

Civil Rights Complaint Investigation Final Report

LaCenter School District
SCHOOL DISTRICT
Preferred Pronoun Usage

December 2022

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**La Center School District
Civil Rights Complaint Investigation**

**Investigation Report
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EXECUTIVE SUMMARY

The summary below is intended to provide a brief indication of the major points covered in the main report. You are urged to read the report in its entirety to gain a perspective on the work done in the investigative process.

This investigation is in response to a formal Civil Rights Complaint alleging that a recent District directive disallowing staff from requesting student pronoun preference in a blanket fashion violates the Civil Rights of LGBTQ students. It is quite clear in law(s) RCW 28A.640, RCW 28A 642, and WAC 392-190 and Policies 3210 and 3211 that LGBTQ students have the right to be addressed by their preferred name and pronouns. This is also consistent with guidance provided by OSPI.

The investigation found no requirement in law or policy that teachers must canvas all of their students regarding pronoun preference. Similarly the investigator found nowhere in law that prohibits this practice. This gap in definition is typically addressed through policy and procedure. While Policy 3211 admirably requires an “inclusive approach toward transgender and gender expansive students” it does not specifically outline how that is to be achieved nor does it require or prohibit teachers from canvassing students about their pronoun preference.

The investigator believes that the Civil Rights of LGBTQ students, or teachers, are not being violated by the recent directive.

SPECIAL THANKS

Dr. Gene Sementi would like to extend his most sincere appreciation to the staff of the La Center School District for their willingness and openness in sharing their thoughts through correspondence and individual interviews. Engaging in a process that provides insight into the role of Civil Rights in the education of students, staff, and the overall smooth operation of a school district is not an easy task. It requires courage, vulnerability, and a willingness to consider how to move forward successfully. The responses the investigator received demonstrated care for, and loyalty to, the students and staff of the La Center School District and to the greater community. With that in mind Dr. Sementi offers his perspectives as found in this subsequent report.

Everyone who was interviewed throughout the review process had a deep sense of duty to the students of the La Center School District and in his or her own contributions to the students and staff of the district. Everyone interviewed was thoughtful in their responses, were dedicated to their jobs, and were equally dedicated to the ongoing success and betterment of the district. Additionally, the investigator is grateful for Tammy Lichliter’s assistance to ensure all needs of the investigation were met.

I. INTRODUCTION

ABOUT THE MANAGEMENT REVIEW PROCESS

Dr. Gene Sementi of RLR Consulting was contacted by Don Austin, an attorney representing La Center School District, to gauge interest in conducting an investigation of a Civil Rights Complaint filed by an employee that alleges the District was not following its own policy regarding soliciting preferred pronouns of students for usage when addressing LGBTQ students. The investigator worked with the complainant and the Superintendent, Peter Rosenkranz, to develop an understanding of their positions and thought processes and to also develop a list of employees and others to be interviewed during the course of the investigation.

This investigation was carried out via email (the transfer of documents including the Civil Rights Complaint, meeting minutes, email streams, and district Policies and Procedures), through research, and through interviews over the phone.

The investigation focused on reviewing the Civil Rights Complaint, emails, policies, procedures, and laws regarding the Civil Rights of LGBTQ students and the use of preferred personal pronouns. The review of documents and laws were followed up with personal interviews with the complainant, the superintendent, and several other employees and individuals. The goal of the investigation was/is to determine if the district's directive regarding staff not soliciting pronoun preference is indeed a violation of the Civil Rights of LGBTQ students.

The Investigation was designed to provide an objective, third-party perspective on the right of staff to solicit preferred pronouns from students, and whether or not it is a violation of the Civil Rights of LGBTQ students to direct staff not to solicit the same information. It culminates in this report to the superintendent with a finding regarding the Civil Rights Complaint.

II. THE FOUR PHASES OF AN INVESTIGATION

PREPARATION

Planning is the initial portion of the investigation. A plan is developed in concert with the school district superintendent, attorney, and complainant. A phone meeting was held with the school district's attorney to provide accurate input to the investigator regarding the scope and charge of the investigation.

