



# Oregon

Kate Brown, Governor



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**Colt Gill**

Director of the Oregon Department of Education

## **Guidance on Discriminatory Harassment and Bullying in Student Activities and Athletics**

The Oregon Department of Education (ODE) fosters excellence for every learner and recognizes that academic and extracurricular success depends on a safe school environment. As an organization, we value equity for every student; this includes an educational environment safe and free from discrimination and harassment, ensuring that every student has equal access to educational programs, athletics, and activities.

Under Oregon discrimination law, “No person shall 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 or interschool activity where the program, service, school, or activity is financed in whole or in part by monies appropriated by the Legislative Assembly.”<sup>1</sup> Discrimination means “any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation, either of which is based on age, disability, national origin race, color, marital status, religion, sex, gender identity and sexual orientation.”<sup>2</sup>

### **Discriminatory Harassment and Bullying**<sup>3</sup>

The student/athlete will represent (*Name of School*) in a socially acceptable manner at all school sanctioned events, whether home or away. The student/athlete will treat others fairly and respectfully, as well as refrain from any forms of discrimination, harassment or bullying based on an individual’s age, disability, national origin, race, color, marital status, religion, sex, gender identity and sexual orientation. Failure to do so will result in a *School Activities/Athletics Code of Conduct* violation. (ODE recommends including this specific language in the *School’s Activities/Athletics Code of Conduct*).

Harassing conduct may take many forms, including verbal acts and name-calling; graphic and written statements, which include use of cell phones or the Internet; or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Harassment creates a hostile environment when the conduct is sufficiently severe, pervasive or persistent, so as to interfere with or limit a student’s ability to participate in or benefit from the services, activities, or opportunities offered by a school. When such harassment is based on age, disability, national origin, race, color, marital status, religion, sex, gender identity and sexual orientation, it violates civil rights laws that ODE enforces.

<sup>1</sup> OAR 581-021-0045(2)

<sup>2</sup> OAR 581-021-0045(1)(a)

<sup>3</sup> USDOE OCR “Dear Colleague” Letter on Harassment and Bullying (October 26, 2010). This guidance does not include ORS 339.351(3).

(*Name of School*) is responsible for addressing discriminatory harassment incidents about which it knows or reasonably should have known (*School Nondiscrimination Policy References*).<sup>4</sup> In some situations, the obvious signs of harassment are sufficient to put a school/district on notice. These include harassment that is in plain sight, widespread, or well known to students, staff, and spectators, such as harassment occurring during extracurricular activities, at athletic contests, on a school bus, in parking lots, through graffiti, and demonstrations in public areas.

In other situations, (*Name of School*) may become aware of misconduct, triggering an investigation, which could lead to the discovery of additional incidents that, taken together, may constitute a hostile environment.

Appropriate steps to end discriminatory harassment will include disciplinary action against the harasser. These steps should not penalize the student who was harassed. Disciplinary action in activities and athletics will follow the consequences in this *School's Activities/Athletics Code of Conduct*.

(*Name of School's*) duties include making sure the harassed students and their families know how to report any subsequent problems. (*Name of School*) must also conduct follow-up inquiries to see if there have been any new incidents or instances of retaliation, and respond promptly and appropriately to address continuing or new issues.

<sup>4</sup> OAR 581-021-0049(1)