

## **POLICY IHF – Safe and Caring Learning Environment (Diverse Sexual Orientation, Gender Identity and Gender Expression)**

**The Board is committed to creating a welcoming, caring, respectful and safe learning environment for students, staff and all members of the school community. The Board affirms the rights, as provided for in the *Alberta Human Rights Act* and the *Canadian Charter of Rights and Freedoms*, of each staff member employed by the Board and each student enrolled in a school operated by the Board. Students and staff members will not be discriminated against as provided for in the *Alberta Human Rights Act* or the *Canadian Charter of Rights and Freedoms*.**

### **PURPOSE**

The Board will provide an environment in which students with diverse sexual orientation, gender identity and gender expression feel welcome, while promoting fairness and safety in sport.

The Board is committed to:

- supporting inclusion of all students and staff in all aspects of school life, irrespective of their actual or perceived sexual orientation or gender identity;
- supporting students and staff regardless of their sexual orientation, gender identity and gender expression based on their human rights;
- improving understanding of sexual or gender minority individuals, communities and cultures;
- defining appropriate terms, behaviours and actions to promote greater awareness of, and responsiveness to, the harmful effects of harassment and exclusion;
- addressing acts of harassment, bullying, intimidation or discrimination on the basis of a person’s actual or perceived sexual orientation, gender identity or gender expression.

### **DEFINITIONS**

In this policy, all references to persons with diverse sexual orientation, gender identity and gender expression will include, but are not limited to, “sexual or gender minority” persons or LGBTQ+ persons including lesbian, gay, bisexual, transgender, transsexual, two-spirited, intersex, queer or questioning persons, persons who are labeled as such (whether they are or not), and persons with immediate family members who identify as a sexual or gender minority.

**Athlete** is a participant aged 12 years and older, registered in a relevant sport.

**Applicant** is a Principal of a school in Alberta, or coach of a school team in Alberta, who submits a confidential challenge to an athlete’s eligibility to participate in a relevant sport, providing that they have a team participating in the same sport. Or an athlete, or their parent or guardian if the athlete is under the age of 18 years, who submits a challenge provided that the student athlete is participating in the same sport.

**Birth Registration Document** is not a birth certificate; it is defined in the *Vital Statistics Act* or a similar document issued outside of Alberta that contains the following information respecting an athlete:

- i. full name of athlete;
- ii. date and place where the birth of the athlete occurred; and

- iii. the sex at birth of the athlete.

**Consistently asserted gender identity** refers to lived gender. This is the gender that the student expresses publicly while at school, socializing, accessing services, and in the broader community.

**Discrimination** is the denial of individual rights and freedoms in a manner which contravenes the *Alberta Human Rights, Canadian Multiculturalism Act* and the *Canadian Charter of Rights and Freedoms*.

No person shall discriminate “because of the race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation of that person...” according to the *Alberta Human Rights Act* (Section 4). (Code A)

**Harassment** refers to unwelcome and offensive behaviour that consists of objectionable conduct, comment, material or display that demeans, belittles, intimidates or humiliates another person. Harassment may include, but is not limited to, references related to race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation. It may involve abuse of authority, but does not include the legitimate exercise of an individual’s supervisory or administrative authority.

**Relevant sport** is an amateur competitive sport regulated, coordinated, promoted, or sponsored by PWPSD where female-only leagues exist.

**Sex at Birth** means the sex of an individual that appears on the athlete’s birth registration document, not birth certificate.

**Sexual Harassment** is any unwelcome behaviour that is sexual in nature. It includes, but is not limited to, behaviours such as unwanted touching (e.g. pinching, patting, rubbing), leering, sexist jokes, the display of sexually suggestive material, derogatory, or degrading comments, sexually suggestive gestures and unwelcome propositions, innuendoes, demands or inquiries of a sexual nature. Unwanted sexual advances, unwanted requests for sexual acts, and other verbal or physical conduct of a sexual nature constitutes sexual harassment.

## **GUIDELINES & PROCEDURES**

### 1. Leadership

#### a) The Principal

- i) will provide a welcoming, caring, respectful and safe learning environment that respects diversity and fosters a sense of belonging;
- ii) shall ensure discriminatory behaviours and complaints will be taken seriously, documented and dealt with in a timely manner.

### 2. Staff

- a) PWPSD is a safe and respectful working environment where diversity is valued and accepted. All staff are responsible for creating and maintaining a work environment that is free of discrimination and harassment. Complaints of discrimination and harassment based on sexual orientation and gender identity shall be promptly investigated and

resolved as stated in policies including *GBE – Health and Safety*, *GBEA – Protection of Staff*, and *JAB – Conflict Resolution*.