ANALYSIS

The analysis phase involved the review of information collected in the form of relevant school district policies, procedures, laws, the Civil Rights Complaint, and communications pertaining to the complaint. In addition, interviews were conducted with administrators, teaching staff, counseling staff, classified staff, and other district employees and associates as appropriate.

EVALUATION

An evaluation of the documentation, interviews, and other information occurs. The review is captured in a report that provides a comprehensive description of specific findings and rationale for those findings.

This investigation included the analysis of the documents listed below, and also relied heavily on personal interviews. Key district documents and reports were requested and reviewed including:

- Email pertinent to the investigation from an Oct. 28th Staff Electronic Newsletter through Nov. 22nd.
- Minutes of a meeting between the Complainant and Superintendent Rosenkranz
- The Civil Rights Complaint filed on Nov. 22, 2022.
- Board Policy and Procedure 3210 Nondiscrimination
- Board Policy 3211 Gender Inclusive Schools (Procedure was offline at the time of the complaint and is still off line at the time of this writing.)
- WAC 392-190-060 Compliance - School District or Public Charter School - Designation of Responsible Employee - Notification
- WAC 392-400-215 Student Rights

- RCW 49-60-030 Freedom From Discrimination - Declaration of Student Rights
- RCW 28A-640 Sexuality Equality
- RCW 28A-642-080 Transgender Student Policy and Procedures

- OSPI Gender Inclusive Schools Guidelines

REPORTING

A final report is presented to the district Superintendent with a determination of whether the alleged Civil Rights Violation is compelling. This report is provided to Superintendent Peter Rosenkranz as a vehicle to guide district leadership as appropriate.

III. METHODOLOGY OF THE INVESTIGATION

This investigation included the analysis of current policies and laws, OSPI Guidance, a formal Civil Rights Complaint as well as a number of interviews of people involved who are familiar with the complaint and district practice.

DISTRICT STAFF INTERVIEWED

The investigation process included interviews with the Superintendent, building level administration, teaching staff from every level, paraprofessional staff, a child psychologist consulting with the district, and counseling staff. Several of the staff interviewed also are parents of students attending school in La Center. The time, dedication, and perspective of these interviewees is deeply appreciated.

This report will identify current practice regarding preferred pronoun use and soliciting preferred pronouns from students. A determination regarding whether or not district practice, particularly the directive announced in a staff newsletter on Oct. 28th 2022 asking staff not to solicit preferred pronoun use of students, is discriminatory towards LGBTQ students.

Interviews on December 5th through December 13th of 2022

For this investigation the investigator sought to interview Superintendent Peter Rosenkranz, complainant Minna Thayer a LCHS teacher and advisor to the Gender Sexuality Alliance, teaching staff from the high school, middle school, and elementary school, a para educator, a middle school counselor, and a Child Psychologist from McGovern & Associates.

The interviews were conversational in tone and format with a mix of the following questions being asked.

La Center Civil Rights Violation Investigation Staff Interview Questions

The staff interviews were conversational and precipitated quite a bit of information sharing. The personal and professional beliefs of staff, pertaining to the Civil Rights Complaint, as well as their understanding around how best to meet the needs of each of their students were shared. Most staff were asked some combination of the questions below.

- Tell me about your understanding of the current Civil Rights Complaint investigation.
- Tell me about your job and experience in the La Center School District.
- Tell me about your concern with not being able to solicit pronoun preference from your students?
- The Civil Rights Complaint alludes to RCW 28A.640, RCW 28A.642, and WAC 392-190 being violated. How specifically are they being violated?

- The Civil Rights Complaint alludes to Policy 3210 being violated by the district. How specifically is it being violated?
- In an email from 11-22 you state that the current directive meets the definition of discrimination, how so?
- Do you believe that these laws and policies require each teacher to ask each student what their preferred pronouns are?
- Is each teacher doing this consistently and with fidelity across the district?
- Are there any other staff members directly connected to this complaint that I should talk to?
- Is there anything else you think I should know that pertains to this investigation?

