

# OSBA Model Sample Policy

Code: AC-AR

Adopted:

## Discrimination Complaint Procedure

*{Required AR. OAR 581-022-2370 requires districts to have complaint procedures, including for complaints of discrimination. Federal law also requires discrimination complaint procedures.}*

Any person, including students, staff, visitors and third parties, may file a complaint.

Complaints regarding discrimination or harassment, on any basis protected by law, shall be processed in accordance with the following procedures:

Step 1: ~~1~~ Complaints may be oral or in writing and must be filed with the [principal]. Any staff member that receives an oral or written complaint shall report the complaint to the [principal].

The [principal] shall investigate and determine the action to be taken, if any, and reply in writing, to the complainant within [10] school days of receipt of the complaint.

Step 2: If the complainant wishes to appeal the decision of the [principal], the complainant may submit a written appeal to the superintendent [or designee] within [five] school days after receipt of the [principal]'s response to the complaint.

The superintendent [or designee] shall review the [principal]'s decision within [five] school days and may meet with all parties involved. The superintendent [or designee] will review the merits of the complaint and the [principal]'s decision. The superintendent [or designee] will respond in writing to the complainant within [10] school days.

Step 3: If the complainant is not satisfied with the decision of the superintendent [or designee], a written appeal may be filed with the Board within [five] school days of receipt of the superintendent's [or designee's] response to Step 2. The Board may decide to hear or deny the request for appeal at a Board meeting. If the Board decides to hear the appeal, the Board may meet with the concerned parties and their representative [at the next regular or special Board meeting] [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 or electronic form within [3+0] days of ~~this meeting~~ receipt of the appeal by the Board.

If the [principal] is the subject of the complaint, the individual may start at Step 2 and should file a complaint with the superintendent [or designee].

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<sup>1</sup> For district information. The district's timeline established by each step of the district's complaint procedure must be within 30 days of the submission of the complaint at any step, unless the district and complainant have agreed in writing to a longer time period for that step. The district's complaint procedure should not exceed a total of 90 days from the initial filing of the complaint, regardless of the number of steps involved, unless the district and the complainant have agreed in writing to a longer time period. (OAR 581-002-0005)

If the superintendent is the subject of the complaint, the complaint may start at Step 3 and should be referred to the Board chair. [The Board may refer the investigation to a third party.]

Complaints against the Board as a whole or against an individual Board member, may start at Step 3 and should be submitted to the Board chair and may be referred to district counsel. Complaints against the Board chair may start at Step 3 and be referred directly to the [district counsel] [Board vice chair].

The timelines established in each step of this procedure may be extended upon mutual consent of the district and the complainant in writing[, but will not be longer than 30 days from the date of the submission of the complaint at any step]. The overall timeline of this complaint procedure may be extended beyond 90 days from the initial filing of the complaint upon written mutual consent of the district and the complainant.

The complainant, if a person who resides in the district[, ] [or] a parent or guardian of a student who attends school in the district[ or a student,] is not satisfied after exhausting local complaint procedures, the district 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 appeal<sup>2</sup> the district's final decision to the Deputy Superintendent of Public Instruction under Oregon Administrative Rules (OAR) 581-002-0001 – 581-002-0023.

### **Charter Schools of which the District Board is a Sponsor**

[The district Board, [through its charter agreement with [name of charter school sponsored by the district board]] [through a board resolution] [through this administrative regulation], will review an appeal of a decision reached by the Board of [name of public charter school] on a complaint alleging violation of Oregon Revised Statute (ORS) 659.850 or Oregon Administrative Rule (OAR) 581-021-0045 or 581-021-0046 (Discrimination). A complainant may appeal will submit such appeal to the [superintendent] [Board chair] on behalf of the district Board within [30] days of receipt of the decision from the public charter school board. A final decision reached by this district Board may be appealed to the Oregon Department of Education under OAR 581-002-0001 - 581-002-0023.]

OR

[The district Board, [through its charter agreement with [name of public charter school sponsored by the district board]] [through a board resolution] [through this administrative regulation], will not review an appeal of a decision reached by the Board of the [name of public charter school] on a complaint alleging a violation of Oregon Revised Statute (ORS) 659.850 or Oregon Administrative Rule (OAR) 581-021-0045 or 581-021-0046 (Discrimination), for which the district Board has jurisdiction, and recognizes a decision reached by the Board of [name of public charter school] as the district Board's final decision. A final decision reached by this district Board may be appealed to the Oregon Department of Education under OAR 581-002-0001 - 581-002-0023.]

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<sup>2</sup> An appeal must meet the criteria found in OAR 581-002-0005(1)(a).



# OSBA Model Sample Policy

Code: GCBDF/GDBDF  
Adopted:

## Paid Family Medical Leave Insurance \* (Version 1)

*{Highly recommended policy. This version is designed for districts who are participating in Paid Leave Oregon (PLO). If the district is using an approved equivalent plan, the district should not adopt this version or use the accompanying administrative regulation. Contributions for PLO begin on January 1, 2023 with benefits available starting September 3, 2023. There is a possibility the Oregon Legislature or the Oregon Department of Employment will change laws prior to the September start date, so the district may choose to wait on adoption. If there are new laws, OSBA will update this sample prior to the effective date. Many districts are bargaining aspects of this leave: policy language should not conflict with language in collective bargaining agreements.}*

The district participates in Paid Family and Medical Leave Insurance (PFMLI) and Paid Leave Oregon (PLO)<sup>1</sup>. This includes submitting employee and employer contributions to the Employment Department (“Department”) as required by state law.<sup>2</sup> The district does not administer PFMLI or PLO. All applications and questions should be directed to the Department.

