

# Rainier School District 13

Code: ACB  
Adopted: 12/14/20

## All Students Belong

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.

All employees are entitled to work in an environment that is free from discrimination or harassment.

All visitors are entitled to participate in an environment that is free from discrimination or harassment.

“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.

“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 national origin including, the noose, swastika, or confederate flag<sup>1</sup>, and whose display:

1. Is reasonably likely to cause a substantial disruption of or material interference with school activities; or
2. 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.

The district prohibits the use or display of any symbols of hate on school grounds or in any district- or school-sponsored program, service, school or activity that is funded in whole or in part by monies appropriated by the Oregon Legislative Assembly, except where used in teaching curriculum that is aligned to the Oregon State Standards.

The district prohibits retaliation against an individual because that person has filed a charge, testified, assisted or participated in an investigation, proceeding or hearing; and further prohibits anyone from coercing, intimidating, threatening or interfering with an individual for exercising any rights guaranteed under state and federal law.

Nothing in this policy is intended to interfere with the lawful use of district facilities pursuant to a lease or license.

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<sup>1</sup> While commonly referred to as the “confederate flag,” the official name of the prohibited flag is the Battle Flag of the Armies of Northern Virginia.

The district will use administrative regulation ACB-AR - Bias Incident Complaint Procedure to process reports or complaints of bias incidents.

END OF POLICY

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**Legal Reference(s):**

ORS 659.850  
ORS 659.852

OAR 581-002-0005  
OAR 581-022-2312

OAR 581-022-2370

*Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969).  
*Dariano v. Morgan Hill Unified Sch. Dist.*, 767 F.3d 764 (9th Cir. 2014).  
*State v. Robertson*, 293 Or. 402 (1982).

**Cross Reference(s):**

AC - Nondiscrimination  
GBEA - Workplace Harassment  
GBNA - Hazing, Harassment, Intimidation, Bullying, Menacing, or Cyberbullying – Staff  
GBN/JBA - Sexual Harassment  
JBA/GBN - Sexual Harassment  
JFCF - Harassment, Intimidation, Bullying, Cyberbullying, Teen Dating Violence, and Domestic Violence – Student  
JFCF - Harassment, Intimidation, Bullying, Cyberbullying, Teen Dating Violence, and Domestic Violence – Student

# Rainier School District 13

Code: ACB-AR  
Adopted: 12/14/20

## Bias Incident Complaint Procedure

The term “bias incident” is defined in policy. Persons impacted by a bias incident shall be defined 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.<sup>1</sup>

- Step 1: When a staff member learns of a potential bias incident, the staff member will prioritize the safety and well-being of all persons impacted and promptly report the incident to the building administrator.
- Step 2: The administrator shall acknowledge receipt of the complaint, reduce the complaint to writing, and investigate any complaint of a bias incident. The administrator will 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. Redirection procedures, if any, will include:

- Educational components that address the history and impact of hate;
- Procedural components to ensure the safety, healing, and agency of those impacted by hate;
- Accountability and transformation for people who cause harm; and
- Transformation of the conditions that perpetuated the harm.

The administrator must consider whether the behavior implicates other district policies or civil rights laws, and if so, respond accordingly.

The administrator will determine responsibility within 10 days of receiving the complaint.

All persons impacted will be provided with information relating to the investigation and the outcome of the investigation. At a minimum, the information provided must include:

- That an investigation has been initiated;
- When the investigation has been completed;
- The findings of the investigation and the final determination based on those findings; and
- Actions taken with the person or persons who committed the harassing behavior to remedy the behavior and prevent reoccurrence when the actions relate directly to a person impacted by the event.

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<sup>1</sup> The term “complainant” in this administrative regulation includes persons filing formal complaints and persons reporting bias incidents, regardless of whether the complainant is a victim. Similarly, the term “complaint” includes any report, information or complaint.

If any of the above information cannot be shared, a citation to the law prohibiting release and an explanation of how that law applies to the current situation will be provided.<sup>2</sup>

**Step 3:** If complainant or a respondent wishes to appeal the decision of the administrator, the complainant or respondent may submit a written appeal to the superintendent within five school days after receipt of the administrator's response to the complaint.

The superintendent shall acknowledge receipt of the appeal and may meet with all parties involved. The superintendent will review the merits of the complaint and the administrator's decision. The superintendent will respond in writing to the complainant within 10 school days.

The superintendent will ensure that the requirements in Steps 1 and 2 (redirection procedures, notice, etc.) are continued to be met through Step 3, as appropriate.

