Conducting faculty meetings and meetings with classified staff;

E. Informing appropriate and interested recruiting and hiring sources; and

F. Informing all representative staff groups in the district.

Male/Female Balance and Staff Goals

The profile of the district's current utilization of women is set forth in Affirmative Action Plan. By the commencement of the 2013 school year, the district will strive to achieve a rate of employment in regard to sex at least equivalent to the goals set forth in the Affirmative Action Plan. The district will see that measurable efforts are made in the utilization of women for higher levels of responsibility in both certificated and classified positions. The district will make good faith effort to recruit, interview and employ individuals consistent with the district commitment to nondiscrimination and affirmative action for all positions and in every department, school and level of operation. Preferential or adverse employment practices, including demotions or termination will not be used to meet stated goals or time lines.

A. Administrators

Goal: To place females in administrative positions.

Objectives: To place females in administrative positions as they become available. To identify qualified potential candidates from outside the district for consideration for future openings.

B. Principals and Assistant Principals

Goal: To place females in principal positions.

Objective: To place females in principal and assistant principal positions as they occur and trained women are available, without using preferential employment practices.

C. Teachers, Elementary, or grades K-8

Goal: To provide each student with the opportunity to experience both male and female homeroom teachers during the primary as well as the intermediate grades.

Objective: To achieve a staff which falls within a range of 50% men and/or women in the primary as well as the intermediate grades at each school, without using preferential employment practices.

D. Teachers, Secondary, or grades 9-12

Goal: To provide students with the opportunity to work with male and female staff in both curricular and extracurricular activities.

Objective: To maintain a staff which falls within a range of 50% men and/or women for classroom teachers and activity supervisors, without using preferential employment practices.

E. Support Staff - Certificated and Classified

Objective: To achieve a staff which falls within a range of 50% men and/or women,_without using preferential employment practices.

Ethnic Minority Balance and Staff Goals

The profiles of the district's current student ethnic minority population and the district's current ethnic minorities (American Indian/ Native American, Asian, Black, and Hispanic) are set forth in the Affirmative Action Plan. By the commencement of the 2013 school year the district will strive to achieve a rate of employment for ethnic minorities in both certificated and classified areas as indicated in this plan, without using preferential employment practices. These goals are a utilization level for certificated staff, at least equal to the percentage of ethnic minority student enrollment within the district; for classified staff a utilization level of at least 7%, a figure based upon relevant availability figures in the statistical area. The district will see that measurable efforts are made in the utilization of ethnic minorities for higher levels of responsibility in both certificated and classified positions, without using preferential employment practices. The district will make good faith effort to recruit, interview and employ individuals consistent with the district commitment to nondiscrimination and affirmative action for all positions and in every department, every school and at every level of operation. Preferential or adverse employment practices, including demotions or termination will not be used to meet stated goals or time lines.

A. Administrators

Goal: To place ethnic minorities in administrative positions, without using preferential employment practices.

Objectives: To place ethnic minorities in administrative positions as they become available to progress toward the percentage of ethnic minorities in the current ethnic minority student enrollment.

To identify qualified potential candidates from outside the district for consideration for future openings.

B. Principals and Assistant Principals

Goal: To place ethnic minorities in principal positions.

Objective: To place ethnic minorities in principal and assistant principal positions as they occur and trained applicants are available, without using preferential employment practices.

C. Teachers: Elementary or grades K-8

Goal: To provide each student with the opportunity to experience ethnic minority homeroom teachers during the primary as well as the intermediate grades, without using preferential employment practices.

Objective: To achieve a staff of primary and intermediate teachers in which the percentage of ethnic minorities is comparable to that of the current ethnic minority student enrollment.

D. Teachers: Secondary or grades 9-12

Goal: To provide students with the opportunity to work with ethnic minority staff in both curricular and extracurricular activities.

Objective: To maintain a staff of classroom teachers and activity supervisors in which the percentage of ethnic minorities is comparable to that of the current ethnic minority student enrollment, without using preferential employment practices.

E. Support Staff - Certificated and Classified

Objective: To achieve a staff of certificated and classified support staff in which the percentage of ethnic minorities is comparable to that of the current ethnic minority student enrollment, without using preferential employment practices.

Aged Balance and Staff Goals

The district will make good faith effort to recruit, interview and employ individuals consistent with the commitment to nondiscrimination and affirmative action providing the prospective staff member meets the requisite standards for the specific position.

A. Administrators

Goal: To identify administrative positions where age is not a barrier to performance.

Objective: To create opportunities for older prospective staff to work on a part-time basis when it would not deter the district's operations.

B. Teachers

Goal: To provide opportunities for students to work with older staff in both curricular and extracurricular activities.