### Definitions

1. “Family leave” means leave from work taken by a covered individual:
  - a. To care for and bond with a child during the first year after the child’s birth or during the first year after the placement of the child through foster care or adoption; or
  - b. To care for a family member with a serious health condition.
2. “Family leave” does not mean:
  - a. Leave described in Oregon Revised Statute (ORS) 659A.159 (1)(d) (non-serious health condition of child or school or child care provider closure due to public health emergency);
  - b. Leave described in ORS 659A.159 (1)(e) (death of a family member); or
  - c. Leave authorized under ORS 659A.093 (leave for spouses of members of the military upon deployment or call to active duty).
3. “Family member” means:
  - a. The spouse of a covered individual;
  - b. A child of a covered individual or the child’s spouse or domestic partner;

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<sup>1</sup> Paid Leave Oregon is the program developed by the Oregon Department of Employment to administer Paid Family and Medical Leave Insurance.

<sup>2</sup> The overall contribution will be determined by the Department director, and is initially set at 1 percent (up to \$132,900). *{For districts with 25 or more employees:}* The employer contribution is 40 percent and the employee contribution is 60 percent of this amount. *{For districts with fewer than 25 employees:}* The employee contribution is 60 percent of this amount and the employer contribution is waived. The amount will be set annually by November 15. See ORS 657B.150. *{Districts may agree to pay the employee contribution, see any applicable employment agreements.}*

- c. A parent of a covered individual or the parent’s spouse or domestic partner;
  - d. A sibling or stepsibling of a covered individual or the sibling’s or stepsibling’s spouse or domestic partner;
  - e. A grandparent of a covered individual or the grandparent’s spouse or domestic partner;
  - f. A grandchild of a covered individual or the grandchild’s spouse or domestic partner;
  - g. The domestic partner of a covered individual; or
  - h. Any individual related by blood or affinity whose close association with a covered individual is the equivalent of a family relationship.
4. “Medical Leave” means leave from work taken by a covered individual that is made necessary by the individual’s own serious health condition.
5. “Safe leave” means related to domestic violence, harassment, sexual assault, stalking and relocation for health and safety reasons as provided in ORS 659A.272.
6. “Serious health condition” means an illness, injury, impairment, or physical or mental condition of a claimant or their family member that:
- a. Requires inpatient care in a medical care facility such as, but not limited to, a hospital, hospice, or residential facility such as, but not limited to, a nursing home or inpatient substance abuse treatment center;
  - b. In the medical judgment of the treating health care provider poses an imminent danger of death, or that is terminal in prognosis with a reasonable possibility of death in the near future;
  - c. Requires constant or continuing care, including home care administered by a health care professional;
  - d. Involves a period of incapacity. “Incapacity” is the inability to perform at least one essential job function, or to attend school or perform regular daily activities for more than three consecutive calendar days. A period of incapacity includes any subsequent required treatment or recovery period relating to the same condition. The incapacity must involve one of the following:
    - (1) Two or more treatments by a health care provider; or
    - (2) One treatment plus a regimen of continuing care.
  - e. Results in a period of incapacity or treatment for a chronic serious health condition that requires periodic visits for treatment by a health care provider, continues over an extended period of time, and may cause episodic rather than a continuing period of incapacity, such as, but not limited to, asthma, diabetes, or epilepsy;
  - f. Involves permanent or long-term incapacity due to a condition for which treatment may not be effective, such as, but not limited to, Alzheimer’s Disease, a severe stroke, or terminal stages of a disease. The employee or family member must be under the continuing care of a health care provider, but need not be receiving active treatment;
  - g. Involves multiple treatments for restorative surgery or for a condition such as, but not limited to, chemotherapy for cancer, physical therapy for arthritis, or dialysis for kidney disease that if not treated would likely result in incapacity of more than three calendar days;
  - h. Involves any period of disability due to pregnancy, childbirth, miscarriage or stillbirth, or period of absence for prenatal care; or
  - i. Involves any period of absence from work for the donation of a body part, organ, or tissue, including preoperative or diagnostic services, surgery, post-operative treatment, and recovery.

## Eligibility

1. To be eligible for PLO benefits, an individual must:
  - a. Be an employee of the district<sup>3</sup>;
  - b. Earn at least \$1,000 in the base or alternate base year<sup>4</sup>;
  - c. Contribute to the PLO in accordance with state law;
  - d. Experience an event qualifying the employee for:
    - (1) Family leave;
    - (2) Medical leave; or
    - (3) Safe leave.
  - e. Submit an application to Department;
  - f. Have not exceeded maximum paid leave for the year; and
  - g. Have no current disqualifications<sup>5</sup>.

## Leave

PLO can be used for family leave, medical leave or safe leave. Up to 12 weeks of paid leave can be taken per benefit year.<sup>6</sup> Leave can be taken in one-day increments and can be consecutive or nonconsecutive.

