



# Civil Rights Coordinator Webinar Series: Overview of Oregon and Federal Discrimination Laws

January 22, 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 presentation is not intended as legal advice and should not be taken as such; we advise you to consult with legal counsel before making policy or process changes.**

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

**This webinar was recorded on January 22, 2024. Subsequent updates to law or regulation may impact the accuracy of information in this webinar.**

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

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

# CRC Spring 2024 Webinar Schedule

Oregon Department of Education

Jan 18: Overview of State and Federal Discrimination Law

↑ **YOU ARE HERE**

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

Feb 15: Responding to Discrimination

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

# 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



# Legal Foundations and Core Concepts

# Two sources of discrimination law:



**Federal Law**



**State Law**

# 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 Civil Rights Law in Education

“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

*Upon accepting state school funds, districts agree to follow state civil rights laws including nondiscrimination laws*

# Oregon + Federal Law = 10 Protected Classes

Age

Color

Disability

Gender  
Identity

Marital  
Status

National  
Origin

Race

Religion

Sex

Sexual  
Orientation

# Educational Programs and Activities

---

Students' civil rights protections extend to the entirety of a recipient's educational programs and activities.

Every part of students' educational experience, including:

- curricular, co-curricular, and extracurricular activities
- on- and off-campus activities



# Discrimination: Direct and Indirect

---

## Direct Discrimination

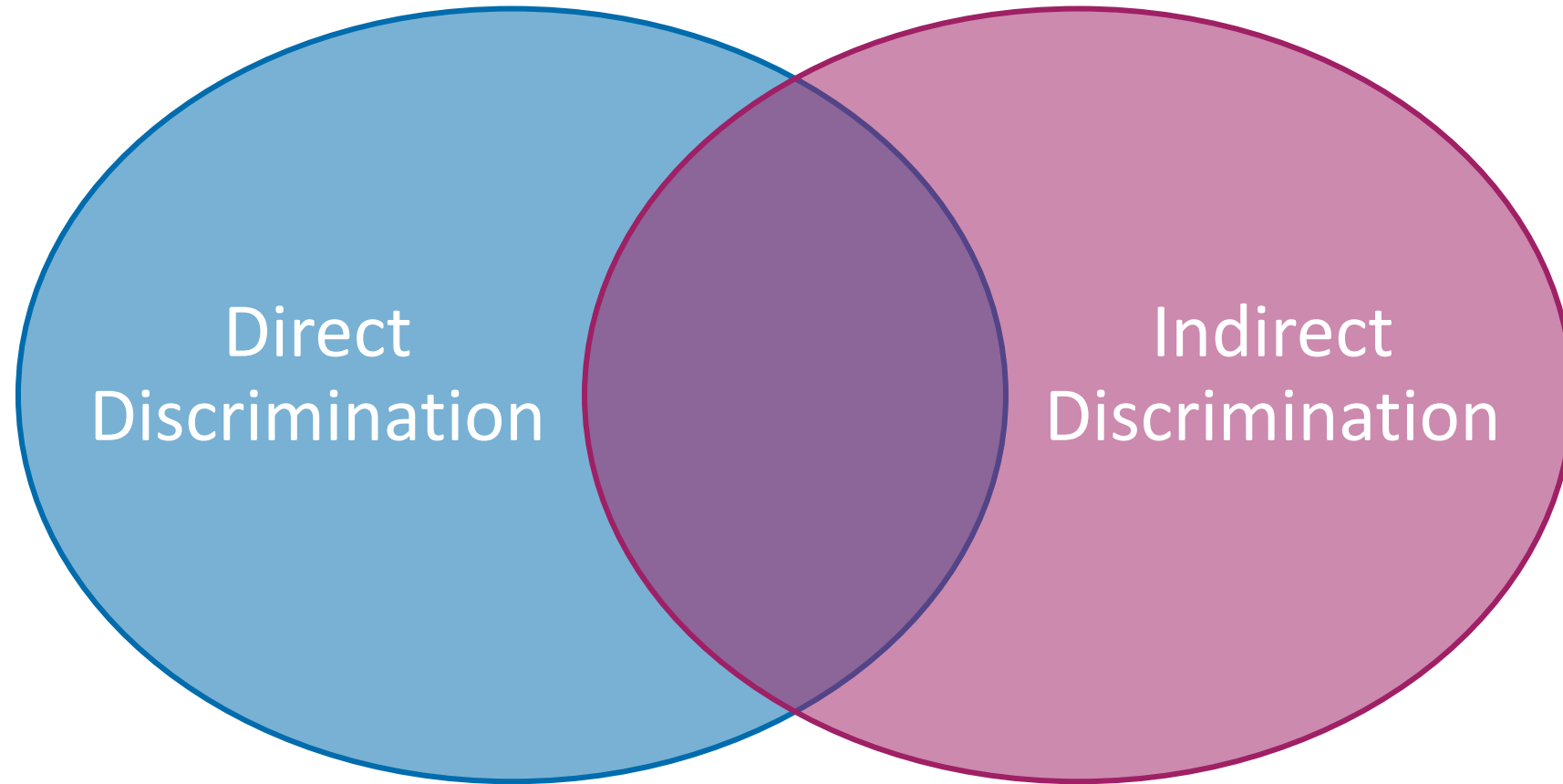
- Direct actions taken by the educational entity (recipient)
- Deliberate indifference standard, unequal access to educational services, targeting, retaliation

