

**POLICY READINGS**  
**December 11, 2017**  
**2017 POLICY UPDATE**

<b>Code</b>	<b>Policy - Administrative Regulation</b>
<b>FIRST READING (attached) Board Governance</b>	
AC	Nondiscrimination
AC-AR	Discrimination Complaint/Grievance Procedure
ACA	Americans with Disabilities Act
ACA-AR(1)	Americans with Disabilities Act
ACA-AR(2)	ADA Grievance Procedure
AE	District Goals
<b>SECOND READING, NO ADOPTION (attached)</b>	
None	
<b>ADOPTION (see Agenda Packet)</b>	
KAA	Community Relations
KAA-AR	Public Relations
KAB	Parental Rights**
KAB-AR	Parental Rights**
KBA	Public Records**
KBA-AR	Public Records
KC	Community Involvement in Decision Making
KG	Community Use of District Facilities
KG-AR	Community Use of District Facilities
KGB	Public Conduct on District Property
KGC/GBK/JFCG	Tobacco-Free Environment Prohibited Use, Possession, Distribution or Sale of Tobacco Products and Inhalant Delivery Systems
KGf/EDC	Authorized Use of District Equipment and Materials
KH	Public Gifts to the District
KI/KJ	Commercial Advertising/Merchandise Sales
KI/KJ-AR	Commercial Advertising/Merchandise Sales
KJA	Materials Distribution**
KK	Visitors to District Facilities**
KL	Public Complaints
KL-AR	Public Complaint Procedure
KN	Relations with Law Enforcement Agencies
KN-AR(1)	Relations with Law Enforcement Agencies
KN-AR(2)	Abuse of a Child [or Other] Investigations Conducted on District Premises
LBE	Public Charter Schools
LBE-AR	Public Charter Schools

<b>LBEA</b>	<b>Resident Student Denial for Virtual Public Charter School Attendance**</b>
<b>LGA</b>	<b>Compliance with Standards</b>
<b>LGA-AR(1)</b>	<b>Public Appeals and Complaints about Alleged Violations of Standards</b>
<b>LGA-AR(2)</b>	<b>Direct Appeals to the State Superintendent of Public Instruction about Alleged Violation of Standards</b>

The following symbol is used on some policies:

\*\* As used in this policy, the term parent includes legal guardian or person in a parental relationship. The status and duties of a legal guardian are defined in ORS 125.005(4) and 125.300 - 125.325. The determination of whether an individual is acting in a parental relationship, for purposes of determining residency, depends on the evaluation of the factors listed in ORS 419B.373. The determination for other purposes depends on evaluation of those factors and a power of attorney executed pursuant to ORS 109.056. For special education students, parent also includes a surrogate parent, an adult student to whom rights have transferred and foster parent as defined in OAR 581-015-2000.

# Oregon City School District

Code: AC  
Adopted: 1/01  
Readopted: 5/11/09; 1/10/11  
Orig. Code(s): 1513

## Nondiscrimination

The district shall promote prohibits nondiscrimination and an environment free of harassment based on any basis protected by law including, but not limited to, an individual's perceived or actual race, color, religion, gender identity, sex, sexual orientation<sup>1</sup>, national or ethnic origin, marital status, age, mental or physical disability, marital status or age pregnancy, familial status, veterans' status, or because of the perceived or actual race, color, religion, gender identity, sex, sexual orientation, national or ethnic origin, marital status, age, mental or physical disability, marital status or age pregnancy, familial status, or veterans' status of any other persons with whom the individual associates.

In keeping with the requirements of federal and state law, the district strives to remove any vestige of prohibits discrimination and harassment in, but not limited to, in employment, assignment and promotion of personnel; in educational opportunities and services offered students; in student assignment to schools and classes; in student discipline; in location and use of facilities; in educational offerings and materials; and in accommodating the public at public meetings.

The Board encourages staff to improve human relations within schools, to respect all individuals and to establish channels through which citizens can communicate their concerns to the administration and the Board.

The superintendent shall appoint and make known the individuals to contact on issues concerning the Americans with Disabilities Act of 1990 and Americans with Disabilities Act Amendments Act of 2008 (ADA), Section 504 of the Rehabilitation Act of 1973, Title VI, Title VII, Title IX and other civil rights or discrimination issues<sup>2</sup>. The Board will adopt and the district will publish grievance complaint procedures providing for prompt and equitable resolution of complaints from students, and employees and the public complaints.

Federal civil rights laws The district prohibits retaliation and discrimination against an individual because he/she who has opposed any discrimination act or practice; or because that person has filed a charge, testified, assisted or participated in an investigation, proceeding or hearing; and ADA further prohibits anyone from coercing, intimidating, threatening or interfering with an individual for exercising the any rights guaranteed under the Act state and federal law.

END OF POLICY

---

<sup>1</sup>"Sexual orientation" means an individual's actual or perceived heterosexuality, homosexuality or bisexuality or gender identity, regardless of whether the individual's gender identity, appearance, expression or behavior differs from that traditionally associated with the individual's sex at birth.

<sup>2</sup>Districts are reminded that the district is required to notify students and employees of the name, office address and telephone number of the employee or employees appointed.

