Chapter 392-187 WAC
COMPLAINT PROCESS FOR WILLFUL NONCOMPLIANCE

Last Update: 6/12/26

WAC

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WAC 392-187-005 Purpose. The purpose of this chapter is to establish a complaint process for limited and broad complaints against a local school district superintendent, a local school district board of directors, or an individual member or members of a board of directors for willful noncompliance of enumerated state laws.

[Statutory Authority: 2025 c 369 ss 303 (3)(a) and 306. WSR 26-13-060, s 392-187-005, filed 6/12/26, effective 7/13/26.]

WAC 392-187-010 Definitions. (1) "Broad complaint" means a complaint that impacts an entire student body, an entire subgroup of students within a student body, an entire school, or an entire school district.

(2) "Limited complaint" means a complaint that impacts one or more individual students.

(3) "Negligent" means the failure to exercise ordinary care by a local school district superintendent, a local school district board of directors, or an individual member or members of a board of directors, and the actor knew or reasonably should have known that the failure to exercise ordinary care would result in noncompliance with state law as defined in this section.

(4) "Noncompliance with state law" means action or inaction by a local school district superintendent, a local school district board of directors, or an individual member or members of a board of directors, that results in noncompliance with the following state laws, which are intended to ensure academic rights and protections for students in the educational environment:

(a) State civil rights and nondiscrimination, including the nondiscrimination and sexual equality laws and model policy and procedure requirements related to protecting students' rights as established in chapters 28A.640 and 28A.642 RCW;

(b) Harassment, intimidation, or bullying requirements as established in RCW 28A.600.477;

(c) Curriculum requirements as described in RCW 28A.150.230, 28A.300.475, and 28A.320.170; the policies and procedures related to the selection or deletion of instructional materials required in RCW 28A.320.230; and the review and removal of supplemental instructional materials required in RCW 28A.320.235;

(d) The use of restraint or isolation on a student as described in RCW 28A.600.485; or

(e) Student discipline as described in chapter 28A.600 RCW.

(5) "Willful" means nonaccidental action or inaction by a local school district superintendent, a local school district board of di-

rectors, or an individual member or members of a board of directors, that the actor knew or reasonably should have known would result in noncompliance with state law.

[Statutory Authority: 2025 c 369 ss 303 (3)(a) and 306. WSR 26-13-060, s 392-187-010, filed 6/12/26, effective 7/13/26.]

WAC 392-187-020 Complaint procedure—School district or public charter school. (1) Scope of the complaint. Any student who is enrolled in the school district, or a parent or legal guardian who has a student enrolled in the school district, may file a limited or broad complaint with the office of superintendent of public instruction. A person residing within the boundaries of the school district may file a broad complaint with the office of superintendent of public instruction. A limited or a broad complaint may be filed against a local school district superintendent, a local school district board of directors, or an individual member or members of a board of directors. The complaint must allege willful noncompliance with one or more of the following state laws:

(a) State civil rights and nondiscrimination, including the nondiscrimination and sexual equality laws and model policy and procedure requirements related to protecting students' rights as established in chapters 28A.640 and 28A.642 RCW;

(b) Harassment, intimidation, or bullying requirements as established in RCW 28A.600.477;

(c) Curriculum requirements as described in RCW 28A.150.230, 28A.300.475, and 28A.320.170; the policies and procedures related to the selection or deletion of instructional materials required in RCW 28A.320.230; and the review and removal of supplemental instructional materials required in RCW 28A.320.235;

(d) The use of restraint or isolation on a student as described in RCW 28A.600.485; or

(e) Student discipline as described in chapter 28A.600 RCW.

(2) Exhaustion requirements. Before any person may file a complaint under this chapter, the person must exhaust existing complaint procedures if such procedures exist. If no complaint procedures are available, the person who intends to file the complaint must provide notice of the complaint to the local school district superintendent at least 30 calendar days before filing the complaint with the office of superintendent of public instruction.

(3) Complaint process.

(a) Complaints may be submitted to the office of superintendent of public instruction by mail, electronic mail, or hand delivery within 30 calendar days of a final decision reached by the local school district or other complaint procedure if such procedures exist.

