

Human Resources
Maurene Stanton
Executive Director of Human Resources

Date: May 5, 2015

To: Stanwood Camano School Board

From: Maurene Stanton

RE: Board Policy Revision

Type: Action Needed: Second Reading/Adoption

The Office of Superintendent of Public Instruction (OSPI) has made substantial changes to Chapter 392-190WAC. These rules implement Chapters 28A.640 and 28A.642 RCW, which prohibit discrimination in Washington public Schools. Under the revised rules, school districts and public charter schools must follow new requirements that impact how they respond to allegations of discrimination and discriminatory action.

The following Stanwood-Camano School District policies have been revised:

- Nondiscrimination and Affirmative Action (Policy 5010)
- Harassment, Intimidation and Bullying (Policy 3207)

The attached policy revisions are being submitted for your consideration due to changes in the law. The changes are reflected in the attached documents. Legal counsel has reviewed the attached revised policy.

I am available to answer any questions you may have regarding the recommended revisions.

Recommendation: To approve the second reading and adoption of Personnel Policy 5010, Nondiscrimination and Affirmative Action and revised Student Policy 3207, Harassment, Intimidation and Bullying.

NONDISCRIMINATION AND AFFIRMATIVE ACTION

Affirmative Action and Nondiscrimination

The district shall provide equal employment opportunity and treatment for all applicants and staff **and will not tolerate unlawful discriminatory practices** 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 affirmative action/ Title IX Compliance officer.

Affirmative Action

District employees shall be free from harassment based on legally protected attributes or characteristics. The district shall implement programs and practices that value diversity, ensure equity, and build understanding, awareness, and appreciation of the diverse array of human characteristics, needs and perspectives that influence the district environment.

The district shall also make reasonable accommodation to the known sensory, mental or physical limitations of an otherwise qualified disabled applicant or employee unless an accommodation would impose an undue hardship on the operation of the district program.

The district, as a recipient of public funds, is committed to undertake affirmative action, which **will provide shall make effective** equal employment opportunities for **all** staff and applicants for employment. Such affirmative action shall include a review of programs, **monitoring of the workforce composition, and use of employment procedures which enure equal employment opportunities for minority and female employees and applicants.** 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.

It shall be the responsibility of the superintendent or designee to The superintendent shall develop an affirmative action plan **and procedures** which specifies the personnel procedures to be followed by **management and supervisory personnel in all schools and departments** the staff of the district **to carry out the provisions and intent of this policy,** 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 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.

Cross References:	Board Policy 2030 Board Policy 5270 Board Policy 5407 Board Policy 5010P	Service Animals in Schools Resolution of Staff Complaints Military Leave <u>Affirmative Action and Nondiscrimination Procedure</u>
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Legal References:	RCW 28A.400.310 RCW 28A.640.020 RCW 28A.642 RCW 49.60 RCW 49.60.030 RCW 49.60.180 RCW 49.60.400 Chapter 73.16 RCW WAC 162-22-025 WAC 392-190 WAC 392-190-0592 WAC 392-190-065 WAC 392-190-070 WAC 392-190-075 WAC 392-190-076 WAC 392-190-077	Law against discrimination applicable to district's employment practices Regulations, guidelines to eliminate discrimination — Scope—Sexual harassment policies Discrimination prohibition Discrimination – Human rights commission Freedom from discrimination – Declaration of civil rights Unfair practices of employers Discrimination, preferential treatment prohibited Employment and Re-employment <u>Unfair Practice</u> Equal Education Opportunity – Unlawful Discrimination Prohibited Public school employment — Affirmative action program <u>Compliance--Complaint procedure--District</u> Compliance--Appeal procedure--Local school board <u>Compliance—Contested case—Duty of the superintendent of public instruction</u> <u>Monitoring results—Duty of the superintendent of public instruction</u> <u>Monitoring results—Compliance</u>
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WAC 392-190-078

