



Revised State Rules Regarding Discrimination in Schools

Effective December 19, 2014

The Office of Superintendent of Public Instruction (OSPI) has made [substantial changes](#) to Chapter 392-190 WAC. 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 harassment.

The revised rules become effective on December 19, 2014, which may require school districts and public charter schools to update existing policies and procedures.

This announcement includes information about who should be notified of these rules, the substantial changes that were made, and the policies and procedures that may need to be updated.

Why did OSPI revise these rules?

OSPI revised Chapter 392-190 WAC to provide a more efficient and equitable resolution of discrimination complaints for school districts, public charter schools, and families. The [revisions](#) also clarify existing requirements for school districts and public charter schools and the scope of OSPI monitoring regarding discrimination in Washington public schools.

Who should be notified of the revised rules?

Anyone responsible for updating district and school policies and procedures or responding to allegations of discrimination and harassment should be made aware of the [revised rules](#). This includes:

- District and school administrators
 - Building principals
 - Title IX coordinators
 - Section 504 coordinators
 - Civil rights compliance coordinators
 - Harassment, intimidation, and bullying (HIB) coordinators
 - School board members
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Which policies and procedures will need to be updated?

School districts and charter schools should consult with their legal counsel to make any necessary changes to policies, procedures, staff and student handbooks, notices, and practices to ensure compliance with the [revised rules](#). The following policies and procedures may need to be updated:

- Nondiscrimination (students)
 - Nondiscrimination and Affirmative Action (personnel)
 - Sexual Harassment
 - Harassment, Intimidation, and Bullying
 - Curriculum Development and Adoption of Instructional Materials
 - Interscholastic Activities
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Highlights of the Revised Rules

The following information provides a summary of the substantial revisions to the rules. We strongly encourage school districts and charter schools to review the final rules in detail, which are available at: www.k12.wa.us/Equity/Rules.aspx.

Training (WAC 392-190-020)

All building and district administrators, compliance coordinators, and certificated classroom personnel must receive training (1) regarding their responsibilities under nondiscrimination laws, and (2) to raise awareness of and eliminate bias based on all protected classes.

Course and Program Enrollment (WAC 392-190-010)

At least annually, each school district and public charter school must review course and program enrollment data disaggregated by sex, race, limited-English proficiency (i.e., English language learners), and disability. If a substantially disproportionate number of students who are members of a protected class are enrolled (or not enrolled) in a particular course or program, the school district or public charter school must take action to ensure that it is not the result of discrimination, including in the identification and selection of students, course and program enrollment criteria, tests and appraisal instruments, guidance materials, and educational scheduling or placement.

Student Discipline (WAC 392-190-048)

At least annually, each school district and public charter school must review data on corrective and disciplinary actions taken against students at each school building to ensure that the school is administering student discipline without discriminating on the basis of sex, race, limited-English proficiency, or disability. This data review and analysis must include, at a minimum, expulsions, emergency expulsions, short-term suspensions, and long-term suspensions disaggregated by sex, race, limited-English proficiency (i.e., English language learners), and disability.

Discriminatory Harassment (WAC 392-190-0555)

Upon notice, a school district must take prompt and appropriate action to investigate and address discriminatory and sexual harassment. This includes taking steps to end the harassment, eliminate the hostile environment, prevent its recurrence, and remedy its effects. Discriminatory harassment includes conduct that (1) is based on a student's status as a member of a protected class and (2) is sufficiently severe, persistent, or pervasive that it limits or denies a student's ability to participate in or benefit from the school's education programs or activities. A school district or public charter school is on notice about discriminatory harassment if a reasonable employee knew, or in the exercise of reasonable care should have known, about the harassment.

Harassment, Intimidation, and Bullying (WAC 392-190-059)

If a complaint of Harassment, Intimidation, or Bullying (HIB) indicates potential discrimination or harassment based on any protected class, or if the school district becomes aware of potential discrimination during an HIB investigation, the HIB officer must inform the appropriate compliance coordinator (i.e., Title IX Coordinator, Section 504 Coordinator, or Civil Rights Compliance Coordinator). Upon receipt of this information, the coordinator must notify the complainant that their complaint will proceed under both the HIB and discrimination complaint procedures.

District/Charter School Discrimination Complaint Procedure (WAC 392-190-065)

Each school district and public charter school must adopt a discrimination complaint procedure that includes all required components in WAC 392-190-065 and 392-190-070. While many of the requirements related to the complaint procedure remain unchanged, the procedure is summarized below:

Discrimination complaints may be submitted by mail, fax, e-mail, or hand delivery to any district, school, or charter school administrator or compliance coordinator. School districts and public charter schools may establish a filing deadline, so long as the deadline is no less than one year after the event that is the subject of the complaint.

