

# OSBA Model Sample Policy

Code: **ACB**

Adopted:

## All Students Belong

[District statement on equity.]

All students are entitled to a high quality educational experience, free from discrimination or harassment based on perceived race, color, religion, gender identity, sexual orientation, disability or national origin.

All employees are entitled to work in an environment that is free from discrimination or harassment [based on perceived race, color, religion, gender identity, sexual orientation, disability or national origin]<sup>{1}</sup>.

All visitors are entitled to participate in an environment that is free from discrimination or harassment [based on perceived race, color, religion, gender identity, sexual orientation, disability or national origin]<sup>{2}</sup>.

“Bias incident” means a person’s hostile expression of animus toward another person, relating to the other person’s perceived race, color, religion, gender identity, sexual orientation, disability or national origin, of which criminal investigation or prosecution is impossible or inappropriate. Bias incidents may include derogatory language or behavior directed at or about any of the preceding demographic groups.

“Symbol of hate” means a symbol, image, or object that expresses animus on the basis of race, color, religion, gender identity, sexual orientation, disability or national origin including, the noose, swastika, or confederate flag<sup>3</sup>,<sup>{4}</sup> and whose display:

1. Is reasonably likely to cause a substantial disruption of or material interference with school activities; or
2. Is reasonably likely to interfere with the rights of students by denying them full access to the services, activities, and opportunities offered by a school.

The district prohibits the use or display of any symbols of hate<sup>{5}</sup> on [district] [~~school~~]<sup>{6}</sup> grounds or in any district- or school-sponsored program, service, school or activity that is funded in whole or in part by

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<sup>1</sup> {OAR 581-022-2312 does not include this list of classes for employees (only for students), but it can be added.}

<sup>2</sup> {OAR 581-022-2312 does not include this list of classes for visitors (only for students), but it can be added.}

<sup>3</sup> While commonly referred to as the “confederate flag,” the official name of the prohibited flag is the Battle Flag of the Armies of Northern Virginia.

<sup>4</sup> {We strongly advise that a district not add to these symbols of hate without first consulting with legal counsel.}

<sup>5</sup> {Prior to adopting the symbols of hate prohibition, or adding other symbols to the list, we recommend that the district document why the district feels that the presence of these symbols will cause a “material and substantial interference with schoolwork or discipline” or collide “with the rights of other students to be secure and be let alone.” These reasons may include previous incidents, current conditions in the schools and other factors.}

<sup>6</sup> {Oregon Administrative Rule uses “school.”}

monies appropriated by the Oregon Legislative Assembly, except where used in teaching curriculum that is aligned to the Oregon State Standards.

In responding to the use of any symbols of hate, the district will use non-disciplinary remedial action whenever appropriate.

The district prohibits retaliation against an individual because that person has filed a charge, testified, assisted or participated in an investigation, proceeding or hearing; and further prohibits anyone from coercing, intimidating, threatening or interfering with an individual for exercising any rights guaranteed under state and federal law.

Nothing in this policy is intended to interfere with the lawful use of district facilities pursuant to a lease or license.

The district will use administrative regulation ACB-AR - Bias Incident Complaint Procedure to process reports or complaints of bias incidents.

END OF POLICY

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**Legal Reference(s):**

[ORS 659.850](#)  
[ORS 659.852](#)

[OAR 581-002-0005](#)  
[OAR 581-022-2312](#)

[OAR 581-022-2370](#)

*Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969).  
*Dariano v. Morgan Hill Unified Sch. Dist.*, 767 F.3d 764 (9th Cir. 2014).  
*State v. Robertson*, 293 Or. 402 (1982).

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Code: **ACB-AR**

Adopted:

## Bias Incident Complaint Procedure

The term “bias incident” is defined in policy. Persons impacted by a bias incident shall be defined broadly to include individuals at whom an incident was directed as well as students in the larger school community likely to be impacted by the incident.<sup>7</sup>

Step 1<sup>{8}</sup>: When a staff member learns of a potential bias incident, the staff member will prioritize the safety and well-being of all persons impacted and [~~immediately~~] [~~promptly~~] [without unreasonable delay] report the incident to the [~~building or program~~ administrator].

Step 2: The [~~administrator or designee~~] shall acknowledge receipt of the complaint, [reduce the complaint to writing,] and investigate any complaint of a bias incident. [Responding staff] will recognize the experience of all persons impacted, acknowledge the impact, commit to taking immediate action, and prevent further harm against those persons impacted from taking place. Redirection procedures, if any, will include:

- Educational components that address the history and impact of hate;
- Procedural components to ensure the safety, healing, and agency of those impacted by hate;
- Accountability and transformation for people who cause harm; and
- Transformation of the conditions that perpetuated the harm.<sup>{9}</sup>

The [~~administrator or designee~~] must consider whether the behavior implicates other district policies or civil rights laws, and if so, respond accordingly.

