

6.4 Discrimination, Workplace Harassment, and Anti-Bullying

The Oregon State Bar (“OSB”) prohibits unlawful discrimination and harassment. This policy defines these terms, as well as other important terms, and provides a reporting procedure for employees who believe they have been subjected to conduct prohibited by this policy.

Workplace Harassment and Discrimination

The OSB is committed to providing a work environment that is free of harassment (including sexual harassment) and/or discrimination based on or because of an individual’s protected class status. For that reason, the OSB does not tolerate harassment or discrimination in any form on the basis of a person’s race; color; religion; creed; sex; gender (including gender expression or nonconformity, gender identity, and status as a transgender individual); sexual orientation; age; national or ethnic origin or ancestry; citizenship; marital or family status; expunged juvenile record; mental or physical disability; genetic information; past, current, or prospective service or performance of duty in a uniformed service; veteran status; victim of domestic violence, sexual assault, or stalking; pregnancy or lactation status; or any other classification protected by federal, state, or local law, ordinance, or regulation, whether or not the conduct rises to the level of unlawfulness.

It is the OSB’s policy that all OSB employees, visitors, elected officials, members, volunteers, interns, contractors, and vendors, as well as OSB grant, stipend, or scholarship applicants or recipients, are entitled to a respectful and productive work environment that is free from behaviors, actions, and/or language that constitute workplace harassment (including sexual harassment) or discrimination. For purposes of this policy, “work environment” includes OSB offices, OSB sponsored events, other events which OSB staff are expected to attend as part of their responsibilities, as well as travel on behalf of OSB, and/or otherwise conducting OSB business, regardless of location.

This policy prohibits conduct that a reasonable person in the individual’s circumstances would consider unwelcome, intimidating, hostile, threatening, violent, abusive, or offensive. It also prohibits employment actions (such as hiring, promotion, termination, and/or compensation decisions) to be taken based on a protected characteristic.

Workplace Harassment

Workplace harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual or an individual’s relatives, friends, or associates, that has the purpose or effect of creating an intimidating, threatening, hostile, or offensive working environment; has the purpose or effect of unreasonably interfering with an individual’s work performance; or otherwise adversely affects an individual’s employment opportunities with the OSB. It may also encompass other forms of unwelcome, hostile, intimidating, threatening, humiliating, or violent behavior that is not necessarily illegal, but is still prohibited by this policy.

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

- Verbal conduct such as epithets, derogatory comments, negative stereotyping, jokes, or slurs;
- Visual conduct such as derogatory posters, photography, cartoons, drawings, or gesture, or circulating derogatory content that reflects disparagingly upon a class of persons or a particular person, such as through texting, emailing, or any other form of electronic communication;
- Physical conduct such as assault, unwanted touching, blocking normal movement, or interfering with work, directed at an individual because of any protected basis; or
- Written or graphic material that denigrates or shows hostility or aversion toward an individual or group.

Sexual Harassment

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

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 individuals appearance;
- The display of sexually suggestive objects or pictures;
- Suggestive or insulting sounds, obscene gestures, leering or whistling;
- 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.

Sexual Assault

Sexual assault is defined as unwanted conduct of a sexual nature that is inflicted upon a person or compelled through the use of physical force, manipulation, threat, or intimidation.

Bullying

As covered above, discrimination and harassment are illegal and will not be tolerated. Other types of disruptive behavior, such as bullying, may not necessarily be illegal but are detrimental to a healthy and productive work environment and therefore, are also prohibited.

Bullying is defined as behavior or conduct in which one or more individuals use strength (including strength of personality), position, or status with the intent or effect of intimidating, offending, degrading, humiliating, undermining, belittling, sabotaging, injuring, or threatening another.

An isolated incident of offensive behavior may or may not constitute bullying. Also, providing instruction, conducting performance coaching, or documenting unsatisfactory performance do not constitute bullying absent other aggravating factors. Employees should confront issues of workplace bullying by reporting any incidents of bullying to Human Resources, their manager, or another OSB leader.

Retaliation Protections

The OSB prohibits retaliation against any employee for making a complaint regarding conduct in violation of this policy. OSB will not tolerate retaliation against any employee who raises good faith concerns; provides information related to a concern; or otherwise participates and/or cooperates in an investigation of a reported violation of this policy.

