

Attachment to testimony of Nancy Willard

Laws	Federal Civil Rights Laws and Regulations	Oregon's Anti-bullying Statute	HB 2697 Related to Inclusivity
Who or what is protected?	Students in a protected class or perceived to be in a protected class. Protected classes are based on disability, race, color, national origin, sex, and sexual orientation/identity.	All students.	<p>"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 incident" may include derogatory language or behavior.</p> <p>Policy is to apply 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.</p>
What must schools do?	Schools must respond to harassment or bullying that has created a hostile environment. A hostile environment has been created when serious, persistent, or pervasive hurtful behavior by peers denies or limits a student's ability to participate in or benefit from the school's education programs and activities. These duties are a school's responsibility even if the misconduct also is covered by an anti-bullying policy and regardless of whether a student has complained or asked the school to take action.	Schools must enact a policy against "harassment, intimidation, or bullying," defined as any act (singular), that substantially interferes with a student's educational benefits, opportunities or performance, takes place within the school environment, and involves physical harm, threat of harm, or interferes with psychological well-being of a student.	Each education provider must adopt a policy to address bias incidents and displays of symbols of hate. The policy must: Affirm 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. Affirm that all employees of education providers are entitled to work in an environment that is free from discrimination or harassment based on perceived race, color, religion, gender identity, sexual orientation, disability or national origin. Prohibit bias incidents or the use or display of any symbols of hate on school property or in an education program.
When must schools investigate?	School must investigate if it knows or reasonably should have known that concerns of harassment are present. Reporting by the target or others is not required.	Schools must adopt set up a reporting system, identify responsible staff, and investigate reports that are made. Staff must report.	Unclear. This appears to be one requirement: "Establish procedures for addressing bias incidents ..." This is another requirement: Develop and implement instructional materials to make this policy and related practices, including reporting procedures, educational processes and possible consequences, known to all employees and students of the education provider.
What is investigated?	The investigation should focus on whether a hostile environment exists for a protected class student, which will need to be addressed.	The investigation focuses on whether discipline of the student accused of being hurtful is warranted.	Include communication protocols that provide all persons impacted by the act with information relating to the investigation and outcome of the investigation, including: Notice that an investigation has been initiated; Notice when an investigation has been completed; The findings of the investigation and the final determination based on those findings; (iv) Actions taken to remedy a person's behavior and prevent reoccurrence.
How must schools respond?	<p>If a hostile environment is found to exist, the school must take prompt and effective steps that are reasonably calculated to stop the harassment, prevent it from recurring, remedy the harm to the target, and correct the environment.</p> <p>If the student has disabilities, this plan must be developed by the IEP or 504 Team, which includes the parent, and incorporated into the student's IEP or 504 plan.</p>	<p>If a principal decides the hurtful conduct meets the definition of the policy, the principal should impose consequences on the hurtful student.</p> <p>Schools are under very strong pressure to reduce suspensions and other disciplinary actions.</p> <p>The school must prevent retaliation.</p> <p>There is no requirement to address any aspects of the environment that may be related to or encouraging such hurtful acts.</p>	<p>Prioritize the safety and well-being of all persons impacted by the act. Recognize the experience of all persons impacted by the act, acknowledge the impact, commit to taking immediate action and commit to preventing further harm against those persons impacted. Include educational components that: Address the history and impact of bias and hate; Advance the safety and healing of those impacted by bias and hate; and Promote accountability and transformation for people who cause harm as well as transformation of the conditions that perpetuated the harm.</p> <p>Essentially: Take actions to correct the hostile environment.</p>
If a parent/student is not satisfied with the school's response, what can a parent/student do?	A complaint can be filed with the district. There are several levels of appeal within the district. (However, OSBA's recommended complaint policy JFCF-AR maintains bullying/harassment situations should be investigated solely to determine whether discipline was warranted. This recommended policy is not in accord with the response requirements under civil rights laws.)	A complaint can be filed with district. The district will decide whether discipline was warranted. There are several levels of appeal within the district, but the same discipline-focused analysis will be applied.	No apparent path.
If the parent/student is not satisfied with the district's response, what can the parent do?	<p>After exhausting the local complaint processes or 90 days, whichever comes first, parent/student can appeal to ODE.</p> <p>Parents/students can request a waiver of this time requirement. Unless the district agrees to follow the civil rights requirements, parents are advised to request such a waiver.</p>	<p>Unless, the student is in a protected class, no further protections are available.</p> <p>This is why it is important to consider whether a student who is not in a protected class but who is now suffering from mental health challenges due to bullying that are interfering with their ability to learn is now entitled to protection under Section 504.</p>	No apparent path.
What information is provided to the parent/student?	You should be informed of all restrictions placed on the hurtful student that relate to the protection of your child or you. This information is not considered protected by federal privacy laws.	Any information regarding a disciplinary action on the hurtful student is protected under federal privacy laws.	When applicable, the legal citation of any law prohibiting the disclosure of any of the information described in this subparagraph and an explanation of how that law applies to the current situation.

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