**Legal Reference(s):**

<a href="#">ORS 174.100</a>	<a href="#">ORS 659A.006</a>	<a href="#">ORS 659A.321</a>
<a href="#">ORS 192.630</a>	<a href="#">ORS 659A.009</a>	<a href="#">ORS 659A.409</a>
<a href="#">ORS 326.051(1)(e)</a>	<a href="#">ORS 659A.029</a>	
<a href="#">ORS 659.805</a>	<a href="#">ORS 659A.030</a>	<a href="#">OAR 581-021-0045</a>
<a href="#">ORS 659.815</a>	<a href="#">ORS 659A.040</a>	<a href="#">OAR 581-021-0046</a>
<a href="#">ORS 659.850 to -860</a>	<a href="#">ORS 659A.103 to -145</a>	<a href="#">OAR 581-021-0049</a>
<a href="#">ORS 659.865</a>	<a href="#">ORS 659A.230 to -233</a>	<a href="#">OAR 581-022-1140</a>
<a href="#">ORS 659.870</a>	<a href="#">ORS 659A.236</a>	<a href="#">OAR 839-003-0000</a>
<a href="#">ORS 659A.003</a>	<a href="#">ORS 659A.309</a>	

[Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6107 \(2006\).](#)  
[Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634 \(2006\); 29 C.F.R Part 1626 \(2006\).](#)  
[Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 \(2006\); 28 C.F.R. Part 35 \(2006\).](#)  
[Equal Pay Act of 1963, 29 U.S.C. § 206\(d\) \(2006\).](#)  
[Rehabilitation Act of 1973, 29 U.S.C. §§ 503, 791, 793-794 \(2006\).](#)  
[Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 \(2006\); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 \(2006\).](#)  
[Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d \(2006\).](#)  
[Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e \(2006\).](#)  
[Wygant v. Jackson Bd. of Educ., 476 U.S. 267 \(1989\).](#)  
[Americans with Disabilities Act Amendments Act of 2008.](#)  
[The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212.](#)  
[Title II of the Genetic Information Nondiscrimination Act of 2008.](#)

## Discrimination Complaint/Grievance Procedure

### ~~Parents or Patron Request for Accommodation:~~

~~Requests by parents or patrons for public accommodations under the Americans with Disabilities Act or Section 504 of the Rehabilitation Act should be made in writing to the principal of the school in which the event is scheduled to occur. The request for accommodation should be made a reasonable time before the event for which the accommodation is required.~~

~~When a person requests a public accommodation on the basis of disability from the district, the district's 504/ADA compliance officer may request documentation of disability, including a statement by a health professional, on that professional's letterhead, whose license or credentials are appropriate to describe or diagnose the disability. This statement must identify the disability for which the disability accommodation is being requested and any recommended accommodations related to the disability necessary for the person to access the district's programs or activities.~~

~~Complaints regarding the interpretation or application of the district's nondiscrimination policy or harassment, on any basis protected by law, shall be processed in accordance with the following procedures:~~

### ~~Informal Procedure~~

~~Any person who feels that he/she has been discriminated against should discuss the matter with the building principal, who shall in turn investigate the complaint and respond to the complainant within 10 school days. If this response is not acceptable to the complainant, he/she may initiate formal procedures.~~

~~If the building principal is the subject of the complaint, the individual may file a complaint directly with the superintendent or designee. If the superintendent or designee is the subject of the complaint, the complaint may be filed with the Board chair.~~

### ~~Formal Procedure~~

Step 1: A written eComplaints may be oral or in writing and must be filed with the building principal within 10 school days of receipt of the response to the informal complaint. The building principal shall further investigate, decide the merits of the complaint and determine the action to be taken, if any, and reply, in writing, to the complainant within 10 school days of receipt of the complaint.

Any staff member that receives a written or oral complaint shall report the complaint to the principal.

Step 2: If the complainant wishes to appeal the decision of the principal, he/she may submit a written appeal to the superintendent or designee within five school days after receipt of the building principal's response to the complaint. The superintendent or designee shall may review the

principal's decision and may meet with all parties involved, as necessary. The superintendent or designee will review the merits of the complaint and the principal's make a decision and respond, in writing, to the complainant within 10 school days.

Step 3: If the complainant 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's or designee's response to Step 2. The Board may decide to hear or deny the request for appeal. In an attempt to resolve the complaint, the Board shall may meet with the concerned parties and their representative at the next regular or special Board meeting. The Board's decision will be final and will include the legal basis for the decision, findings of fact and conclusions of law. A copy of the Board's final decision shall be sent to the complainant in writing within 10 days of this meeting.

If the principal is the subject of the complaint, the individual may file a complaint with the superintendent or designee. If the superintendent is the subject of the complaint, the complaint should be referred to the Board chair. The Board may refer the investigation to a third party.

Complaints against the Board as a whole or against an individual Board member, should be made to the Board chair and may be referred to district counsel. Complaints against the Board chair may be made directly to Board vice chair.

Timelines may be extended based upon mutual consent of both parties.

If the complainant is not satisfied after exhausting local complaint procedures; or 90 days, whichever occurs first, he/she may appeal in writing to the Superintendent of Public Instruction under Oregon Administrative Rule (OAR) 581-022-1940.

## Discrimination Complaint Form

---

Name of Person Filing Complaint                      Date                      School or Activity

Student/Parent       Employee       Nonemployee (Job applicant)       Other \_\_\_\_\_

Type of discrimination:       Race                       Color                       Religion  
 Sex                       National Origin       Disability  
 Marital Status       Age                       Sexual Orientation  
 Other \_\_\_\_\_

Specific complaint: (Please provide detailed information including names, dates, places, activities and results of informal discussion.)

**Who should we talk to and what evidence should we consider?**

Remedy requested **Suggested solution/resolution/outcome:**

The complaint form should be mailed or taken to the ~~building~~ principal. Direct complaints related to educational programs and services may be made to the U.S. Department of Education, Office for Civil Rights. Direct complaints related to employment may be filed with the Oregon Bureau of Labor and Industries, Civil Rights Division, or the U.S. Department of Labor, Equal Employment Opportunities Commission.

