OFFICE OF THE SECRETARY OF STATE
LAVONNE GRIFFIN-VALADE
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE
AND TRIBAL LIAISON

ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

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CHAPTER 581
OREGON DEPARTMENT OF EDUCATION

FILING CAPTION: New & Revised Rules Relating to the Establishment of Civil Rights Coordinators

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CONTACT: Haedon Brunelle
503-508-3886
haedon.brunelle@ode.oregon.gov

255 Capitol St. NE
Salem,OR 97301

Filed By:
Haedon Brunelle
Rules Coordinator

RULES:
581-002-0003, 581-021-0045, 581-021-0650, 581-021-0655, 581-021-0660, 581-021-0665

AMEND: 581-002-0003

RULE TITLE: Scope

NOTICE FILED DATE: 03/27/2024

RULE SUMMARY: This rule applies the scope to appeals of complaints relating to restraint and seclusion violations, discrimination prohibited, etc.

RULE TEXT:
OAR 581-002-0001 to OAR 581-002-0023 apply to appeals of complaints alleging:
(1) A violation of ORS 339.285 to 339.303 or OAR 581-021-0556 (Restraint and Seclusion);
(2) A violation of ORS 659.850 or OAR 581-021-0045 to 581-021-0046 (Discrimination Prohibited and Program Compliance Standards for Purposes Related to Discrimination) or OAR 581-022-2312 (Every Student Belongs);
(3) If the entity against whom the complaint is filed is a school district, education service district, or public charter school, a violation of OAR 581-021-0038 (Minimum Requirements for School District Sexual Harassment Policies);
(4) If the entity is a school district or a public charter school, or an education service district that has entered into a contract with a school district for the purpose of designating and providing for the school district one or more civil rights coordinators, OAR 581-021-0655 and 0660 (Duty to Designate One or More Civil Rights Coordinators and Duties of and Training Requirements for Civil Rights Coordinators);
(5) If the entity that is the subject of the complaint is a school or program operated by a school district, education service district, or public charter school, a violation of OAR 581-021-0047 (Prohibition against Using Native American Mascot);
(6) If the entity against whom the complaint is filed is a school district, an education service district, a Youth Corrections Education Program provider under contract with the department, or a program that receives money pursuant to ORS 343.243 (3) or (4), a violation of ORS 659.852 (Retaliation); or
(7) A violation of the Oregon Administrative Rules, Chapter 581, Division 022 (Division 22 Standards).

STATUTORY/OTHER AUTHORITY: ORS 326.051, ORS 339.303, ORS 659.850 to 659.855

STATUTES/OTHER IMPLEMENTED: ORS 339.303, ORS 659.850 to 659.855, ORS 339.285 to 339.303

AMEND: 581-021-0045

RULE TITLE: Discrimination Prohibited

NOTICE FILED DATE: 03/27/2024

RULE SUMMARY: This rule establishes discrimination prohibited in schools in Oregon.

RULE TEXT:

(1) For purposes of this rule and OAR 581-021-0046:

(a) "Disability" includes a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such impairment, or a person who is perceived by others as having such an impairment.

(b) "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;

(c) "District" means:

(A) A school district, an education service district, a public charter school, a Youth Corrections Education Program provider under contract with the department, a Juvenile Detention Education Program provider under contract with the department, or a program that receives moneys pursuant to ORS 343.243; and

(B) Any educational agency, program, or service under the jurisdiction of an entity described in subparagraph (A) of this paragraph.

(d) "National origin" includes:

(A) An individual's or individual's parent's or guardian's actual or perceived place of origin;

(B) Latinx/a/o/e and other protected class ethnicities, including Afro-Latinx/a/o as defined in OAR 581-017-0693, Central American as defined in OAR 581-017-0693, Indigenous as defined in OAR 581-017-0693, and South American as defined in OAR 581-017-0693;

(C) An individual's actual or perceived religious or cultural ancestry that the individual associates with their personal identity;

(D) Physical characteristics that are historically associated with a place of origin, protected class ethnicity, or religious or cultural ancestry, including but not limited to individuals who identify as Syrian, Muslim, Middle Eastern, Arab, Sikh, and Jewish; and

(E) An individual whose first spoken language is not English or who is not proficient in speaking English or who is under the custody of a parent or guardian whose first spoken language is not English or who is not proficient in speaking English.

(e) "Gender identity" means an individual's gender-related identity, appearance, expression, or behavior, regardless of whether the identity, appearance, expression, or behavior differs from that associated with the gender assigned to the individual at birth.

(f) "Protective hairstyle" means a hairstyle, hair color, or manner of wearing hair that includes, but is not limited to, locs, twists, and braids, regardless of whether the braids are created with extensions or styled with adornments.

(g) "Public Charter School" means an elementary or secondary charter school offering a comprehensive instructional program operating under a written agreement entered into between a sponsor and an applicant pursuant to ORS chapter 338.

(h) "Race" includes:

(A) Black, African American, American Indian, Alaska Native, Asian, Native Hawaiian, Pacific Islander, other protected races, and multiracial individuals; and

(B) Physical characteristics that are historically associated with race, including but not limited to any natural hair, hair texture, hair type, or protective hairstyle associated with race.

(i) "Sex" includes male (M), female (F), and non-binary (X).

(j) "Sexual orientation" means an individual's actual or perceived heterosexuality, homosexuality, or bisexuality.

(k) “Sponsor” means:
(A) The board of the common school district or the union high school district in which the public charter school is located that has developed a written charter to create a public charter school.
(B) The State Board of Education pursuant to ORS 338.075.
(2) A person in Oregon may not 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 Oregon Legislative Assembly.
(3) In providing programs or services to students, a district may not, on a discriminatory basis as defined in subsection (1)(a) of this rule:
(a) Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of an 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 an 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.
(4)(a) A district must issue notice of nondiscrimination for the purpose of notifying students, staff, and third parties that the district does not discriminate on the basis of age, disability, national origin, race, color, marital status, religion, sex, sexual orientation, and gender identify.
(b) Notice of nondiscrimination as required by this subsection must:
(A) Be continuously available on the district website, accessible either by a direct link on the front page of the website or by a direct link on the footer of every page of the website.
(B) Be posted in multiple locations, including but not limited to public-facing documents such as staff and student handbooks, annual publications, official school board documents, bulletins, graduation announcements, catalogs, recruitment materials, and school related applications.
(C) Be made available in the languages of the communities served by the district.
(D) Be disseminated annually to staff, students, and families of students as an individual notice that is accessible and written in plain language.
(E) Contain:
(i) A statement of nondiscrimination that specifies the basis for nondiscrimination being age, disability, national origin, race, color, marital status, religion, sex, sexual orientation, and gender identity;
(ii) The contact information of each civil rights coordinator designated pursuant to OAR 581-021-0655 and each coordinator designated pursuant to Title IX of Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act of 1990, including their name or title, work address, email address, and telephone number; and
(iii) A link to or the web address for the district’s discrimination complaint process and procedures.
(5) This rule does not affect attendance boundaries, limit placement of students in programs of desegregation, nor supersede any specific statutory requirement for any educational program.

STATUTORY/OTHER AUTHORITY: ORS 326, ORS 659.855

STATUTES/OTHER IMPLEMENTED: ORS 326.051, ORS 659.850

ADOPT: 581-021-0650

RULE TITLE: Definitions for OAR 581-021-0650 to 581-021-0660

NOTICE FILED DATE: 03/27/2024

RULE SUMMARY: This rule provides definitions for OAR's 581-021-0650 to 581-021-0660.

RULE TEXT:

Under OAR 581-021-0650 to 581-021-0660:

(1) “Discrimination” has the meaning given that term in ORS 659.850.

(2) “District” means a school district or a public charter school.

(3) “Public charter school” means an elementary or secondary charter school offering a comprehensive instructional program under a written agreement entered into between a sponsor and an applicant pursuant to ORS chapter 338.

(4) “Sponsor” means:

(a) The board of the school district that has developed a written charter to create a public charter school.

(b) The State Board of Education pursuant to ORS 338.075.

STATUTORY/OTHER AUTHORITY: ORS 326, ORS 327.006, ORS 327.102, ORS 332.505, ORS 338.115, ORS 659.855

STATUTES/OTHER IMPLEMENTED: ORS 332.505, ORS 338.115, ORS 326.051, ORS 659.850

ADOPT: 581-021-0655

RULE TITLE: Duty to Designate One or More Civil Rights Coordinators

NOTICE FILED DATE: 03/27/2024

RULE SUMMARY: This rule requires districts to designate one or more civil rights coordinators and articulates the duties of a civil rights coordinator.

RULE TEXT:

(1) Each district must designate one or more civil rights coordinators. A civil rights coordinator designated under this rule must:

(a) Be knowledgeable of the requirements of OAR 581-0021-0038, 581-021-0045, 581-021-0046, and 581-021-0660; and

(b) Have the independence and authority necessary to carry out the provisions of OAR 581-021-0660.

(2) Each district must include the name or title, work address, email address, and phone number of each civil rights coordinator designated by the district in the notice of nondiscrimination required by OAR 581-021-0045.

(3) Each district must adopt and follow a policy for the purpose of implementing OAR 581-021-0650 to 581-021-0660. At a minimum, the policy must:

(a) List the requirements of OAR 581-021-0660 and require each civil rights coordinator designated by the district to meet those requirements.

(b) Specify that any complaint alleging discrimination may be made to any civil rights coordinator designated by the district.

(c) Require the tracking and documenting of:

(A) All reports of discrimination received by the district and all responses to those reports issued by the district, including any investigations completed and remedies provided; and

(B) The training completed by each civil rights coordinator designated by the district pursuant to OAR 581-021-0660.

(4) A civil rights coordinator designated under this rule may be a person employed by a district for purposes other than those set forth in OAR 581-021-0660.

(5) Pursuant to a contract entered into between a school district and an education service district, an education service district may designate and provide one or more civil rights coordinators for the school district. If an education service district designates and provides one or more civil rights coordinators for a school district, the education service district assumes the school district's duties under OAR 581-021-0650 to OAR 581-021-0660 to the extent that the contract delegates those duties. An education service district may designate and provide the same civil rights coordinator for multiple districts.

STATUTORY/OTHER AUTHORITY: ORS 326, ORS 327.006, ORS 327.102, ORS 332.505, ORS 338.115, ORS 659.855

STATUTES/OTHER IMPLEMENTED: ORS 332.505, ORS 338.115, ORS 326.051, ORS 659.850

ADOPT: 581-021-0660

RULE TITLE: Duties of and Training Requirements for Civil Rights Coordinators

NOTICE FILED DATE: 03/27/2024

RULE SUMMARY: This rule establishes the duties of training civil rights coordinators.

RULE TEXT:

(1) At a minimum, a civil rights coordinator shall:

(a) Monitor, coordinate, and oversee district compliance with state and federal laws prohibiting discrimination in public education, including ensuring the availability of, and providing to students and staff:

(A) The notice of nondiscrimination required by OAR 581-021-0045; and

(B) The district's written complaint process for making reports of discrimination.

(b) Oversee and ensure the resolution of district investigations of complaints alleging and substantiating discrimination, including the provision of remedies;

(c) Provide guidance to district staff on civil rights issues in the district;

(d) Respond to questions and concerns about civil rights in the district;

(e) Coordinate efforts to prevent civil rights violations from occurring in the district; and

(f) Satisfy the training requirements listed in subsections (2) and (3) of this rule.

(2) Upon being first designated under OAR 581-021-0655, a civil rights coordinator must receive the following training in accordance with a schedule established by the Oregon Department of Education:

(a) The meaning of discrimination under state and federal nondiscrimination law, including ORS 659.850, Title VI of the Civil Rights Act of 1964, Title IX of Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act of 1990.

(b) The duties of districts under state and federal nondiscrimination law, including ORS 342.700 to 342.708, ORS 659.850 and 659.855, Title VI of the Civil Rights Act of 1964, Title IX of Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, those statutes' implementing rules and regulations, and determinations made by the Oregon Department of Education and the United States Department of Education's Office for Civil Rights.

(c) The coordinators required by Title IX of Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and those coordinators' duties.

(d) Identifying discrimination and reports of discrimination.

(e) Responding to reports of discrimination.

(f) Conducting civil rights investigations, including identifying conflicts of interest, and using strategies to mitigate conflicts of interest.

(g) Preventing discrimination in public school programs and activities.

(h) Identifying retaliation taken in response to reports of discrimination, responding to reports of such retaliation, and preventing such retaliation in public school programs and activities.

(i) Tracking and documenting reports of discrimination.

(3) In years subsequent to being designated a civil rights coordinator, a civil rights coordinator must annually receive the following training in accordance with a schedule established by the Oregon Department of Education:

(a) The meaning of discrimination under state and federal nondiscrimination law, including ORS 659.850, Title VI of the Civil Rights Act of 1964, Title IX of Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act of 1990.

(b) The duties of districts under state and federal nondiscrimination law, including ORS 342.700 to 342.708, ORS 659.850 and 659.855, Title VI of the Civil Rights Act of 1964, Title IX of Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, those statutes' implementing rules and regulations, and determinations made by the Oregon Department of Education and the United States Department of Education's Office for Civil Rights.

(c) The coordinators required by Title IX of Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act of 1990, and those coordinators' duties.
(d) Reporting discrimination, and responding to reports of discrimination, including through complaint processes and investigations.
(4) The Oregon Department of Education annually will provide training for civil rights coordinators. Civil rights coordinators may take the department's training or may take any other training that fulfills the requirements of this rule.

STATUTORY/OTHER AUTHORITY: ORS 326, ORS 327.006, ORS 337.102, ORS 332.505, ORS 338.115, ORS 659.855

STATUTES/OTHER IMPLEMENTED: ORS 332.505, ORS 338.115, ORS 326.051, ORS 659.850

ADOPT: 581-021-0665

RULE TITLE: Applicability Clause

NOTICE FILED DATE: 03/27/2024

RULE SUMMARY: A civil rights coordinator designated under OAR 581-021-0655 before July 1, 2024, must complete the training required by OAR 581-021-0660 (2) by June 30, 2025.

RULE TEXT:
A civil rights coordinator designated under OAR 581-021-0655 before July 1, 2024, must complete the training required by OAR 581-021-0660 (2) by December 31, 2024.

STATUTORY/OTHER AUTHORITY: ORS 326, ORS 327.006, ORS 327.102, ORS 332.505, ORS 338.115, ORS 659.855

STATUTES/OTHER IMPLEMENTED: ORS 332.505, ORS 338.115, ORS 326.051, ORS 659.850