Reporting Procedure

Any employee who is subject to or is aware of workplace discrimination, harassment (including sexual harassment), sexual assault, or retaliation should report that information immediately to the employee's manager, director, chief officer, the Director of Human Resources, the Chief Executive Officer, or any other manager, director, or chief officer with whom the employee feels comfortable communicating. There is no need to observe any particular chain of command. Managers, directors, and chief officers who observe or receive information about suspected, actual, or observed harassment or intimidation are required to report the information to the Director of Human Resources, General Counsel, or the Chief Executive Officer.

All employees are encouraged to document any incidents involving discrimination, harassment (including sexual harassment), sexual assault, and/or retaliation as soon as possible.

Violations and Corrective and/or Disciplinary Action

All reports of harassment (including sexual harassment), discrimination, sexual assault, and/or retaliation will be documented and investigated. The OSB commits to taking immediate and proportionate corrective or disciplinary action when it determines that a violation of this policy has occurred, and to respond appropriately to behavior, which may not technically fall within the definition of harassment (including sexual harassment), sexual assault, discrimination,

and/or retaliation but which, if left unchecked, may lead to harassment (including sexual harassment), sexual assault, discrimination, and/or retaliation. Any employee found to have engaged in prohibited behavior toward any OSB employee, visitor, elected official, member, volunteer, intern, contractor, or vendor, or any OSB grant, stipend, or scholarship applicant or recipient, will be subject to immediate and proportionate corrective and disciplinary action, up to and including dismissal.

Factors to consider in determining appropriate corrective or disciplinary action may include, without limitation: the nature of the conduct; whether the subject of the complaint 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 employees from future harm. Corrective action may also include: attendance at an educational session or sessions; participation in individual coaching or counseling; and/or limitations on direct communication with the target or other OSB staff.

Restorative action may include a written or oral apology by the subject of the complaint (if voluntarily agreed to by both individuals); facilitated conversation between the target and subject of the complaint (if voluntarily agreed to by both individuals); offer of payment to target for counselling or legal advice (either by the OSB or the subject of the complaint); or OSB employee educational session or debrief.

In the event the harasser is an OSB visitor, elected official, member, volunteer, intern, contractor, or vendor, or an OSB grant, stipend, or scholarship applicant or recipient, the OSB will contact the harasser's employer or other appropriate individual. Any non-employee found to have engaged in discrimination, harassment (including sexual harassment), sexual assault, and/or retaliation will be subject to immediate and appropriate action, up to and including prohibition from entrance to the OSB Center.

Investigation Process

The OSB will keep the individual(s) who complained (the "complainant(s)"), the target of the conduct at issue, if different, as well as the individual(s) who are the subject of the complaint (the "respondent(s)") informed of the expected timeline and status of the investigation. During the pendency of the investigation, the OSB will implement reasonable steps to prevent harm to the individuals implicated in the complaint. Upon conclusion of the investigation, the OSB will inform the respondent(s), the target, and the complainant(s) whether or not, based on the investigation, the complaint could be substantiated.

The OSB will endeavor to preserve the confidentiality of employees voicing concerns, making complaints, or participating in the investigation, but cannot guarantee that any individual's identity will be protected in the course of an investigation.

Non-disclosure, Non-disparagement, and No-rehire Agreements

The OSB will not require an employee to enter into any agreement if the purpose or effect of the agreement prevents the employee from disclosing or discussing conduct constituting

discrimination, harassment (including sexual harassment), or sexual assault. An employee claiming to be aggrieved by discrimination, harassment (including sexual harassment), or sexual assault may, however, voluntarily request to enter into a settlement, separation, or severance agreement which contains a non-disclosure, non-disparagement, or no-rehire provision and will have at least seven days to revoke any such agreement. Under this policy, a non-disclosure agreement is any agreement by which one or more parties agree not to discuss or disclose information regarding any complaint of work-related discrimination, harassment (including sexual harassment), or sexual assault. A non-disparagement agreement is any agreement by which one or more parties agree not to discredit or make negative or disparaging written or

oral statements about any other party or the company. A no-rehire provision is an agreement that prohibits an employee from seeking reemployment with the company and allows a company to not rehire that individual in the future.

Additional Options and Time Limitations

Oregon state law requires that any legal action taken on alleged discriminatory conduct (specifically that prohibited by ORS 659A.030, 659A.082, and/or 659A.112) commence no later than five years after the occurrence of the violation. Other applicable laws may have shorter time limitations on filing.

Distribution of Policy

The OSB will make this policy available to current employees and will provide this policy to all new hires. Moreover, the OSB will provide a written copy of this policy to any employees who reports discrimination, harassment (including sexual harassment), or sexual assault.