January 28, 2019

**BY EMAIL AND US MAIL**

PARENT

ADDRESS

ADDRESS

Christa Billings, School Board President

Arco Iris Spanish Immersion School

13600 SW Allen Blvd.

Beaverton, OR 97005

Don Grotting, Superintendent

Beaverton School District

Central Administration Center

16550 SW Merlo Rd.

Beaverton, OR 97003

Dear PARENT, Ms. Billings, and Mr. Grotting:

This letter is the investigatory determination on the appeal of a complaint filed with the Beaverton School District regarding possible violations of ORS 659.850 (prohibiting discrimination in an education program or service financed in whole or in part by moneys appropriated by the Legislative Assembly), OAR 581-021-0045 (prohibiting discrimination in certain educational agencies, programs, or services under the jurisdiction of the State Board of Education), and OAR 581-029-0049 (requiring school districts to adopt written procedures for the prompt resolution of complaints of discrimination).[[1]](#footnote-1) To ensure compliance with these laws and rules, the Oregon Department of Education (Department) will review the local school district procedures and findings of fact to determine if proper procedures were followed and what action, if any, should be taken.[[2]](#footnote-2)

**I.** APPELLATE PROCEDURES FOR COMPLAINTS ALLEGING DISCRIMINATION

PARENT (Parent) alleges that Arco Iris Spanish Immersion School discriminated against her son (Student) because: (1) school staff members made racist comments about or pertaining to Student, and the school did not conduct a fair and impartial investigation of those comments; and (2) the school did not follow its written procedures for discrimination complaints when Parent, after receiving a decision from the school administrator, appealed the decision to Arco Iris School Board.

**A. Oregon Department of Education’s jurisdiction to resolve complaints alleging discrimination**

The Department has jurisdiction to resolve this complaint under OAR 581-021-0049. When a person files with the Department an appeal of a complaint alleging discrimination, the Department will initiate an investigation to determine whether discrimination may have occurred.[[3]](#footnote-3) If the Department finds that discrimination may have occurred, the Director of the Oregon Department of Education (Director) will issue an investigatory determination and require the school district to attempt to reach an agreement with the person through conciliation.[[4]](#footnote-4) If the school district cannot reach an agreement with the person within 30 days, the Director will schedule a hearing for the purpose of determining whether the school district is in compliance with ORS 659.850.[[5]](#footnote-5) If the Director determines that the school district is not in compliance with ORS 659.850, the Director will issue an order requiring compliance.[[6]](#footnote-6) If the school district fails to comply with the order within 30 days, the Director will issue an order imposing an appropriate remedy.[[7]](#footnote-7) Appropriate remedies include: (1) withholding all or part of one or more quarterly payments that otherwise would be paid to a school district under ORS 327.095, (2) assessing a daily fine against the school district, (3) forbidding the school district to participate in interschool activities, and (4) any other appropriate remedy.[[8]](#footnote-8)

On this appeal, the Department has completed its investigation to determine whether discrimination may have occurred. This letter constitutes the Department’s investigatory determination as to whether discrimination may have occurred.

**B. Delegation of Beaverton School District’s duties and functions related to Oregon law and rule to Arco Iris Spanish Immersion School**

Before analyzing the facts at issue in this case, it is important to note that OAR 581-021-0049 applies to school districts, not to schools. Arco Iris Spanish Immersion School is a public charter school. OAR 581-021-0049 does not directly apply to the school. However, Beaverton School District delegated all duties and functions related to complying with Oregon law and rule to Arco Iris Spanish Immersion School in the school’s charter. For that reason, this letter is directed to the school. Under the terms of the school’s charter, the school, not the school district, is responsible for complying with OAR 581-021-0049. If the Department finds that Arco Iris Spanish Immersion School has violated ORS 659.850 or OAR 581-021-0045, the school will have to attempt to reach an agreement with Parent through conciliation. The school will be responsible for fulfilling the terms of any corrective action. If a payment or a portion of a payment is withheld from Beaverton School District under ORS 327.095, the district may withhold the payment or portion of the payment from any moneys that otherwise would be transferred to the school pursuant to the school’s charter.