Staff members interviewed were;

<u>Interviewee</u>	<u>Interviewee Role</u>
Minna Thayer	LCHS Teacher & GSA Advisor - Complainant
Peter Rosenkranz	LC Superintendent
Lauri Landerholm	Building Principal & Gender Inclusion Officer
Joyce Munger	Middle School Paraprofessional
Gregg Hall	LC Elementary Principal
Brian Clegg	LCHS Teacher - Teachers' Association President
Heather Grotte	LCHS Teacher
Daniel Thiessen	LC Middle School Counselor
Kevin McGovern	Child Psychologist - Consultant
Kate Denney	LC Elementary Teacher
Joni Hitchcock	LC Elementary Teacher

THE REPORT

III. INFORMATION GATHERING AND REVIEW

This investigation was requested in order to have an outside consultant assess the grounds of a formal Civil Rights Complaint that accuses the district of acting in a discriminatory manner towards LGBTQ students by directing staff to not directly ask entire classrooms of students what their preferred pronouns is/are. The investigations also attempted to find areas of common ground pertaining to this sensitive topic that may provide for an inclusionary practice that could be supported by parties on both sides of the issue.

On Friday/Thursday December 1st of 2022, a request was made to Dr. Gene Sementi of RLR Consulting to provide an outside investigation regarding the Civil Rights Complaint filed on Nov. 22, 2022.

Prior to interviewing staff, the investigator reviewed Policy 3210 Non Discrimination and its accompanying Procedure, Policy 3211 Gender Inclusive Schools (Accompanying Procedure had been removed from the website prior the the Civil Rights Complaint being filed and is still under review at the time of this writing), WAC 392-190-060 Compliance - School District or Public Charter School - designation of responsible employee - Notification, WAC 392-400-215 Student Rights, RCW 49-60-030 Freedom from Discrimination of Civil Rights, RCW 28A-640-010 Purpose - Discrimination Prohibited, RCW 28A-642-080 Transgender Student Policy and Procedure, OSPI Gender-Inclusive Schools Guidelines, the formal Civil Rights Complaint submitted to Superintendent Rosenkranz on November 22nd, 2022, and email exchanges between Peter Rosenkranz and the complainant regarding the the concerns that led to the complaint and the complaint itself, and minutes from a conversation between Superintendent Rosenkranz and the complainant regarding the concern and possible resolutions.

Several themes consistently emerged from the staff interviews with support from the document review. In nearly every case, individuals spoke with a great deal of pride about the district's inclusive practices and its efforts to protect the Civil Rights for all involved and to meet the ever-changing needs of their students, staff, and community regarding non discrimination in general and specific to this investigation the Civil Rights of LGBTQ students. Most expressed how important the La Center School District is to the community, its students, and to them personally. There was a strong sense of pride in the work as evidenced by the responsiveness of every individual staff member interviewed. Nearly everyone remarked about La Center's "student first" approach to each employee's work.

The Superintendent, in an email newsletter to all staff on October 28th 2022, included some direction to staff about soliciting the preferred name and pronouns of students. The section of the newsletter addressing pronoun usage is below;

"Pronouns

The practice of identifying ourselves through a name and pronoun is not new, however, it seems to have become significantly more complex. The well-intentioned "Get to Know You" sheet when asking pronouns changes the focus of our practice from learning in our content areas to something else entirely. The challenge as I see it has to do with the question. By asking for pronouns, you may be inclusive to a small portion of our student population,

however, are excluding another population entirely. A simple fix may provide the opportunity for a student to state name changes and/or pronouns by simply asking a different question. We need to provide an inclusive environment for all our students, including those who think differently about the pronoun issue.

To ensure a more inclusive environment for all our learners, we need only to ask the student's name if it is different from what is listed in skyward. This can maintain neutrality in the conversation and "support all of our students. Asking for pronouns in a public setting can make some feel included and others feel excluded. By just asking a student's name, verbally or in writing, we give every student an opportunity to identify themselves on how they would like to be referred. Additionally, this practice would allow students to be included, in PK-12. You can use students' preferred pronouns and names if they request. If a student would like to be called something different, they need to let you know.

What I am really struggling with is the idea that we are keeping information from parents. The assumption is that notifying parents will have a negative impact on the child and puts you and the district in an unenviable position to know more about the child than their parents, or worse assume the parents will react negatively to the information.