Any family leave or medical leave taken under PLO must be taken concurrently with any leave taken by an eligible employee under ORS 659A.150 - 659A.186 (OFLA) or under the federal Family and Medical Leave Act of 1993 (P.L. 103-3, FMLA) for the same purposes.

The district will maintain an employee's existing health benefits while the employee is using leave. The employee will be required to pay the employee's contribution to premiums.

END OF POLICY

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### Legal Reference(s):

[ORS 657B](#)

[OAR 471-070](#)

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<sup>3</sup> PFMLI is a state-wide benefit, and not unique to the district. An eligible individual does not need to be an employee of the district in order to be eligible for PFMLI, but this policy only applies to employees of the district.

<sup>4</sup> Pay could come from another Oregon employer.

<sup>5</sup> Disqualifications may include eligibility for Workers' Compensation or Unemployment or determination of a willful false statement or failure to report a material fact in order to obtain benefits. See OAR 471-070-1010(1)(h).

<sup>6</sup> In some pregnancy-related situations, employees may be able to take two additional weeks, for a total for 14 weeks.

# OSBA Model Sample Policy

Code: GCBDF/GDBDF-AR  
Revised/Reviewed:

## Paid Family Medical Leave Insurance (PFMLI)

*{Highly recommended administrative regulation. This administration regulation is for use only with Version 1 of policy GCBDF/GDBDF.}*

### Application

Employees may submit applications for Paid Leave Oregon (PLO) to the Oregon Employment Department (“Department”).<sup>1</sup> Applications may be submitted up to 30 days prior to the start of the leave and up to 30 days after the start of the leave.<sup>2</sup> The Department may require verification from the employee.<sup>3</sup> The Department will make all decisions regarding acceptance and denial of an application, including determining the amount of the benefit.<sup>4</sup> The district cannot accept, file, process or make decisions on applications.

An employee may appeal an approval or denial of claim, the amount of a weekly benefit or a disqualification from receipt of benefits to the Department in accordance with Oregon Revised Statute (ORS) 657B.010 and Oregon Administrative Rule (OAR) 471-070-2220.

### Employee Notice to District

If the leave is foreseeable<sup>5</sup>, the employee must provide the district with written notice<sup>6</sup> at least 30 calendar days prior to the leave.<sup>{7}</sup> If the leave is not foreseeable<sup>8</sup> the employee must give oral notice to the district

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<sup>1</sup> For application requirements see ORS 657B.060 and Oregon Administrative Regulation (OAR) 471-070-1100. *{Include link to Department website once available.}*

<sup>2</sup> Exceptions may be granted when the applicant can demonstrate good cause for late submission.

<sup>3</sup> See verification requirements in OAR 471-070-1110 - OAR 471-070-1130.

<sup>4</sup> The benefit may be less than the employee’s salary. See ORS 657B.050.

<sup>5</sup> Examples of foreseeable leave include, but are not limited to, an expected birth, planned placement of a child, or a scheduled medical treatment for a serious health condition of the eligible employee or a family member of the eligible employee. See OAR 471-070-1310(1).

<sup>6</sup> Written notice includes, but it not limited to, handwritten or typed notices, and electronic communication such as text messages and email.

<sup>7</sup> *{OAR 471-017-1310(5) states “An employer that requires eligible employees to provide a written notice before the eligible employee commences leave, must outline the requirement in the employer’s written policy and procedures.”}*

<sup>8</sup> Leave circumstances that are not foreseeable include, but are not limited to, an unexpected serious health condition of the eligible employee or a family member of the eligible employee, a premature birth, an unexpected adoption, an unexpected foster placement by or with the eligible employee, or for safe leave.

within 24 hours of the start of the leave, and must provide written notice within 3 days after the start of leave.<sup>9</sup> The district requests as much advanced notice as possible.

The notice must include:

1. The employee's first and last name;
2. Type of leave;
3. Explanation of the need for leave; and
4. Anticipated timing and duration of leave, including if it is continuous or intermittent.

Notice need only be given one time, but the employee shall notify the district as soon as practicable if dates of scheduled leave change, are extended, or were initially unknown. This notice does not need to mention PFMLI or PLO to satisfy the notice requirements. {<sup>10</sup>}

Failure to comply with these notice requirements may result in a penalty imposed by the Department. The Department may reduce the amount of the benefit by 25 percent in accordance with OAR 471-070-1310(9)-(10).

### **Concurrent Use of District-Provided Paid Leave**{<sup>11</sup>}

The district [allows] [does not allow] employees to use employer-provided paid leave in addition to receiving PLO benefits to replace an employee's wages up to 100 percent of the eligible employee's average weekly wage. Example:

An employee applies and is approved for PLO for a personal serious medical condition. The Department determines that the rate of pay will be 75 percent of the employee's regular salary. [The employee will not be allowed to use district-provided paid leave (sick, vacation or otherwise) for days that PFMLI is received.] [The employee will be allowed to use available district-provided paid leave (sick, vacation or otherwise) for days that PLO is received, but is limited to only utilizing an amount that increases the employee paid leave to 100 percent of regular payment. In this example, the amount would be 25 percent.]

