



Civil Rights Coordinator Webinar Series: **Responding to Discrimination**

February 15, 2024

Marinda Peters, PhD (she/ella)

Civil Rights and Section 504 Specialist
Oregon Department of Education
marinda.peters@ode.oregon.gov

Kate Hildebrandt (she/her)

Civil Rights and Title IX Specialist
Oregon Department of Education
katherine.hildebrandt@ode.oregon.gov

Taylor Lewis (she/her)

Civil Rights and Title VI Specialist
Oregon Department of Education
taylor.lewis@ode.oregon.gov

This training is not intended as legal advice and should not be taken as such; we advise you to consult with your legal counsel before making policy or process changes.

ODE is available to support with individual technical assistance following this training.

CRC Spring 2024 Webinar Schedule

Oregon Department of Education

~~Jan 18: Overview of State and Federal Discrimination Law~~

~~Feb 8: Title IX Deeper Dive (OPTIONAL)*~~

Feb 15: Responding to Discrimination

↑ **YOU ARE HERE**

Feb 22: Section 504 Deeper Dive (OPTIONAL)*

Mar 21: Title VI Deeper Dive

Apr 11: Preventing Discrimination

May 2: Avoiding Conflicts of Interest and Bias

*if you already hold an affiliated Coordinator role and have received training, you may wish to skip these sessions

Session Outcomes

Participants will:

- Review Oregon's 10 protected classes and how Oregon and federal civil rights law intersect
- Know the local, state, and federal complaints processes for civil rights violations
- Understand how to respond when allegations of discrimination arise
- Understand the role of the CRC in the response process

Norms and Expectations

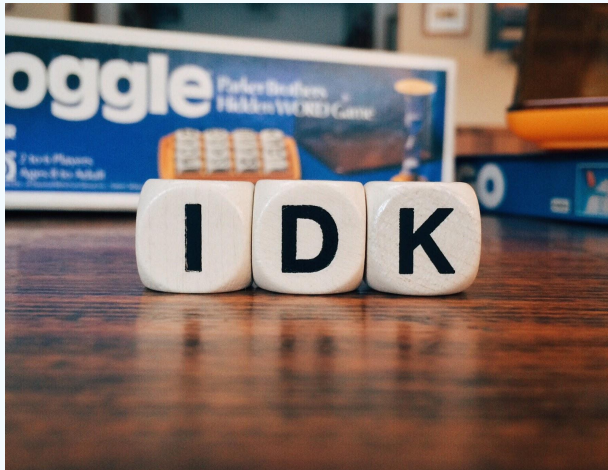
Participants will:

- Use the chat function to ask general questions
- Reach out to presenters for technical assistance for specific or unique questions
- Stay muted, unless invited to unmute
- Share video to their own comfort level

Presenters will:

- Provide brief answers to general questions verbally or in the chat
- Provide longer answers at the end, if time allows
- Provide individualized technical assistance upon request
- Share the slide deck with participants
- Record this content and share it when it becomes available

Terms & Acronyms



OCR - U.S. Department of Education Office for Civil Rights

CRC - Civil Rights Coordinator

FAPE - Free Appropriate Public Education

Content Note:

This webinar discusses protected class discrimination. Explicit and discriminatory language is occasionally used. All examples are solely for educational purposes and are designed to contain elements of situations you may respond to in your school/district.



Discrimination and Protected Class Review

Federal Civil Rights Laws in Education

Title VI of the Civil Rights Act of 1964

Race, Color, National Origin

Title IX of the Education Amendments of 1972

Sex, Gender Identity, Sexual Orientation

Section 504 of the Rehabilitation Act of 1973

Persons living with a disability

Title II of the Americans with Disabilities Act (1990)/ADAAA (2008)

Oregon's 10 Protected Classes

Age

Color

Disability

Gender
Identity

Marital
Status

National
Origin

Race

Religion

Sex

Sexual
Orientation

Discrimination in Oregon

“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, sexual orientation, or gender identity

OAR 581-021-0045

Educational recipients of state funds cannot...