---

Signature

---

Address

---

Phone

R6/25/15|SL

# Oregon School Boards Association Selected Sample Policy

Code: **ACA**  
Adopted:

**P**

## **Americans with Disabilities Act (Version 1)**

The district, in compliance with the Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendment Act of 2008 (ADA), is committed to maintaining employment practices, services, programs and activities that provide equity to qualified individuals with disabilities.

The district will provide reasonable accommodations for the known disabilities of all applicants and current employees in all employment application procedures; hiring, advancement or discharge; employee compensation; job training; other terms, conditions and privileges of employment upon request and advance notice.

A reasonable accommodation must not present an undue hardship for the district, be unduly costly, extensive or disruptive; nor present a direct threat to the health or safety of the individual or others in the workplace.

District services, programs and activities will be accessible and usable by qualified individuals with disabilities, consistent with Section 504 of the Rehabilitation Act of 1973 and the ADA. Accessibility may be achieved through nonstructural as well as structural methods.

In order to achieve equal access, the district will make available appropriate auxiliary aids and services that promote effective communications. Primary consideration will be given to the request of individuals with disabilities in the selection of appropriate aids and services. Auxiliary aids and services determinations will be based on availability, effectiveness and financial or administrative burden to the district.

The Board directs the superintendent to develop and implement an appropriate plan that provides for district compliance with the ADA, including the appointment of an ADA compliance officer and the establishment of a process for the investigation and prompt and equitable resolution of any complaint regarding noncompliance.

Retaliation is prohibited against anyone who files a complaint of discrimination, participates in an Office of Federal Contract Compliance Program proceeding or otherwise opposes discrimination under federal or state laws.

END OF POLICY

**D**



**Legal Reference(s):**

Rehabilitation Act of 1973, 29 U.S.C. §§ 503, 791, 793-794 (2006).

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2006); 28 C.F.R. Part 35 (2006).

Chevron U.S.A. Inc. v. Echazabal, 536 U.S. 73 (2002).

Americans with Disabilities Act Amendments Act of 2008.

P

R

O

P

O

S

E

D

# Oregon School Boards Association Selected Sample Policy

Code: ACA-AR(1)  
Revised/Reviewed:

## P

### Americans with Disabilities Act

In compliance with the Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendments Act of 2008 (ADA), the following procedures shall be followed:

#### Compliance Officer

1. The director of human resources shall be designated as the district's ADA compliance officer. The compliance officer will:
  - a. Coordinate the district's ADA responsibilities and compliance efforts;
  - b. Make available to all interested individuals the name, office address and telephone number of the district ADA compliance officer;
  - c. Investigate any complaint alleging noncompliance or actions prohibited under the ADA;
  - d. Administer the district's ADA grievance procedure to provide for the prompt investigation and equitable resolution of complaints.

#### Services, Programs, Activities Accessibility

2. All district services, programs and activities shall be readily accessible to and usable by individuals with disabilities. In order to achieve accessibility, structural and nonstructural methods such as the acquisition or redesign of equipment, assignment of aides to beneficiaries and the provision of services at alternate accessible sites will be considered. Final decision of an appropriate method of providing program accessibility will be determined by the district in accordance with the provisions of the ADA:
  - a. Physical changes to an existing building, acquisition or construction of additional facilities will be required only when there is no other feasible way to make the services, programs or activities accessible;
  - b. Priority will be given to the method that results in the most integrated setting to encourage interaction among all users of the services, programs or activities, including individuals with disabilities;
  - c. No action will be taken that would fundamentally alter the services, programs or activities or result in undue financial or administrative burden to the district. Any such determination will take place as follows:
    - (1) The decision will be made by the superintendent or his/her designee;
    - (2) All resources available for use in the funding and operation of the services, programs or activities will be considered;
    - (3) A written statement of the reasons for reaching such decision will be maintained on file;

- (4) The district will take other action appropriate to ensure that individuals with disabilities receive the benefits of such services, programs and activities that would not result in such alteration or burden as determined by the district.

### **Job Descriptions**

3. Job descriptions shall be maintained and provided in oral, written and/or videorecorded form, reviewed and revised annually as needed to include:
  - a. All essential job functions. "Essential job functions" are those job duties that include, but are not limited to, the following:
    - (1) The function is essential because the reason the position exists is to perform that function;
    - (2) The function is essential because of the limited number of employees available among whom the performance of that job function can be distributed;
    - (3) The function is so specialized that the incumbent is hired for his/her expertise or ability to perform the particular function.
  - b. Physical, mental and emotional skills for each position as appropriate, and only to the extent such skills are in fact required and in practice;
  - c. Vocational and/or educational preparation requirements;
  - d. Attendance standards;
  - e. A statement that new job descriptions supersede prior descriptions for the position. All past and present job descriptions that do not reflect current requirements of the position are rescinded;
  - f. A statement on job descriptions, "I have read this job description and agree with its contents.";
  - g. A provision for the current employee's signature and the date the job description was signed.

### **Job Posting**

4. Job postings shall be reviewed to ensure:
  - a. All postings contain appropriate notice of the district's responsibilities under the ADA. For example:

"Reasonable accommodations for the application and interview process will be provided upon request and as required in accordance with the Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendments Act of 2008 (ADA). Individuals with disabilities may contact the Director of Human Resources at 503-785-8000 for additional information or assistance. Speech/Hearing impaired persons may contact the district for assistance through the Oregon Telecommunication Relay Service at 1-800-735-2900 or 711."

- b. All postings eliminate any discriminatory references;
- c. All job advertisements provide, in addition to a telephone number to which applicants may apply for additional information, an address and/or TDD (telecommunications device for the deaf) or Oregon Telecommunication Relay Service phone number for the hearing impaired.