### **Return to Work**

Upon completion of leave, the employee is entitled to return to the position held in the district prior to the leave, if that position still exists and if the employee had been employed in the district for 90 days prior to taking leave.<sup>12</sup> [*For districts with 25 or more employees:*] If the position no longer exists, the employee is

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<sup>9</sup> If other leave also applies (OFLA, FMLA, etc.), notice requirements for those types of leave may also apply.

<sup>10</sup> {A district requiring written notice must outline the requirements in policy and procedures. A copy of the written policy and procedure must be provided to all eligible employees at the time of hire and each time the policy and procedure changes and in the language that the employer typically uses to communicate with the employee.}

<sup>11</sup> {Consider any bargaining requirements prior to adopting this language.}

<sup>12</sup> If the employee's leave also qualifies for OFLA/FMLA protection, see also Board policy GCBDA/GDBDA - Family Medical Leave and its accompanying administrative regulations.



entitled to a position equal to their previous position, with equal benefits, pay and other terms and conditions of employment.] [*For districts with fewer than 25 employees:*] If the position no longer exists, the employee may be placed in a different position with similar job duties and benefits and pay equal to the previous position.]

### **Communications Between the District and the Department**

Upon receipt of an application or update in information from a district employee for PLO, the Department will notify the district. The district may provide additional information to the Department within 10 days. This information may include, but is not limited to, information about the employee's notice to the district or verification of the employee's continued employment with the district. If the district does not report such information to the Department, the Department will proceed using available information. The district can provide additional information to the Department as it becomes available.

If the Department requests additional information from the district, the district will respond within 10 calendar days.

Once the Department has issued a decision regarding an application submitted by an employee of the district, the Department will notify the district regarding the approval or denial and any applicable dates and periods of leave. The district cannot appeal a Department decision.

### **District Notice to Employees**

At the time of hire and each time the policy or procedure changes, the district must provide notice to employees. This notice must be in the language that the employer typically uses to communicate with employees and will include:

1. The right of an eligible employee to claim and receive family and medical leave insurance benefits;
2. The procedure for filing a claim for benefits;
3. That an eligible employee must provide notice to the district before the employee commences leave, and a description of the penalties for failure to comply with the notice requirements;
4. The right of an eligible employee to job protection and benefits continuation;
5. The right of an eligible employee to appeal a decision or determination made by the Department director;
6. That discrimination and retaliatory personnel actions against an employee for inquiring about the PFMLI or PLO, taking leave under the program or claiming PFMLI or PLO benefits are prohibited;
7. The right of an employee to bring a civil action or to file a complaint for violation of ORS 657B.060 or 657B.070; and

8. That any health information related to family leave, medical leave or safe leave provided to an employer by an employee is confidential and may not be released without the permission of the employee unless state or federal law or a court order permits or requires disclosure.<sup>13</sup>

The district will display this notice in an area that is accessible to and regularly frequented by employees in each building or worksite. The district will provide this notice to employees working remotely by hand delivery, regular mail or through an electronic delivery method at the time of hire or assignment to remote work.

### **District Filings**

The district will file the Oregon Quarterly Tax Report, the Oregon Employee Detail Report and any other reports required by law. If the district fails to submit required filings or report, or fails to pay all required contributions, the district may be penalized in accordance with OAR 471-070-8520.

*{For districts with fewer than 25 employees:}*[The district may apply for an assistance grant.<sup>14</sup>]

### **Employee Protections**

No employee or prospective employee will be discriminated or retaliated against for inquiring about PFMLI or PLO, giving notification of leave under PLO, taking PLO leave or claiming PLO benefits. Eligible employees have a right to file a complaint and/or bring a civil action for violations of ORS 657B.060 or ORS 657B.070.

Any health information related to family leave, medical leave or safe leave provided to the district by an employee is confidential and may not be released without the permission of the employee unless state or federal law or a court order permits or requires disclosure.

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<sup>13</sup> Paid Leave Oregon will provide a model notice, <https://paidleave.oregon.gov/DocumentsForms/Paid-Leave-ModelNotice-Poster-EN.pdf>. This policy can also be used as the notice.

<sup>14</sup> See OAR 471-070-3705 - 3710 for eligibility requirements and application.

# OSBA Model Sample Policy

Code: IGBHD  
Adopted:

## Program Exemptions\*\*

*{Highly recommended policy. The content comes primarily from OAR 581-021-0009. If the district would like to add language regarding procedure or authority, it could be added to this policy or an AR could be created.}*

The district ~~Board~~ ~~[may]~~ ~~[shall]~~ excuse students from a state-required program or learning activity for reasons of religion, disability<sup>1</sup> or other reasons deemed appropriate by the district. Requests for excusal or accommodation must be in writing and must include the reasons for the request and a proposed alternative for an individualized learning activity which substitutes for the period of time exempt from the program and meets the goals of the learning activity or course being exempt. Requests may be filed by the student's parent or guardian, or by a student who is 18 years of age or older or who is an emancipated minor. Requests must be submitted to the [teacher or principal].

~~An alternative education program for credit [may] [may not] be provided.~~ The district will determine if credit will be granted for any alternative activity.

