

Board of Governors Anti-Harassment Policy

The Board of Governors (BOG) is committed to providing a work environment at the Oregon State Bar (OSB) that is free of harassment and intimidation based on or because of an individual's protected class status. Protected class status means race, color, religion, sex, age, national origin, marital status, mental or physical disability, veteran status, sexual orientation, gender identity, gender expression, or any classification protected by federal, state or local law or ordinance or regulation, whether or not the isolated conduct is prohibited by law.

As the employer of the Chief Executive Officer, the BOG recognizes its responsibility to maintain a work environment for the CEO that is free of harassment and intimidation by board members, bar visitors, bar members, contractors, and vendors of all kinds. The BOG also recognizes its responsibility to maintain a work environment for bar staff that is free of harassment and intimidation by the CEO. Because the BOG works closely with other bar staff, it also recognizes its own role in ensuring a work environment for all OSB staff that is free of harassment and intimidation.

The Board of Governors commits to taking immediate and proportionate corrective action when it determines, based on the policy outlined below, that harassment has occurred, and to respond appropriately to behavior which may not technically fall within the definition of harassment but which, if left unchecked, may lead to harassment.

Definition of Harassment:

Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual or an individual's relatives, friends, or associates because of their protected class status or protected activity, (i) that has the purpose or effect of creating an intimidating, threatening, hostile, or offensive environment, (ii) that has the purpose or effect of unreasonably interfering with an individual's attendance at or participation in an event or work, or (iii) that otherwise adversely affects an individual's employment or employment opportunities. Prohibited harassment may include, but is not limited to:

- Verbal conduct such as epithets, derogatory comments, negative stereotyping, jokes, or slurs;
- Visual conduct such as derogatory posters, photography, cartoons, drawings, social media postings, or gestures;
- Physical conduct such as assault, unwanted touching, blocking normal movement, or interfering with work or participation in an event, directed at an individual because of any protected basis; or

- Placement anywhere at event or work premises of written or graphic material that denigrates or shows hostility or aversion toward an individual or group.
- Retaliation for having reported or threatened to report harassment

Definition of Sexual Harassment:

Sexual harassment is defined as unwelcome verbal, physical, and visual conduct of a sexual nature, sexual advances, or requests for sexual favors that is directed toward an individual because of gender. It can also include conduct that is not sexual in nature but is gender related. Sexual harassment includes the harassment of the same or of the opposite sex.

Prohibited sexual harassment can take many forms including, but not limited to:

- Repeated sexual flirtations, advances, or propositions;
- Continued or repeated language of a sexual nature;
- Graphic or degrading comments about an individual or the individual's appearance;
- The display of sexually suggestive objects or pictures;
- Any unwelcome or abusive physical contact of a sexual nature;
- Situations in which submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or benefits;
- Situations in which submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or
- Unwelcome verbal or physical conduct that is sufficiently severe or pervasive to have the purpose or effect of unreasonably interfering with work performance or creating an intimidating, hostile, or offensive work environment.

Scope of Policy:

This BOG Anti-Harassment Policy applies to all members of the Board of Governors and provides a procedure for addressing complaints of harassment or intimidation involving BOG members or the Chief Executive Officer. For purposes of this policy, "workplace" includes state bar offices, state bar sponsored events, and other events which bar staff or BOG members are expected to attend as part of their responsibilities.

Reporting an Incident:

Any BOG member who is aware of workplace harassment or intimidation by a BOG member or the CEO should report the information immediately to the President, President-Elect, CEO, or General Counsel.

As provided in the Employee Handbook, any bar employee who is subject to or aware of workplace harassment or intimidation by a BOG member or the CEO should report the information immediately to the employee's manager or director, the Director of Human Resources, the Chief Executive Officer, or any other manager, director or BOG member with whom the employee feels comfortable communicating. There is no need to observe any particular chain of command.

Response:

“Subject of complaint” means the person against whom a complaint of harassment or intimidation has been made.

“Target of harassment” means the person against whom harassment or intimidation has been targeted.