## **Job Application Forms**

- 5. Job application forms shall be reviewed and revised as appropriate to include:
  - a. Notice of the district's responsibilities under the ADA (see job posting notice);
  - b. A statement asking applicant whether he/she requires any reasonable accommodation for the hiring process. The hiring process may include, e.g., an interview, a timed written test or job demonstration;
  - c. A request for applicant to provide documentation verifying the need for a reasonable accommodation, if deemed necessary by the district;
  - d. The elimination of any health questions such as:
    - (1) Have you ever had or been treated for any of the following conditions or diseases (followed by a checklist)?
    - (2) Please list any conditions or diseases for which you have been treated in the past three years.
    - (3) Have you ever been hospitalized? If so, for what condition?
    - (4) Have you ever been treated by a psychiatrist or a psychologist? If so, for what condition?
    - (5) Have you ever been treated for any mental or emotional condition?
    - (6) Is there any health-related reason that may prevent you from performing the job for which you are applying?
    - (7) Have you had a major illness in the past five years?
    - (8) Do you have any physical defects which prevent you from performing certain kinds of work? If yes, describe such defects and specific work limitations.
    - (9) Do you have any disabilities or impairments which may affect your performance in the position for which you are applying?
    - (10) Are you taking any prescribed drugs?
    - (11) Have you ever been treated for drug addiction or alcoholism?
    - (12) Have you ever filed for workers' compensation benefits or had a work-related injury?

## **Reasonable Accommodations - General**

- 6. The district will provide reasonable accommodations to qualified individuals with disabilities who are part-time, full-time or probationary employees or applicants for employment, unless to do so would cause undue hardship. Reasonable accommodations include:
  - a. Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position the qualified applicant desires; or
  - b. Modifications or adjustments to the work environment or to the manner or circumstances under which the position held is customarily performed that enable a qualified individual with a disability to perform the essential functions of that position; or

- c. Modifications or adjustments that enable an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated district employees without disabilities.

### **Reasonable Accommodations - Requests**

- 7. A qualified individual with a disability should request a reasonable accommodation when he/she knows there is a workplace barrier that is preventing him/her, due to a disability, from effectively competing for a position, performing a job or gaining equal access to a benefit of employment. Reasonable accommodation requests will be guided by the following provisions:
  - a. To request a reasonable accommodation, an individual may use “plain English” and need not mention the ADA or use the phrase “reasonable accommodation”;
  - b. A request for a reasonable accommodation may be made on behalf of an individual with a disability by a family member, friend, health-care professional or other representative;
  - c. Requests will not be required to be in writing;
  - d. When the disability and/or the need for an accommodation is not obvious, the district may request reasonable documentation from a health-care or rehabilitation professional. The documentation requested shall be related to the particular disability for which an accommodation is requested. In requesting documentation, the district will specify what types of information it is seeking regarding the disability, its functional limitations and the need for reasonable accommodation. The district recognizes it may not request an individual’s complete medical record;
  - e. Documentation shall not be requested when both the disability and the need for the accommodation are obvious or the individual has already provided the district with sufficient information to substantiate that he/she has an ADA disability and needs the reasonable accommodation requested;
  - f. The district may send an individual to a health-care professional of the district’s choosing, at district expense, for the purpose of documenting a disability and/or the need for accommodation, only if the individual has provided insufficient information from his/her treating provider to substantiate that the disability exists or an accommodation is needed.

### **Job Interview Procedures**

- 8. Job interview procedures shall be reviewed to ensure:
  - a. Physical and/or other barriers in the interview setting have been eliminated. The availability of accessible locations and accessible formats, such as a reader, Braille, audio recordings, written materials, sign language and interpreters for individuals with vision and hearing impairments and personal assistance for individuals with manual impairments have been considered as appropriate;
  - b. Questions relating to the health of the applicant, the applicant’s disabilities and work-related injuries and benefits have been eliminated;
  - c. Applicant’s previous work history will be ascertained without reference to the applicant’s disability. The specifics of prior job functions and the applicant’s ability to perform those specific functions may be discussed;

- d. Requirements that an applicant describe or demonstrate how he/she would perform any or all job functions are required for all applicants in that job category. A particular applicant may be asked to describe or demonstrate how he/she would perform the job only when the district reasonably believes the applicant will not be able to perform a job function because of a known disability. The applicant's disability would be "known" either because it is obvious or because the applicant has voluntarily disclosed that he/she has a hidden disability;
- e. Questions related to the applicant's need to leave work to receive treatment or how often leave may be necessary as a result of a disability have been eliminated. Regular work hours, leave policies and attendance requirements may be explained and applicant asked if he/she will be able to meet those requirements. The district may ask about an applicant's prior attendance record (e.g., "How many days the applicant was absent from his/her last job?"). The district may also ask questions designed to detect whether an applicant abused his/her leave (e.g., "How many Mondays or Fridays were you absent last year on leave other than approved vacation leave?"). At the preoffer stage, the district may not ask how many days an applicant was sick;
- f. Questions relating to applicant's current illegal use of drugs are not likely to elicit information about an applicant's lawful drug use, unless the district administers a test for illegal use of drugs and the applicant tests positive for illegal drug use. In such cases, the district may validate the test results by asking about lawful drug use or possible explanations for the positive result other than the illegal use of drugs;
- g. Questions relating to an applicant's prior illegal drug use are not likely to elicit information about a disability. The district may ask, e.g., whether the applicant has ever used illegal drugs, when was the last time he/she used illegal drugs or if he/she has used illegal drugs in the last six months. The district will not ask questions about whether the applicant was a past drug addict. These questions are impermissible at the preoffer stage;
- h. Questions relating to an applicant's drinking habits are not likely to elicit information related to how much alcohol an applicant drinks or whether he/she has participated in an alcohol rehabilitation program. The district may ask, e.g., whether the applicant drinks alcohol or whether he/she has been arrested for driving under the influence;
- i. Questions relating to an applicant's arrest or conviction record have been included;
- j. Selection and administration of employment tests will take place in a manner that leads to test results that accurately reflect the skills, aptitudes and whatever factors the tests purport to measure, rather than the impaired sensory, manual or speaking skills of the test subjects. Performance of any nonessential skills during any testing will not be allowed;
- k. Physical agility/Physical fitness tests if required, will be specifically job related and administered to all applicants in a job category selected for interviews;
- l. Applicant provides medical certification that he/she can safely perform a physical agility or physical fitness test when required by the district;
- m. Applicant assumes responsibility and releases the district of liability for injuries incurred in performing physical agility/physical fitness test required by the district;
- n. Applicant requests for reasonable accommodations in testing will be allowed for qualified individuals with a disability:
- (1) Tests or exercises will be postponed as needed so that a reasonable accommodation can be provided;