## II. PROCEDURAL BACKGROUND

Parent first filed her complaint with Arco Iris School Board on September 23, 2017. In that complaint, Parent specifically stated that she had concerns with the principal of the school. On September 26, 2017, for reasons related to the subject of this appeal, Parent withdrew her Student from the school.

On September 28, 2017, Parent contacted the school board to express her interest in meeting with the board to discuss the complaint that she had filed on September 23.

On October 19, 2017, the school board closed the investigation related to Parent’s complaint without issuing a final decision.

Parent filed an appeal with the Department on February 12, 2018, alleging that the school retaliated against Student in violation of ORS 659.852. With respect to that allegation, the Department issued a final order on June 1, 2018. In that order, the Department found that the school did not retaliate against Student in violation of ORS 659.852.

Parent filed an appeal with the Department on April 24, 2018, alleging that the school discriminated against Student in violation of ORS 659.850. The Department sent the school notice of the appeal on May 14, 2018. The Department interviewed Parent on August 28, 2018, and interviewed representatives of the school, including a teacher, a former school board member, and the administrator for the school, on October 12, 2018. The Department also interviewed the school’s human resources officer and other school staff members.

## III. FINDINGS OF FACT

After conducting its investigation, the Department makes the following findings of fact:

1. Arco Iris Spanish Immersion School is a public charter school located in the Beaverton School District.
2. Parent adopted Student. Documents provided by Parent substantiate that she adopted Student in the United States. Student is an African American.
3. Student began attending first-grade at the school on September 5, 2017.
4. On September 5, 2017, Student was involved in an altercation with a classmate. The school did not document the incident at the time. On September 22, 2017, the incident was included in a summary of behavioral incidents involving Student provided to the administrator of the school.
5. On September 20, 2017, Student was involved in another altercation with a classmate. The school documented the behavioral incident on a Student Discipline Referral Form. The school also filed a handwritten note describing the behavioral incident with the form. The handwritten note was dated September 18, 2017.
6. On September 21, 2017, Parent, Student’s teacher, and the administrator met and discussed Student’s behavior. Parent wrote a detailed account of the meeting. According to Parent’s account, the administrator described the school’s policy for suspending African American and Hispanic students. In pertinent part, Parent quoted the administrator as saying:

[W]e used to suspend too much and then studies showed that African American and then Hispanic children were suspended much more than other students so now we aren’t supposed to suspend anyone, but I think maybe that’s too extreme, too.

According to Parent, the administrator claimed to have learned the policy while she was employed by the Beaverton School District. Parent described the administrator as saying, “[I]n Beaverton School District we were told we are not to suspend any African American kids at all.”

1. In Parent’s account of the September 21st meeting, she also quoted the administrator as saying that she was “not afraid to tackle a student if necessary.”
2. On September 23, 2017, Parent sent an email to the school board. In the email, Parent expressed that she had concerns about the administrator and requested a meeting between her, the administrator, and a school board member.
3. On September 23, 2017, Student’s teacher emailed Parent a summary of behavioral incidents involving Student. In a response to the teacher, Parent mentioned that she had communicated with the school board.
4. Following the September 23rd exchange between Student’s teacher and Parent, the teacher informed the administrator of Parent’s September 23rd communication with the school board. On September 25, 2017, the administrator emailed the school board a summary of behavioral incidents involving Student. This summary of behavioral incidents included incidents sent to the
5. On September 25, 2017, the school documented a behavioral incident where Student attacked another student.
6. Following the September 25th behavioral incident, the administrator sent another email to the school board describing the incident. As part of that email, the administrator wrote, “[Student] is creating a true nightmare for this teacher. He has not been suspended by me, due to the fact that he is only a 1st grader. He is an adopted child from Africa, and I believe that he has gone through dramatic issues.”
7. On September 25, 2017, Parent met with members of the school board. The members kept notes of the meeting. In the notes, the school board documented that “[Parent] had great things to say about [the administrator] but had overall fears that [the administrator] was going to damage [the Student] emotionally.”
8. On September 25, 2017, Parent withdrew Student from the school.
9. On September 26, 2017, the administrator documented a call with a representative of an elementary school in Beaverton School District. In pertinent part, the administrator wrote:

He explained that he too tried to begin a Behavior Plan when [Student] was a kindergarten student. He said that it was hard to get an IEP because he was a Kindergartener. He also said that [Student] had major behavior issues of defiance and hitting while in Kinder. (off the record – [Beaverton School District] does not want to report Afro American students to an IEP. Due to large amounts of Black and Brown students with IEPs in the district.)

The school where Student attended Kindergarten does not have on file any reports documenting behavioral incidents involving Student.

1. On September 28, 2017, Parent sent an email to the school board informing them of Student’s withdrawal from the school, expressing concerns about the administrator, and expressing an interest in meeting with the board to discuss those concerns.
2. On October 19, 2017, the school board informed the administrator that it was closing Student’s case because of Student’s withdrawal from the school.
3. On January 25, 2018, Parent sent an email to the school board. In the email, Parent asked the school board how to file a formal complaint against the administrator and noted that the board had not responded to her September 28th email.
4. Following Parent’s January 25th email, Parent and the school exchanged emails. During this exchange, the school provided Parent with a copy of its Complaint and Grievances Procedure. Parent explained that she had abruptly removed Student from the school because she “was concerned for [Student’s] safety.” Parent also wrote that she was “surprised that no one on the [school] board wanted to talk to [her] about [her] observations.”
5. On January 26, 2018, the school board informed Parent that the board could hold a meeting in executive session to hear her concerns.
6. On January 26, 2018, the administrator emailed the school board. In the email, the administrator alleged that Student had behavioral issues in Kindergarten and that she had received reports from the principal of Student’s current school that Student continued to have behavioral issues.
7. On February 12, 2018, Parent declined the school board’s offer to hold a meeting in executive session.
8. On April 18, 2018, Parent emailed the school, requesting that the school amend Student’s records. Parent alleged that the administrator “[had] placed a formal Student Discipline Referral Form in [Student’s] file on 9/23/17 in which [the administrator] states ‘[Student] has had various incidents where [Student] hit others.’” Parent further alleged that the administrator created the handwritten note dated September 18, 2017, to justify placing the formal Student Discipline Referral Form in Student’s file on September 23, 2017. Parent claimed that the handwritten note was evidence that the administrator had falsified Student’s records.
9. On April 18, 2018, the school responded to Parent, informing her that she had the right to request a hearing to challenge the content of Student’s records.
10. On April 23, 2018, Parent requested a hearing to challenge the content of Student’s records.
11. On April 25, 2018, the school informed Parent that their legal counsel would be present at the hearing. Parent asked to delay the hearing until she also could secure legal counsel. On May 7, 2018, after securing legal counsel, Parent informed the school that she would not attend the hearing at the advice of legal counsel.
12. Sometime after Parent’s April 18th request to amend Student’s records, the school evaluated the records and found that documentation of Student’s behavioral issues often was not dated, often was duplicative, and bore inconsistencies. The school removed all documentation of Student’s behavioral issues from Student’s records.
13. During an interview with the Department, the school’s human resources officer corroborated Parent’s account of the September 21st meeting. The officer said that the administrator had claimed that Beaverton School District encouraged schools not to suspend African American and Hispanic students. The officer also said that the administrator had claimed that Student was of African origin and that traumas suffered by children in developing countries cause behavioral issues. The officer said that the administrator demonstrated empathy toward Student because of this purported past.
14. During the Department’s investigation, the school admitted that following Parent’s January 25th email, the administrator—reacting to the suggestion that the school board hold a meeting in executive session—reiterated that Student “was adopted from Africa, and has serious issues.”
15. During the Department’s investigation, Beaverton School District denied the administrator’s assertion that the district had a policy not to suspend African American students. The district also could not identify the person to whom the administrator talked to about the district not wanting to develop Individualized Education Plans for African American students.