## Indirect Discrimination

- Failure to prevent or mitigate protected class bullying and harassment
- “Known or reasonably should have known” standard

# Discrimination: Direct and Indirect

---



# Disparate Impact

---

Policies and practices that may not be intentionally discriminatory, but have a **disparate impact** (adversely disproportionate).

*“Schools...violate Federal law when they evenhandedly implement facially neutral policies and practices that, although not adopted with the intent to discriminate, nonetheless have an unjustified effect of discriminating against students...”*

- [US Dept of Justice & Dept of Ed Joint Letter, 2014](#)

In Oregon’s discrimination definition we refer to this as “**fair in form but discriminatory in operation.**”

# Discriminatory Harassment

---

Oregon defines harassment in ORS 339.351 as conduct that:

- Substantially interferes with a student's educational benefits, opportunities, or performance;
- Takes place on or immediately adjacent to school grounds, at any school-sponsored activity, on school-provided transportation or at any official school bus stop;
- Has the effect of:
  - Physically **harming** a student or damaging a student's property
  - Knowingly placing a student in reasonable **fear** of physical harm to the student or damage to the student's property; or
  - Creating a **hostile environment**, including interfering with the psychological well-being of a student;

**Discriminatory harassment** is harassment based on a person's **protected class identity**.

# Discriminatory Harassment

---

*"Harassing conduct may take many forms, including verbal acts and name-calling; graphic and written statements, which may 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 race, color, national origin, sex, or disability, it violates the civil rights laws that OCR enforces.**"*

- [US Dept of Ed's Office for Civil Rights](#), 2010



# Hostile Environment

---

Discriminatory harassment that is sufficiently **severe**, **persistent**, or **pervasive** creates a hostile environment.

The conduct can constitute a hostile environment only when, *"judged from the perspective of a reasonable person in the alleged victim's position, considering all the circumstances"* it is *"sufficiently serious to **limit or deny a student's ability to participate in or benefit from the school's education program.**"*

- US Dept of Ed's Office for Civil Rights, 2016



# Deliberate Indifference

---



- 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 an abusive educational environment;
- The school knew about the discrimination; AND
- The school was purposely indifferent to the discrimination.



# Oregon Law

# Discrimination in Oregon

---

No person in Oregon shall be subjected to discrimination in any public elementary or secondary school, educational program or service, or interschool activity where the program, service, school, or activity is financed in whole or part by monies appropriated by the Legislative Assembly.

“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.

# District Obligations Under Oregon Law

---

- [OAR 581-021-0045](#) and [OAR 581-021-0046](#) prohibit schools from discriminating against students based on protected classes.
- [OAR 581-022-2370](#) requires schools to have complaint procedures for receiving and resolving complaints of discrimination
- [OAR 581-021-0045](#) requires schools to post a notice of nondiscrimination on their website, and to annually notify members of the school community
- HB 2281 (2023) requires schools to designate a Civil Rights Coordinator to oversee compliance with state discrimination law

# Associated Oregon Laws and Rules

---

A number of other Oregon laws and rules intersect with nondiscrimination law; it's helpful to familiarize yourself with these and how they apply.

- [Oregon Sexual Harassment Law](#) defines sexual harassment, a form of sex discrimination, for Oregon K-12 schools
- [The CROWN Act](#) modified Oregon nondiscrimination law to include protected hairstyles.
- [Every Student Belongs](#) prohibits symbols of hate and requires schools to respond to bias incidents.
- [ORS 338.351-654 Harassment, Bullying, and Intimidation](#) requires policies that prohibit harassment, including based on protected classes.