- (a) Treat one person differently from another in determining whether such person satisfies any requirement of condition for the provision of such aid, benefit, or service;
- (b) Provide different aid, benefits, or services; or provide aids, benefits, or services in a different manner;
- (c) Deny any person such aid, benefit, or service;
- (d) Subject any person to separate or different rules of behavior, sanctions, or other treatment;
- (e) Aid or perpetuate discrimination by joining or remaining a member of any agency or organization which discriminates in providing any aid, benefit, or service to students or employees;
- (f) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.



Scenario



By Minhbuai • <https://pixabay.com/photos/girl-student-model-stairs-book-7029035/>
Free for Most Commercial • No Attribution Required • See <https://pixabay.com/service/license/> for Full License
Photo Attribution from www.storyboardhat.com

Sarah and her family immigrated to the United States when Sarah was five months old. She previously attended school in California, and moved to an Oregon district the summer before her 7th grade year. Although Sarah spoke English well, her parents had limited English proficiency and were more comfortable speaking their native language, Vietnamese.

Shortly after they moved, Sarah's parents attempted to enroll Sarah in school online, but they were required to list Sarah's social security number and upload a copy of her birth certificate in order to complete the enrollment process. Sarah's parents ended up having to enroll her in-person a few days later. Enrollment forms were not available in Vietnamese, so Sarah's parents attempted to fill out the forms to the best of their ability even though they were a little confused about a few questions.



A few weeks later, Sarah's parents got a call from the principal requesting that they come pick Sarah up from school. The principal explained that there had been an "incident" and he needed to speak to them both. When Sarah's parents arrived, the principal called in a member of the cafeteria team to help him translate for Sarah's parents.

Through the staff member, the principal explained to the parents that Sarah had gotten into a fight at school. He said that at lunch time a few students were teasing Sarah by calling her a "mail-order bride." Sarah became very upset, yelled at the other students, and ran and hid in the bathroom. When the school counselor found her there, Sarah reported that she was having "another panic attack." The school counselor took Sarah back to her office, reported what happened to the principal, and the principal called Sarah's parents.



The principal told Sarah’s parents that, because of her behavior, Sarah would be suspended for one day. He explained that the school had a “zero tolerance” policy for fights. Sarah’s parents took her home and asked her about what happened. She said that the same boys had been teasing her for weeks. She had told her teacher what was happening, but her teacher had told her to “ignore them.” Sarah’s parents wondered why no one had told them what was happening. They asked to schedule a meeting with the principal to discuss their concerns.

Discuss...

1. What do you notice about this scenario? What stands out to you? What are your biggest and most immediate concerns?
2. What should the school do? Who needs to be involved in the response?



Responding to Complaints

Levels of Complaint

Local Complaint

District/school process and appeals as outlined in board policy

US Dept of Ed OCR

Can be filed at any time; must be within 180 days of last discriminatory instance.

ODE Appeal

ODE can accept appeals of discrimination that have exhausted the local complaint process.

Local Complaint Process Basics

Consider all incidents of potential discrimination, regardless of how it's reported.

Ensure policies and procedures are clear, accessible, and implemented to fidelity.

Investigate any potential discrimination concerns.

Eliminate and remedy any hostile environment.

Address ongoing concerns and monitor campus environment.

Local Complaint Policies and Procedures

Discrimination complaint policies and procedures should include:

- Definitions (what protected classes are covered)
- Time limits (for submitting complaints, expected response time, etc)
- The steps of the process (levels/appeals, no more than four steps)
- A written final decision

Each school district must establish a process for the prompt resolution of a complaint by:

- A person who resides in the district;
- Any parent or guardian of a student who attends school in the district; or
- Any person who alleges that they have been subjected to discrimination, or a third party representing such persons or groups of persons.

Most schools utilize a discrimination complaint board policy and separate procedure.