## IV. ANALYSIS OF SPECIFIC ALLEGATIONS

Under Oregon’s anti-discrimination statute,

A person may not be subjected to discrimination in any public elementary, secondary or community college education program or service, school or interschool activity or in any higher education program or service, school or interschool activity where the program, service, school or activity is financed in whole or in part by moneys appropriated by the Legislative Assembly.[[9]](#footnote-9)

For purposes of this prohibition, “discrimination” is defined to mean “any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation, either of which is based on race, color, religion, sex, sexual orientation, national origin, marital status, age or disability.”[[10]](#footnote-10)

In applying this prohibition to school districts, OAR 581-021-0045 (3) specifically states that a school district may not:

(a) Treat one person differently from another in determining whether such person satisfies any requirement of condition for the provision of [an] aid, benefit, or service;

(b) Provide different aid, benefits, or services; or provide aids, benefits, or services in a different manner;

 (c) Deny any person [an] aid, benefit, or service;

 (d) Subject any person to separate or different rules of behavior, sanctions, or other treatment;

(e) Aid or perpetuate discrimination by joining or remaining a member of any agency or organization which discriminates in providing any aid, benefit, or service to students or employees; or

 (f) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

The issues addressed on appeal are whether Arco Iris Spanish Immersion School, on the basis of race or perceived national origin: (1) treated Student differently because he was African American or because school staff members perceived him to be of African origin; (2) investigated Parent’s complaint in a different manner than it investigated other complaints, or otherwise limited Student’s enjoyment of a right by investigating Parent’s complaint in an ineffective manner; or (3) denied Student a service, or otherwise limited Student’s enjoyment of a right, by closing Student’s case without completing an investigation.

Before specifically addressing these issues, it is important to acknowledge that Parent’s complaint primarily stems from her interactions with the administrator for the school. Before the Department commenced its investigation, the administrator’s employment at the school ended. As a result, the administrator was not available to the Department during its investigation. As such, the school did not have the ability to respond specifically to events involving the administrator. That said, both the school and the school board admit that the administrator’s biases may have affected matters involving Student.

**A. Whether Arco Iris Spanish Immersion School treated Student differently because he was African American or because school staff members perceived him to be of African origin**

Parent alleges that the administrator for Arco Iris Spanish Immersion School treated Student differently because he is African American or because she perceived him to be of African origin. As evidence, Parent alleges that the administrator made discriminatory comments about African American and Hispanic students and students of African origin.

The administrator commented that students should be disciplined differently on the basis of race. On September 21, 2017, Parent, Student’s teacher, and the administrator met and discussed Student’s behavior. Parent wrote a detailed account of the meeting. According to Parent’s account, the administrator described the school’s policy for suspending African American and Hispanic students. In pertinent part, Parent quoted the administrator as saying:

[W]e used to suspend too much and then studies showed that African American and then Hispanic children were suspended much more than other students so now we aren’t supposed to suspend anyone, but I think maybe that’s too extreme, too.

According to Parent, the administrator claimed to have learned the policy while she was employed by the Beaverton School District. Parent described the administrator as saying “[I]n Beaverton School District, we were told we are not to suspend any African American kids at all.”[[11]](#footnote-11)

During an interview with the Department, the school’s human resources officer corroborated Parent’s account of the September 21st meeting. The officer said that the administrator had claimed that Beaverton School District encouraged schools not to suspend African American and Hispanic students.

The administrator also made comments demonstrating an assumption about the behavior of students of African origin. Following a behavioral incident occurring on September 21, 2017, the administrator sent an email to the school board describing the incident. As part of that email, the administrator wrote, “[Student] is creating a true nightmare for this teacher. He has not been suspended by me, due to the fact that he is only a 1st grader. He is an adopted child from Africa, and I believe that he has gone through dramatic issues.”

Furthermore, the school admitted that after it had received Parent’s January 25th email, the administrator—reacting to the suggestion that the school board hold a meeting in executive session to hear Parent’s complaint—reiterated that Student “was adopted from Africa, and has serious issues.”

