

Nooksack Valley School District No. 506
Policy: 3210P
Section: 3000 - Students

Procedure for Nondiscrimination and Inclusion

Nooksack Valley School District provides equal educational opportunity and treatment for all students in all aspects of the academic and activities program without discrimination based on race, religion, creed, color, national origin, age, honorably discharged veteran or military status, sex, sexual orientation, 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 District will provide equal access to school facilities to the Boy Scouts of America and all other designated youth groups listed in Title 36 of the United States Code as a patriotic society. District programs will be free from sexual harassment. Auxiliary aids and services will be provided upon request to individuals with hearing, vision, or speech disabilities.

Training and Professional Development

When possible, the District will conduct staff training and professional development in an effort to build the skills of all staff and students to prevent, identify, and respond to harassment and discrimination. The District will designate one person to be the primary contact regarding this policy and procedure. The primary contact must participate in at least one mandatory training offered by the Office of the Superintendent of Public Instruction (OSPI). When possible, the District will conduct staff training and ongoing professional development in an effort to build the skills of all staff members to prevent, identify and respond to harassment and discrimination. The content of such professional development should include, but not be limited to:

- Appropriate strategies for communicating with students and parents about issues related to gender identity and gender expression, while protecting student privacy;
- Strategies for preventing and intervening in incidents of harassment and discrimination, including bullying and cyber-bullying;
- Terms and concepts related to gender identity, gender expression, and gender diversity in children and adolescents;
- District and staff responsibilities under applicable laws and District policies regarding harassment, discrimination, gender identity, gender expression issues.

Gender-Inclusive Schools

The principal or building administrator, or an appropriate, designated school employee, is encouraged to request a meeting with a transgender or gender-expansive student upon the student's enrollment in the District or in response to a currently enrolled student's change of gender expression or identity. Before contacting a student's parents, the school will consult with the student about the student's preferences regarding family involvement and consider whether safety concerns are present for the student.

The goals of the meeting are to:

- develop understanding of that student's individual needs with respect to their gender expression or identity, including any accommodations that the student is requesting or that the District will provide according to Policy 3210 and this procedure and under state and federal law; and

- develop a shared understanding of the student's day-to-day routine within the school so as to foster a relationship and help alleviate any apprehensions the student may have with regard to their attendance at school.

The school may not require the student to attend a meeting as condition of providing them with the protection to which they are entitled under Policy 3210, this procedure, and state and federal law regarding gender expression or identity.

Key Definitions/Terms

- **Assigned sex at birth:** The sex a person was given at birth, usually based on anatomy or chromosomes (e.g., male, female, intersex, etc.)
- **Cisgender:** A term used to describe people whose assigned sex matches their gender identity and/or gender expression (e.g., someone who was assigned female at birth and whose gender identity and/or gender expression is also female).
- **Gender Expansive:** A wider, more flexible range of gender identities or expressions than those typically associated with the binary gender system.
- **Gender Expression:** The external ways in which a person expresses their gender to the world, such as through their behavior, emotions, mannerisms, dress, grooming habits, interests, and activities.
- **Gender Identity:** A person's internal and deeply-felt sense of being female, male, both, non-binary, gender-expansive, or other-regardless of the gender assigned at birth.
- **Transgender:** A term often used to describe a person whose gender identity or expression, or both, are different from those traditionally associated with their sex assigned at birth.
- **Transitioning:** The process in which a person goes from living and identifying as one gender to living and identifying as another.

Communication and Use of Names and Pronouns

An appropriate school employee will privately ask known transgender or gender-expansive students how they would like to be addressed in class, in correspondence to the home, and at conferences with the student's parent/guardian. That information will be included in the electronic student record system along with the student's legal name in order to inform teachers and staff of the name and pronoun by which to address the student. However, the student's legal name should be accessible by only necessary staff members – it should not be visible to teachers or other staff who have access to the electronic records system.

When appropriate or necessary, this information will be communicated directly with staff to facilitate the use of the proper names and pronouns. A student is not required to change their official records or obtain a court-ordered name and/or gender change as a prerequisite to being addressed by the name and pronoun that corresponds to their gender identity.

When communicating with transgender or gender-expansive students regarding particular issues such as conduct, discipline, grades, attendance or health, school employees will focus on the conduct or particular issues rather than making assumptions regarding the student's actual or perceived gender identity or gender expression. Before communicating with parents of transgender or gender-expansive students, it's important to ask the student how school employees should refer to the student when talking with their parents and guardians. The District will not condone the intentional or persistent refusal to respect a student's gender identity or gender expression, or inappropriate release of information regarding a student's transgender or gender-expansive status.

Official Records

The standardized high school transcript is the only official record that requires a student's legal name. School staff should adopt practices to avoid the inadvertent disclosure of the student's transgender or gender-expansive status. The District will change a student's official records to reflect a change in legal name upon receipt of:

- Documentation that the student's legal name or gender has been changed pursuant to a court order or through amendment of state or federally-issued identification; or
- A written, signed statement explaining that the student has exercised a common-law name change and has changed their name for all intents and purposes and that the change has not been made for fraudulent reasons.

