

OAR 581-022-2312

All Students Belong

(1) 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.

(2) 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 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.

(3) 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.

(4) Definitions. For purposes of these rules:

(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

(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.

(5) 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.

(6) 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;

(b) Affirms all employees are entitled to work in an environment that is free from discrimination or harassment;

(c) Affirms all visitors are entitled to participate in an environment that is free from discrimination or harassment;

(d) 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; and

(e) Establishes procedures for addressing bias incidents. The procedures must:

(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 person 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 perpetuated the harm;

(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;

(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 relate 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.

Statutory/Other Authority: ORS 326.051 & ORS 659.850

Statutes/Other Implemented: ORS 659.850