During an interview with the Department, the school’s human resources officer also said that the administrator had claimed that Student was of African origin and that traumas suffered by children in developing countries cause behavioral issues. The officer said that the administrator demonstrated empathy toward Student because of this purported past.

Lastly, the administrator made comments explaining the administrator’s approach to discipline. In Parent’s account of the September 21st meeting, she quoted the administrator as saying that she was “not afraid to tackle a student if necessary.” Parent believes the administrator made the comment because she perceived Student to be older, larger, and more threatening than other students because he is African American. Although there is no evidence to substantiate Parent’s specific claim, there is evidence to substantiate that the administrator believed students of African origin are more likely to have behavioral issues. Parent’s allegation that the administrator would discipline African American students differently than other students is not without merit.

On the basis of discriminatory comments made by the administrator, the Department finds that the school may have violated OAR 581-021-0045(3) on grounds that the school treated Student differently because he is African American or because school staff members perceived him to be of African origin.

**B. Whether Arco Iris Spanish Immersion School investigated Parent’s complaint in a different manner** **than it investigated other complaints, or otherwise limited Student’s enjoyment of a right by investigating Parent’s complaint in an ineffective manner**

Parent alleges that Arco Iris Spanish Immersion School discriminated against Student by not properly investigating her complaint.

On September 21, 2017, Parent, Student’s teacher, and the administrator for the school met and discussed Student’s behavior. On September 23rd, Parent sent an email to Arco Iris School Board. In the email, Parent expressed that she had concerns about the administrator and requested a meeting between her, the administrator, and a school board member. On September 25th, Parent met with members of the school board. The members kept notes of the meeting. In the notes, the school board documented that “[Parent] had great things to say about [the administrator] but had overall fears that [the administrator] was going to damage [the Student] emotionally.” On September 28, 2017, Parent sent an email to the school board informing them of Student’s withdrawal from the school, expressing concerns about the administrator, and expressing an interest in meeting with the board to discuss those concerns.

Even though Parent did not officially file a formal complaint during the September 21st and 25th meetings or in the September 23rd and 28th communications, evidence suggests that the school board accepted her concerns that the administrator “was going to damage [the Student] emotionally” as a formal complaint. Specifically, the school board informed the administrator that it was closing Student’s case because Student had withdrawn from the school. The question is whether evidence also suggests that the school did not properly investigate the complaint.

Evidence substantiates that the school was operating under erroneous information about Student’s national origin. Despite the fact that Student was adopted in the United States, the administrator claimed that Student was adopted from Africa. The administrator sent an email to the school board claiming that Student “is an adopted child from Africa.” The administrator reiterated that claim to the school board after Parent emailed the board on January 25, 2018. The school’s human resources officer corroborated other evidence that the administrator believed, and often told others, that Student was of African origin.

The administrator also claimed that Student’s national origin was the cause for certain behavioral issues. When the administrator sent an email to the school board initially claiming that Student “is an adopted child from Africa,” the administrator also described student as having “gone through dramatic issues” and as being a “true nightmare” for his teacher. After Parent emailed the school board on January 25, 2018, in response to the board’s suggestion that they meet in executive session, the administrator again communicated to the board that Student “was from Africa, and has serious issues.” The school’s human resources officer corroborated other evidence that the administrator believed, and often told others, that traumas suffered by children in developing countries cause behavioral issues.

At this time, the Department does not have enough evidence to substantiate that the administrator’s biases resulted in the school improperly investigating Parent’s complaint. However, the administrator’s biases strongly suggest a compromised investigation. First, the administrator viewed Student’s behavior as an extension of his national origin, a view that was both factually incorrect and discriminatory in application. Second, the administrator imparted this information to the school board, providing them with erroneous information upon which they, too, would view Student’s behavior.