**Step 4:** If the complainant or respondent is not satisfied with the decision of the superintendent, a written appeal may be filed with the Board within five school days of receipt of the superintendent's response to Step 3. The Board may decide to hear or deny the request for appeal at a Board meeting. The Board may use an executive session if the subject matter qualifies under Oregon law. If the Board decides to hear the appeal, the Board may meet with the concerned parties and their representative at the next regular 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 within 10 days of this meeting.

The Board will ensure that the requirements in Steps 1 and 2 (redirection procedures, notice, etc.) are continued to be met through Step 4, as appropriate.

Complaints can be filed with or communicated directly to the administrator, in which case Step 1 will be skipped. Complaints against the administrator can be directed to the superintendent and will begin at Step 3. Complaints against the superintendent or a Board member(s) can be directed to the Board and will begin at Step 4. If complaints begin later than Step 1, the individuals reviewing the complaint will ensure that all requirements are met.

The complainant, if a person who resides in the district, 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>3</sup> the district's final decision to the Deputy Superintendent of Public Instruction under Oregon Administrative Rules (OAR) 581-002-0001 – 581-002-0023.

Complaints may also be filed directly with the U.S. Department of Education Office for Civil Rights.<sup>4</sup>

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<sup>2</sup> Refer to policies GBL - Personnel Records, JOA - Directory Information and JOB - Personally Identifiable Information and district legal counsel for guidance in these situations. Possible laws include, but are not limited to, Title 34 C.F.R. § 99.31 and ORS 342.850.

<sup>3</sup> An appeal must meet the criteria found in OAR 581-002-0005(1)(a).

<sup>4</sup> Complaints must meet criteria as established by law. For more information, visit <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>

Building administrators will develop and implement instructional materials to ensure that all school employees and staff are made aware of this procedure and related practices. The materials will include reporting procedures, educational processes, and possible consequences.

When necessary, timelines may be adjusted by the district by communicating to all parties in writing. This communication must include a new timeline and an explanation of why the timeline must be adjusted.



# OSBA Model Sample Policy

Code:                   ACB  
Adopted:

## Every Student Belongs

*[Insert the district's statement on equity if applicable.]*

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.

All employees 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.

All visitors are entitled to participate in a school or educational environment that is free from discrimination or harassment based on perceived race, color, religion, gender identity, sexual orientation, disability or national origin.

“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.

“Symbol of hate” means nooses<sup>[1]</sup>, symbols of neo-Nazi ideology or the battle flag of the Confederacy.

The district prohibits the use or display of any symbols of hate<sup>{2}</sup> on school property<sup>3</sup> or in an education program<sup>4</sup> except where used in teaching curriculum that is aligned with state standards of education for public schools.

[In responding to the use of any symbols of hate or bias incidents, the district will use non-disciplinary remedial action whenever appropriate.]

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<sup>1</sup> [The display of a noose on public property with the intent to intimidate may be a Class A Misdemeanor under Senate Bill 398 (2021).]

<sup>2</sup> {Prior to adopting the symbols of hate prohibition, or adding other symbols to the list, we recommend that the district document why the district feels that the presence of these symbols will cause a “material and substantial interference with schoolwork or discipline” or collide “with the rights of other students to be secure and be let alone.” These reasons may include previous incidents, current conditions in the schools and other factors.}

<sup>3</sup> “School property” means any property under the control of the district.

<sup>4</sup> “Education program” includes any program, service, school or activity sponsored by the district.

The district prohibits retaliation against an individual<sup>{5}</sup> because that individual has in good faith reported information that the individual believes is evidence of a violation of a state or federal law, rule or regulation.

Nothing in this policy is intended to interfere with the lawful use of district facilities pursuant to a lease or license.

The district will use administrative regulation ACB-AR - Bias Incident Complaint Procedure to process reports or complaints of bias incidents.

END OF POLICY

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**Legal Reference(s):**

ORS 659.850

ORS 659.852

OAR 581-002-0005

OAR 581-022-2312

OAR 581-022-2370

House Bill 2697 (2021)

House Bill 3041 (2021)

*Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969).

*Dariano v. Morgan Hill Unified Sch. Dist.*, 767 F.3d 764 (9th Cir. 2014).

*State v. Robertson*, 293 Or. 402 (1982).