OAR 581-022-2370

Implementing Local Complaint Processes

Respond to all discrimination you become aware of, whether or not a “formal complaint” has been filed.

- The response does not necessarily have to include initiating a complaint process.
- If you have a discrimination complaint form, you can direct individuals to file through that form; provide filing assistance and support as needed.
- If a complaint comes in through another process (public complaints, etc) but is clearly discrimination, respond to it as such.

Why does this matter?

Schools are obligated to prevent, stop, and mitigate any protected class discrimination they know about! There may be a violation of civil rights laws if:

- The discrimination is on the basis of a student's protected class;
- The discrimination was severe or pervasive enough to alter conditions of education and create a hostile educational environment;
- The school knew about the discrimination; AND
- The school was purposely indifferent to the discrimination.

Implementing Local Complaint Processes

Make sure your complaint process is accessible!

- Available in languages of the community, with translation available for families through the process if needed
- Accessible for individuals with disabilities (screen-readers, large enough print, etc.)
- Easy to find on the website
- Easy to understand the process - is it readable? Do you need additional resources (flowcharts, FAQs, etc)?

Implementing Local Complaint Processes

Safety plans/supportive measures may be put in place immediately, including before or during an investigation.

- These plans should not unduly burden any parties, and should ensure that the harmed party still has access to the educational program. Minor burdens may need to be shared by parties, but to the extent possible the school should shoulder the majority of the burden.
- If risk of further harm is high, the accused student may need to be monitored/have access reduced for community safety.
- Consider overlapping legal requirements and student identities (e.g. FAPE access)

Implementing Local Complaints Processes

It is important to conduct a **fair, thorough, and unbiased** investigation.

- The protected class should be determined (race, color, disability, gender, etc.)
- Relevant policy, guidelines, and processes should be reviewed
- The investigation should be timely
- Appropriate and relevant individuals should be interviewed
- Supporting evidence (pictures, texts, notes, etc.) should be solicited and reviewed
- Investigators should remain neutral fact finders, not advocates
- Decisions should be in writing, and provided to all the parties

Implementing Local Complaint Processes

If the investigation substantiates discrimination, the school must:

- **restore** full educational access for the harmed student(s)
- **remedy** the harm that occurred
- **prevent** discrimination from recurring in the future

Remedies may include individual remedies, community remedies, or systemic remedies.

Remedies for discrimination are rarely “one and done;” ongoing support and/or intervention is often needed.

ODE Discrimination Appeals

In order for ODE to accept complaint on appeal, complainant must first exhaust the district's complaint process - i.e., have received a final decision from the district. A decision is a final decision if:

Complainant exhausts the district's complaint process.

Complainant has not received a written answer from the district at any step in the local district process within 30 days from the date on which they filed the complaint at that step in the process.

90 days have passed since the complainant filed the original complaint.

OCR Complaints

Any individual may file a complaint of discrimination with OCR.

- Must be within 180 days of most recent incident of discrimination, or within 60 days of receiving a final decision in another complaint process (local, ODE, etc), though that timeline can be extended for good cause.
- OCR may toll their proceedings if another process is pending.
- An individual may file with OCR before, concurrently, or after filing with the district.

Learn more about OCR's complaint process: [OCR's Complaints Webpage](#)

How does the CRC fit into this process?

Responsibilities can be delegated in a number of ways

- HB 2281 does not require responsibilities to be delegated in a specific manner

Must have touch points and shared/bidirectional communication

Standardized processes and procedures

- Investigations
- Available through a manual or written format

Shared understanding of discrimination and related laws

Hint: the same complaint should come to the same conclusion no matter who is overseeing or investigating it

Let's go back to Sarah...

When Sarah returned to school, she learned that the other students teasing her were not similarly suspended. Her parents became very alarmed. Sarah continued to be mocked and teased at school, her anxiety heightened, and she started to refuse to attend. Her parents waited several weeks to get a meeting scheduled with school staff, but no Vietnamese interpreter was readily available. Finally, Sarah's parents decide to consult with an attorney about filing a complaint.

