

NONDISCRIMINATION AND AFFIRMATIVE ACTION

Nondiscrimination

The district 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.

The board shall designate a staff member to serve as the compliance officer.

Affirmative Action

The district, as a recipient of public funds, is committed to undertake affirmative action which shall make effective equal employment opportunities for staff and applicants for employment. Such affirmative action shall include a review of programs, the setting of goals and the implementation of corrective employment procedures to increase the ratio of aged, persons with disabilities, ethnic minorities, women and Vietnam veterans who are under-represented in the job classifications in relationship to the availability of such persons having requisite qualifications. Affirmative action plans may not include hiring or employment preferences based on gender or race, including color, ethnicity or national origin. Such affirmative action shall also include recruitment, selection, training, education and other programs.

The superintendent shall develop an affirmative action plan which specifies the personnel procedures to be followed by the staff of the district and shall ensure that no such procedures discriminate against any individual. Reasonable steps shall be taken to promote employment opportunities of those classes that are recognized as protected groups — aged, persons with disabilities, ethnic minorities and women and Vietnam veterans, although under state, law racial minorities and women may not be treated preferentially in public employment.

This policy, as well as the affirmative action plan, regulations and procedures developed according to it, shall be disseminated widely to staff in all classifications and to all interested patrons and organizations. Progress toward the goals established under this policy shall be reported annually to the board.

Employment of Persons With Disabilities

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

- A. No qualified person with disabilities shall, solely by reason of a disability, be subjected to discrimination and the district 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.
- B. The district 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 district program. Such reasonable accommodations may include:

1. Making facilities used by staff readily accessible and usable by persons with disabilities; and
 2. 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 district, factors to be considered include the nature and cost of the accommodation.
- C. The district shall not make use of any employment test or criteria that screens out persons with disabilities unless:
1. The test or criteria is clearly and specifically job-related; and
 2. Alternative tests or criteria that do not screen out persons with disabilities are available.
- D. 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.
- E. 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

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.

Legal References: RCW 28A.400.310	Law against discrimination applicable to districts' employment practices
RCW 28A.640.020	Regulations, guidelines to eliminate discrimination — Scope — Sexual harassment policies
RCW 28A.642	Discrimination prohibition
RCW 49.60	Discrimination — Human rights commission
RCW 49.60.030	Freedom from discrimination — Declaration of civil rights
RCW 49.60.180	Unfair practices of employers
RCW 49.60.400	Discrimination, preferential treatment prohibited
RCW 73.16	Employment and Reemployment
WAC 392-190	Equal Education Opportunity – Unlawful Discrimination Prohibited
WAC 392-190-0592	Public school employment — Affirmative action program

42 USC 2000e1 – 2000e10
20 USC § 1681 - 1688
42 USC 12101 – 12213
8 USC 1324

38 USC §§ 4301-4333

29 USC 794
34 CFR § 104

Title VII of the Civil Rights Act of 1964
Title IX Educational Amendments of 1972
Americans with Disabilities Act
(IRCA) Immigration Reform and Control
Act of 1986
Uniformed Services Employment and
Reemployment Rights Act
Vocational Rehabilitation Act of 1973
Nondiscrimination on the basis of handicap
in Programs or activities receiving
federal financial assistance

Management Resources: *Policy News*, June 2011

Policy News, February 2011

Policy News, August 2007

Policy News, June 2001

Laws Against Discrimination Address
Equal Education Opportunities
Nondiscrimination
Washington's Law Against
Discrimination
State Updates Military Leave Rights

**Adoption Date:
August 18, 2011**

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

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. The following goals will assure that a meaningful educational experience may continue to exist for students and staff alike. 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.

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 semiannually. 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. As used in this procedure, "grievance" will mean a complaint which has been

filed by a complainant (a student, an employee, a parent or guardian) relating to alleged violations of any state or federal anti-discrimination laws.

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 to this and, the following steps shall be taken:

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.

Level One

The complaint must be written, signed by the complainant and set forth the specific acts, conditions, or circumstances alleged to be in violation. Upon receipt of a complaint, 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 will respond in writing to the complainant as expeditiously as possible, but in no event later than 30 calendar days following receipt of the written complaint. The response of the superintendent will include notice of the complainant's right to appeal to the school board and will identify where and to whom the appeal must be filed.

The superintendent's written response will state that the district either:

- A. Denies the allegations contained in the written complaint received by the district, or
- B. Will implement reasonable corrective measures to eliminate any such act, conditions or circumstance within the school district.

Such 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 written decision or if the superintendent fails to respond, the complainant may file a written notice of appeal with the secretary of the board by the 10th calendar day following:

- A. The date upon which the complainant received the superintendent's response; or
- B. The expiration of the 30-calendar day response period stated in Level One, whichever occurs first.

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 su-

perintendent or for good cause. Both parties will be allowed to present such witnesses and testimony as the board deems relevant and material. The board will render a written decision by the 10th calendar day following the termination of the hearing and will provide a copy to all parties involved, unless otherwise agreed to by the complainant and the superintendent or for good cause. The response of the board 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.

Level Three - Appeal to the Superintendent of Public Instruction

If a complainant disagrees with the decision of the board of directors in connection with any matter which, if established, would constitute a violation, the complainant may appeal the board's decision to the superintendent of public instruction.

- A. A notice of appeal must be received by the Superintendent of Public Instruction on or before the tenth (10th) twentieth (20) day following the date upon which the complainant received written notice of the board of directors' decision.
- B. A notice of appeal must be in writing in the form required by the superintendent of public instruction and must set forth:
 1. A concise statement of the original complaint and the portions of the board of directors' decision which is appealed; and
 2. The relief requested by the complainant.

If a complainant remains aggrieved, they may seek resolution with federal or state agencies empowered with the authority to resolve such complaint.

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 or Designee
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