I firmly believe these conversations belong to the family. We teach vocabulary in health class and give opportunities for families to discuss them as that topic comes up at home. I believe the pronoun conversation, well-intentioned, caught parents off guard and reinforced the feeling that schools are teaching what to think, not how to think."

The complainant, and a number of other teachers, interpreted this guidance as prohibiting them from asking a blanket question to each of their classes requesting each student to declare their preferred pronouns on a seating chart, name tag, half sheet of paper, note card, Google survey, etc. When the complainant asked for a clarification of the guidance to not poll a classroom of students regarding preferred pronouns Superintendent Rosenkranz replied that;

"Yes this is what I'm asking you not to do moving forward. If they have different pronouns and want them used in class they can tell you."

This clarification was provided to all staff on Nov. 10, 2022 in an electronic newsletter.

The Formal Civil Rights Complaint was submitted by the complainant to Lauri Landerholm, designated by the Superintendent as the Gender Inclusion Officer, on Nov. 22nd, 2022. The complaint references RCW 28A.640, RCW 28A.642, and WAC 392-190 that the district is responsible to *"protect students regardless of their sexual orientation or gender expression or identity from discrimination or harassment."*

The complaint also cites District Policy 3210 that states *"The board believes in fostering an educational environment that is safe and free of discrimination for all students, regardless of gender identity, gender expression, or sex. To that end, the board recognizes the importance of an inclusive approach toward transgender and gender expansive students with regard to student records, confidential health and education information, communication and use of names and pronouns, restroom and locker room accessibility, sports and physical education, dress codes*

and other school activities in order to provide these students with an equal opportunity for learning and achievement.”

The complaint states that the directive for teachers not to solicit pronoun preference of every student **“is direct discrimination in that it is an apparently neutral rule that affects the LGBTQ, and only the LGBTQ, community. The district’s directive limits teachers’ abilities to create an LGBTQ friendly learning environment and creates a systemic barrier towards full inclusivity of LGBTQ students.”**

The complaint also indicates that the current practice of soliciting preferred pronouns students is the GSA club preferred method for sharing those preferences with staff.

Superintendent Rosenkranz met with the complainant on December 2nd, 2022 to discuss the complaint and possible resolutions. During the meeting the complainant indicated that **“asking pronouns is a strategy and not a requirement. She would like teachers to be able to determine for themselves if they would like to ask students for their names and pronouns on a get to know you basis.”**

During this meeting Superintendent Rosenkranz stated that regarding preferred pronouns **“district policy states that students can be asked privately by an appropriate person.”** Superintendent Rosenkranz also expressed concerns about the ages of students being asked for their pronoun preference. The complainant thought it would be appropriate for students as young as 4th or 5th grade. During staff interviews the age at which students should be asked about pronoun preference varied from as low as 4th grade and as high as only asking students in high school.

Superintendent Rosenkranz asked the complainant if there was something in the Law that specifically spoke to requiring teachers to ask for pronoun preferences to which the complainant replied **“that she did not read all of the laws , but nothing that she saw specifically.”** Minna also reported that when she surveyed her students about being asked their preferred pronouns **“82% reported that they didn’t care whether they were asked or not, 8% of students said they don’t believe in this because of religion or otherwise and that it offended them, and 10% of students said than you for asking and that it made them feel included.”**

OSPI Guidance for Gender-Inclusive Schools states that **“Washington public schools have a responsibility to provide a safe and nondiscriminatory environment for all students, including transgender and gender-expansive students.”** That guidance goes on to state **“In Washington Public Schools, students have the right to be addressed by their requested name, pronoun (e.g., he/him, she/her, they/them, etc.), and gender designation.”**

V. OBSERVATIONS BASED ON INTERVIEWS AND DOCUMENT REVIEW

1. Requesting students' preferred pronouns is a complex issue that nearly everyone being interviewed felt strongly about. While they did not all agree and represent all sides of the issue they each had strong feelings about what was best for all students generally, and LGBTQ students specifically.
2. The Complainant feels that the new directive to not solicit pronoun preference from entire classrooms is discriminatory against LGBTQ students because it prevents staff from adhering to Policy 3211 by offering a fully inclusive classroom; **“to that end, the board recognizes the importance of an inclusive approach toward transgender and gender expansive students with regard to student records, confidential health and education information, communication and use of names and pronoun”.**