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<sup>5</sup> {ORS 659.852 prohibits retaliation only against students. Other statutes (and other complaint procedures) prohibit retaliation against staff and others for reporting or providing information regarding a complaint or investigation.}



# OSBA Model Sample

Code: ACB-AR  
Adopted:

## Bias Incident Complaint Procedure

The terms “bias incident” and “symbols of hate” are defined in policy. Persons impacted by a bias incident or display of a symbol of hate shall be defined 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.<sup>1</sup>

Step 1 {<sup>2</sup>}: When a staff member learns of a potential bias incident or display of a symbol of hate, the staff member will prioritize the safety and well-being of all persons impacted and [immediately] [promptly] [without unreasonable delay] report the incident to the [building or program administrator].

Step 2: The [administrator or designee] shall acknowledge receipt of the complaint, [reduce the complaint to writing,] and investigate any complaint of a bias incident. [Responding staff] will recognize the experience of all persons impacted, acknowledge the impact, commit to taking immediate action, and commit to preventing further harm against those persons impacted from taking place. Educational components and redirection procedures, if any, will:

- Address the history and impact of bias and hate;
- Advance the safety and healing of those impacted by bias and hate;
- Promote accountability and transformation for people who cause harm; and
- Promote transformation of the conditions that perpetuated the harm. {<sup>3</sup>}

The [administrator or designee] must consider whether the behavior implicates other district policies or civil rights laws, and if so, respond accordingly<sup>4</sup>.

The [administrator or designee] will [make a decision] [determine responsibility] within [10] days of receiving the complaint.

All persons impacted by the act will be provided with information<sup>5</sup> relating to the investigation and outcome of the investigation, including:

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<sup>1</sup> The term “complainant” in this administrative regulation includes persons filing formal complaints and persons reporting bias incidents, regardless of whether the complainant is a victim. Similarly, the term “complaint” includes any report, information or complaint.

<sup>2</sup> {These specific steps and procedures are not required. The procedures must include all of the requirements listed in House Bill 2697 § 1(3)(e) (2021) and OAR 581-022-2312(4)(e). If making changes, we recommend working closely with legal counsel.}

<sup>3</sup> {Additional guidance from ODE can be found [here](#).}

<sup>4</sup> The nature of the behavior or act must determine the process used to respond; what rights and protections are available to the person(s) impacted by the behavior or act; and an individual’s right to appeal to the Oregon Department of Education or the U.S. Department of Education.

<sup>5</sup> For additional information regarding required notices, see OAR 581-022-2312(4)(e)(E).

- Notice that an investigation has been initiated;
- Notice when an investigation has been completed;
- Findings of the investigation and the final determination based on those findings;
- Actions taken to remedy a person's behavior and prevent reoccurrence; and
- When applicable, the legal citation of any law prohibiting disclosure of any information described above, and an explanation of how that law applies to the current situation.

Step 3: If complainant or a respondent wishes to appeal the decision of the [administrator or designee], the complainant or respondent may submit a written appeal to the [superintendent] within [five] school days after receipt of the [administrator or designee]'s response to the complaint.

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

The [superintendent or designee] will ensure that the requirements in Steps 1 and 2 (redirection procedures, notice, etc.) are continued to be met through Step 3, as appropriate.

Step 4: If the complainant or respondent 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 or designee]'s response to Step 3. The Board may decide to hear or deny the request for appeal at a Board meeting. The Board may use an executive session if the subject matter qualifies under Oregon law. 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] [at 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 within [10] days of this meeting.

The [Board] will ensure that the requirements in Steps 1 and 2 (redirection procedures, notice, etc.) are continued to be met through Step 4, as appropriate.

Complaints can be filed with or communicated directly to the [administrator or designee], in which case Step 1 will be skipped. Complaints against the [administrator] can be directed to the [superintendent or designee] and will begin at Step 3. Complaints against the superintendent or a Board member(s) can be directed to the Board and will begin at Step 4. If complaints begin later than Step 1, the individuals reviewing the complaint will ensure that all requirements are met.

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>6</sup> the district's final decision to the Deputy Superintendent of Public Instruction under Oregon Administrative Rules (OAR) 581-002-0001 – 581-002-0023.

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<sup>6</sup> An appeal must meet the criteria found in OAR 581-002-0005(1)(a).

Complaints may also be filed directly with the U.S. Department of Education Office for Civil Rights.<sup>7</sup>

[Building administrators][District administration] will develop and implement instructional materials to ensure that all school employees, staff and students are made aware of the policy, this administrative regulation and related practices. The materials will include reporting procedures, educational processes, and possible consequences.

[When necessary, timelines may be adjusted by the district by communicating to all parties in writing. This communication must include a new timeline and an explanation of why the timeline must be adjusted.]

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<sup>7</sup> Complaints must meet criteria as established by law. For more information, visit <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>