- b) PWPSD engages in employment practices which:
  - i) are free of bias resulting from any prejudice, including prejudice related to sexual orientation and gender identity;
  - ii) ensure equal opportunity for employment and advancement.
- 3. Professional Learning
  - a) The Board supports professional learning opportunities that assist adults to be informed regarding diversity and how to nurture a sense of belonging and a positive sense of self.
- 4. Gender Identity and Gender Expression
  - a) To support the safety, health and educational needs of students who identify as, or are perceived to be of diverse sexual orientation, gender identity or gender expression, Division staff shall adhere to the following recommended practices wherever possible and appropriate:
    - i) Names and Pronouns – staff members have the right to be addressed by their preferred name and pronoun.

If a student under the age of 16 requests that a new preferred name or pronouns be used by teachers, teacher leaders and other school staff when referring to the student in school; the school will notify the student’s parent of the request and seek the parent’s consent to use the new preferred name or pronouns. If the student is 16 or 17 years of age, the school will notify the student’s parent of the request.

If notifying the student’s parent or seeking the parent’s consent is reasonably expected to cause emotional or psychological harm to the student, or if the student requests access to assistance, the school shall ensure that the student is provided with counselling or other assistance before notifying the student’s parent.
    - ii) Communication and Official Records
      - (1) The student’s personal information and privacy will be protected, including, whenever possible, having a student’s explicit permission before disclosing information related to the student’s sexual orientation, gender identity or gender expression.
      - (2) When requested by the parent/guardian or a student 16 or 17 years old whose parent/guardian have been notified of the student request, the student’s official records will be changed to reflect their preferred name, sex, or gender. School forms and records may be changed to ensure that a student’s preferred name and sex or gender are current on class lists, timetables, student files, identification card, etc.
      - (3) Students will be informed of limitations regarding their chosen name and gender identity or gender expression in relation to official school records that require legal name and designation;
      - (4) Students should be advised that a legal name change is required if they desire their official Alberta Education documents to reflect their new name.

- iii) Gender-Segregated Activities – in classroom activities or school programs where students are segregated by gender, students will participate in the activity corresponding with their gender assigned at birth.
  - iv) Restroom/Change room Accessibility – All individuals in the school community shall have access to the restroom/change rooms that allow for appropriate privacy and that do not significantly disrupt the school environment. Staff shall consistently demonstrate sensitivity to the needs and safety of all students with respect to restroom/change room access. The Principal shall ensure individual solutions to restroom/change room access are implemented with respect and discretion.
  - v) Activities – students shall be able to participate in physical education classes and extracurricular activities. Students who are under the age of 12 years old may participate in ways that are safe and comfortable in keeping with their consistently asserted gender identity. Student athletes who are ages 12 and older will participate according to athlete eligibility in Guideline 6.
  - vi) Dress Code – All students have the right to dress in a manner consistent with their gender identity or gender expression in compliance with division policy and school dress codes.
5. As required by the *Education Act*, the Board supports student organizations as outlined in sections 35.1(1), (3), and (4):

**Support for student organizations:**

35.1(1) If one or more students attending a school operated by a board request a staff member employed by the board for support to establish a voluntary student organization, or to lead an activity intended to promote a welcoming, caring, respectful and safe learning environment that respects diversity and fosters a sense of belonging, the principal of the school shall:

- (a) permit the establishment of the student organization or the holding of the activity at the school, and
- (b) designate a staff member to serve as the staff liaison to facilitate the establishment and the ongoing operation of the student organization or to assist in organizing the activity.

The students may select a respectful and inclusive name for the organization or activity, including the name “gay-straight alliance” or “queer-straight alliance”, after consulting with the principal.

The principal shall immediately inform the board and the Minister if no staff member is available to serve as a staff liaison referred to in subsection (1), and if so informed, the Minister shall appoint a responsible adult to work with the requesting students in organizing the activity or to facilitate the establishment, and the ongoing operation, of the student organization at the school.

Participation in a GSA is not included in the student records and is protected under privacy law, so it cannot be disclosed without careful consideration of privacy legislation. Peace Wapiti Public School Division is a public body as defined by the *Access to Information Act* and *Protection of Privacy Act* and is bound by the provisions of those Acts.

