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Sunset Empire Transportation District
Board Policy Committee
Regular Committee Meeting
September 15, 2026 | 10:00 A.M.

Meeting location: Astoria Transit Center, 900 Marine Drive, Astoria, OR 97103
Meeting link: https://teams.microsoft.com/meet/243759672003840?p=XqngcWUgDgSBwUfxTQ
Meeting ID: |243 759 672 003 840 **Passcode**: 9u95Sa9g

AGENDA

		Action	Responsible
Item 1 10:00 A.M.	**Call to Order**		Chair Montero
Item 2 10:02 A.M.	**Pledge of Allegiance**		Chair Montero
Item 3 10:05 A.M.	**Roll Call**		Chair Montero
Item 4 10:08 A.M.	**Changes to Agenda**	Review/Approval	Chair Montero
Item 5 10:10 A.M.	**Public Comment** (3-minute limit per person)		Public
Item 6 10:15 A.M.	**Approval of Minutes** a. Committee meeting on 8/12/26	Review/Approval	Chair Montero
Item 7 10:20 A.M.	**Continued Business** a. Review reorganized policy list.	Information/ Discussion	Chair Montero
Item 8 10:50 A.M.	**New Business** a. Whistleblower Policy b. Respectful/Safe Workplace Policy	Review/Approval	Chair Montero
Item 9 11:15 A.M.	**Committee Member Comments**		Committee Members
Item 10 12:30 A.M.	**Adjournment**		Chair Montero

Times are approximate guidelines and may change.
This meeting location is accessible to people with disabilities. Upon request, SETD will make reasonable accommodation, including assistive listening devices, sign language interpreters, large print materials, or other auxiliary aids. Please contact Erica Bruney at (503) 861-5370 or erica@ridethebus.org at least 48 hours before the meeting to request accommodation.

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Sunset Empire Transportation District
BOARD POLICY COMMITTEE

Item 6 Approval of Minutes

Date: September 15, 2026

Summary: Minutes from August 12, 2026, meeting of the Board Policy Committee are ready for review by the committee.

Attachments:

- Draft minutes from the August 12, 2026, policy committee meeting.

SUNSET EMPIRE TRANSPORTATION DISTRICT
Board Policy Committee
August 12, 2026 | 3:00 p.m.
Meeting Minutes
Approved

DRAFT

1. Call to Order
Commissioner Tita Montero, committee chair, called the meeting to order at 3:05 p.m.

2. Pledge of Allegiance

3. Roll Call
Commissioners present: Tita Montero, Penny York and Matthew Stolberg.
Staff/visitors present: Erica Bruney

4. Changes to Agenda
None

5. Public Comment
None

6. Approval of Minutes
Commissioner Stolberg moved to approve the July 17, 2026, committee meeting minutes.
Commissioner York seconded the motion.

	Montero	Stolberg	York
Aye	X	X	X
Nay			
Excused			

Motion passed unanimously.

7a. Review reorganized policy list
Commissioner Montero led the committee in reviewing existing policy documents, identifying redundancies, and discussing the consolidation of policies using AI-generated recommendations and an updated Excel spreadsheet.

- **Identification of Redundant Policies:** The committee identified overlapping or redundant policies, referencing specific policy numbers and discussing how some could be merged or eliminated to streamline governance documentation.
- **Use of AI for Policy Organization:** The committee utilized AI to categorize group policy subjects under relevant headings, with Commissioner Montero explaining how AI-generated lists and tables helped clarify which policies could be consolidated and which were unique.
- **Excel Spreadsheet for Policy Tracking:** Commissioner Montero proposed rebuilding the policy tracking spreadsheet according to AI recommendations, aiming to provide a clearer overview of current legacy, and recommended policies for the next meeting.
- **Assignment of Governance Policy Sections:** The committee discussed which sections of the policies should be classified under governance and suggested that certain rules and responsibilities be grouped together for clarity and efficiency.
- **Sample Convergence Exercise:** Commissioner Montero suggested preparing a sample where legacy policies are compared with AI recommendations to demonstrate how convergence would work, allowing the team to evaluate the effectiveness of the new approach.

8a. New Business – Whistleblower Policy

The committee clarified the content, structure, and categorization of the whistleblower policy. They addressed questions about policy intent, operational versus governance focus, and the inclusion of reference links.