In determining whether discrimination may have occurred, the Department notes that the administrator’s biases also affected the way she perceived other school services. Under the law, schools must identify, locate, and evaluate all students with disabilities for whom they are responsible.[[12]](#footnote-12) When a school suspects that a student has a disability, the school must conduct an evaluation to determine the student’s eligibility for special education services.[[13]](#footnote-13) When a student’s behavior impedes learning, the school must use positive behavioral interventions and supports to address the behavior.[[14]](#footnote-14) In this case, the facts demonstrate that the administrator believed that Student’s behavior might be the result of a disability. On September 26, 2017, the administrator discussed the matter with one of Student’s previous educators. According to notes taken by the administrator, the educator agreed that Student’s behavior might be the result of a disability, and the educator had wanted to develop an Individualized Education Plan for Student. Those notes also demonstrate the administrator believed that “[Beaverton School District] does not want to report Afro American students to an IEP . . . due to large amounts of Black and Brown students with IEPs in the district.” In other words, with respect to the provision of legally required special education services, the administrator believed that Beaverton School District denied those services to African American students.[[15]](#footnote-15)

Whether or not the school discriminated against Student by denying him a special education service is not the subject of this appeal. Parent did not raise that issue with the school. However, the Department does give weight to the administrator’s belief that Beaverton School District denied special education services to African American Students because that racial bias supports the contention that the administrators’ biases against students of African origin compromised the investigation of Parent’s complaint.

On the basis of discriminatory comments made by the administrator, the Department finds that the school may have violated OAR 581-021-0045(3) on grounds that either the school investigated Parent’s complaint in a different manner than it investigated other complaints or that the school limited Student’s enjoyment of a right by investigating Parent’s complaint in an ineffective manner.

**C. Whether Arco Iris Spanish Immersion School denied Student a service, or otherwise limited Student’s enjoyment of a right, by closing Student’s case without completing an investigation**

Parent alleges that the Arco Iris Spanish Immersion School discriminated against Student because Arco Iris School Board closed Student’s case without completing an investigation.

On September 23, 2017, Parent sent an email to the school board. In the email, Parent expressed that she had concerns about the administrator and requested a meeting between her, the administrator, and a school board member. On September 25th, Parent met with members of the school board. On September 25th, Parent withdrew Student from the school. On September 28th, Parent sent an email to the school board informing them of Student’s withdrawal from the school, expressing concerns about the administrator, and expressing an interest in meeting with the board to discuss those concerns. On October 19th, the school board informed the administrator that it was closing Student’s case because of Student’s withdrawal from the school. The question is whether the school board, in closing Student’s case before conducting a full investigation, denied student a service, or otherwise limited Student’s enjoyment of a right, by closing the case.

The school board had a reason for closing Student’s case unrelated to his protected class status: the board believed that Parent, in withdrawing Student from school, demonstrated that she no longer wanted the school board to investigate the matter. When the school board learned that Parent wanted the school to investigate the matter, the board immediately contacted Parent, provided Parent with a copy of its Complaint and Grievances Procedure, and determined that Parent had removed Student from the school because Parent “was concerned for [Student’s] safety.” The school board also informed Parent that the board could hold a meeting in executive session to hear her concerns.

The school board also was responsive to Parent’s other requests. On April 18, 2018, Parent emailed the school, requesting that the school amend Student’s records. The school immediately responded to Parent, informing her that she had the right to request a hearing to challenge the content of Student’s records. On April 23, Parent requested a hearing to challenge the content of Student’s records. Ultimately, Parent informed the school board that she would not exercise her right to request a hearing. However, the school board demonstrated a commitment to provide Parent with proper process.

Despite the fact that Parent did not formally challenge the content of Student’s records, the school board examined the records and decided to expunge all documents related to Student’s behavior on the basis that the records often were not dated, often were duplicative, and bore inconsistencies. Again, the school board demonstrated a commitment to ensure Student was treated fairly.

In consideration of these findings, the Department finds that the school did not violate OAR 581-021-0045(3) on grounds that the school denied Student a service, or otherwise limited Student’s enjoyment of a right, by closing Student’s case without completing an investigation.