~~[The procedures to establish an alternative education program and alternative credit shall be developed by the superintendent.]~~

END OF POLICY

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### Legal Reference(s):

[ORS 336.035\(2\)](#)  
[ORS 336.465](#)  
[ORS 336.615](#)  
[ORS 336.625](#)

[ORS 336.635](#)  
[OAR 581-002-0035](#)  
[OAR 581-021-0009](#)

[OAR 581-021-0071](#)  
[OAR 581-022-2050](#)  
[OAR 581-022-2110](#)  
[OAR 581-022-2505](#)

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<sup>1</sup> If the district receives a request for a disability accommodation, the district should consider its obligations under the Individuals with Disabilities in Education Act and Section 504 of the Rehabilitation Act.

# OSBA Model Sample Policy

Code: JFCF-AR

Revised/Reviewed:

## [Hazing, ]Harassment, Intimidation, Bullying, [Menacing, ]Cyberbullying, or Teen Dating Violence Reporting Procedures – Student

*{Required AR. ORS 339.256(2)(g) requires districts to have procedures outlining the response to reports of harassment, intimidation or bullying or an act of cyberbullying.}*

The [employee position title(s)]<sup>{1}</sup> [has] [have] responsibility for investigations concerning acts of [hazing,] harassment, intimidation or bullying,[ menacing,] acts of cyberbullying, and incidents of teen dating violence. The investigator(s) shall be a neutral party having had no involvement in the report presented.

All reports will be investigated in accordance with the following procedures:

- Step 1 Any reports or information on acts of [hazing, ]harassment, intimidation or bullying, [menacing,] acts of cyberbullying, or incidents of teen dating violence (e.g., complaints, rumors) shall be presented to the [employee position title]. Reports against the principal shall be filed with the superintendent. Reports against the superintendent shall be filed with the Board chair. All such information will be reduced to writing and will include the specific nature of the offense and corresponding dates.
- Step 2 The [employee position title] receiving the report shall promptly investigate. Parents will be notified of the nature of any report involving their student. The [employee position title] will arrange such meetings as may be necessary with all concerned parties within [five] working days after receipt of the information or report. The parties will have an opportunity to submit evidence and a list of witnesses. All findings related to the report will be reduced to writing. The [employee position title] conducting the investigation shall notify the person making the report within [10] working days of receipt of the information or report, and parents as appropriate, [in writing] when the investigation is concluded and a decision regarding disciplinary action, as warranted, is determined.

[A copy of the notification letter or the date and details of notification to the person making the report, together with any other documentation related to the incident, including disciplinary action taken or recommended, shall be forwarded to the superintendent.]

- Step 3 If the person making the report is not satisfied with the decision at Step 2, they may submit a written appeal to the superintendent or designee. Such appeal must be filed within [10] working days after receipt of the Step 2 decision. The superintendent or designee will arrange such meetings with the person making the report and other affected parties as deemed necessary to discuss the appeal. The superintendent or designee shall provide a written decision to the appeal within [10] working days.

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<sup>1</sup> {Required by ORS 339.356(2)(g). Other bracketed language regarding hazing and menacing exceeds the requirements of ORS 339.356 and is under Board authority ORS 332.107.}

[Step 4 If the person making the report is not satisfied with the decision at Step 3, a written appeal may be filed with the Board. Such appeal must be filed within [10] working days after receipt of the Step 3 decision. The Board shall, within [20] working days, conduct a hearing at which time the person making the report shall be given an opportunity to present the report. The Board shall provide a written decision to the person making the report within ~~[3+0]~~ working days ~~following completion of the hearing~~ of receipt of the appeal by the Board.]

Reports against the superintendent should be referred to the Board chair on behalf of the Board. The Board chair shall present the report to the Board. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. After receiving the results of the investigation, the Board shall decide, ~~within [20] days,~~ in open session what action, if any, is warranted. A final decision will be made within [30] days of receipt of the report.

Reports against the Board as a whole or against an individual Board member should be made to the Board chair on behalf of the Board. The Board chair shall present the report to the Board. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. After receiving the results of the investigation, the Board shall decide, ~~within [20] days,~~ in open session what action, if any, is warranted. A final decision will be made within [30] days of receipt of the report.

Reports against the Board chair may be made directly to the [district counsel] [Board vice chair] on behalf of the Board. The [district counsel] [Board vice chair] shall present the report to the Board. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. After receiving the results of the investigation, the Board shall decide, ~~within [20] days,~~ in open session what action, if any, is warranted. A final decision will be made within [30] days of receipt of the report.

Timelines may be extended upon written agreement between both parties. This also applies to reports filed against the superintendent or any Board member.

Direct complaints of discriminatory harassment related to educational programs and services may be made to the Regional Civil Rights Director, U.S. Department of Education, Office for Civil Rights, Region X, 915 Second Ave., Room 3310, Seattle, WA 98174-1099.

Documentation related to the incident may be maintained as a part of the student's education records. [Additionally, a copy of all reported acts of [hazing, ]harassment, intimidation or bullying,[ menacing,] or cyberbullying, or incidents of teen dating violence and documentation will be maintained as a confidential file in the district office.]

## OSBA Model Sample Policy

Code: JGE  
Adopted:

### Expulsion\*\*

*{Required policy. ORS 339.250(2) and OAR 581-021-0070 require policies on expulsion.}*

A principal, after reviewing available information, may recommend to the superintendent that a student be expelled. Expulsion of a student shall not extend beyond one calendar year.