3. When asked if a teacher's statement as simple as "If anyone has a preferred pronoun they'd like me to be aware of please either see me after class, or leave me a note, or send me an email" would be acceptable for providing a fully inclusive classroom, her response was no. The Complainant stated that in her role as the GSA Advisor that students don't want to be singled out and prefer to be asked as part of an entire class in a non-intrusive way like writing a preferred pronoun on a seating chart, or a note card asking something like "Tell me about what you'd like me to know about you, including if you have preferred pronouns you want me to be aware of."
4. Some staff interviewed felt that by asking all students for a preferred pronoun was "pushing an agenda" that did not represent the community.
5. The practice of asking students for their preferred pronouns across the district is very inconsistent, as is the manner of the question. Some staff think they individually should be allowed to ask their collective students for preferred pronouns, while others think that the responsibility of notifying teachers of preferred pronouns is the responsibility of the student, parent, or an appropriate staff member such as a counselor.
6. Many of the staff interviewed feel like LGBTQ students are being well served and appropriately served in the La Center School District.
7. One staff member relayed that in one classroom where each student was asked to provide preferred pronouns in writing, some students made light of the request with inappropriate and seemingly disrespectful responses. In effect making it more difficult for those students with legitimate requests to want to share them.
8. While all staff agreed that students should be addressed by the name and pronouns of their preference, the staff was split as to how that information should be acquired whether through asking an entire class to indicate their preference or through the student, parent, or counselor, etc. surfacing that information individually.
9. Nearly all staff interviewed had an opinion regarding when students are developmentally mature enough to be asked what their pronoun preference is. Some staff didn't think it was appropriate to ask the question at all, one thought it was appropriate for 4th graders and older, many thought it would be appropriate for middle school students and above, and some thought it would only be appropriate for high school students.
10. There was some concern that if "Asking pronoun preference" is indeed required by policy that it be required of all staff. Virtually everyone interviewed believed that staff should not be required to ask about pronoun preference, while a significant percentage of those interviewed felt that it should be left up to individual teachers to decide.
11. Several interviewees felt that given the Civil Rights Complaint, the language in Policy 3211 is not specific enough to provide needed guidance, and that it should be refined with a procedure that spells out the specifics about what staff must do, can do, and cannot do.
12. Staff also requested that Policy 3211 and its procedure outline what specifically can and should be shared with parents, and who should share that information.
13. LCHS had training several years ago through "GLSEN" that provided them tools for working with LGBTQ students including how to determine preferred pronouns. The HS staff felt that a review of the training would be timely. Middle school staff interviewed stated that they would appreciate training as well, as did elementary staff.
14. Dr. Kevin McGovern, a psychologist consulting with the district, is concerned that regularly asking all students about their pronoun preferences could be psychologically damaging at a time in their lives when they are prone to confusion. This is due partly to passing through puberty and adolescence, and the suggestibility of young pre-adolescent and adolescent children.
15. Dr. McGovern also noted that LGBTQ students, many of whom are marginalized, not being addressed by their preferred pronouns, even when they haven't made that specific request, could also be psychologically damaging.
16. The investigator was impressed by the number of staff that are longtime La Center employees and community members. This is certainly a contributing factor to the level of duty and commitment that all employees interviewed feel for the district, its students, and the community at large.

VI. FINDINGS

The investigator, as requested by the La Center School District, was asked to determine whether or not the Civil Rights of LGBTQ students are being violated by the new district directive prohibiting teachers from being able to ask a blanket pronoun preference question of all of their students. The investigator also considered if that same directive violated the Civil Rights of teachers. The third issue considered by the investigator was whether or not the directive violates Policy 3211.

It is quite clear in law and policy that laws including RCW 28A.640, RCW 28A 642, and WAC 392-190 and Policies 3210 and 3211 that LGBTQ students have the right to be addressed by their preferred name and pronouns. This is also consistent with guidance provided by OSPI.

