

Book Board Policies

Section 5000 Personnel

Title Nondiscrimination and Affirmative Action

Number 5010

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 Management Resources: Policy News, February 2011 Nondiscrimination
 Management Resources: Policy News, June 2001 State Updates Military Leave Rights
 Management Resources: Policy News, August 2007 Washington’s Law Against
 Discrimination
 34 CFR §104 Nondiscrimination on the basis of handicap in Programs or
 38 USC §4212 Vietnam Era Veterans Readjustment Act of 1974 (VEVRAA
 Exec. Order 11246 Amended by Executive Order 11375
 38 USC §§ Uniformed Services Employment and Reemployment Rights Act
 8 USC §§ 1324 Immigration Reform and Control Act (IRCA) of 1986
 29 U.S.C. 706 Vocational Rehabilitation Act of 1973
 42 USC 12101–12213 Americans with Disabilities Act
 F20 USC § f1681-1688 Title IX Educational Amendments of 1972
 42 USC 2000 e1– 2000 Title VII Civil Rights Act of 1964
[WAC 392-190-0592 Public school employment--Affirmative action program](#)
[WAC 392-200 Employment Discrimination](#)
[WAC 392-190 Equal Education Opportunity – Unlawful Discrimination Prohibited](#)
[RCW 73.16 Employment and Re-employment](#)
[RCW 49.60.400](#)
[RCW 49.60.180 Unfair practices of employer defined](#)
[RCW 49.60.030 Freedom from discrimination – Declaration of civil rights](#)
[RCW 49.60 Discrimination – Human Rights Commission](#)
[RCW 28A.642 Discrimination prohibition](#)
[RCW 28A.640.020 Regulations, guidelines to eliminate discrimination—Scope –](#)
[RCW 28A.400.310 Law against discrimination applicable to district's employment practices](#)
 Cross Reference:Policy 5407 Military Leave
 Cross Reference:Policy 2030 Service Animals in Schools
 Cross Reference:Policy 5270 Resolution of Staff Complaints

Adopted May 25, 1983

Last Revised November 19, 2015

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, gender, 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 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 or designee 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, 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:

1. 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.

2. The district shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified disabled applicant or staff member with a disability unless it is clear that an accommodation would impose any undue hardship on the operation of the district program. Such reasonable accommodations may include:
 - a. Making facilities used by staff readily accessible and usable by persons with disabilities; and
 - 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. In determining whether or not accommodation would impose an undue hardship on the district, factors to be considered include the nature and cost of accommodation.

3. The district shall not make use of any employment test or criteria that screens out persons with disabilities unless:
 - a. The test or criteria is clearly and specifically job-related; and
 - b. Alternative tests or criteria that do not screen out persons with disabilities are available.

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.

5. 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 personnel complaints procedures.

Nondiscrimination for Military Service

The district will not discriminate against any person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in an uniformed service, on the basis of that participation in an uniformed service. This includes in 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.

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Book	Board Procedures
Section	5000 Personnel
Title	Nondiscrimination and Affirmative Action
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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, 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, and 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, persons with disabilities, ethnic minorities, women, and Vietnam veterans in the recruitment and employment process. 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, 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.

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.

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:

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, signed 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 in 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.

C. 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. 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.

D. 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 Contacts

Title IX Officer
Director of Human Resources
25720 Maple Valley Highway
Maple Valley, WA 98038
425-413-3400 
TitleIX@tahomasd.us

ADA Coordinator
Director of Human Resources
25720 Maple Valley Highway
Maple Valley, WA 98038
425-413-3400 
ADA@tahomasd.us

Section 504 Coordinator
Director of Special Services
25720 Maple Valley Highway
Maple Valley, WA 98038
425-413-3400 
Section504@tahomasd.us

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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