- (2) Modified tests or exercises will be provided unless such accommodation would change the measurement of the essential job function being tested (i.e., provide reader to assist with written test unless the ability to read is an essential job skill).
- o. Drug screening tests, if required, will be administered to **all** applicants in a job category selected for interviews;
- p. Preemployment offer medical examinations shall not be conducted.

### Reference Check Procedures

9. Reference check procedures shall be reviewed to ensure:
  - a. Reference checks will be conducted on all applicants in a job category who meet the job requirements and are selected for interviews. Careful and complete notes will be taken and maintained. District officials conducting reference checks:
    - (1) Before making a conditional offer of employment, may not ask previous employers or other sources about an applicant's:
      - (a) Disability;
      - (b) Illness;
      - (c) Workers' compensation history;
      - (d) Other questions that the district itself may not ask of the applicant.
    - (2) May ask a previous employer or other sources about the applicant's:
      - (a) Job functions and tasks performed;
      - (b) The quality and quantity of work performed;
      - (c) How the job functions were performed;
      - (d) Other job-related issues that do not relate to disability.

### Job Offers

10. The process for all job offers shall be reviewed to ensure:
  - a. Job offers will be made to the most qualified applicant who with or without a reasonable accommodation can perform the essential functions of the job. The district will adhere to the following job offer procedures:
    - (1) After a conditional offer of employment is extended, the district may inquire as to whether the successful applicant will need a reasonable accommodation related to anything connected with the job (i.e., job performance or access to benefits/privileges of the job, etc.). If the district makes such an inquiry, it will consistently seek similar information from all other successful applicants in the same job category;
    - (2) The successful applicant will be informed of medical examination and/or medical history requirements after an offer of employment has been made and before the applicant begins his/her employment duties. All entering employees in the same job category will

be subjected to such medical examination and/or medical history requirements. An individual's workers' compensation history will be included in all such medical history inquiries;

- P
- (3) The successful applicant will be informed that the job offer may be contingent upon disability-related questions, medical examination and/or medical history inquiries;
  - (4) A completed medical history form and release for medical records with the successful applicant's signature and date may be required;
  - (5) Information obtained from medical examinations and/or medical history inquiries may be used for such purposes as:
    - (a) The verification of employment history;
    - (b) To screen out applicants with a history of fraudulent workers' compensation claims;
    - (c) To provide information to state officials as required by state laws regulating workers' compensation and "second injury" funds;
    - (d) To screen out individuals who would pose a direct threat to the health and safety of self or others in the workplace which could not be reduced to an acceptable level or eliminated by a reasonable accommodation.
- R
- (6) Reasonable accommodations will be provided if the medical examination or medical history inquiry discloses the successful applicant is a qualified individual with a disability as defined by the ADA. Reasonable accommodations will be provided by the district if such accommodation would enable the individual with a disability to perform the essential functions of the job or otherwise meet eligibility requirements. The reasonable accommodation will be established by the district. In determining the appropriate reasonable accommodation the district will:
    - (a) Determine the essential functions of the job;
    - (b) Consult with the individual who has the disability to determine his/her precise limitations and how they may be overcome;
    - (c) Identify, with assistance of the individual with the disability, potential reasonable accommodations and assess their effectiveness;
    - (d) Consider the preference of the individual with the disability, and then implement the reasonable accommodation that is most appropriate for the employee and the employer. (In order to be reasonable, an accommodation must be effective. It is not required that the best accommodation be selected as long as the selected accommodation provides an equal opportunity to perform the job.).
- E
- (7) Reasonable accommodations considered may include:
    - (a) Job restructuring;
    - (b) Modified work schedules;
    - (c) Job reassignment;
    - (d) Making existing facilities used by employees accessible to and usable by individuals with disabilities;
    - (e) Acquisitions and/or modification of work policies including:
- D



- P  
R  
O  
S  
E  
D
- i) Modification of leave or attendance procedures or other such policies related to working conditions (i.e., modification of a policy prohibiting employees from eating or drinking for an employee with insulin-dependent diabetes, etc.);
  - ii) Qualified interpreters, note takers, transcription services, written materials, telephone handset amplifiers, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays or other effective methods of making aurally delivered materials available to individuals with hearing impairments;
  - iii) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials or other effective methods of making visually delivered materials available to individuals with visual impairments;
  - iv) Acquisition or modification of equipment or devices;
  - v) Other similar services and actions for individuals with hearing, visual and/or manual impairments.
- (8) A determination will be made whether an accommodation is reasonable or an undue burden by considering:
- (a) Nature and cost of accommodation;
  - (b) Overall financial resources of facility;
  - (c) Number of persons employed;
  - (d) Impact on operation of facility;
  - (e) Effect on expenses and resources;
  - (f) Type of operation. Composition and functions of workforce. Geographic separation, fiscal or administrative relationship of facilities.
- (9) The successful applicant who has been offered employment contingent on medical examination results and/or medical history inquiries will be rejected if the medical condition poses a direct threat to the health or safety of others in the workplace. The district shall consider whether the risk can be eliminated or reduced by a reasonable accommodation by considering the following:
- (a) The nature and severity of the potential harm to applicant or others in the workplace;
  - (b) The likelihood that the potential harm will occur;
  - (c) Specific risk is identified and documented;
  - (d) Risk is current and not speculative or remote;
  - (e) Assessment of risk is based on objective medical or factual evidence;
  - (f) Medical condition is a direct threat.
- (10) Should an offer of employment be withdrawn because of medical examination or medical history inquiry results, the exclusionary criteria must be job related and consistent with business necessity;

- (11) Documentation will also include any determination that no reasonable accommodation was available that would enable the individual to perform the essential job functions or that accommodation would impose an undue hardship on the district;
- (12) Medical information will be kept confidential:
  - (a) Medical information must not be maintained in personnel file;
  - (b) Medical information will be released only to those with “need to know” and/or “need to reach in emergency situations” (i.e., immediate supervisors, etc.);
  - (c) Medical information records will be maintained a minimum of one year.

## **Public Notice, Communications**

11. Notice of the district’s compliance with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendments Act of 2008 (ADA) shall be displayed at each district facility and provided, as necessary, in appropriate accessible formats to applicants, participants, beneficiaries, professional organizations and other interested persons to include:
  - a. Pertinent provisions, duties and requirements of the ADA and its applicability to the district’s employment practices, services, programs and activities, including the duty to reasonably accommodate upon request and with advance notice. In its effort to provide communications with individuals with disabilities that are as effective as communications with others, the district will also provide the following:
    - (1) Individual to contact for services or questions, including office location and phone number;
    - (2) Notice of Equal Employment Opportunity Commission (EEOC) requirements displayed in conspicuous places for all job applicants and employees;
    - (3) Signage displayed at all inaccessible entrances to each of the district’s facilities directing users to accessible entrances or to location at which information can be obtained about accessible facilities;
    - (4) Signage displayed at all accessible entrances to the district’s facilities. The international symbol for accessibility shall be used;
    - (5) Appropriate auxiliary aids and services that may include:
      - (a) Qualified interpreters, note takers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening systems, telephones compatible with hearing aids, telecommunications devices for deaf persons (TDD’s), videotext displays and/or exchange of written notes for individuals with hearing impairments;
      - (b) TDD’s, computer terminals and/or communications boards for individuals with speech impairments;
      - (c) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials and assistance in locating items for individuals with vision impairments;
      - (d) Telephone accessibility to enable individuals to seek immediate assistance from police, fire, ambulance and other emergency services;
      - (e) Other equally effective communications devices, services and actions.

- P
- (6) Consultation with the individual with a disability to determine the most appropriate auxiliary aid or service. Priority will be given to the auxiliary aid or service that results in the most integrated setting to encourage interaction among all users, including those with disabilities. Primary consideration will be given to the expressed request of the individual with a disability. The district may select an alternative auxiliary aid or service should it determine that another equally effective means of communication is available or that the means chosen by the individual with a disability would result in a fundamental alteration in the services, programs or activities or in undue financial and administrative burden to the district;
  - (7) Training to employees as needed on the acceptance and handling of telephone relay services for individuals with disabilities;
  - (8) Information to employees through different means, including computers, bulletin boards, mailboxes, posters and public address systems. The district will ensure that employees with disabilities have access to information that is provided to other similarly situated employees without disabilities, regardless of whether they need such information to perform their jobs.

### **New Construction/Alterations**

12. All facilities designed, constructed or altered after January 26, 1992 shall be readily accessible and usable by individuals with disabilities. The district will ensure:
  - a. Alterations to existing facilities will take place in a manner that results in the altered portion of the facility being readily accessible to persons with disabilities. Alterations must not decrease accessibility;
  - b. Alterations deemed necessary to the path of travel in existing facilities requiring extensive restructuring or burdensome expense will be made in a timely fashion. Priority will be given to the following (in order):
    - (1) Entrances and routes to the altered area;
    - (2) One accessible restroom;
    - (3) Accessible drinking fountains;
    - (4) Additional, accessible parking.
  - c. Appropriate requirements of either the Uniform Federal Accessibility Standards (UFAS) or Americans with Disabilities Act Accessibility Guidelines (ADAAG) will be met, including accessibility requirements related to work areas, parking, signs, entrances, water fountains, storage and shelves, telephones, assembly areas, bathrooms, detectable warnings, carpet and carpet tile, curb ramps and visual alarms.

