

## **Nondiscrimination and Affirmative Action**

### **Nondiscrimination**

The Wenatchee school District is committed to an educational and working environment free from discrimination and harassment as described in this policy. This policy and accompanying procedure prohibits discrimination and harassment of any staff member, volunteers, and contractors who work on behalf of the district.

### **Equal Employment Opportunity**

The district will provide equal employment opportunity and treatment for all applicants and staff in recruitment, hiring, retention, assignment, transfer, promotion and training. Such equal employment opportunity will be provided without discrimination with respect to a legally protected characteristic, which include the following: race, creed, religion, color, national origin, age, honorably-discharged veteran or military status, sex, sexual orientation including gender expression or identity, marital status, disability, or the use of a trained dog guide or service animal by a person with a disability.

### **Discriminatory Harassment**

Discriminatory harassment is unwelcome conduct that is:

1. Directed toward a person based on a protected characteristic,
2. Sufficiently severe or pervasive,
3. Unreasonably interferes with a person's work environment or ability to perform job duties; and
4. The cause of an intimidating, hostile, or offensive environment.

Examples of discriminatory harassment include, but are not limited to:

- Unwelcome jokes or comments about a legally protected characteristic (e.g., racial or ethnic jokes);
- Disparaging remarks to or about a person's legally protected characteristic (e.g., negative or offensive remarks or jokes about a person's religion or religious garments);
- Displaying negative or offensive posters or pictures about a legally protected characteristic;
- Physical conduct toward a person due to that person's legally protected characteristic;
- All communications, including those conveyed electronically, such as by email, telephone or voicemail, text messaging, or social media or other internet use, that directly or indirectly implicates a legally protected characteristic; or
- Any other unwelcome conduct that implicated a legally protected characteristic.

In most instances, discriminatory harassment does not include supervisory or evaluative practices.

The board will 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 will make effective equal employment opportunities for staff and applicants for employment. Such affirmative action will 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 will also include recruitment, selection, training, education and other programs.

The superintendent may develop an affirmative action plan which specifies the personnel procedures to be followed by the staff of the district and will ensure that no such procedures discriminate against any individual. Reasonable steps will 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, will be disseminated widely to staff in all classifications and to all interested patrons and organizations. Progress toward the goals established under this policy will 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 will prevail:

1. No qualified person with disabilities will, solely by reason of a disability, be subjected to discrimination and the district will 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 will make reasonable accommodations 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:
  - 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 the accommodation.

3. The District will not use any employment tests or criteria that screen out persons with disabilities unless the test or criteria is clearly and specifically job-related. Also, the District will not use such tests or criteria if alternative tests or criteria (that do not screen out persons with disabilities) are available.
4. While the district may not make a 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 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.

#### **Cross References:**

2030 - Service Animals in Schools  
5011 - Sexual Harassment of District Staff Prohibited  
5270 - Resolution of Staff Complaints  
5407 - Military Leave

#### **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 Title VII of the Civil Rights Act of 1964  
20 USC --1681 - 1688 Title IX Educational Amendments of 1972  
42 USC 12101 -- 12213 Americans with Disabilities Act  
8 USC --1324 (IRCA) Immigration Reform and Control Act of 1986  
38 USC -- 4301-4333 Uniformed Services Employment and Reemployment Rights Act  
29 USC 794 Vocational Rehabilitation Act of 1973  
34 CFR 104 Nondiscrimination on the basis of handicap in Programs or activities receiving federal financial assistance  
38 USC -- 4212 Vietnam Era Veterans Readjustment Assistance Act of 1974 (VEVRAA)

Management Resources:

2018 - May Policy Issue  
2017 - April Issue  
2014 - December Issue  
2013 - June Issue  
2011 - June Issue  
2011 - February Issue  
Policy News, August 2007 Washington--s Law Against Discrimination  
Policy News, June 2001 State Updates Military Leave Rights

Adoption Date: **01.03**

Classification: **Encouraged**

Revised Dates: **06.11; 06.12; 06.13; 12.14; 03.16; 05.18; 11.23**