# Title VI



# Title VI: Race, Color, National Origin

---

1964 civil rights law that prohibits discrimination based on race, color, or national origin in federally funded programs.

*"No person in the United States shall, on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance."*

# Students Protected by Title VI

---

*Both individual students and groups are protected under Title VI.*

## Race

- American Indian or Alaska Native
- Native Hawaiian or Other Pacific Islander
- Black or African American
- Asian
- White
- Multi-Racial (Two or More Races)

## Color

- Preference or aversion to persons of different skin colors

## National Origin

- Physical characteristics
- Ancestor's or person's place of origin
- Cultural characteristics
- Language characteristics

# Specific Focus Areas of Title



Combating Bullying and Harassment

Preventing Discriminatory Assignment to Special Education Services

Protecting the Equal Rights of All Students to Attend Public School Regardless of Immigration or Citizenship Status

Ensuring Equal Opportunities for English Learners

Combating Discriminatory Discipline

# District Obligations Under Title VI

---

- Assure nondiscriminatory environment and enrollment practices; [34 CFR 100.1](#), [Guidance](#)
- Provide interpretation services and translated communication; [Fact Sheet](#)
- Assure board policies, complaint procedures, etc. are published in languages spoken by families of the district; [Fact Sheet](#)
- Respond to allegations of harassment; [34 CFR 100.7\(c\)](#)
- When schools know or reasonably should have known of possible harassment, must take immediate and appropriate steps to investigate; [34 CFR 100.3\(b\)\(6\)\(i\)](#), [Guidance](#)
- Must take prompt and effective steps to:
  - end the harassment
  - eliminate the hostile environment
  - prevent its recurrence
  - remedy its effects, [FAQ](#)
- Must report the act to the appropriate school official; [Guidance](#)
- Must keep complainant identity confidential and may not engage in reprisal or retaliation. [34 CFR 100.7\(e\)](#), [Guidance](#)



# Title IX

# Title IX: Sex, Sexual Orientation, Gender Identity

---

1972 civil rights law that prohibits sex discrimination in federally funded education programs.

This includes discrimination based on **sex, sexual orientation, and gender identity**.

*“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.”*

# Specific Focus Areas of Title IX

---

## **Athletics**

Schools have to provide equal opportunities for boys and girls teams, as well as equal benefits (facilities, equipment, travel, etc)

## **Pregnant and Parenting Students**

Access to all programs, supportive accommodations, and medical leave

## **Sexual Harassment**

Sexual harassment is a form of sex discrimination and requires a specific response.

## **Sexual Orientation and Gender Identity Discrimination**

SOGI discrimination is a form of sex discrimination covered by Title IX, and should be tracked as such.

## **Single-Sex (or Sex-Segregated) Programs and Activities**

Single-sex programs, or separate programs by sex/gender, are only allowed in specific, limited circumstances.

# District Obligations Under Title IX

---

- Designate a Title IX Coordinator [34 CFR 106.8\(a\)](#)
- Provide a notice of nondiscrimination [34 CFR 106.8\(b\)](#)
- Provide training for designated personnel (investigators, coordinators, etc) [34 CFR 106.45\(b\)\(1\)\(iii\)](#)
- Adopt policies and procedures for receiving reports and resolving complaints of sex discrimination, including sexual harassment [34 CFR 106.8\(c\)](#), [34 CFR 106.45](#)
- Ensure athletic programs offer equal and equitable opportunities and benefits to boys and girls athletic programs, [34 CFR 106.41](#), [Guidance](#)
- Provide access and accommodations for pregnant and parenting students [34 CFR 106.40](#), [Guidance](#)
- Ensure compliance with Title IX regulations for any single-sex or sex-segregated programs and activities; [34 CFR 106.34](#), [Q&A](#)
- Keep records of sex discrimination and sexual harassment complaints [34 CFR 106.45\(b\)\(10\)](#)





# Section 504

# Section 504: Disability

---

1973 civil rights law that prohibits disability discrimination in federally funded programs.

Public school regulations also require students to have access to a “free appropriate public education” FAPE.

