

Northwest Regional ESD

Code: GBEA-AR
Revised/Reviewed:

Workplace Harassment Reporting and Procedure

Any ESD employee who believes they have been a victim of workplace harassment may file an oral or written report consistent with this administration regulation, may file a report through the Bureau of Labor and Industries' (BOLI) complaint resolution process, or under any other available law.

Additional information regarding the filing of a report may be obtained through the compliance officer or superintendent.

A complaint alleging an unlawful employment practice as described in ORS 659A.030, 659A.082 or 659A.112 or section 4 of Senate Bill 479 (2019) must be filed no later than five years after the occurrence of the alleged unlawful employment practice.

All documentation related to workplace harassment complaints may become part of the personnel file of the employee who is the alleged harasser, as appropriate. Additionally, a copy of all workplace harassment reports, complaints, and documentation will be maintained by the ESD as a separate confidential file and stored in the ESD office.

Investigation Procedure

The Chief HR Officer or designee is responsible for investigating reports concerning workplace harassment. The investigator(s) shall be a neutral party having had no involvement in the report presented. If the alleged workplace harassment involves the Chief HR Officer or designee, the employee may report to the Superintendent. All reports of alleged workplace harassment behavior shall be investigated.

The investigator shall:

1. Document the alleged, reported incident of workplace harassment;
2. Provide information about legal resources and counseling and support services, which may include ESD-provided assistance services available to the ESD employee;
3. Provide a copy of the ESD's Board policy GBEA-Workplace Harassment and this administrative regulation to the ESD employee; and
4. Complete the following steps:

Step 1 Promptly initiate an investigation. The investigator will arrange such meetings as may be necessary to discuss the issue with all concerned parties within ten working days after receipt of the report. The parties will have an opportunity to submit evidence and a list of witnesses.

All findings of the investigation, including the response of the alleged harasser, shall be reduced to writing. The investigator shall notify the complainant in writing that the investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law.

A copy of the report, complaint, or other documentation about the incident, and the date and details of notification to the complainant of the results of the investigation, together with any other documentation related to the workplace harassment incident, including disciplinary action taken or recommended, shall be forwarded to the human resources office.

Step 2 If a complainant is not satisfied with the decision at Step 1, the complainant may submit a written appeal to the superintendent or designee. Such appeal must be filed within 10 working days after receipt of the Step 1 decision. The superintendent or designee shall review the investigator's report and findings. The superintendent or designee will arrange such meetings with the complainant and other affected parties as deemed necessary by the superintendent or designee to discuss the appeal. The superintendent or designee shall provide a written decision to the complainant within 10 working days after receipt of the appeal.

[Step 3 If a complainant is not satisfied with the decision at Step 2, the complainant may submit a written appeal to the Board. Such appeal must be filed within 10 working days after receipt of the Step 2 decision. The Board will review the findings and conclusion of the superintendent or designee in a public meeting to determine what action is appropriate. Appropriate action may include, but is not limited to, holding a hearing, requesting additional information, and adopting the superintendent or designee's decision as the ESD's final decision.

If the Board conducts a hearing, the complainant shall be given an opportunity to present the appeal at a Board meeting. The Board may hold the hearing in executive session if the subject matter qualifies under Oregon law. The parties involved may be asked to attend such hearing for the purposes of making further explanations and clarifying the issues. The Board shall decide, within 30 working days, in open session what action, if any, is warranted. The Board shall provide a written decision to the complainant within 10 working days following completion of the hearing.

If the Board chooses not to hear the appeal, the superintendent's decision in Step 2 is final.

Reports involving the superintendent should be referred to the Board chair on behalf of the Board. The Board chair will cause the information¹ required to be issued to the complainant as described in this administrative regulation. The Board chair shall present the complaint to the Board at a Board meeting. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. The Board may hold the hearing in executive session if the subject matter qualifies under Oregon law. The Board shall decide,

¹ Provide information about legal resources and counseling and support services, which may include ESD-provided assistance services available to the ESD employee, and a copy the ESD's Board policy GBEA-Workplace Harassment and this administrative regulation to the ESD employee.

within 30 working days, in open session what action if any is warranted. The Board chair shall notify the complainant in writing within 20 working days that the investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law.

Follow-up Procedures

The supervisor will follow up with the ESD employee of the alleged harassment once every three months for the calendar year following the date on which the supervisor received a report of harassment, to determine whether the alleged harassment has stopped or if the employee has experienced retaliation. The supervisor will document the record of this follow-up. The supervisor will continue follow-up in this manner until and unless the employee directs the supervisor in writing to stop.

Other Reporting Options and Filing Information

Nothing in this policy prevents an employee from filing a formal grievance in accordance with a collective bargaining agreement (CBA) or a formal complaint with BOLI or the Equal Employment Opportunity Commission (EEOC); or if applicable, the U.S. Department of Labor (USDOL) Civil Rights Center. Review the CBA for any provision that requires an employee to choose between the complaint procedure outlined in the CBA and filing a BOLI or EEOC complaint.

Nothing in Board policy GBEA - Workplace Harassment or this administrative regulation prevents any person from seeking remedy under any other available law, whether civil or criminal.

An employee or claimant must provide advance notice of claim against the employer as required by ORS 30.275.

Filing a report with the U.S. Department of Labor (USDOL) Civil Rights Center.

An employee whose agency receives federal financial assistance from the USDOL under the Workforce Innovation and Opportunity Act, Mine Safety and Health Administration, Occupational Safety and Health Administration, or Veterans' Employment and Training Service, may file a complaint with the state of Oregon Equal Opportunity Officer or directly through the USDOL Civil Rights Center. The complaint must be written, signed and filed within 180 days of when the alleged discrimination or harassment occurred.

**[Name of ESD]
[Address] | [Phone]**

WORKPLACE HARASSMENT REPORTING OR COMPLAINT FORM

Name of person making report/complainant:

Position of person making report/complainant:

Date of complaint:

Name of alleged harasser:

Date and place of incident or incidents:

Description of alleged misconduct:

Name of witnesses (if any):

Evidence of workplace harassment, i.e., letters, photos, etc. (attach evidence if possible):

Any other information:

I agree that all of the information on this form is accurate and true to the best of my knowledge.

Signature:

Date:

**[Name of ESD]
[Address] | [Phone]**

WITNESS DISCLOSURE FORM

Name of Witness:

Position of Witness:

Date of Testimony/Interview:

Description of Instance Witnessed:

Any Other Information:

I agree that all the information on this form is accurate and true to the best of my knowledge.

Signature:

Date: