
September 18, 2020

All Students Belong

INITIAL GUIDANCE



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EDUCATION

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Cover Letter

Dear Superintendents,

I'm writing to you about an important health and safety rule passed by the State Board of Education: [581-022-2312 All Students Belong](https://www.oregon.gov/OSBE/Pages/581-022-2312-All-Students-Belong.aspx).

ODE recognizes that student health and safety are at the cornerstone of education and that 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, and without fear or hatred, racism or violence. All staff and leaders are also entitled to work in environments that are free from discrimination or harassment, and visitors should be able to participate in school activities without fear for their safety.

The **All Students Belong** OAR is an important step in creating safe and inclusive school climates where all who participate in our school communities feel welcome.

Background

This past July, an Oregon high school student sent a letter to Governor Kate Brown asking for help. In the letter, the student stressed the importance of banning the Confederate flag in

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Oregon public schools. In the student's words, "Banning the Confederate flag is far more than just an act to please some people. It shows students and educators that the State of Oregon sees them in their struggles to be considered equal and aiding in the fight against racism... Right now is a great time for Oregon to be a leader for its own citizens and throughout the United States and install this overdue policy."

This student's experience is not alone. In the last few years alone ODE has received complaints or been made aware of multiple incidents involving hate symbols such as swastikas, confederate flags, and nooses. These incidents have disrupted education for students across Oregon.

In response, Governor Brown wrote to the State Board of Education Chair and me urging us "to take immediate action to address and correct the adverse impacts symbols of hate and other manifestations of hate speech have on students in Oregon public schools." She requested that the Board establish rules to ensure that no Oregon student "be subject to actions or expressions of hate, intolerance, marginalization, or racism." The Board received a similar letter from Representatives McKeown and Brock-Smith asking it to take immediate action.

This student and others from across Oregon have come forward to show us the extreme disruption and harm that hate symbols cause. When we hear from students that their safety, mental health, well-being and ability to learn are threatened, we must listen, trust, and take immediate action. This policy change begins that action.

In Oregon, we value both freedom and responsibility, and are charged with ensuring that **All Students Belong**. This means affording our school communities the freedom of expression while removing barriers to students' educational progress, including the prohibition of display of hate symbols that incite fear and violence, and cause emotional distress and trauma. The presence of symbols of hate on the basis of race, color, religion, gender identity, sexual orientation, disability or national origin causes harm, and significantly disrupts the operation of schools. When one person in a school community is treated poorly, everyone suffers.

At the instruction of Governor Brown, the Oregon Board of Education has enacted the **All Students Belong** rule, which prohibits hate symbols, including three of the most recognizable symbols of hate—the swastika, the Confederate flag, and the noose. The temporary OAR takes effect on September 18, 2020. It requires districts to adopt and implement policies and procedures that prohibit the use or display of hate symbols including the noose, swastika, or confederate flag in any program or school-sponsored activity except where used in teaching curriculum that is aligned with the Oregon State Standards by January 1, 2021. This applies to both in-person and distance learning environments.

Safety and Health

As with all OARs, the safety and health of students is our first priority. Discrimination,

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exclusion, othering, harassment and the use of hate symbols and hate speech are complex and multifaceted, and often reflect systemic problems rather than individual shortfalls. Swift disciplinary actions, zero-tolerance policies and other punitive responses frequently ignore this multidimensionality in favor of immediate resolution. These approaches do little to alter the attitudes and biases that resulted in the negative, and often violent behavior, and provide little chance for growth, healing or understanding.

Trauma-informed, healing-centered, and educational approaches will be needed to address the root causes and consequences of these harmful acts, and to create opportunities for education and learning while avoiding blame, punishment, or further exacerbating the attitudes and biases that may have prompted the initial event(s). We will continue to support school districts in developing rules, policies, and procedures by providing guidance and resources to support implementation of these policies over the next several months.

Together, we must protect the health of our school communities by removing any and all barriers that impede a student's ability to thrive. Students have asked that the state as a whole follow their lead. We trust in young people and communities throughout Oregon to lead us into a future where all students, staff and families are welcome in our school communities. It is our collective responsibility to make certain that **All Students Belong**.

Thank you for supporting the health and safety of our students and educators. Please review the guidance we've paired with this letter and submit any questions or suggestions to AllStudentsBelong@state.or.us.

Sincerely,

A handwritten signature in blue ink, appearing to read "Colt Gill", with a large, sweeping flourish underneath.

Colt Gill
Director of the Oregon Department of Education

Background

Oregon school communities are the bedrock of our children’s learning, development, and flourishing. Each district and school is responsible for ensuring that *all students, families, staff members, and leaders belong*. This involves actively adopting and implementing rules, policies, and practices that promote equity and inclusion, and standing up against harmful and racist acts that run counter to these values.

Oregon’s youth and their families entrust the adults in their schools with students’ health and well-being, and rely on school communities to be welcoming and inclusive. Acts such as bullying, harassment, discrimination, intimidation, dismissal, using hate speech and symbols, and creating environments where some are excluded, marginalized, or discounted give students the message that they are not welcomed, valued, or important. These communications, whether intentional or unintentional, can, and do, cause immediate, and sometimes irreparable harm. No student is immune from being a recipient of these acts, and most will be physically, mentally, or emotionally injured by them in some way.

School districts and the adults within them have the responsibility to make sure that this does not occur, and that all students are safe, included, and free from harm. When students or members of a school community experience hate or racism, whether directly through words, actions, or symbols, or indirectly through exclusion or inequitable access to resources, their safety, health, well-being, and ability to learn and thrive are compromised. These experiences cause stress, which puts everyone involved; those who are harmed, those who cause suffering, and those charged with responding, at elevated risk for physical, emotional, and social illness. In other words, when one person in a school community is treated poorly, everyone is affected.

Discrimination, exclusion, othering, harassment, and the use of hate symbols and hate speech are complex and multifaceted, and often reflect systemic problems rather than individual shortfalls. Swift disciplinary actions, zero-tolerance policies, and other punitive responses frequently ignore this multidimensionality in favor of immediate resolution. They do little to alter the attitudes and biases that resulted in the negative, and often violent behavior, and provide little chance for growth, healing, or understanding.

[Trauma-informed, healing centered](#) approaches that address the root causes and consequences of these harmful acts need to account for these systemic factors by creating opportunities for education and learning while avoiding blame, punishment, and disciplinary strategies that can further exacerbate the attitudes and biases that may have prompted the event(s).

State Law

The Oregon Legislature has determined that a person may not be subjected to discrimination in any public elementary, secondary, or community college education program or service, school

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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.

It is the policy of the State Board of Education that all students, employees, and visitors in public schools are entitled to learn, work, and participate in an environment that is safe and free from discrimination, harassment, and intimidation.

All Students Belong Rule

The presence of symbols of hate on the basis of race, color, religion, gender identity, sexual orientation, disability, or national origin including the noose, swastika, or confederate flag create a material and substantial disruption in school activities and the learning environment by creating an atmosphere of fear and intimidation and interfere with the rights of students by denying them full access to the services, activities, and opportunities offered by a school.

First, school districts, public charter schools, the Oregon School for the Deaf, Education Service Districts, Youth Corrections Education Program providers under contract with the Oregon Department of Education, Juvenile Detention Education Program providers under contract with the Oregon Department of Education, or a program that receives money pursuant to ORS 343.243, must prohibit the use or display of any noose, swastika, or confederate flag on school grounds or in any program, service, school, or activity where the program, service, school, or activity is financed in whole or in part by moneys appropriated by the Legislative Assembly except where used in teaching curriculum that is aligned the Oregon State Standards. This applies to both in-person and distance learning environments.

Second, the rule requires districts to adopt policies and procedures for dealing with bias incidents.

Initial Guidance

This initial guidance document is intended to provide districts with resources to support their development and implementation of policies and procedures in response to this administrative rule.

1) Acknowledging Harm, Harm Reduction, and Response

(a) Acknowledging Harm

Although not all incidents of discrimination, exclusion, displaying hate symbols, or using hate speech may be intended to cause harm, their impact is hostile and detrimental nonetheless. For many, viewing symbols such as swastikas, nooses, or the confederate flag, and hearing hate

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speech and racial slurs cause [physiological and psychological stress](#) and emotional pain. In addition, they serve as emotional triggers for generational and historical trauma and race-based traumatic stress.

The [impacts of traumatic stress](#) on a person's physical, psychological and social emotional health are potentially long-lasting and widespread. Behaviorally, stress reactions can include increased vigilance and suspicion, intensified sensitivity to threat, sense of a foreshortened future, and reactions such as aggression, depression, anxiety, or substance use. Research examining the effects of stress on development find that chronic childhood stressors are significantly associated with poor long-term health outcomes, and are highly predictive of a heightened physiological stress response, which is tied to structural, functional, and neurochemical brain anomalies, and an increased risk of lifelong behavioral, emotional, psychosocial, and cognitive problems. This is particularly true to those who have experienced [race-based traumatic stress](#), which is often associated with [racial battle fatigue](#).

(b) Harm Reduction

It is essential that all who participate in school communities address the sources and outcomes of the use of hate symbols, hate speech, and other racially-motivated, injurious behaviors swiftly and straightforwardly. For the Oregon Department of Education, and the districts across the state, this means protecting all students, eliminating all policies and procedures that create the conditions for harmful incidents to occur, and preventing or addressing these acts swiftly and directly.

In practice, this means that every school district, public charter school, the Oregon School for the Deaf, Education Service District, Youth Corrections Education Program provider under contract with the Oregon Department of Education, Juvenile Detention Education Program provider under contract with the Oregon Department of Education, or a program that receives money pursuant to ORS 343.243, enacts and enforces rules to prioritize, protect and assure the mental, physical and social health and well-being of students, their families, staff, leaders, community partners and visitors. This includes ensuring that all students, employees, and visitors can learn, work and participate in school activities, occurring on and off school grounds, that are free from discrimination, harassment, and intimidation, and guarantees that all students are welcomed and belong.

(c) Healing-Centered, Trauma-Informed Response

It is important to recognize that bullying, harassment, discrimination, intimidation, dismissal, using hate speech and symbols, and creating environments where some are excluded, marginalized, oppressed, or discounted impact individuals and groups differently. Although most students and adults have, or will experience adversity, not everyone will be traumatized. It is, however, essential that schools and districts recognize that being exposed to hate-based events can cause traumatic stress, and that students and adults may exhibit traumatic stress-related symptoms such as sadness, anger, exhaustion, difficulty concentrating, sleeplessness,

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anxiety, hypervigilance, aggression, and avoidance of people and situations for weeks, months or even years after an incident.

In working to address the impact of harmful acts including hate speech, exposure to hate symbols, racism, and discrimination it is essential for those responsible for responding to the event to recognize that:

- Each person must be given the freedom to define their experience for themselves.
- Individuals are not defined by their trauma, behavior, emotions, thoughts, or capacity to communicate, and their experience is distinct from their identity.
- Each person brings ways of knowing, personal, family and community support, and connections to place and space that may be central to their healing.
- Responses to traumatic stress are dynamic, and may vary considerably from moment to moment, or day to day.
- Safe, trusting relationships, and a recognition and affirmation of “what is” are foundational for healing.
- The culture, policies, and practices of the institutions that were designed to protect students, such as schools, may be the [very sources of their distress](#).
- The stigma around seeking support, and the dismissal of their concerns that students often experience may prevent some from engaging in traditional approaches, and may require creative, innovative alternatives to standard care.

Under all circumstances, strengths-based, [healing-centered](#)/trauma-informed, racial equity-centered, multi-tiered systems of support are central to promoting mental health and healing. This means being explicitly responsive to each student’s linguistic and cultural heritage, and honoring each individual’s values, funds of knowledge, and inherent strengths and challenges.

2) Developing Policy

The following definitions should be used when developing policies to address bias incidents and prohibit the use of symbols of hate:

- (a) “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.
- (b) “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 nation origin including the noose, swastika, or confederate flag, and whose display:

(A) Is reasonably likely to cause a substantial disruption of or material interference with school activities, or

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(B) 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.

Most districts have existing policies and procedures for addressing discrimination incidents that pose a threat to students and staff. Districts should use these existing resources as a starting point for developing and implementing a framework for responding to incidents in which hate symbols or hate speech occur in both in-person and in distance learning situations. Pursuant to [OAR 581-022-2312](#), on or before January 1, 2021, school districts, public charter schools, the Oregon School for the Deaf, and Education Service Districts must adopt a policy that:

- (a) Affirms 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;
 - 1) Affirms all employees are entitled to work in an environment that is free from discrimination or harassment;
 - 2) Affirms all visitors are entitled to participate in an environment that is free from discrimination or harassment;
 - 3) Prohibits the use or display of any symbols of hate, including at a minimum the noose, swastika, or confederate flag, on school grounds or in any program, service, school, or activity where the program, service, school, or activity is financed in whole or in part by moneys appropriated by the Legislative Assembly except where used in teaching curriculum that is aligned the Oregon State Standards.

These policies must also:

- (i) Prioritize, protect, and assure the mental, physical and social health of students, families, staff, and leaders. This includes removing any and all barriers that interfere with a student's well-being, belonging, and ability to thrive; and
- (ii) Assure that every effort will be made to educate those committing the offense regarding the impact of their actions with appropriate, non-punitive remedial measures. Some suggested references include [A Framework for Safe & Successful School's Positive Discipline](#) or [Oakland Unified School District's Restorative Justice Whole School Implementation Guide](#) will be enacted.

We also suggest that you engage in immediate and ongoing communication of the rationale for this rule and associated district policies to all students, families, staff, and school community members.

We have provided a [Toolkit](#) that includes these talking points to assist you in that process in the [resources section](#) at the end of this document.

We recognize that changes to existing policies and procedures may require facilitated conversations with school boards, leaders, key stakeholders, students, families, and community partners. Please consider the following resources.

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- Please see the [following example](#) of a policy used by other Oregon school districts.
- Please see this [Decision-Making Tool](#) to guide in your policy making.

3) Developing Procedures

School districts, public charter schools, the Oregon School for the Deaf, Education Service Districts, Youth Corrections Education Program providers under contract with the Oregon Department of Education, Juvenile Detention Education Program providers under contract with the Oregon Department of Education, or a program that receives money pursuant to ORS 343.243 must adopt procedures for addressing bias incidents that:

(A) Define persons impacted 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;

(B) Require responding staff to prioritize the safety and well-being of all persons impacted;

(C) Require responding staff to 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;

(D) Include in any redirection procedures educational components that address the history and impact of hate as well as procedural components to ensure the safety, healing, and agency of those impacted by hate, accountability, and transformation for people who cause harm as well as transformation of the conditions that perpetuate the harm.

- Discrimination, exclusion, othering, harassment, and the use of hate symbols and hate speech are complex and multifaceted, and often reflect systemic problems rather than individual shortfalls.
- Swift disciplinary actions, zero-tolerance policies, and other punitive responses frequently ignore this multidimensionality in favor of immediate resolution. These approaches do little to alter the attitudes and biases that resulted in the negative, and often violent behavior, and provide little chance for growth, healing, or understanding.
- Remediation strategies must include trauma-informed, healing-centered approaches that address the root causes and consequences of these harmful acts, and create opportunities for education and learning while avoiding blame, punishment, or further exacerbation of the attitudes and biases that may have prompted the event(s).

(E) Include communication protocols that provide all persons impacted with information relating to the investigation and outcome of the investigation. At a minimum, the information provided must include:

- (i) That an investigation has been initiated;

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(ii) When an investigation has been completed;

(iii) The findings of the investigation and the final determination based on those findings;

(iv) Actions taken with the person or persons who committed the harassing behavior to remedy behavior and prevent reoccurrence when the action relates directly to a person impacted by the event; and

(v) If any of the information in sections (i) through (iv) cannot be shared, a citation to the law prohibiting release and an explanation of how that law applies to the current situation.

(F) Direct administrators and school personnel to consider whether the behavior also implicates other civil rights laws and, if so, to respond accordingly. The nature of the conduct must determine the process used, the rights and protections available to persons impacted, and the right to appeal to the Oregon Department of Education or the United States Department of Education Office of Civil Rights; and

(G) Require administrators to develop and implement instructional materials to make this policy and related practices including reporting procedures, educational processes, and possible consequences known to all school employees and students.

When developing district procedures for addressing these incidents, we recommend using and/or amending existing policies to be aligned with the rules set forth in this document.

Please refer to the following resources for detailed suggestions and recommendations to guide you in your policy and response planning.

- [Confronting White Nationalism in Schools: A Toolkit](#) from the [Western States Center](#) for specific strategies for responding to hateful acts and extremist organizing in schools.
- [What did you just say? Responses to racist comments collected from the field.](#)
- [Responding to Hate and Bias at School: A Guide for Administrators, Counselors and Teachers](#) from [Teaching Tolerance](#).

4) Complaint Process

Complaints may be handled under existing policies and procedures for discrimination or harassment (AC and AC-AR; see e.g., [Reynolds School District's Discrimination Complaint Procedure](#)) or (JFCF) or a district may develop new policies and procedures (see e.g., [TTSD Bias Incident and Hate Speech AR](#)).

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Regardless of the policy and procedure utilized to address the complaint, the complainant must be informed of their right to appeal the district's final decision to either the U.S. Department of Education Office of Civil Rights or the Oregon Department of Education.

The complaint process must provide for individuals to report their concerns either verbally or in writing. And complainants must be informed of their right to appeal the district's final decision to either the U.S. Department of Education Office of Civil Rights or the Oregon Department of Education.

5) Resources

[Toolkit for Superintendents](#). (Talking points, letter to community from superintendent and school board, letter to staff from superintendent and school board.)

[Lesson on First Amendment in Schools for High school Students](#) (activity download at the top right of the page.)

For questions and more information please email AllStudentsBelong@ode.state.or.us.