Upon receipt of a discrimination complaint, the appropriate compliance coordinator must (1) provide the complainant with a copy of the complaint procedure in a language the complainant can understand, and (2) ensure that the school district or public charter school conducts a prompt and thorough investigation.

After the investigation, the superintendent, charter school administrator, or designee must respond to the complainant within thirty calendar days after receiving the complaint. If exceptional circumstances related to the complaint require an extension of the time limit, the school district or public charter school must notify the complainant in writing about the reasons for the extension and the anticipated response date. The school district or public charter school's response must include:

1. A summary of the results of the investigation;
2. Whether the school district or charter school has failed to comply with civil rights requirements related to the complaint;
3. Notice of the complainant's right to appeal; and
4. Any corrective measures determined necessary to address any noncompliance.

The school district or public charter school must send OSPI a copy of its response to the complaint.

District/Charter School Appeal Procedure (WAC 392-190-070)

Each school district and public charter school's complaint procedure must provide an option to appeal the district's or charter school's decision to a party or board that was not involved in the initial complaint or investigation. A school district or public charter school may establish a time limit to file appeals. However, appeal time limits must be no less than ten calendar days from the date the complainant received the district's or charter school's response to the complaint.

An appeal hearing before the school district's board of directors is no longer required. However, a school district may continue to use the previous school board appeal process to meet these appeal requirements. Regardless of the process that the school district or public charter school uses to resolve appeals, it must respond to the appeal in writing within thirty calendar days after receiving the appeal, unless otherwise agreed to by the complainant. The appeal decision must include notice of the complainant's right to file a complaint with OSPI. The school district or public charter school must send a copy of the appeal decision to OSPI.

OSPI Complaint Procedure (WAC 392-190-075)

OSPI will no longer conduct a formal administrative hearing through the Office of Administrative Hearings (OAH) to hear appeals of discrimination complaints. Under the new rules, if a complainant disagrees with the school district's or public charter school's appeal decision, or if the district or charter school fails to comply with the proper complaint procedures, the complainant may file a complaint with OSPI.

When OSPI receives a complaint, it will evaluate the complaint to determine if it will initiate an investigation. The investigation may include reviewing relevant information, conducting interviews, or completing an on-site review. At its discretion, OSPI may investigate additional issues related to the

complaint that were not included in the initial complaint or appeal.

Following an investigation, OSPI will make an independent determination as to whether or not the school district or public charter school failed to comply with Chapter 392-190 WAC or OSPI's [guidelines](#) and may require corrective actions if the district or charter school is found out of compliance.

Mediation (WAC 392-190-0751)

School districts and public charter schools have the option to offer mediation, at the district's or charter school's expense, to resolve complaints at any time. The purpose of mediation is to the complainant and the school district or charter school an opportunity to reach a mutually acceptable agreement through the use of an impartial mediator. Mediation must be voluntary, and the complainant and the district or charter school may agree to extend the complaint timelines to pursue mediation. OSPI does not approve, endorse, or enforce agreements reached during mediation.

Language Assistance for Limited-English Proficient Parents and Guardians

Throughout the rules, OSPI clarified that discrimination complaint procedures and decisions, requests to extend timelines, and notices of appeal rights must be provided in a language that each parent, guardian, or complainant can understand. This may require language assistance for parents and guardians with limited-English proficiency in accordance with Title VI of the Civil Rights Act of 1964.

Affirmative Action Programs (WAC 392-190-0592)

While school districts and public charter schools are still required to develop affirmative action employment programs, these programs no longer need to be filed with OSPI. However, school districts and public charter schools must maintain these programs and make them available to OSPI upon request.

Charter schools

As clarified throughout the rules, all public charter schools must follow Washington state and federal civil rights laws, including Chapters 28A.640 and 28A.642 RCW and Chapter 392-190 WAC.

Contact Us!

*Have questions about these or other civil rights issues?
Please contact us!*

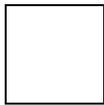
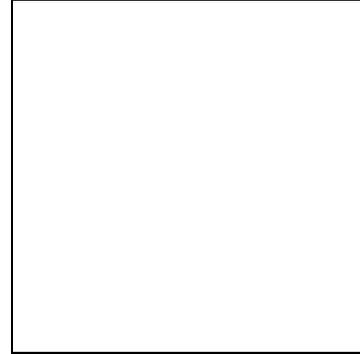
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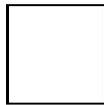
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