- **Distinction Between Governance and Operations:** The team discussed which policies should be categorized as governance versus operations and emphasized the need for clear separation and appropriate assignment of policy sections.
- **Reference Links and Supporting Documents:** They debated the question of whether to include reference links for certain policy topics, and the team considered how best to incorporate supporting documentation for clarity and traceability.
- **Policy Purpose and Background:** The group reviewed the purpose and background sections of the policy, ensuring that these elements are clearly stated and easily accessible in the updated documentation.

8b. New Business – Respectful/Safe Workplace Policy

Addressing Policy Gaps and Process Improvements: The committee identified gaps in the current policy and discussed the need for process improvements, including ensuring policies are up-to-date, relevant, and aligned with operational needs.

- **Process for Policy Updates:** Commissioner Montero noted the importance of having a process in place for updating policies and

DRAFT

suggested changes to ensure the process is effective and responsive to organizational needs.
    - Commissioner Stolberg accepted the assignment to create a draft of the Respectful Workplace Policy for the next meeting.

9. Committee Member Comments

10. Adjournment

The meeting was adjourned at 4:30 p.m.

Minutes prepared by Erica Bruney, executive assistant

Minutes approved by:

_____
Tita Montero, committee chair

DRAFT

Action items from the meeting:

- Commissioner Stolberg to create a draft of the Respectful Workplace Policy
- Commissioner Montero to update the Excel spreadsheet to reflect the latest policy groupings and distribute to members before the next meeting.
- Next Board Policy Committee meeting is scheduled for September 10, 2026, @ 11 a.m.

Sunset Empire Transportation District
BOARD POLICY COMMITTEE

Item 7a Review of Combined Possible Policy List

Date: September 15, 2026

Summary: The Board Policy Committee on March 12, 2026, asked for a spreadsheet comparing the table of contents for the existing SETD board policy manual, the table of contents from SDAO's model policy manual, and the AI model table of contents created for the March 12 meeting.

Commissioner Montero reorganized the policy list per the committee recommendations in the June 19 committee meeting.

The Policy committee discussed multiple items for restructuring within the policy list.

Attachments:

- SETD BOC Policy Manual Table of Contents
- Comparison spreadsheet
- Combined possible policy list

SUNSET EMPIRE TRANSPORTATION DISTRICT
Board of Commissioners Policy Manual
Table of Contents

INTRODUCTION

B-100 Board Elections
- B-101 | Board Elections

B-200 Orientation and Training
- B-201 | Board Orientation

B-300 Duties and Responsibilities
- B-301 | Board Duties and Responsibilities
- B-302| Duties of Chair
- B-303 | Duties of the Vice Chair
- B-304 | Duties of the Secretary Treasurer
- B-305 | Duties of the Clerk of the Board
- B-306 | Board Governance
- B-307 | Failure to Attend Meetings and Perform Duties
- B-308 | Board Vacancy
- B-309 | Political Endorsement
- B-310 | Selection and Duties of Legal Counsel
- B-311 | Selection of an Auditor
- B-312 | Board Committees

B-400 Code of Ethics
- B-401 | Board Ethics
- B-402 | Definition of a Public Official
- B-403 | Guide for Public Officials

B-500 Regulations
- Appendix A

B-600 Meetings
- B-601 | Public Meetings

B-700 Executive Director
- B-701 | Executive Director Role
- B-702 | Executive Director Selection
- B-703 | Executive Director Requirements

- B-704 | Executive Director Evaluation
- B-705 | Executive Director Action Without Policy

B-800 Finance

- B-801 | Finance and Budget
- B-802 | Formulation of the SETD/NWRC Budget and Budget Committee
- B-803 | Administration of the Budget
- B-804 | Depositories and Disbursement of Funds
- B-805 | Purchase/Sale/Lease of Real Property
- B-806 | Loans
- B-807 | Sunset Empire Transportation District Assets
- B-809 | District Credit Cards
- B-810 | Public Records
- B-811 | Board Reimbursement
- B-812 | Investment Policy
- B-813 | Pre-Loss Legal Counsel Consultation
- B-814 | Legal Counsel Contract Review
- B-815 | Executive Director Signing Authority
- B-816 | Executive Director Vacancy Interim Plan
- B-817 | Timber Revenue
- B-820 | Board Notification of Delinquent Funding

B-900 Operations

- B-901 | Equipment Use Policy
- B-901 A | Equipment Use Policy Definitions Attachment A