6. As required by the Fairness and Safety in Sport Act, the Division acknowledges that
  - a) This policy applies to participation for student athletes aged 12 years and older.
  - b) Principals will maintain staff knowledge, understanding and compliance with the Fairness and Safety in Sport Regulation.
  - c) To participate in a female-only league, class or division of a relevant sport, an athlete must be of the female sex at birth.
    - i) At the time of registration of the participant in the relevant sport, parents (athlete may sign if over 18 yrs) will confirm in writing to the school Principal their eligibility based on their understanding of the Fairness and Safety in Sport Act requirements, through the declaration form, Fairness and Safety in Sport - Informed Declaration.
    - ii) Failure of a parent (or athlete over 18 yrs) to confirm in writing their eligibility will render the athlete ineligible to participate.
  - d) Females may compete in male competitions.
  - e) Mixed gender or mixed sex competitions may occur as determined by the coordinator of the event when numbers warrant.
  - f) A confidential challenge to an athlete's eligibility may be made by a valid applicant if there are reasonable grounds to believe that an athlete is ineligible under Section 2 of the *Fairness and Safety in Sport Regulation*. During the challenge process, the athlete is permitted to continue their participation.
    - i) A confidential challenge by a valid applicant must be made by requesting a copy of the Confidential Challenge to Student Athlete Eligibility Form and submit it to the [Peace Wapiti Public School Division](#).
    - ii) Upon receipt of a challenge, the PWPSD Board will notify the Ministry of Tourism and Sport within 3 business days. No personal information is shared with the ministry.
    - iii) The PWPSD Board will determine if reasonable grounds exist for the challenge.
      - (1) If, in the opinion of the PWPSD Board, reasonable grounds exist, the challenge will move forward (Guideline 6.g.). The athlete (or parent/guardian if under 18 years) will be notified of the challenge.
      - (2) If, in the opinion of the PWPSD Board, reasonable grounds do not exist, the challenge will be dismissed. The PWPSD Board or designate will notify the Minister of Tourism and Sport of the dismissal within 30 days of the challenge.
        - (a) Upon dismissal of the challenge, if it is deemed that the challenge was made in bad faith, the applicant may be subject to sanctions.
  - g) Upon the challenge moving forward, the athlete whose eligibility is subject to challenge (or their parents if they are under the age of 18) will be required to provide the PWPSD Board with a copy of the athlete's birth registration document. The athlete will be reimbursed for the cost of provision of the document by the school board, who will then be reimbursed by the Government of Alberta.

- i) Failure to provide birth registration documents as defined in the Vital Statistics Act or similar document issued outside of Alberta to the PWPSD Board will render the athlete ineligible to participate in a relevant sport.
- h) Once the birth registration document is received, the PWPSD Board or designate will verify the athlete's eligibility under Guideline 6.c.
- i) Challenge:
  - i) If the challenge is upheld and the athlete is determined to be ineligible, the PWPSD Board or designate will notify the principal and the athlete (or parent/guardian if under 18 yrs). The athlete will be permanently ineligible for participation in a female-only league.
  - ii) If the challenge is dismissed and the athlete is determined to be eligible, the PWPSD Board or designate will notify the principal and athlete (or parent/guardian if under 18 yrs). That athlete will be permanently eligible for participation in a female-only league.
  - iii) Upon determination of eligibility under Guideline 6.c. of this policy, the PWPSD Board will notify the Minister of Tourism and Sport of the decision without personal identifying information within 30 days.
- j) Reporting:
  - i) Principals will provide an annual report to the Assistant Superintendent of Educational Services outlining mixed-gender team requests and complaint summaries.

The Assistant Superintendent will provide an annual report to the Minister of Tourism and Sport.

## **REFERENCES**

### **Cross References:**

- [\*Policy BBA – School Board Powers and Duties\*](#)
  - [\*Policy GBE – Health and Safety\*](#)
  - [\*Policy GBEA – Protection of Staff\*](#)
  - [\*Policy IFC – Student Code of Conduct\*](#)
  - [\*Policy IFCA – Student Dress and Grooming\*](#)
  - [\*Policy IGD – Student Suspension and Expulsion\*](#)
  - [\*Policy IGH – Anti-Bullying\*](#)
  - [\*Policy JAB – School Dispute Resolution\*](#)
  - [\*Policy EEABA – Cross-Boundary Transportation\*](#)
  - [\*Government of Alberta: The Education Act – GSA Fact Sheet\*](#)
  - [\*Office of the Information and Privacy Commissioner of Alberta: Advisory on Disclosing a Student's Participation in a School Club\*](#)
- PWPSD's Confidential Challenge to Student Athlete Eligibility Form

More information about the bullying prevention resources is available on the [Respect in School](#) website and at the following Alberta.ca pages:

- [Bullying prevention for educators](#)
- [Safe and caring schools](#)
- [Mental health in schools](#)

**Legal References:**

[\*Alberta Human Rights Act\*](#)

[\*Canadian Multiculturalism Act\*](#)

[\*Canadian Charter of Rights and Freedoms\*](#)

[\*Education Act\*](#) – Section 33, 35, 197

[\*Access to Information Act\*](#)

[\*Protection of Privacy Act\*](#)

[\*Vital Statistics Act\*](#)

[\*Fairness and Safety in Sport Act\*](#)

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