Schools may change a student's official gender designation upon parent or student request pursuant to OSPI's process found at <https://www.k12.wa.us/sites/default/files/public/cedars/pubdocs/2018-19cedarsreportingguidance.pdf> The process should not be overly cumbersome, and the District may not require verification from a physician.

The school must use the name and gender by which the student identifies on all other records, including but not limited to school identification cards, classroom seating charts, athletic rosters, yearbook entries, diplomas, and directory information.

Confidential Health or Educational Information

Information about a student's gender identity, legal name, or assigned sex at birth may constitute confidential medical or educational information. Disclosing this information to other students, their parents, or other third parties may violate privacy laws, such as the federal Family Education Rights and Privacy Act (FERPA) (20 U.S.C. §1232; 34 C.F.R. Part 99). Parents have the right under FERPA to request their student's records and if requested, the District will provide the student's educational records to the parent according to 3231/3231P - Student Records. To ensure the safety and well being of the student, school employees should not disclose a student's transgender or gender-expansive status to others, including other school personnel, other students, or the parents of other students, unless the school is (1) legally required to do so or (2) the student has authorized such disclosure.

Restroom Accessibility

Students will be allowed to use the restroom that corresponds to the gender identity they assert at school. No student will be required to use a restroom that conflicts with their gender identity. Any student – regardless of gender identity – who requires greater privacy should be given access to an alternative restroom. However, schools may not require a student to use an alternative restroom because of their transgender or gender-expansive status.

Locker Room Accessibility

Use of locker rooms by transgender or gender-expansive students will be assessed on a case-by-case basis, with the goal of maximizing transgender or gender-expansive student social integration, providing an equal opportunity to participate in physical education classes and athletic opportunities and ensuring the student's safety. The District will take an approach that conforms with OSPI's guidelines. In most cases, the District should provide the student access to the locker room that corresponds to the gender identity they assert at school. Reasonable alternatives to locker room conditions for any student who wants additional privacy include, but are not limited to:

- use of a private area (e.g., nearby restroom stall with a door, an area separated by a curtain, an office in the locker room, or a nearby health office restroom);
- a separate changing schedule (i.e. utilizing the locker room before or after the other students).

The school will provide accommodations needed to allow the student to keep their transgender or gender expansive status private. No student will be required to use a locker room that conflicts with his, her or their gender identity.

Sports and Physical Education Classes

The District will provide all students, including transgender and gender-expansive students the opportunity to participate in physical education and athletic programs/opportunities in a manner that is consistent with their gender identity.

A student may seek review of his, her or their eligibility for participation in interscholastic athletics by working through the Gender Identity Participation Procedure set forth by the Washington Interscholastic Activities Association (WIAA).

Dress Codes

The District will allow students to dress in a manner that is consistent with their gender identity and/or gender expression within the constraints of the dress codes adopted at their school site and within the constraints of the District guidelines for dress as they relate to health and safety issues (e.g., prohibitions on wearing gang-related apparel). School dress codes will be gender-neutral and will not restrict a student's clothing choices on the basis of gender. The District will take an approach that conforms with OSPI's guidelines.

Other School Activities

In any school activity or other circumstance involving separation by gender (i.e., class discussions, field trips, and overnight trips), students will be permitted to participate in accordance with the gender identity they assert at school. Teachers and other school employees will make every effort to separate students based on factors other than gender where practicable.

Complaint Procedures

Anyone may file a complaint against the district alleging that the district has violated anti-discrimination laws. This complaint procedure is designed to assure that the resolution of real or alleged violations are directed toward a just solution that is satisfactory to the complainant, the administration and the board of directors. This grievance procedure will apply to the general conditions of the nondiscrimination policy (Policy 3210) and more particularly to policies dealing with guidance and counseling (Policy 2140), co-curricular program (Policy 2150), service animals in schools (Policy 2030) and curriculum development and instructional materials (Policy 2020). As used in this procedure:

"Grievance" means a complaint which has been filed by a complainant relating to alleged violations of any state or federal anti-discrimination laws.

"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 392-190005. 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.

"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 policy and procedure and from retaliating against an individual for filing such a grievance.

1. Informal Process for Resolution

Anyone with an allegation of discrimination may request an informal meeting with the compliance officer or designated employee to resolve their concerns. Such a meeting will be at the option of the complainant. If unable to resolve the issue at this meeting, the complainant may submit a written complaint to the compliance officer. During the course of the informal process, the district must notify complainant of their right to file a formal complaint.

2. 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 shall 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 antidiscrimination 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 shall 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 the Board of Directors

If a complainant disagrees with the superintendent's or designee's written decision, the complainant may appeal the decision to the district board of directors by filing 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 shall schedule a hearing to commence by the twentieth (20th) 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 shall 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.

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.

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.

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.

3. Mediation

At any time during the discrimination complaint procedure set forth in WAC 392190-065 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 used 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.

4. 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 compliance officer for a period of six years.

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