### **Posthires/Current Employees**

13. All posthire and current employee Board policies and practices shall be reviewed to ensure:
  - a. Medical examinations and/or medical history inquiries required by the district will be job related and consistent with business necessity. This will not prohibit the district from requiring

proof of illness to substantiate a request for sick leave. Medical examinations and/or medical history inquiries may be administered by the district when:

- (1) An employee is having difficulty performing his/her job effectively. The medical examination may be necessary to determine if the employee can perform essential job functions with or without a reasonable accommodation;
  - (2) An employee becomes disabled. An employee injured on or off the job, who becomes ill or otherwise suffers any other condition that meets the requirements of a disability as defined by the ADA is protected by the Act if he/she can perform the essential functions of the job with or without a reasonable accommodation. Such an examination or inquiry may also be required when the employee wishes to return to work after an illness or injury. The district will:
    - (a) Determine if the employee meets the ADA definition of an individual with a disability if a reasonable accommodation has been requested;
    - (b) Determine if the employee can perform the essential functions of the job currently held (or held before the injury or illness), with or without reasonable accommodation, and without posing a direct threat to the health or safety of others which could not be reduced or eliminated by a reasonable accommodation;
    - (c) Identify an effective accommodation that would enable the employee to perform the essential job functions in the current (previous) job or in a vacant job for which the person is qualified with or without a reasonable accommodation.
  - (3) An employee requests a reasonable accommodation on the basis of disability;
  - (4) Administered as part of a voluntary employee “wellness” and health screening program.
- b. Procedures for reporting and investigating employee on-the-job injury or illness will be implemented. The district will:
- (1) Require employees complete workers’ compensation form;
  - (2) Investigate, as necessary, documenting circumstances that led to injury and review all employee work-related injury or illness on a case-by-case basis.
- c. Procedures for communicating with health-care providers regarding employees off-work due to any injury or illness will be implemented. The district, as necessary, and at its discretion will:
- (1) Provide health-care provider with detailed description of regular job activities, physical movement, duration of physical exertions and job description;
  - (2) Write detailed questions for the health-care provider to answer that may assist the district in determining any reasonable accommodation that may be necessary;
  - (3) Ask for employee written release authorizing district representative to consult with the employee’s own health-care provider.
- d. Procedures for employees not able to perform essential job functions completely after illness or injury will be implemented. The district will:

- (1) Determine whether temporary light duty assignment is possible. In accordance with the ADA, the district is not required to create a “light duty” position unless the “heavy duty” tasks an injured employee can no longer perform are marginal job functions which may be reallocated to co-workers as part of a reasonable accommodation;
- (2) Determine whether job can be restructured, shifting or trading duties with other workers. Job restructuring as a reasonable accommodation may involve reallocating or redistributing the marginal functions of the job, altering when and/or how an essential or marginal function is performed. Marginal functions of a job that cannot be performed by an individual with a disability may be exchanged for marginal job functions performed by one or more other employees. The district is not required to reallocate essential functions of a job as a reasonable accommodation. The district may switch the marginal functions of two or more employees in order to restructure a job as a reasonable accommodation;
- (3) Determine whether a modified or part-time work schedule may be selected as a reasonable accommodation unless modifications would cause an undue hardship. A modified schedule may involve adjusting arrival or departure times, providing periodic breaks, altering the time when certain functions are performed, allowing the employee to use accrued paid leave or providing additional unpaid leave. If modifying an employee’s work schedule poses an undue hardship, the district shall consider reassignment to a vacant position that would enable the employee to work the hours requested. Requests for modified or part-time work schedules for an employee covered under both the ADA and Oregon Family Leave Act (OFLA) or Family Medical Leave Act (FMLA) will be considered separately. The district will determine the employee’s rights under each statute to determine the appropriate actions to take;
- (4) Determine whether reassignment to a vacant position is possible. “Vacant” means that the position is available after the employee asks for a reasonable accommodation or that the district knows that it will become available within a reasonable amount of time. Reassignment is the reasonable accommodation of last resort and required only after it has been determined that there are no effective accommodations that will enable the employee to perform the essential functions of his/her current position or all other reasonable accommodations would impose undue hardship.
  - (a) The employee must be qualified for the position — satisfy the requisite skill, experience, education and other job-related requirements of the position — but need not be the best qualified person to fill the position.
  - (b) The employee must be able to perform the essential functions of the position with or without a reasonable accommodation.
  - (c) The district is not required to bump an employee from a job in order to create a vacancy, nor does it have to create a new position.
- (5) Gather information from employee, health-care provider(s), consultants, etc. as to needed modifications in policies, facilities, equipment, special aids and services that may be provided as a reasonable accommodation;
- (6) Document all district efforts to provide reasonable accommodations.

- e. Qualified individuals with a disability not fully recovered from injury will not be returned to work when:
- (1) The employee cannot perform the essential functions of the job he/she holds or desires with or without a reasonable accommodation;
  - (2) The return of the employee to work would pose a significant risk of substantial harm to self or others in the workplace and that could not be reduced to an acceptable level with a reasonable accommodation;
  - (3) The return of the employee to a light duty position involves a totally different job from the job that the employee performed before the injury. A vacant light duty position already available for which an injured employee is qualified may be a reasonable accommodation;
  - (4) It is demonstrated that the accommodation will cause an undue hardship or result in excessive financial and administrative burden as defined by the ADA, and as evidenced by the district.
- f. Unpaid leaves will be provided to qualified individuals with a disability when a reasonable accommodation cannot be made in the employee's current job. The district will comply with all workers' compensation reinstatement rights to available and suitable employment;
- g. Leave of absence or attendance policies will not discriminate against qualified individuals with disabilities. (Uniformly applied leave policies are not subject to challenge because they have a more severe effect on individuals due to their disability. "No leave" policies, such as those forbidding leave during the first six months of employment are also not subject to challenge because they may have a more severe impact upon individuals with disabilities. An employer with a "no-leave" policy, however, may have to consider providing leave as a reasonable accommodation unless doing so would impose an undue hardship on its operation.) The district will not provide additional paid leave, but accommodations may include leave flexibility and unpaid leave;
- h. Drug and alcohol policies will meet the requirements of the ADA. Policies will state:
- (1) Illegal use of drugs and the use of alcohol at the workplace is prohibited by all employees;
  - (2) Employees will be required to behave in conformance with the requirements of the Drug-Free Workplace Act of 1988;
  - (3) Employees who engage in the illegal use of drugs or alcohol will be held to the same qualification standards for employment or job performance and behavior to which all other employees are held, even if unsatisfactory performance or behavior is related to employee's drug use or alcoholism;
  - (4) Employees taking drugs under the supervision of licensed health-care professionals will be protected by the provisions of the ADA;
  - (5) Employees who are no longer illegally using drugs and who have been either rehabilitated successfully or are in the process of completing a rehabilitation program will be protected by the provisions of the ADA (i.e., in-patient or out-patient programs, employee assistance programs, professionally recognized self-help programs, such as Narcotics Anonymous, or other programs that provide professional assistance and counseling for individuals).