POLICIES	SETD Legacy	SDAO Model	AI Model
SETD Legacy Policies			
B-101 Board Elections	Yes	No	Yes
B-201 Board Orientation	Yes	Partial	Yes
B-301 Board Duties and Responsibilities	Yes	Partial	Yes
B-302 Duties of Chair	Yes	Partial	Yes
B-303 Duties of the Vice Chair	Yes	Partial	Partial
B-304 Duties of the Secretary Treasurer	Yes	Partial	Partial
B-305 Duties of the Clerk of the Board	Yes	Partial	Partial
B-306 Board Governance	Yes	Partial	Yes
B-307 Failure to Attend Meetings and Perform Duties	Yes	Partial	Partial
B-308 Board Vacancy	Yes	Yes	No
B-309 Political Endorsement	Yes	No	No
B-310 Selection and Duties of Legal Counsel	Yes	No	No
B-311 Selection of an Auditor	Yes	No	No
B-312 Board Committees	Yes	Yes	Yes
B-401 Board Ethics	Yes	Yes	Yes
B-402 Definition of a Public Official	Yes	No	Partial
B-403 Guide for Public Officials	Yes	No	No
B-601 Public Meetings	Yes	Partial	Yes
B-701 Executive Director Role	Yes	Partial	Yes
B-702 Executive Director Selection	Yes	No	Yes
B-703 Executive Director Requirements	Yes	No	Yes
B-704 Executive Director Evaluation	Yes	No	Yes
B-705 Executive Director Action Without Policy	Yes	No	No
B-801 Finance and Budget	Yes	Yes	Yes
B-802 Formulation of the SETD/NWRC Budget and Budget Comm	Yes	Partial	No
B-803 Administration of the Budget	Yes	Yes	Partial
B-804 Depositories and Disbursement of Funds	Yes	No	Partial
B-805 Purchase/Sale/Lease of Real Property	Yes	No	No
B-806 Loans	Yes	No	Partial
B-807 Sunset Empire Transportation District Assets	Yes	No	Yes
B-809 District Credit Cards	Yes	No	No
B-810 Public Records	Yes	Partial	Yes
B-811 Board Reimbursement	Yes	No	No
B-812 Investment Policy	Yes	No	Partial
B-813 Pre-Loss Legal Counsel Consultation	Yes	No	No
B-814 Legal Counsel Contract Review	Yes	No	Partial
B-815 Executive Director Signing Authority	Yes	No	No
B-816 Executive Director Vacancy Interim Plan	Yes	No	No
B-817 Timber Revenue	Yes	No	No
B-820 Board Notification of Delinquent Funding	Yes	No	No
B-901 Equipment Use Policy	Yes	No	No
B-901 A Equipment Use Policy Definitions Attachment A	Yes	No	No

SDAO Model Policies			
Board Members	Yes	Yes	Yes
Oath of Office	No	Yes	No
Board Officers	Yes	Yes	Yes
Vacancies	Yes	Yes	No
Board Member Conduct	Yes	Yes	Yes
Training Requirements	Yes	Yes	Partial
Required Meetings	Partial	Yes	Partial
Notice	Yes	Yes	Yes
Agenda	Yes	Yes	Yes
Executive Sessions	Yes	Yes	Yes
Special and Emergency Meetings	Yes	Yes	Yes
Minutes	Yes	Yes	Yes
Procedural Rules	Yes	Yes	Yes
Order and Decorum	Yes	Yes	Yes
Public Participation/Comment	Yes	Yes	Yes
Virtual Attendance	No	Yes	No
Committees - General	Yes	Yes	Yes
Standing Advisory Committees	Yes	Yes	Yes
Ad Hoc Advisory Committees	Yes	Yes	Yes
Delegation	No	Yes	No
Management	Partial	Yes	Partial
Board Member Expenses and Compensation	Yes	Yes	No
Governing Statutes (Ethics)	Yes	Yes	Yes
Conflicts of Interest	Yes	Yes	Yes
Prohibited Actions	Yes	Yes	No
Communications with the Media	No	Yes	Yes
Communications with District Staff	No	Yes	No
Confidentiality	No	Yes	No
Governing Statutes and the Budget Process	Yes	Yes	Yes
Board Member Development - General	Yes	Yes	Partial
Board Member Development - Minimum Requirements	Partial	Yes	Partial
Acknowledgment of Receipt and Compliance	No	Yes	Yes