The investigator found nowhere in law or policy a requirement that teachers must canvas all of their students regarding pronoun preference. Similarly the investigator found nowhere in law that prohibits this practice. This gap in definition is typically addressed through policy and procedure. While Policy 3211 requires an “inclusive approach toward transgender and gender expansive students” it does not specifically require or prohibit teachers from canvassing students about their pronoun preference.

If the policy were to require staff to solicit pronoun preference from all students it could also be construed to mean that all teachers, P-12, would have to comply and that failing to comply would be a violation of Policy 3211. By extension it could also be construed by some to mean that the policy also requires, or at least allows, teachers to solicit information from students that qualifies them as members of some other legally protected demographic. As a result the investigator does not believe that Policy 3211 is violated by the new district directive.

The investigator does not believe that the Civil Rights of LGBTQ students or teachers are violated by the recent directive.

VII. IN CONCLUSION

THE CURRENT SITUATION

In the opinion of this investigator the district's new directive which prohibits teachers from canvassing all students in their respective classes regarding preferred pronouns is not a violation of the Civil Rights of Teachers or LGBTQ students. It also is not a violation of district Policies 3210 or 3211.

SUMMARY

The investigation determined that there was no Civil Rights violation of either LGBTQ students or teachers regarding the recent directive for teachers to not canvas students about their preferred pronouns.

It is typical for these types of investigations to focus on the challenges facing a district. It is important to remember that every district, no matter how effective, has challenges that it is currently facing as well as challenges that the future will bring; La Center School District is certainly no exception. That said, the investigator would like to close by saying that he believes that the La Center School District is demonstrating a great deal of commitment to serving each of its students in a respectful and inclusive way. La Center has a talented, dedicated, and committed staff that is dedicated to student success and is certainly capable of succeeding in their goal of serving each student well and with respect and dignity.

ADDENDUM

Following the submission of the Investigation Report for the recent La Center Civil Rights Complaint a few additional questions arose. This addendum will address those questions in an effort to clarify the investigation findings and process. The questions are in ***bold italic print*** below.

A. Had you reviewed the FAQs quoted above before drafting your 12/21/22 report?

Yes, the FAQ distributed by Superintendent Rosenkranz on 11/10/22 was provided to the investigator at the onset of the investigation and was reviewed a number of times prior to a decision being reached and the writing of the final report.

B. Do the Superintendent's responses to the questions in the FAQ change any of your opinions?

No, the Superintendent's responses in the FAQ do not change the findings in the report submitted to the district on 12/21/22. The FAQ and the Superintendent's responses to those questions were in the investigator's possession throughout the investigation and were reviewed a number of times. The investigation findings were based on the documents provided by the district (which included the FAQ in question), the personal interviews conducted, and pertinent research. Therefore the superintendent's responses in the FAQ mentioned informed the investigation findings.

C. With regard to the Superintendent's response to Question 3:

a. Would carrying out the instructions in that response violate any person's civil rights, particularly those expressed in RCW 28A.640, RCW 28A.642, WAC 392-190, or any other law you are aware of?

The investigation found that carrying out the Superintendent's directive in the FAQ regarding pronoun usage did not violate any persons Civil Rights nor did it violate RCW 28A.640, RCW 28A.642, WAC 392-190, nor did it violate any other laws that the investigator is aware of.

b. Would carrying out the instructions in that response violate Board Policy 3205?

Upon review of Policy 3205 the investigation finds that carrying out the Superintendent's directive in the FAQ regarding pronoun usage did not violate Policy 3205 (Sexual Harassment of Students Prohibited), nor did the responses to the FAQ violate Policy 3210 (Nondiscrimination), nor Policy 3211 (Gender Inclusive schools).

c. *Would carrying out the instructions in that response constitute discrimination?*

The investigation found that carrying out the Superintendent's directive in the FAQ regarding pronoun usage did not violate. The investigation initially determined that the directive given by the Superintendent to the staff in the form of an FAQ regarding pronoun usage on 11/10/22 was not a Civil Rights Violation of students or staff. The investigation holds with that initial finding and also finds that it is not discriminatory of students or staff.