A student may **only** be expelled for the following circumstances:

1. When a student's conduct poses a threat to the health or safety of students or employees;
2. When other strategies to change the student's ~~conduct~~ **behavior** have been ineffective, except that expulsion may not be used to address truancy; or
3. When required by law.

The use of expulsion for discipline of a student in fifth grade or lower is limited to:

1. Nonaccidental conduct causing serious physical harm to a student or employee;
2. When a school administrator determines, based on the administrator's observations or upon a report from an employee, the student's conduct poses a **direct** threat to the health or safety of students or employees; or
3. When the expulsion is required by law.

The age of the student and the past pattern of behavior will be considered prior to imposing the expulsion.

No student may be expelled without a hearing unless the student's parents, or the student if 18 years of age, waive the right to a hearing, either in writing or by failure to appear at a scheduled hearing. ~~By waiving the right to a hearing, the student and parent agree to abide by the findings of a hearings officer.~~

*{Choose one of the following two options.}* [The Board delegates the authority to decide on an expulsion to the superintendent. <sup>{1}</sup> The superintendent may designate another person to handle the potential expulsion, and the superintendent, a designee or another individual may act as the hearings officer. The district may contract with an individual who is not employed by the district to serve as the hearings officer. The hearings officer will not be associated with the initial actions of the building administrators. The hearings officer will conduct the hearing and make a final decision regarding the expulsion. A decision of the hearings officer may be appealed by the parent or the student if age 18 or over to the Board for review.]

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<sup>{1}</sup> The Board can retain authority for all expulsions. If the Board chooses not to delegate this authority, any recommendations for expulsion from administration would come to the Board for resolution. The Board would have to meet and determine next steps for all expulsions.

If the decision of the hearings officer is appealed to the Board for review, the findings as to the facts and the hearings officer's decision will be submitted to the Board, and will be available in identical form to the Board, the student and the student's parents at the same time. At a future meeting, the Board will review the hearings officer's decision and will affirm, modify or reverse the decision.]

*OR*

[When a recommendation for expulsion is made, the Board will meet and review the recommendation. The Board will hold or arrange for the expulsion hearing unless it has been waived.

If the Board is conducting the expulsion hearing, the Board may designate a Board member or a third party to run the hearing. The superintendent will provide relevant information to the Board, including the superintendent's recommendation and duration on disciplinary action.<sup>2</sup> This information will be available in identical form to the Board, the student if age 18 or over and the students' parents at the same time. The Board will make the final decision regarding the expulsion.]

When a recommendation for an expulsion is made and an ~~an expulsion~~ hearing is not waived, the following procedure is required:

1. Notice will be given to the student and the parent by personal service<sup>3</sup> or by certified mail<sup>4</sup> at least [five] days prior to the scheduled hearing. Notice shall include:
  - a. The specific charge or charges and the specific facts that support the charge or charges;
  - ~~b. The conduct constituting the alleged violation, including the nature of the evidence of the violation and reason for expulsion;~~
  - ~~e-b.~~ A ~~recommendation for expulsion~~ statement of intent to consider the charges as reason for expulsion;
  - ~~e-c.~~ The student's right to a hearing;
  - ~~e-d.~~ When and where the hearing will take place; and
  - ~~f-e.~~ The student may be represented by counsel or other persons ~~right to representation.~~

~~The Board may expel, or may delegate the authority to decide on an expulsion to the superintendent or superintendent's designee, who may also act as the hearings officer. The district may contract with an individual who is not employed by the district to serve as the hearings officer. The hearings officer designated by the Board will conduct the hearing and will not be associated with the initial actions of the building administrators;~~

- ~~2. Expulsion hearings will be conducted in private and will not be open to the general public unless the student or the student's parents request an open session;~~

- ~~3-2.~~ If ~~in case~~ the parent or student ~~has difficulty understanding~~ does not understand the English language ~~or has other serious communication disabilities~~, the district will provide an interpreter during the

<sup>2</sup> Evidence may include the relevant past history and student education records.

<sup>3</sup> The person serving the notice shall file a return of service. (OAR 581-021-0070)

<sup>4</sup> When "certified mail is given to a parent of a suspended student, the notice shall be placed in the mail at least five days before the date of the hearing." (OAR 581-021-0070)

hearing translator. All communications will be in a manner that is understandable to the parents and student;

- 4.3. The student shall be permitted to have representation present at the hearing to advise and to present arguments. The representation may be an attorney, ~~and/or~~ parent or other person. The district's attorney may be present;
- 5.4. The student shall be afforded the right to present their version of the events underlying the expulsion recommendation and to introduce evidence by testimony, writings or other exhibits;
- 6.5. The student shall be permitted to be present and to hear the evidence presented by the district;
- 7.6. The hearings officer or the student may record the hearing;
- 8.7. Strict rules of evidence shall not apply to the proceedings. However, this shall not limit the hearings officer's control of the hearing;

