

Understanding Laws and Regulations Regarding Student and Parent Rights under the Washington Law Against Discrimination

The board's attorney, Parker Howell will join the board to discuss local flexibility relative to compliance with the Washington Law Against Discrimination, particularly regarding the OSPI's [gender-inclusive schools guidelines](#).

The Washington Law Against Discrimination ([RCW Chapter 49.60](#)) prohibits discrimination based on: *"race, creed, color, national origin, citizenship or immigration status, sex, honorably discharged veteran or military status, sexual orientation, 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 is recognized as and declared to be a civil right."* ([RCW 49.60.030\(1\)](#)). As defined in the law, "sexual orientation" means heterosexuality, homosexuality, bisexuality, and gender expression or identity. ([Source: Washington State Human Rights Commission](#))

These non-discrimination protections as they specifically apply to schools are found, explicitly including gender identity and expression, in [RCW 28A.642.010](#)

School [Board Policy 3210-Nondiscrimination](#) (students) and [Policy 5010-Nondiscrimination and Affirmative Action](#) (employees) were adopted and updated to align with state law.

In 2019, the Washington State Legislature approved [SSB 5689](#), codified in [RCW 28A.642.080](#). This statute required school districts to *"By January 31, 2020, ... adopt or amend if necessary policies and procedures that, at a minimum, incorporate all the elements of the model transgender student policy and procedure described in subsection (3) of this section."*

Subsection (3)(b) states: *"The elements of the model transgender student policy and procedure must, at a minimum: Incorporate the [office of the superintendent of public instruction's rules and guidelines](#) developed under [RCW 28A.642.020](#) to eliminate discrimination in Washington public schools on the basis of gender identity and expression; address the unique challenges and needs faced by transgender students in public schools; and describe the application of the model policy and procedure prohibiting harassment, intimidation, and bullying, required under [RCW 28A.600.477](#), to transgender students."*

On September 23, 2019, The Woodland Board, as mandated by the legislature, adopted the WSSDA-developed Gender Inclusive Schools [Policy 3211](#) and [Procedure 3211P](#).

The goal of the workshop will be for the board to understand where it has and does not have the flexibility to adjust policy/procedure to more closely reflect the board's goal of organizational alignment with [its vision statement](#) that calls for a partnership with families, support for all children, and ensuring each child has full access.

Woodland's neighbor to the south, LaCenter School District, has adopted a version of [Policy 3211](#) and [Procedure 3211P](#), though [their policy has been somewhat controversial, eliciting protests from staff and an investigation by OSPI](#). As of today, the OSPI has issued no finding that the policy decisions the LaCenter school board has made are discriminatory.

Careful compliance with the WLAD is essential to protect the civil rights of students and adults. It is also important to understand that failure to faithfully follow the WLAD can result in substantial exposure to school districts, employers, etc., if there is a finding in court of discrimination. Specifically [RCW 49.60.030\(2\)](#) states:

(2) Any person deeming himself or herself injured by any act in violation of this chapter shall have a civil action in a court of competent jurisdiction to enjoy

further violations, or to recover the actual damages sustained by the person, or both, together with the cost of suit including reasonable attorneys' fees or any other appropriate remedy authorized by this chapter or the United States Civil Rights Act of 1964 as amended, or the Federal Fair Housing Amendments Act of 1988 (42 U.S.C. Sec. 3601 et seq.).

In other words, if an individual sues the school district for discrimination and there is a finding against the district, even for \$1, the plaintiff in the case can recover all costs of the suit, INCLUDING their attorney fees, AND the district's liability insurance excess carrier specifically excludes coverage for discrimination.

Additional References:

[Washington State Human Rights Commission: Guide to Sexual Orientation and Gender Identity and the Washington State Law Against Discrimination](#)

[OSPI Gender Inclusive Schools Handout](#)

[LaCenter School District Policy 3211 and Procedure 3211P](#)

[OSPI Resources for Families: Gender Inclusive Schools](#)

[OSPI Resources for Districts: Gender Inclusive Schools](#)