(b) A complaint must be in writing and include:

(i) A description of the specific acts, conditions, or circumstances alleged to violate the state laws enumerated in WAC 392-187-010(4) and the facts on which the complaint is based;

(ii) The name and contact information, including a mailing address, of the complainant;

(iii) The name and title of the local school district superintendent, local school district board of directors, or an individual member or members of a board of directors alleged to have engaged in willful noncompliance;

(iv) A copy of any complaints filed and responses received under complaint procedures utilized by the complainant to resolve the complaint prior to filing with the office of superintendent of public instruction or a copy of the notice of the complaint sent to the local school district superintendent prior to filing with the office of superintendent of public instruction.

(c) The office of superintendent of public instruction will make an initial determination as to whether the complaint reasonably contains enough facts to allege noncompliance with the state laws as defined in WAC 392-187-010(4) and whether other available complaint procedures have been exhausted. If the complaint contains sufficient facts to allege noncompliance with state laws and meets the procedural requirements of this section, the office of superintendent of public instruction will investigate the allegations in the complaint. The office of superintendent of public instruction will provide written notice of the allegations being investigated. If the requirements are not met, the office of superintendent of public instruction will dismiss the complaint and notify the complainant and the school district superintendent. If the complaint is dismissed, the office of superintendent of public instruction is not required to investigate further.

[Statutory Authority: 2025 c 369 ss 303 (3)(a) and 306. WSR 26-13-060, s 392-187-020, filed 6/12/26, effective 7/13/26.]

WAC 392-187-030 Investigation by superintendent of public instruction. (1) An investigation by the office of superintendent of public instruction under this chapter may include reviewing relevant information or conducting an independent on-site review. The office of superintendent of public instruction may, at its discretion, investigate additional issues related to the complaint that were not included in the initial complaint or appeal to the school district or public charter school. The office of superintendent of public instruction will provide written notice of the issues being investigated.

(2) It is a defense to a finding of willful noncompliance with state law if the school district superintendent or chief administrator can show that they were actively attempting to bring the school district, charter school, or state-tribal education compact school into compliance with the applicable state law.

[Statutory Authority: 2025 c 369 ss 303 (3)(a) and 306. WSR 26-13-060, s 392-187-030, filed 6/12/26, effective 7/13/26.]

WAC 392-187-035 Notice of noncompliance. The office of superintendent of public instruction will issue its findings to the complainant and the school district.

(1) If, by a preponderance of evidence, the office of superintendent of public instruction finds noncompliance but determines the noncompliance is not willful, the office of superintendent of public instruction will provide the school district with a first notice stating its determination of noncompliance. The notice will identify corrective actions and a timeline for the district to come into compliance.

(2) Second notice of noncompliance. If the school district fails to comply with the corrective actions identified for noncompliance in the first notice within the prescribed timeline, the office of super-

intendent of public instruction will provide the school district a second notice.

(a) The second notice shall state that continued failure to comply with corrective actions may result in consequences as established in RCW 28A.300.714.

(b) Upon second notice of noncompliance, consistent with the procedures in (c) of this subsection, the school district superintendent and school district board of directors must adopt and submit a proposed compliance action plan to the office of superintendent of public instruction for approval. The compliance action plan must be submitted under the timeline required by the office of superintendent of public instruction in the second notice.

(c) Before submitting the compliance action plan to the office of superintendent of public instruction for approval, the school district board of directors must hold a public meeting to present the proposed compliance action plan to the community and allow for public comment on the proposed plan. For all such public meetings, individual students may not be identified without their consent, and the public meetings and materials prepared for such meetings must adhere to nondisclosure of personally identifiable information consistent with state and federal student privacy laws.

[Statutory Authority: 2025 c 369 ss 303 (3)(a) and 306. WSR 26-13-060, s 392-187-035, filed 6/12/26, effective 7/13/26.]

WAC 392-187-040 Notice of willful noncompliance. (1) If, by a preponderance of evidence, the office of superintendent of public instruction finds willful noncompliance, the office of superintendent of public instruction will provide the school district with a first notice stating its determination of willful noncompliance and identify corrective actions and a timeline for the school district to come into compliance. Upon receipt of the first notice of a finding of willful noncompliance, the school district board of directors shall hold a public meeting to present the finding of willful noncompliance with state law, the identified corrective actions and timeline for those actions, and take public comment on what additional actions the public thinks may be needed to come into compliance with the state law(s) identified in the investigation.