*"No otherwise qualified individual with a disability in the United States shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . . ." [34 CFR 104.4](#)*

# Students Protected Under Section 504

---

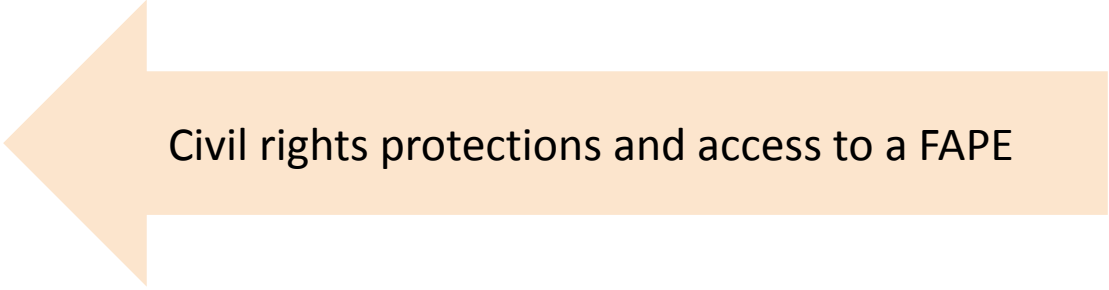
## A student determined to:

- Have a physical or mental impairment
- That substantially limits
- One or more major life activities

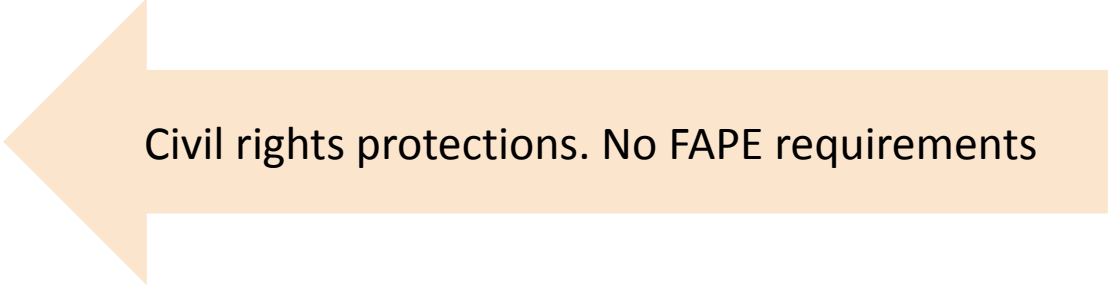
OR... Have a record of such an impairment

OR... Be regarded as having such an impairment

[34 CFR 104.3\(j\)](#)



Civil rights protections and access to a FAPE



Civil rights protections. No FAPE requirements

*The impairment can be temporary (case-by-case); episodic, in remission, and mitigating measures cannot be considered when determining the level of impairment (except regular eye glasses)*

# District Obligations Under Section 504

Designated 504 Coordinator and established discrimination complaint procedures [34 CFR 104.7](#)

- Required notice of this information [34 CFR 104.8](#)

Required process for district response to disability-based harassment [\(OCR, 2014\)](#)

Locating all students with a disability not receiving a FAPE (also known as child find) [34 CFR 104.32](#)

- (Not just those whose parents requested a 504 evaluation)

Evaluation and placement procedures [34 CFR 104.35](#)

- (By a 504 team, no unilateral decision-making)

Access to a free appropriate public education documented by a 504 plan, if needed [34 CFR 104.33](#)

Parent/student rights and procedural safeguards [34 CFR 104.36](#)

- (And notice provided to parents annually +)

Prohibition of school exclusion due to disability-related behaviors (MDR) [\(OCR, 2022 p. 14\)](#)

Re-evaluation upon a significant change of placement, including 10 days of school exclusion [\(OCR, 2022, p. 14\)](#)

# Further Reading and Learning

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

[OCR's Policy Guidance Portal](#) (for guidance documents)

[ODE Civil Rights Webpage](#)

[Civil Rights Coordinator listserv](#)



# CONTACT US

## Taylor Lewis

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

[taylor.lewis@ode.oregon.gov](mailto: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](mailto:katherine.hildebrandt@ode.oregon.gov)

503-551-5713

## Marinda Peters, PhD

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

[marinda.peters@ode.oregon.gov](mailto:marinda.peters@ode.oregon.gov)

971-208-0460



# CONTACT US

Visit

<https://www.oregon.gov/ode/students-and-family/equity/civilrights> for  
additional resources and contact information.

**Taylor Lewis**

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

**Kate Hildebrandt**

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

**Marinda Peters, PhD**

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