WAC 392-190-079

WAC 392-190-080

WAC 392-190-081

WAC 392-190-082

42 USC 2000 c- 2000c-9

20 USC § 1681-1688

42 USC 12101 – 12213 ~~2000h-2000h-6~~

8 USC 1324a & 1324b

29 USC § 701

38 USC §§ 4212

38 USC §§ 4301-4333

USC 794

34 CFR § 104

Monitoring results—Complaints issued by superintendent of public instruction

Complaints issued by superintendent of public instruction—Appeal procedure
Compliance—Violations—Permissible sanctions

Concurrent remedies—Other remedies
Informing citizens about complaint procedures

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

Vocational Rehabilitation Act of 1973

Vietnam Era Veterans Readjustment Act of 1974 (VEVRAA)

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: 12.89

Stanwood-Camano School District

Revised: 4.90; 5.6.03; 11.20.12; 05.05.15

PROHIBITION OF HARASSMENT, INTIMIDATION, AND BULLYING

The district is committed to a safe and civil educational environment for all students, that is free from harassment, intimidation, or bullying. Our district's core values include our commitment to value differences among people and treat one another with respect. Harassment, intimidation and bullying of students by other students, staff members, volunteers, parents or guardians are prohibited.

It shall be a violation of this policy and the district's student discipline policy for any student of the district to harass, intimidate or bully another student through electronic, written, verbal, nonverbal, or physical conduct while in or on school property (or in reasonable proximity thereto), school transportation, or at school-sponsored activities off school property.

Prevention

The district will provide students with strategies aimed at preventing harassment, intimidation, and bullying. In its efforts to educate students, the district will seek partnerships with families, law enforcement, and other community agencies.

Interventions

Interventions will be designed to address the impact of harassment, intimidation, and bullying on the targeted student(s) and others impacted by the violation, to change the behavior of the perpetrator, and to restore a positive school climate.

The district will consider the frequency of incidents, developmental age of the student, and severity of the conduct in determining intervention strategies. Interventions may include counseling, correcting behavior and discipline, to law enforcement referral.

Retaliation

Retaliation is prohibited against those who report or participate in an investigation of harassment, intimidation and bullying and will result in appropriate discipline. It is a violation of this policy to threaten or harm someone for reporting harassment, intimidation and bullying or participating in an investigation of such a report.

False Allegations

Knowingly reporting false allegations of harassment, intimidation and bullying is prohibited. Students or employees will not be disciplined for making a report in good faith. However, persons found to knowingly report or corroborate false allegations will be subject to appropriate discipline.

Compliance Officer

The superintendent will appoint a compliance officer as the primary district contact to receive copies of all harassment, intimidation, and bullying incident report forms and to ensure policy implementation. The name and contact information for the compliance officer will be communicated throughout the district.

The superintendent is authorized to direct the **development and** implementation of procedures to carry out this policy.

Cross References:

Policy 3200
Procedure 3207P

Policy 3210
Policy 3240
Policy 3241

Rights and Responsibilities
Prohibition of Harassment, Intimidation, and Bullying
Nondiscrimination
Student Conduct
Corrective Actions or Punishment

	Policy 6590	Sexual Harassment
Legal Reference:	RCW 28A.300.285	Harassment, Intimidation, and Bullying Prevention Policies
	RCW 28A.600.480	Reporting of Harassment, Intimidation, or Bullying -Retaliation Prohibited - Immunity
	RCW 9A.36.080	Malicious Harassment – Definition and Criminal Penalty
	RCW 28A.642	K-12 Education – Prohibition of Discrimination
	RCW 49.60	Discrimination – Human Rights Commission
	<u>RCW 26.44</u>	<u>Abuse of Children</u>
	<u>RCW 28A.640</u>	<u>Sexual Equality</u>
	<u>WAC 392-190</u>	<u>Equal educational opportunity – unlawful discrimination prohibited</u>
	<u>WAC 392-400-215</u>	<u>Student rights</u>
	U.S. Depart. Of Education _____ Dear Colleague Letter, 2010 http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html	

Title IX Education Amendments of 1972

Management Resources:	Policy News, April 2008	Cyber-bullying Policy Required
	Policy News, April 2002	Legislature Passes and Anti-Bullying Bill

Adoption Date: 05.20.03
Stanwood-Camano School District
Revised: 03.07.06; 09.02.08; 04.17.11; 07.05.11; 02.18.14; 5.5.15