(2) Second notice of willful noncompliance.

(a) If the school district fails to comply with the corrective actions identified for willful noncompliance in the first notice within the prescribed timeline, the office of superintendent of public instruction shall provide the school district a second notice stating that continued failure to comply with corrective actions may result in consequences as established in RCW 28A.300.0714.

(b) Upon receipt of a second notice, the school district superintendent and school district board of directors must adopt and submit a compliance action plan to the office of superintendent of public instruction for approval. The compliance action plan must be submitted under a timeline as required by the office of superintendent of public instruction.

(c) After receiving a second notice of willful noncompliance, the school district must collaborate with the office of superintendent of public instruction to develop a compliance action plan. The school district must provide school district administrators, teachers, and other staff, parents of children attending a school within the school

district, unions representing employees within the school district, students from the school district, and other impacted communities as appropriate with an opportunity to provide input on the development of the compliance action plan.

(d) Before submitting the compliance action plan to the office of superintendent of public instruction for approval, the school district board of directors must hold a public meeting to present the proposed compliance action plan to the community and allow for public comment on the proposed plan. For all such public meetings, individual students may not be identified without their consent, and the public meetings and materials prepared for such meetings must adhere to nondisclosure of personally identifiable information consistent with state and federal student privacy laws.

(e) After submission and approval of the compliance action plan, the school district shall conduct additional public meetings with an opportunity for public comment at least once every six months to present school district progress on implementation of the compliance action plan until the superintendent of public instruction finds that the school district has come into compliance with state law.

[Statutory Authority: 2025 c 369 ss 303 (3)(a) and 306. WSR 26-13-060, s 392-187-040, filed 6/12/26, effective 7/13/26.]

WAC 392-187-050 Compliance action plans. A compliance action plan developed under this chapter must, at a minimum, include the following:

(1) A description of the changes in the school district's or school's existing policies, structures, agreements, processes, and practices needed to come into compliance with state law; and

(2) The timeline for coming into compliance with state law.

Compliance action plans must be developed in accordance with chapters 41.56 and 41.59 RCW where applicable.

[Statutory Authority: 2025 c 369 ss 303 (3)(a) and 306. WSR 26-13-060, s 392-187-050, filed 6/12/26, effective 7/13/26.]

WAC 392-187-060 Consequences for noncompliance. The office of superintendent of public instruction may issue a final decision imposing any of the following consequences on a school district if the district has been sent a second notice under RCW 28A.300.0713:

(1) Require the school district to adopt or readopt policies and procedures to come into compliance with state law;

(2) Find that a local school district superintendent committed an act of unprofessional conduct under RCW 28A.410.085 and may be held accountable for such conduct under rules established chapters 181-86 and 181-87 WAC; and

(3) As a last resort, withhold and redirect up to 20 percent of state funds allocated to the school district for basic education to support the compliance action plan until the office of superintendent of public instruction finds that the school district has come into compliance with state law.

[Statutory Authority: 2025 c 369 ss 303 (3)(a) and 306. WSR 26-13-060, s 392-187-060, filed 6/12/26, effective 7/13/26.]

WAC 392-187-070 Appeals. Any party to a complaint may file a notice of appeal with the office of superintendent of public instruction within 30 calendar days after a final decision. Appeals may be submitted to the office of superintendent of public instruction by mail, electronic mail, or hand delivery.

(1) An administrative law judge of the office of administrative hearings will hear and determine the appeal by issuing a final order.

(2) A certificated local school district superintendent who is found to have committed an act of unprofessional conduct must appeal pursuant to the procedures in chapter 181-86 WAC.

(3) Appeal proceedings must be conducted pursuant to chapter 34.05 RCW.

(4) Discovery procedures for appeals to an administrative law judge are limited to those authorized by rules 26, 33, 34, 36, and 37 of the superior court civil rules, except that civil rule 26(a) does not apply to hearings under this chapter. The only methods of discovery authorized are those found in civil rules 33, 34, and 36.

(5) An appeal of the administrative law judge's determination or order shall be to the superior court. The superior court's decision is subject only to discretionary review under the rules of appellate procedure.

[Statutory Authority: 2025 c 369 ss 303 (3)(a) and 306. WSR 26-13-060, s 392-187-070, filed 6/12/26, effective 7/13/26.]