i. Health, life insurance, pension plans and other benefit plans offered by the district will not discriminate against qualified individuals with a disability (The ADA does not affect preexisting condition clauses in health insurance plans as long as the clauses are not used as a means to avoid complying with the ADA, and such clauses do not require that additional coverage be purchased to cover expenses related to a disability.). Employees will not be denied coverage for illness or injuries unrelated to the preexisting condition;

j. Contractual or other business arrangements and relationships entered into by the district will not discriminate against qualified individuals with a disability. The district will:

- (1) Not do indirectly what it is prohibited by the ADA from doing directly;
- (2) Provide reasonable accommodations to enable access by employees with disabilities to training programs provided by the district and/or third parties, on district premises or elsewhere;
- (3) Specify in contracts with outside entities providing training on behalf of the district, who have responsibility to fulfill the obligations of providing reasonable accommodations, as needed.

# Oregon School Boards Association Selected Sample Policy

Code: ACA-AR(2)  
Revised/Reviewed:

# P

## ADA Grievance Procedure

The compliance officer is responsible for coordinating the district's efforts to comply with the Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendments Act of 2008 (ADA). The compliance officer shall be a neutral party having had no involvement in the complaint presented.

- Step 1 Any complaint shall be presented in writing to the compliance officer within 180 days from date of alleged discrimination. It must include the following:
- Name and address of the individual or the representative filing the complaint;
  - Description of the alleged discriminatory action in sufficient detail to inform the district of the nature and date of the alleged violation;
  - Signature by the complainant or by someone authorized to do so on his/her behalf;
  - Identification (by name, if possible) of the alleged victims of the discrimination for any complaint filed on behalf of classes or third parties.
- Step 2 The compliance officer shall thoroughly investigate the complaint, notify the person who has been accused of discriminating, permit a response to the allegation and arrange a meeting to discuss the complaint with all concerned parties within 10 working days after receipt of the written complaint, if deemed necessary. The compliance officer shall give a written answer to the complainant within 15 working days after receipt of the written complaint.
- Step 3 If the complainant is not satisfied with the answer of the compliance officer, he/she may submit a written appeal to the superintendent or designee indicating with particularity the nature of disagreement with the answer and reason underlying such disagreement. Such appeal must be filed within 10 working days after receipt of the compliance officer's answer. The superintendent or designee shall arrange a meeting with the complainant and other affected parties, if requested by the complainant, at a mutually agreeable time to discuss the appeal.
- The superintendent or designee shall give a written answer to the complainant's appeal within 10 working days.
- Step 4 If the complainant is not satisfied with the answer, an appeal to the Board may be filed within 10 working days after receipt of the Step 3 answer. The Board shall, within 30 working days, conduct a hearing at which the complainant shall be given an opportunity to present the complaint. The Board shall give a written answer to the complainant within 10 working days following completion of the hearing.



Step 5 If the complainant is not satisfied with the decision of the Board, a complaint may be filed with the Coordination and Review Section, Civil Rights Division, U.S. Department of Justice (student complaints) or the U.S. Department of Labor, Equal Employment Opportunity Commission or Oregon Bureau of Labor and Industries (employment complaints).

Individuals may initiate complaint procedures and/or civil actions with or without first complying with local complaint procedures.

P  
R  
O  
P  
O  
S  
E  
D

**ADA Complaint Form**

\_\_\_\_\_  
Name of Person Filing Complaint      Date      School or Activity

Student/Parent     Employee     Nonemployee (Job applicant)

Type of ADA Complaint:     Services                       Programs                       Disability  
    Activities Accessibility                       Other

Specific complaint: (Please provide detailed information including names, dates, places, activities and results of informal discussion.)

Who should we talk to and what evidence should we consider?

Suggested solution/resolution/outcome:

The complaint form should be mailed or taken to the District Office. Attention: ADA Compliance Officer.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone

# Oregon School Boards Association Selected Sample Policy

Code: AE  
Adopted:

# P

## District Goals

The district shall maintain a coordinated K-12 program designed to improve student achievement, support students' academic growth beyond proficiency in the knowledge and skills of the student's current grade level, encourage their attainment of individual goals and successfully prepare students to function effectively in a rapidly changing world and for the futures they choose to pursue.

The district will work with staff, parents and community members to develop district goals that support the physical and cognitive growth and development of students. Goals will be consistent with the goals adopted by the State Board of Education. Goals will be reviewed and revised as needed

END OF POLICY

---

### Legal Reference(s):

[ORS 174.100](#)  
[ORS 192.630](#)  
[ORS 329.025](#)  
[ORS 329.485](#)

[ORS 332.107](#)  
[ORS 659.850](#)  
[ORS 659A.003](#)  
[ORS 659A.006](#)

[ORS 659A.030](#)  
[OAR 581-022-1020](#)  
[OAR 581-022-1030](#)  
[OAR 839-003-0000](#)

# O

# S

# E

# D