



Contact:

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TO: Stanwood-Camano Board of Directors

FROM: Christine Del Pozo, Executive Director of Human Resources

SUBJECT: Second Reading, Board Policy 5010 Nondiscrimination and Affirmative Action

DATE: February 20, 2024

TYPE: Action Required

The Washington State School Directors Association (WSSDA) has recommended updates to policy 5010, Nondiscrimination and Affirmative Action. Policy 5010 was brought before the board for a first reading on February 6th. The Board moved revised policy 5010 forward for a second reading.

Recommendation: We recommend the board approve the second reading of revised policy 5010 on Nondiscrimination and Affirmative Action.

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and is prepared for the future of their choice

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NONDISCRIMINATION AND AFFIRMATIVE ACTION

~~Affirmative Action and~~ Nondiscrimination

The Stanwood-Camano 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 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 a legal 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 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.

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 e-mail, 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 upon gender or race, including color, ethnicity or national origin. Such affirmative action will also

include recruitment, selection, training, education and other programs.

The superintendent will 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** ~~shall~~ make reasonable accommodation to the known mental or physical limitations of an otherwise qualified disabled applicant or **staff member** ~~employee~~ unless it is clear that an accommodation would impose an undue hardship on the operation of the district program. Such reasonable accommodation 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 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:	Board Policy 2030 Board Policy 5011 Board Policy 5270 Board Policy 5407	Service Animals in Schools Sexual Harassment of District Staff Prohibited Resolution of Staff Complaints Military Leave
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 RCW 73.16 WAC 392-190 WAC 392-190-0592 42 USC 2000 e1- 2000e10 42 USC 12101 - 12213 20 USC § 1681-1688 8 USC 1324 29 USC 794 38 §§ 4212 38 USC 4212 38 USC §§ 4301-4333 34 CFR § 104	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 Equal Education Opportunity – Unlawful Discrimination Prohibited Public school employment – Affirmative action program Title VII of the Civil Rights Act of 1964 Americans with Disability Act Title IX Educational Amendments of 1972 (IRCA) Immigration Reform and Control Act of 1986 <u>Vocational Rehabilitation Act of 1973</u> Vietnam Era Veterans Readjustment <u>Assistance</u> Act of 1974 (VEVRAA) Uniformed Services Employment and Reemployment Rights Act Nondiscrimination under Federal grants and programs Nondiscrimination on the basis of handicap in Programs or activities receiving federal financial assistance
Management Resources:	<i>Policy News, 2018 – May Policy Issue</i> <i>Policy News, 2017 – April Policy Issue</i> <i>Policy News, 2014 – December Policy Issue</i> <i>Policy News, 2013 – June Policy Issue</i> <u>Policy News, 2011 – June Policy Issue</u> <i>Policy News, June 2011</i>	Laws Against Discrimination Address Equal Education Opportunities

Policy News, 2011 – February Policy Issue

~~*Policy News, February 2011*~~

~~*Nondiscrimination*~~

Policy News, August 2007

Washington’s Law Against Discrimination

Policy News, June 2001

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; 2.19.19, 2.20.24