~~9. If the Board is conducting the expulsion hearing, the Board may designate the Board chair or a third party as the hearings officer. The hearings officer will determine the facts of each case on the evidence presented at the hearing. Evidence may include the relevant past history and student education records. The hearings officer will provide to the Board, findings as to the facts, the recommended decision and whether or not the student has committed the alleged conduct. This will include the hearings officer's recommended decision on disciplinary action, if any, including the duration of any expulsion. This material will be available in identical form to the Board, the student if age 18 or over and the student's parents at the same time. Following the review by the Board of the hearings officer's recommendation, the Board will make the final decision regarding the expulsion;~~

~~If the Board has delegated authority to the superintendent [or designee] to act as the hearings officer, the superintendent may designate himself, or a third party, as the hearings officer. The hearings officer's decision is final. However, a decision of the hearings officer may be appealed by the parent or the student if age 18 or over to the Board for review. If the decision of the hearings officer is appealed to the Board for review, the findings as to the facts and the hearings officer's decision will be submitted to the Board, and will be available in identical form to the Board, the student and the student's parents at the same time. At its next regular or special meeting the Board will review the hearings officer's decision and will affirm, modify or reverse the decision;~~

- 10.8. A Board-conducted hearing or a Board review of the hearings officer's decision will be conducted in executive session unless the student or the student's parent requests a public hearing. If an executive session is held by the Board or a private hearing held by the hearings officer, the following will not be made public:
  - a. The name of the minor student;
  - b. The issues involved, including a student's confidential records;
  - c. The discussion;
  - d. The vote of Board members, which may be taken in executive session when considering an expulsion.

~~Prior to expulsion, the district must propose alternative programs of instruction or instruction combined with counseling to a student subject to expulsion for reasons other than a weapons policy violation, the~~



district must notify the student and parents of alternative programs of instruction or instruction combined with counseling and document this notification. ~~The district must document to the parent of the student that proposals of alternative education programs have been made.~~

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END OF POLICY

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**Legal Reference(s):**

[ORS 192.660](#)

[ORS 339.115](#)

[OAR 581-021-0050 - 021-0075](#)

[ORS 332.061](#)

[ORS 339.240](#)

[ORS 336.615 - 336.665](#)

[ORS 339.250](#)

[House Bill 2514 \(2019\)](#)

# OSBA Model Sample Policy

Code: KL

Adopted:

## Public Complaints \*/\*\*

(Version 4)

(This version of sample policy KL does not need an accompanying administrative regulation, it is a stand-alone policy. If this policy is chosen by the Board, recommend delete any other existing complaint procedure.)

*{Highly recommended policy. OAR 581-022-2370 requires districts to have a complaint procedure.}*

Board members recognize that complaints about schools may be voiced by [employees,] [students,] parents of students who attend a school in the district[,], and persons who reside in the district. [When such complaints are made to a Board member, the Board member shall refer the person making the complaint to the superintendent or designee. A Board member shall not attempt to respond, review, handle or resolve such complaints as the individual board member has no authority to do so.]

A complaint of retaliation against a student who in good faith reported information that the student believes is evidence of a violation of state or federal law, rule or regulation, should be made to the superintendent.

A person may initiate a complaint by discussing the matter with the [administrator] [principal]. That [administrator] [principal] shall attempt to resolve the complaint within [10] working days of initiation of the complaint with the [administrator] [principal]. If the complainant is dissatisfied, the complainant may file a written complaint with the superintendent within [10] working days of the decision from the [administrator] [principal]. The superintendent will attempt to resolve the complaint. If the complaint remains unresolved after [10] working days of receipt of the complaint by the superintendent, the complainant may appeal to the Board. A written complaint referred to the Board may be considered[ at the next regularly scheduled or special Board meeting]. A final written decision regarding the complaint shall be made by the Board within [20] days from receipt of the complaint. The written decision of the Board will be final and will address each allegation in the complaint and reasons for the district's decision. If the Board chooses not to hear the complaint, the superintendent's decision is final. The Board may hold the hearing in executive session if the subject matter qualifies under Oregon law.

The timelines may be extended upon written agreement between the district the complainant. <sup>{1}</sup>

[The district may offer mediation or another alternative dispute resolution process as an option if all parties to the complaint agree in writing to participate in such mediation or resolution.]

Complaints against the principal should be filed with the superintendent. The superintendent will attempt to resolve the complaint. If the complaint remains unresolved within [10] working days of receipt by the superintendent, the complainant may request to place the complaint on the Board agenda [at the next regularly scheduled or special Board meeting]. The Board may use executive session if the subject matter

<sup>1</sup> <sup>{1}</sup>For district information. The district's timeline established by each step of the district's complaint procedure for alleging a violation found in OAR 581-002-0003 must be within 30 days of the submission of the complaint at any step, unless the district and complainant have agreed in writing to a longer time period for that step. However, the district's complaint procedure should not exceed a total of 90 days from the initial filing of the complaint, regardless of the number of steps involved, unless the district and the complainant have agreed in writing to a longer time period. (OAR 581-002-0005)<sup>{1}</sup>

qualifies under Oregon law. The Board shall decide, ~~within [20] days,~~ in open session what action, if any, is warranted. A final written decision regarding the complaint shall be issued by the Board within [3+0] days of receipt of the request to place the complaint on a Board meeting agenda. The written decision of the Board will address each allegation in the complaint and reasons for the district's decision.