## V. ADDITIONAL OBSERVATIONS

As noted above, Parent’s complaint primarily stems from her interactions with the administrator for Arco Iris Spanish Immersion School. The Department’s findings that the school may have discriminated against Student are solely based on the administrator’s discriminatory comments and biases. Before the Department commenced its investigation, the administrator’s employment at the school ended. The circumstances under which the administrator’s employment ended may play a role in any corrective action issued by the Department.

## VI. CONCLUSION

The Department finds that the Arco Iris Spanish Immersion School may have violated violate OAR 581-021-0045(3) on grounds that (1) the school treated Student differently because he is African American or because school staff members perceived him to be of African origin, and (2) the school either investigated Parent’s complaint in a different manner than it investigated other complaints or limited Student’s enjoyment of a right by investigating Parent’s complaint in an ineffective manner. Accordingly, the Department encourages the school to reach an agreement with Parent through conciliation. If the school cannot reach an agreement with Parent through conciliation within 30 days, the Deputy Superintendent will schedule a hearing for the purpose of determining whether the school is in compliance with ORS 659.850.

If Parent and the school wish to use the Department as a resource during conciliation, they may contact the Department.[[16]](#footnote-16)

Sincerely,



Mark Mayer

Complaint and Appeals Coordinator

Office of Government and Legal Affairs

Mark.Mayer@state.or.us

503-947-0464

1. Case Reference No. 2018001. [↑](#footnote-ref-1)
2. OAR 581-021-0049(1). [↑](#footnote-ref-2)
3. *Id*. [↑](#footnote-ref-3)
4. OAR 581-021-0049(1)(b). [↑](#footnote-ref-4)
5. OAR 581-021-0049(2). [↑](#footnote-ref-5)
6. OAR 581-021-0049(3). [↑](#footnote-ref-6)
7. OAR 581-021-0049(3). [↑](#footnote-ref-7)
8. OAR 581-021-0049(3)(a) to (d). [↑](#footnote-ref-8)
9. ORS 659.850(2). OAR 581-021-0045(2) applies this prohibition specifically to the types of schools regulated by the Department: “No person in Oregon shall be subjected to discrimination in any public elementary or secondary school, educational program or service, or interschool activity where the program, service, school, or activity is financed in whole or part by monies appropriated by the Legislative Assembly.” [↑](#footnote-ref-9)
10. ORS 659.850(1). OAR 581-021-0045(1)(a) uses an identical definition for “discrimination” for purposes of the Department’s regulatory authority over public elementary and secondary schools. [↑](#footnote-ref-10)
11. The Department could not verify that Beaverton School District had such a policy. Upon learning about the administrator’s statement, the district attempted to discover the identity of the person who purportedly told the administrator “not to suspend any African American kids at all.” During the district’s inquiry, the district could not verify that anyone had made such a statement, let alone the identity of a specific person who told the administrator not to suspend African American students. [↑](#footnote-ref-11)
12. OAR 581-015-2080(2). [↑](#footnote-ref-12)
13. OAR 581-015-2105(3)(a)(A) &(B). [↑](#footnote-ref-13)
14. OAR 581-015-2205. [↑](#footnote-ref-14)
15. When the Department discussed Student’s behavior with administrators at the school that Student previously attended, the Department could not confirm that Student “had major behavior issues of defiance and hitting.” In fact, the school where Student attended Kindergarten does not have on file any reports documenting behavioral incidents involving Student. The Department also could not verify the content of the notes taken by the administrator on September 26, 2017, pertaining to Beaverton School District’s alleged practice of denying legally required special education services to African American students. Upon learning about the administrator’s notes, the Department questioned Beaverton School District staff about the allegation. During the Department’s inquiry, the Department could not verify that anyone had made statements concerning such a practice, let alone proof sufficient to substantiate the existence of such a practice. [↑](#footnote-ref-15)
16. The Department’s Title VI expert is Winston Cornwall. He may be reached at (503) 947-5675 or at winston. cornwall@state.or.us. [↑](#footnote-ref-16)