

Guidance and Laws related to Sexual Orientation, Gender Expression and Gender Identity

Resources:

U.S. Departments of Education and Justice, May 13, 2016, [Dear Colleague letter](#)
[WAC 162-32-030](#) Employee benefits and privileges
[WAC 162-32-040](#) Harassment
[WAC 162-32-050](#) Dress and Grooming Standards
[WAC 162-32-060](#) Gender-segregated facilities
[The Washington Law Against Discrimination \(WLAD\)](#)
[Skagit Valley College Title IX website](#)

Summary of Laws:

WAC 162-32-030: Employee benefits provided in whole or in part by an employer must be consistent between all employees and equal for all employees, regardless of the employee's sexual orientation or gender expression or gender identity.

WAC 162-32-040 – Harassment: Prohibits harassment based on sexual orientation, gender identity or gender expression. Prohibited conduct may include but is not limited to:

- Asking unwelcome personal questions about an individual's sexual orientation, gender expression or gender identity, transgender status, or sex assigned at birth;
- Intentionally causing distress to an individual by disclosing the individual's sexual orientation, gender expression or gender identity, transgender status, or sex assigned at birth against his or her wishes (*Note: the use of "his/her" is the language reflected in the law, but SVC interprets this clause as being wider than those two genders*);
- Using offensive names, slurs, jokes, or terminology regarding an individual's sexual orientation or gender expression or gender identity;
- Deliberately misusing individual's preferred name, form of address, or gender-related pronoun (except on legally mandated documentation, if the individual has not officially obtained a name change);
- Posting offensive pictures or sending offensive electronic or other communications;
- Unwelcome physical conduct.

WAC 162-32-050 – Dress and Grooming Standards

- Cannot require individual to dress or groom in a manner not consistent with their gender expression or gender identity (in Higher Education setting this is unlikely to occur anyway)

WAC 162-32-060 – Gender-segregated Facilities

- **Facility use.** All covered entities shall allow individuals the use of gender-segregated facilities, such as restrooms, locker rooms, dressing rooms, and homeless or emergency shelters, that are consistent with that individual's gender expression or gender identity.
- In such facilities where undressing in the presence of others occurs, covered entities shall allow access to and use of a facility consistent with that individual's gender expression or gender identity.
- **Cannot require use inconsistent with gender expression or gender identity.** A covered entity shall not request or require an individual to use a gender-segregated facility that is inconsistent with that individual's gender expression or gender identity, or request or require an individual to use a separate or gender-neutral facility.

- If another person expresses concern or discomfort about a person who uses a facility that is consistent with the person's gender expression or gender identity, the person expressing discomfort should be directed to a separate or gender-neutral facility, if available.
- Any action taken against a person who is using a restroom or other gender-segregated facility, such as removing a person, should be taken due to that person's actions or behavior while in the facility, and must be unrelated to gender expression or gender identity. The same standards of conduct and behavior must be consistently applied to all facility users, regardless of gender expression or gender identity.
- Provision of options encouraged. Whenever feasible, covered entities are encouraged to provide options for privacy, such as single-use gender-neutral bathrooms or private changing areas that are available to any individual desiring privacy.

The Washington Law Against Discrimination (WLAD) - Prohibits discrimination on the basis of sexual orientation and gender identity in the areas of employment, housing, public accommodation, credit, and insurance. Title IX, the federal law that prohibits discrimination in education on the basis of sex, also prohibits discrimination based on gender identity.

Guidance on Restroom Use

Faculty, students, staff and guests of Skagit Valley College are free to use whichever restroom aligns with their gender identity. SVC has a few single stall, gender neutral restrooms that anyone can use regardless of gender identity or expression.

It is not up to other people to determine whether or not a given person is in the "right" restroom. If an individual chooses to enter that restroom, it is the right restroom for them.

The WA Human Rights Commission, the state agency responsible for administering and enforcing the WLAD, provides this explanation of gender identity:

"What does gender expression or identity mean?"

As defined in the law, "gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

A common term is "transgender." This term covers a broad range of people who experience and/or express their gender differently from what most people expect. They may express themselves as the gender that does not match the sex listed on their original birth certificate, or they may physically change their sex through medical treatment. This is sometimes called transsexual. The term "transgender" also includes people who are cross-dressers or otherwise gender non-conforming. Gender identity and expression also includes males and females who do not express their gender in stereotypically masculine or feminine ways, such as through their appearance or mannerisms.

A person does not need to have had surgery or otherwise have undergone medical treatment in order to be considered transgendered, or to be protected under the Law Against Discrimination."

The WA Human Rights Commission also has advice regarding restrooms. This advice mentions “employers/employees” because it comes from the employment section of a Q&A, but the concept is not limited to employment:

“What restroom should a transitioning employee use?”

If an employer maintains gender-specific restrooms, transgender employees should be permitted to use the restroom that is consistent with the individual’s gender identity.

Where single occupancy restrooms are available, they may be designated as “gender neutral.” All employers need to find solutions that are safe, convenient and respect the transgender employee’s dignity. If someone is uncomfortable using a particular restroom for whatever reason, it is up to that person to find an alternative restroom.”

If any person is behaving dangerously or actively harassing others in a restroom or any other Skagit Valley space, please contact Campus Security. The mere presence of someone using the restroom does not qualify as a dangerous or harassing activity and should not be cause for alarm or complaint. However, approaching an individual in a restroom and demanding proof of their sex or gender DOES qualify as dangerous or harassing activity and will be dealt with as such.

If you are interested in reading further on these issues, here are some resources:

- MSNBC, April 30, 2014: [“Transgender students protected under Title IX, DOE says”](#)
- Washington Human Rights Commission, February 19, 2014: [Guide to Sexual Orientation and Gender Identity and the Washington Law Against Discrimination](#)
- National Center for Transgender Equality > [About Transgender People](#)

How to File a Report

You can file a report of any incident of discrimination, harassment, sexual violence, or other crimes in any of the following ways:

1. File a report **online**.
2. Contact Skagit Valley College's **Title IX Coordinator**:
Carolyn Tucker
Executive Director of Human Resources
Administrative Annex
2405 East College Way
Mount Vernon, WA 98273
(360) 416-7679
Carolyn.Tucker@skagit.edu
3. Contact a Skagit Valley College **Title IX Designee**:
Dave Paul
Vice President of Student Services
Lewis Hall (Mount Vernon) or Old Main (Whidbey Island)
(360) 416-7738 (Mount Vernon) or (360) 679-5281 (Whidbey Island)
Dave.Paul@skagit.edu

4. Contact **Campus Security:**

Mount Vernon Campus:

Gary Knutzen Cardinal Student Center
2405 East College Way
Mount Vernon, WA 98273
(360) 416-7777

*Whidbey Island Campus, San Juan Center, South Whidbey Center, or Marine
Technology Center:*

Oak Hall (Whidbey Island Campus)
1900 SE Pioneer Way
Oak Harbor, WA 98277
(360) 770-5393 or (360) 679-5331