

OSBA Model Sample Policy

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.¹

Step 1 {²}: 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. {³}

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~~ school 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

¹ 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.

² {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.}

³ {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.⁴

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 appeal⁵ the district's final

⁴ 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.

⁵ An appeal must meet the criteria found in OAR 581-002-0005(1)(a).

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.⁶

[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.]

⁶ Complaints must meet criteria as established by law. For more information, visit <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>