Discussion:

How may the family file a discrimination complaint? (local, state, federal)

Who at the school/district should be involved in the investigation?

What can/should the district do to remedy the effects of the discrimination?



Responding to Complaints: Best Practices

Who's on your complaint response team?

- Title IX Coordinator
- Section 504 Coordinator
- ADA Coordinator
- Civil Rights Coordinator
- Investigators
- External Partners: Contractors, Legal Counsel, etc.

Does your CRC hold multiple roles? If not, how do you keep informed? If you contract with an ESD, how do you keep apprised?

Know your policies and procedures.

- Identify your policies and procedures for responding to and investigating complaints:
 - Nondiscrimination
 - Sexual harassment
 - 504 policies and processes

Are there any overlapping policies and procedures you need to be aware of? Do you know where to find them? Do all staff members? Are they up to date with current regulations?

Communicate Clearly

It should be easy for families, staff, and students to find policies and submit a complaint.

- Information available on the website, in handbooks, etc.
- Accessibility, languages of the community, etc.
- Staff should know where to find information to assist students and families.

When responding to and investigating discrimination, communicate clearly and often.

- Offer multiple communication styles and options.
- Written communication, including as follow-ups after in-person meetings or phone calls, will save you time in the long run.
- If the process is delayed, communicate why in a timely manner.

Train staff on policies and reporting.

Staff training is essential to ensure your district can quickly address discrimination. CRCs must be trained, but how is that information being taught throughout your organization?

Make sure you're training ALL staff, certified and classified. Any staff member could witness, experience, or be told about discrimination.

Equip staff to intervene.

Ideally, any staff member who witnessed potential discrimination, including overhearing harassing comments, would intervene and model positive behavior.

- Staff comfort levels will vary. Consider utilizing bystander/upstander intervention principles to train staff on intervention options.
- Consider the staff environment, and model it there first. If students witness staff engaging in harassment or discrimination, they will believe it is ok.
- Intervention works best if it's consistent. Convey expectations to all staff about healthy and nondiscriminatory classroom environments; try to be consistent, while also allowing for needed flexibility.

Get your documentation in order.

- Keep records of all reports, investigations, and resolutions of discrimination.
 - Keep in mind that many reports of discrimination come in through other means - public complaints, bullying reports, etc. Ensure you have a method for tracking these other complaints.

Reminder: This is a new requirement for CRCs to monitor as well

Remember...

Not all types of discrimination have the exact same requirements for responses! Before initiating an investigation or concluding a complaint, be sure you've met all requirements for the conduct that was alleged.

This is intended as a broad overview. If you have more detailed questions, there will be a deeper dive training available for Title IX, Title VI, and Section 504/ADAA. ODE's civil rights specialists are also available to answer questions and offer technical assistance as well.

Resources

[OCR - Back to School: Supporting Educational Environments Free from Discrimination](#)

[ODE - Civil Rights Page](#)

[OCR - Disability Discrimination Resources](#)

[OCR - Title VI Resources](#)

[ODE - CROWN Act](#)

[ODE - Title IX Coordinators Resource Page](#)

[ODE - Every Student Belongs](#)

[ODE - Bullying Guidance](#)

[ODE - Complaints and Appeals](#)

[ODE - Gender Expansive Student Guidance](#)

[ODE - Addressing Challenged Materials Guidance](#)



CONTACT US

Taylor Lewis

Civil Rights and Title VI Specialist, ODE
(*race, color, national origin, religion, age*)

taylor.lewis@ode.oregon.gov

503-400-5653

Kate Hildebrandt

Civil Rights and Title IX Specialist, ODE
(*sex, sexual orientation, gender identity, pregnancy*)

katherine.hildebrandt@ode.oregon.gov

503-551-5713

Marinda Peters, PhD

Civil Rights and Section 504 Specialist, ODE
(*disability*)

marinda.peters@ode.oregon.gov

971-208-0460