

NONDISCRIMINATION AND AFFIRMATIVE ACTION

Policy No. 5010

Nondiscrimination

The district will provide equal employment opportunity and treatment for all applicants and staff in recruitment, hiring, retention, assignment, provided without 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 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 shall 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 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:

- A. No qualified person with disabilities will, 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.

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- B. The district will 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 will 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 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.

Legal References:	RCW 28A.400.310	Law against discrimination applicable to district's employment practices
	RCW 28A.640.020	Regulations, guidelines to eliminate discrimination — Scope
	RCW 49.60	Law Against Discrimination
	RCW 49.60.030	Freedom from discrimination
	RCW 49.60.180	Unfair practices of employer defined
	RCW 49.60.400	Affirmative action, discrimination prohibited (I-200)
	Chapter 73.16 RCW	Employment and Re-employment

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WAC 392-200	Employment Discrimination WAC 392-200-015	Public school employment — Affirmative action program
	42 USC 2000c – 2000c-9	Title VII of the Civil Rights Act of 1964
	42 USC 2000h – 2000h-6	Title IX Educational Amendments of 1972
	42 USC 12101 – 12213	Americans with Disabilities Act
	29 USC 706	
	8 USC 1324a and 1324b	(IRCA) Immigration Reform and Control Act of 1986
	38 USC §§ 2021 -2024	Uniformed Services Employment and Reemployment Rights Act
	45 CFR 84 Sec 504	Vocational Rehabilitation Act of 1973
	Executive Order 11246 Amended by Executive Order 11375	

NONDISCRIMINATION AND AFFIRMATIVE ACTION

Procedure No. 5010P

Nondiscrimination

To ensure fairness and consistency, the following grievance procedure is to be used in the district's relationship with regard to problems covered by state and federal equal employment opportunity laws and/or this affirmative action program. No staff member's status with the district shall 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" 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 will be taken.

Affirmative Action Plan

In order to secure an equitable solution to a justifiable complaint 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 shall 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.

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Teachers, Elementary or grades K-8

Goal: To provide each student with the opportunity to experience both male and female home-room teachers during the primary as well as the intermediate grades.

Objective: To achieve a staff which falls within a range of 50% men and/or women in the primary as well as the intermediate grades at each school, without using preferential employment practices.

Teachers, Secondary or grades 9-12

Goal: To provide students with the opportunity to work with male and female staff in both curricular and extracurricular activities.

Objective: To achieve a staff which falls within a range of 50% men and/or women for classroom teachers and activity, without using preferential employment practices.

Support Staff- Certificated and Classified

Objective: To achieve a staff which falls within a range of 50% men and/or women, without using preferential employment practices.

Ethnic Minority Balance and Staff Goals

The profiles of the district's current student ethnic minority population and the district's current ethnic minorities (American Indian/Native American 0%, Asian 0%, Black 0%, and Hispanic 23%) are set forth in the Kahlotus School District. By the commencement of the 2019-20 school year the district will strive to achieve a rate of employment for ethnic minorities in both certificated and classified areas as indicated in this plan, without using preferential employment practices. These goals are a utilization level for certificated staff, at least equal to the percentage of ethnic minority student enrollment within the district; for classified staff a utilization level of least 10%, a figure based upon relevant availability figures in the Kahlotus statistical area. Final and interim goals are set out in the Kahlotus School District. The district will see that measurable efforts are made in the utilization of ethnic minorities for high level of responsibilities in both certificated and classified positions, without using preferential employment practices. The district will make good faith efforts to recruit, interview, and employ individuals consistent with the district commitment to nondiscrimination and affirmative action for all positions and in every department, every school and at every level of operation. Preferential or adverse employment practices, including demotions or termination will not be used to meet stated goals or time lines.

Administrators

Goal: To place ethnic minorities in administrative positions, without using preferential employment practices.

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Objectives: to place ethnic minorities in administrative positions as they become available to progress toward the percentage of ethnic minorities in the current ethnic minority student enrollment.

To identify qualified potential candidates from outside the district for consideration for future openings:

Principals and Assistant Principals

Goal: To place ethnic minorities in principal positions.

Objective: To place ethnic minorities in principal and assistant principal positions as they occur and trained applicants are available without using preferential employment practices.

Teachers: Elementary or grades K-8

Goal: To provide each student with the opportunity to experience ethnic minority homeroom teachers during the primary as well as the intermediate grades, without using preferential employment practices.

Objective: To a staff of primary and intermediate teachers in which the percentage of ethnic minorities is comparable to that of the current ethnic minority student enrollment.

Teacher: Secondary or grades 9-12

Goal: to provide students with the opportunity to work with ethnic minority staff in both curricular and extracurricular activities.

Objective: To maintain a staff of classroom teachers and activity supervisors in which the percentage of ethnic minorities is comparable to that of the current ethnic minority student enrollment, without using preferential employment practices.

Support Staff – Certificated and Classified

Objective: To achieve a staff of certificated and classified support staff in which the percentage of ethnic minorities is comparable to that of the current ethnic minority enrollment, without using preferential employment practices.

Aged Balance and Staff Goals

The profile of the district’s current age distribution of certificated and classified staff is set forth in the Kahlotus School District. By the commencement of the 2019-20 school year, the district will strive to achieve a rate of employment for age categories for both certificated and classified

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 by the 10th calendar day following the date upon which the complainant received the response.

The board will schedule a hearing to commence by the 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. 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 Office of 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 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 appeal the board's decision to the superintendent of public instruction.

1. A complaint must be received by the Office of 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 Office of 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

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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 non-compliance 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.

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 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.

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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.

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, shall be retained in the office of the district compliance officer for a period of 6 years.