Complaints against the superintendent should be referred to the Board chair on behalf of the Board. The Board chair shall present the complaint to the Board in a Board meeting. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. The Board may use executive session if the subject matter qualifies under Oregon law. The Board shall decide, ~~within [20] days,~~ in open session what action, if any, is warranted. A final written decision regarding the complaint shall be issued by the Board within [3+0] days of receipt of the complaint. The written decision of the Board will address each allegation in the complaint and reasons for the district's decision.

Complaints against the Board as a whole or against an individual Board member should be referred to the Board chair on behalf of the Board. The Board chair shall present the complaint to the Board in a Board meeting. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. The Board shall decide, ~~within [20] days,~~ in open session what action, if any, is warranted. A final written decision regarding the complaint shall be issued by the Board within [3+0] days of receipt of the complaint. The written decision of the Board will address each allegation in the complaint and reasons for the district's decision.

Complaints against the Board chair should be made directly to [district counsel] [the Board vice chair] on behalf of the Board. The [district counsel] [Board vice chair] shall present the complaint to the Board in a Board meeting. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. The Board shall decide, ~~within [20] days,~~ in open session what action, if any, is warranted. A final written decision regarding the complaint shall be issued by the Board within [3+0] days of receipt of the complaint. The written decision of the Board will address each allegation in the complaint and reasons for the district's decision.

[A complainant must file a complaint within the later of either time limit set below, in accordance with State law:

1. Within two years after the alleged violation or unlawful incident occurred or the complainant discovered the alleged violation or unlawful incident. For incidents that are continuing in nature, the time limitation must run from the date of the most recent incident; or
2. Within one year after the affected student has graduated from, moved away from or otherwise left the district.]

The district's final decision for a complaint processed under this Board policy that alleges a violation of Oregon Administrative Rule (OAR) Chapter 581, Division 22 (Division 22 Standards), ORS 339.285 - 339.303 or OAR 581-021-0550 - 581-021-0570 (Restraint and Seclusion), or ORS 659.852 (Retaliation), will be issued in writing or electronic form. The final decision will address each allegation in the complaint and contain reasons for the district's decision. If the complainant is a [student,] parent or guardian of a student attending school in the district or a person that resides in the district, and the

complaint is not resolved through the complaint process above, the complainant may file an appeal<sup>2</sup> to the Deputy Superintendent of Public Instruction under OAR 581-002-0001 – 581-002-0023 [(See KL-AR(2) - Appeal to the Deputy Superintendent of Public Instruction)].

### **Charter Schools of which the District Board is a Sponsor**

[The district Board, [through its charter agreement with [name of public charter school sponsored by the district board]] [through a board resolution] [through this policy], will review an appeal of a decision reached by the Board of [name of public charter school] on a complaint alleging a violation of ORS 339.285 - 339.303 or OAR 581-021-0550 - 581-021-0570 (Restraint or Seclusion), ORS 659.852 (Retaliation), or applicable OAR Chapter 581, Division 22 (Division 22 Standards). A complainant may appeal and will submit such appeal to the [superintendent] [Board chair] on behalf of the district Board within [30] days of receipt of the decision from the public charter school board. A final decision reached by the district Board may be appealed to the Oregon Department of Education under OAR 581-002-0001 - 581-002-0023.]

OR

[The district Board, [through its charter agreement with [name of public charter school sponsored by the district board]] [through a board resolution] [through this policy], will not review an appeal of a decision reached by the Board of the [name of public charter school] on a complaint alleging a violation of ORS 339.285 - 339.303 or OAR 581-021-0550 - 581-021-0570 (Restraint or Seclusion), ORS 659.852 (Retaliation), or applicable OAR Chapter 581, Division 22 (Division 22 Standards), for which the district Board has jurisdiction, and recognizes a decision reached by the Board of [name of public charter school] as the district Board’s final decision. A final decision reached by this district Board may be appealed to the Oregon Department of Education under OAR 581-002-0001 - 581-002-0023.]

### **¶<sup>3</sup> Review Process for a Public School Board Complaint Decision**

The appeal of a complaint from a public charter school to be reviewed by the district Board will be presented by the Board chair and reviewed by the Board at a Board meeting. The Board may use executive session if the subject matter qualifies under Oregon law. The Board will review the appeal and make a decision about appropriate action, which may include, but is not limited to, holding a hearing, requesting information, and recognizing the decision reached by the public charter school board. A decision will be reached, within [20] days, in open session, unless allowed in executive session. A final written decision regarding the appeal shall be issued by the district Board within [10] days. The written decision of the district Board will address each allegation in the complaint and include reasons for the district Board’s decision.]

END OF POLICY

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#### **Legal Reference(s):**

<sup>2</sup> An appeal must meet the criteria found in OAR 581-002-0005(1)(a).

¶<sup>3</sup> [If the district Board elects to hear appeals on public charter school complaints for which the district Board has jurisdiction, as decided by statements in the charter agreement, Board policy, or a board resolution, this language is recommended for this policy to delineate the process.]

[ORS 192.660](#)  
[ORS 332.107](#)

[ORS 659.852](#)  
[OAR 581-002-0001 - 002-0005](#)

[OAR 581-022-2370](#)

Anderson v. Central Point Sch. Dist., 746 F.2d 505 (9th Cir. 1984).  
Connick v. Myers, 461 U.S. 138 (1983).