

Bias Incident Complaint Procedure

The term “bias incident” and “symbols of hate” are defined in policy. Persons impacted by a bias incident or display of a symbol of hate shall be defined broadly to include persons directly targeted by an act, as well as the community of students as a whole who are likely to be impacted by the act.¹

Step 1: When a staff member learns of a potential bias incident or display of a symbol of hate, the staff member will prioritize the safety and well-being of all persons impacted and promptly report the incident to the program director.

Step 2: The program director shall acknowledge receipt of the complaint and investigate any complaint of a bias incident. The program director will recognize the experience of all persons impacted, acknowledge the impact, commit to taking immediate action, and commit to preventing further harm against those persons impacted from taking place. Educational components and redirection procedures, if any, will include:

- Address the history and impact of bias and hate;
- Advance the safety and healing of those impacted by bias and hate;
- Promote accountability and transformation for people who cause harm; and
- Promote transformation of the conditions that perpetuated the harm.

The program administrator or director must consider whether the behavior implicates other ESD policies or civil rights laws, and if so, respond accordingly².

The program administrator or director will make a decision within 10 days of receiving the complaint.

All persons impacted by the act will be provided with information³ relating to the investigation and the outcome of the investigation Including: Notice that an investigation has been initiated;

- Notice when the investigation has been completed;
- The findings of the investigation and the final determination based on those findings;
- Actions taken to remedy a person’s behavior and prevent reoccurrence; and
- When applicable, the legal citation of any law prohibiting disclosure of any information described above, and an explanation of how that law applies to the current situation.

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 The nature of the behavior or act must determine the process used to respond; what rights and protections are available to the person(s) impacted by the behavior or act; and an individual’s right to appeal to the Oregon Department of Education or the U.S. Department of Education.

³ For additional information regarding notices, see OAR 581-022-2312(4)(e)(E)

Step 3: If complainant or a respondent wishes to appeal the decision of the program director, the complainant or respondent may submit a written appeal to the superintendent or designee within five work days after receipt of the program director’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 work 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 work 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 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 program administrator, in which case Step 1 will be skipped. Complaints against the program 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 ESD, or a parent or guardian of a student who attends school in the ESD, or a student, is not satisfied after exhausting local complaint procedures, the ESD 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 appeal⁴ the ESD’s 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.⁵

ESD administration will develop and implement instructional materials to ensure that all school employees, staff, and students are made aware of the policy, this administrative regulation and related practices. The materials will include reporting procedures, educational processes, and possible consequences.

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

⁴ An appeal must meet the criteria found in OAR 581-002-0005(1)(a).

⁵ Complaints must meet criteria as established by law. For more information, visit <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>