The [~~administrator or designee~~] will [make a decision] [~~determine responsibility~~] within [10] days of receiving the complaint.

All persons impacted will be provided with information relating to the investigation and the outcome of the investigation. At a minimum, the information provided must include:

- That an investigation has been initiated;
- When the investigation has been completed;
- The findings of the investigation and the final determination based on those findings; and

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<sup>7</sup> The term “complainant” in this administrative regulation includes persons filing formal complaints and persons reporting bias incidents, regardless of whether the complainant is a victim. Similarly, the term “complaint” includes any report, information or complaint.

<sup>8</sup> {These specific procedures are not required. The procedures must include all of the requirements listed in OAR 581-022-2312(6)(e). If making changes, we recommend working closely with legal counsel. }

<sup>9</sup> {ODE will be releasing additional guidance to support administrators in these situations. }

- Actions taken with the person or persons who committed the harassing behavior to remedy the behavior and prevent reoccurrence when the actions relate directly to a person impacted by the event.

If any of the above information cannot be shared, a citation to the law prohibiting release and an explanation of how that law applies to the current situation will be provided.<sup>10</sup>

**Step 3:** If complainant or a respondent wishes to appeal the decision of the [administrator ~~or designee~~], the complainant or respondent may submit a written appeal to the [superintendent] within [five] school days after receipt of the [administrator ~~or designee~~]'s response to the complaint.

The [superintendent ~~or designee~~] shall acknowledge receipt of the appeal and may meet with all parties involved. The [superintendent ~~or designee~~] will review the merits of the complaint and the [administrator ~~or designee~~]'s decision. The [superintendent ~~or designee~~] will respond in writing to the complainant within [10] school days.

The [superintendent ~~or designee~~] will ensure that the requirements in Steps 1 and 2 (redirection procedures, notice, etc.) are continued to be met through Step 3, as appropriate.

**Step 4:** If the complainant or respondent is not satisfied with the decision of the [superintendent ~~or designee~~], a written appeal may be filed with the Board within [five] school days of receipt of the [superintendent ~~or designee~~]'s response to Step 3. The Board may decide to hear or deny the request for appeal at a Board meeting. The Board may use an executive session if the subject matter qualifies under Oregon law. If the Board decides to hear the appeal, the Board may meet with the concerned parties and their representative [at the next regular or special Board meeting] [at a Board meeting]. The Board's decision will be final and will address each allegation in the complaint and contain reasons for the Board's decision. A copy of the Board's final decision shall be sent to the complainant in writing within [10] days of this meeting.

The [Board] will ensure that the requirements in Steps 1 and 2 (redirection procedures, notice, etc.) are continued to be met through Step 4, as appropriate.

Complaints can be filed with or communicated directly to the [administrator ~~or designee~~], in which case Step 1 will be skipped. Complaints against the [administrator] can be directed to the [superintendent ~~or designee~~] and will begin at Step 3. Complaints against the superintendent or a Board member(s) can be directed to the Board and will begin at Step 4. If complaints begin later than Step 1, the individuals reviewing the complaint will ensure that all requirements are met.

The complainant, if a person who resides in the district[,] [or] a parent or guardian of a student who attends school in the district[ or a student,] is not satisfied after exhausting local complaint procedures, the district fails to render a written decision within 30 days of submission of the complaint at any step or fails to resolve the complaint within 90 days of the initial filing of the complaint, may appeal<sup>11</sup> the district's

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<sup>10</sup> Refer to policies GBL - Personnel Records, JOA - Directory Information and JOB - Personally Identifiable Information and district legal counsel for guidance in these situations. Possible laws include, but are not limited to, Title 34 C.F.R. § 99.31 and ORS 342.850.

<sup>11</sup> An appeal must meet the criteria found in OAR 581-002-0005(1)(a).

final decision to the Deputy Superintendent of Public Instruction under Oregon Administrative Rules (OAR) 581-002-0001 – 581-002-0023.

Complaints may also be filed directly with the U.S. Department of Education Office for Civil Rights.<sup>12</sup>

~~[Building administrators]~~[District administration] will develop and implement instructional materials to ensure that all school employees and staff are made aware of this procedure and related practices. The materials will include reporting procedures, educational processes, and possible consequences.

[When necessary, timelines may be adjusted by the district by communicating to all parties in writing. This communication must include a new timeline and an explanation of why the timeline must be adjusted.]

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<sup>12</sup> Complaints must meet criteria as established by law. For more information, visit <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>