If any BOG member other than the President is the subject of the complaint, the recipient shall notify the President, CEO, and General Counsel of the complaint. If the President is the subject of the complaint, the recipient shall notify the President-Elect, CEO and General Counsel.

If the CEO is the subject of the complaint, the recipient shall notify the President, General Counsel, and the Director of Human Resources. If the President is the target of the complaint, the recipient shall also notify the President-Elect.

If the complaining party is not the target of the harassment or intimidation, the target shall also be notified of the complaint.

All reports of harassment subject to this policy will be investigated by a third-party investigator, at the direction of General Counsel or outside counsel, and in consultation with the CEO, President or President-Elect, as appropriate. Those directly implicated in the complaint shall not take part in the selection of the third-party investigator.

During the course of the investigation, the BOG will rely on the advice of outside counsel regarding the complaint. General Counsel will confer with and provide information to outside counsel, as requested, and will be copied on any report and recommendations.

Outside counsel will provide regular and timely updates to the target and subject of the complaint regarding the expected timeline and status of the investigation. During the pendency of the investigation, the BOG will implement reasonable steps to prevent harm to the individuals implicated in the complaint. Upon the conclusion of the investigation, outside counsel will inform the target and subject of the complaint whether or not the investigator

concluded the complaint was founded. The outside counsel will also notify the target of the harassment or intimidation of any corrective action taken.

The Board of Governors may request to see a summary of the investigation or the full investigatory report, at its option. If the report is attorney-client privileged, any review will take place in executive session with the assistance of outside counsel. The target and subject of the complaint will be excluded from attorney-client privileged conversations regarding the report, unless a majority of the board votes to include the individuals involved, after consultation with outside counsel.

General Counsel will be included in executive sessions to assist outside counsel as necessary, but the board will rely on outside counsel's advice regarding handling of the complaint and the imposition of any corrective action.

If the board considers discipline of a public official or the CEO, the discussion of possible disciplinary action may take place in executive session under ORS 192.660(2)(b), unless the subject of the discussion requests the discussion take place in open session.

Corrective Action

If the CEO is found by the third-party investigator's report to have engaged in harassment or intimidation contrary to the OSB Employee Harassment and Intimidation policy, the Board shall take appropriate corrective or disciplinary action, up to and including termination as provided in the contract for employment.

If a BOG member is found by the third-party investigator's to have engaged in harassment or intimidation contrary to the BOG Anti-Harassment Policy, the Board shall take appropriate corrective or disciplinary action, up to and including loss of committee appointments, removal from officer positions, or suspension, as provided in the Bar Act and OSB Bylaws.

Corrective action may also include:

- Attendance at educational session or sessions
- Participation in individual coaching or counselling
- Limitations on direct communication with CEO or bar staff
- Prohibition on serving as official bar representative at bar and community events

Factors to consider in determining appropriate corrective or disciplinary action may include, without limitation: the nature of the conduct; whether the subject engaged in prior harassment or intimidation; timely, good faith, appropriate efforts to rectify the harm and

reform behavior; actual or potential harm to the target, and; protection of the target and other staff from future harm.

Restorative Action

In addition to corrective action, the BOG may take action to support the target in healing and the subject of the complaint in learning from the incident. Restorative action may include:

- Written or oral apology by the subject of the complaint (if agreed by both individuals)
- Facilitated conversation between the target and subject of the complaint (if agreed by both individuals)
- Payment to target for counselling or legal advice (either by the bar or the subject of the complaint)
- Board educational session or debrief

Confidentiality and Non-Retaliation

The BOG and bar staff will endeavor to preserve the confidentiality of participants in the investigation, but cannot guarantee that any individual's identity will be protected in the course of an investigation or appropriate corrective action. The bar may be required to disclose information regarding the complaint, investigation or corrective action under Oregon's Public Records Law.

The bar prohibits retaliation against the targets of harassment and intimidation, other individuals who come forward in good faith with complaints under this policy, and any individual who participates in the investigation, including bar staff. Complaints of retaliation will also be investigated as provided in this policy.