Objective: To create opportunities for older staff to work on a part-time basis in those situations where the staff member can serve as a role-model to the student or can share his/her breadth of experience.

C. Support Staff - Certificated and Classified

Goal: To identify positions in the district, either full-time or part-time, where age does not limit the performance of the prospective staff member.

Objective: To place prospective staff who desire to work in positions where they are able to meet the expectations and/or needs of the district.

Persons with Disabilities: Balance and Staff Goals

The profile of the district's current distribution of certificated and classified staff with disabilities conditions is set forth in the Affirmative Action Plan. By the commencement of the 2013 school year, the district will strive to achieve a rate of employment for handicapped staff in certificated and classified areas. The district will make good faith effort to recruit, interview, and employ individuals consistent with the district's commitment to nondiscrimination and affirmative action providing the prospective staff member meets the requisite standards for the specific position.

The ratio of placement will be equal to the ratio of employable persons with disabilities as compared to the persons without disabilities in the statistical area.

A. Administrators

Goal: To identify administrative positions where a disability is not a barrier to performance.

Objective: To place administrators with disabilities in assignments when it would not deter the district's operations.

B. Teachers

Goal: To provide opportunities for students to work with teachers who have disabilities in both curricular and extracurricular activities.

Objective: To place teachers with disabilities in assignments when it would not impair the instructional program.

C. Support Staff - Certificated and Classified

Goal: To identify positions within the district where a disability does not limit the performance of the prospective staff member.

Objective: To place support staff with disabilities in assignments when it would not deter the district's operations.

Internal Audit and Monitoring System

The superintendent's office, in compliance with WAC 162-12, Pre-employment Inquiry Guide, will record by age, race, sex and other protected groups applicant flow, new hires, promotions, transfer requests, transfers, administrative internships and terminations. An analysis will be made of the internal and external work force availability of aged, persons without disabilities, ethnic minorities and women.

The district will evaluate the effectiveness of the nondiscrimination and affirmative action program and report its status to the board. Such reports may include recommendations for changes in the affirmative

action program goals. The overall responsibility for monitoring and auditing this policy is assigned to the district office. The duties include:

A. Analysis of the categories of employment in relation to affirmative action goals;

B. Analysis of work force data and applicant flow;

C. Maintaining records relative to affirmative action information;

D. Preparation of semiannual reports of progress toward the goals and recommended changes required to maintain the vitality of the program;

E. Identifying in a written report to the superintendent any employment practice or policy that is discriminatory or that does not meet the requirements of the affirmative action program; and

F. Keeping the superintendent advised of the progress in implementing the goals and procedures of this affirmative action program.

Grievance Procedure

To ensure fairness and consistency, the following review procedures are 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 this affirmative action program. No staff member's status with the district will be adversely affected in any way because the staff member utilized these procedures.

A. Grievance means a complaint which has been filed by an employee 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 not be imposed if the complainant was prevented from filing due to: 1) Specific misrepresentations by the district that it had resolved the problem forming the basis of the complaint; or 2) Withholding of information that the district 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 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.

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. 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.

A. 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 within 60 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. 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 formal procedures. If the discussion with the officer or immediate supervisor does not resolve the issue the staff member may proceed to the formal review procedures. During the course of the informal process, the district will notify complainant of their right to file a formal complaint.

B. Formal Process for Resolution

Level One: Complaint to District

The complaint must set forth the specific acts, conditions, or circumstances alleged to be in violation. Upon receipt of a complaint, the compliance officer will provide the complainant a copy of this procedure. The compliance officer will investigate the allegations within 30 calendar days. The school district and complainant may agree to resolve the complaint in lieu of an investigation. The 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 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 district will notify the complainant in writing of the reason for the extension and the anticipated response date. At the time the district responds to the complainant, the district must send a copy of the response to the office of the superintendent of public instruction.

The decision of the superintendent or designee will include: 1) a summary of the results of the investigation; 2) whether the district has failed to comply with anti-discrimination laws; 3) if non-compliance is found, corrective measures the district deems necessary to correct it; and 4) notice of the complainant's right to appeal to the school 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 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 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 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. 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. 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 on 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. The district 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 of directors, or if the district 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 of directors' 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 the district subject to the complaint; 4) A copy of the district's complaint and appeal 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 the district 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 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.

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.

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.

Level Four - Administrative Hearing
A complainant or school district that desires to appeal the written decision of the Office of the 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.

Mediation

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.

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 sued 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 district representative who has authority to bind the district.

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 6 years.

Resources

1. District Contact

   Superintendent
   PO Box 95
   Deming, WA 98244

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 of Civil Rights
   U.S. Department of Education
   915 Second Avenue, Room 3310
   Seattle, WA 98174
   206.607.1600

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