AI Model Policies			
Purpose of the Policy Manual	No	No	Yes
Mission, Vision, and Core Values	No	No	Yes
Authority of the District	No	No	Yes
Role of the Board of Commissioners	Yes	Yes	Yes
Role of the Executive Director	Yes	No	Yes
Organizational Structure Overview	Partial	No	Yes
Definitions and Key Terms	No	No	Yes
Board Composition, Qualifications, and Terms	Partial	Yes	Yes
Board Member Roles and Responsibilities	Yes	No	Yes
Board Code of Conduct and Ethics	Yes	Yes	Yes
Conflicts of Interest, Disclosure, and ORS 244 Compliance	Partial	No	Yes
Board Chair and Officer Responsibilities	Yes	Yes	Yes
Board Committees	Yes	Yes	Yes
Board Meetings	Yes	Yes	Yes
Meeting Procedures and Parliamentary Rules	Yes	No	Yes
Executive Sessions	Yes	Yes	Yes
Public Participation in Meetings	Yes	Yes	Yes
Board Communications and Records	Yes	No	Yes
Policy Adoption and Revision Procedures	No	No	Yes
Long-Range Transportation Planning	No	No	Yes
Annual Strategic Goals	No	No	Yes
District Performance Measures	No	No	Yes
Monitoring of Executive Director Performance	Yes	No	Yes
Annual Report and Transparency Standards	No	No	Yes
Budget Development and Adoption	Yes	Yes	Yes
Financial Reporting Requirements	Partial	Partial	Yes
Capital Improvement Planning	No	No	Yes
Reserve and Contingency Policies	No	No	Yes
Procurement and Contracting Standards	Partial	No	Yes
Grants Management	No	No	Yes
Asset Management and Depreciation	Yes	No	Yes
Debt Management	Partial	No	Yes
Fare Policy and Revenue Collection Oversight	No	No	Yes
Fraud Prevention and Internal Controls	Partial	No	Yes
Board–Executive Director Relationship	Partial	No	Yes
Executive Director Hiring, Evaluation, and Termination	Yes	No	Yes
Compensation and Benefits Oversight	No	Yes	Yes
Workplace Safety Oversight	No	No	Yes
Nondiscrimination, DEI, and Title VI Responsibilities	No	No	Yes
Labor Relations and Collective Bargaining Oversight	No	No	Yes
Whistleblower Protections and Reporting Procedures	No	No	Yes
Service Standards and Performance Expectations	No	No	Yes
Service Planning and Changes	No	No	Yes

AI Model Policies			
Safety and Security	No	No	Yes
ADA Paratransit Service Policies	No	No	Yes
Vehicle and Fleet Management Standards	No	No	Yes
Customer Service Expectations	No	No	Yes
Emergency and Disaster Response Roles	No	No	Yes
Lost and Found Procedures	No	No	Yes
Public Records	No	No	Yes
Records Retention	No	No	Yes
Transparency and Open Meetings Compliance	Yes	Partial	Yes
Ethics and Anti-Corruption Requirements	Yes	Yes	Yes
Title VI Civil Rights Program	No	No	Yes
ADA and Accessibility Oversight	No	No	Yes
Environmental Compliance and Sustainability Policy	No	No	Yes
Risk Management and Insurance Requirements	No	No	Yes
Complaint and Appeal Processes	No	No	Yes
Public Engagement Policy	No	No	Yes
Media and Public Communications	No	Yes	Yes
Partnerships with Local Governments and Tribes	No	No	Yes
Coordination with ODOT and Statewide Transit Programs	No	No	Yes
Intergovernmental Agreements	No	No	Yes
Board Training and Orientation	Yes	Yes	Yes
Continuing Education and Conferences	No	No	Yes
Board Self-Evaluation Procedures	No	No	Yes
Board Succession Planning	No	No	Yes
Relevant Oregon Revised Statutes excerpts	Yes	No	Yes
Board bylaws	No	No	Yes
District organizational chart	No	No	Yes
Key forms and templates	No	No	Yes
Resolutions archive list	No	No	Yes
Code of Conduct acknowledgement form	No	Yes	Yes

	POLICIES	Governance	Contracting Coordination	Customer Service	Exec Director	Finance	HR	Operations	Appendices	Regulations
1	Acknowledgment of Receipt and Compliance	AI								
2	Purpose of the Policy Manual	AI								
3	Mission, Vision, and Core Values	AI								
4	Authority of the District	AI								
5	Role of the Board of Commissioners	AI								
6	Organizational Structure Overview	AI								
7	Board Composition, Qualifications, and Terms	AI								
8	Board Member Roles and Responsibilities	AI								
9	Board Code of Conduct and Ethics	AI								
10	Conflicts of Interest, Disclosure, and ORS 244 Compliance	AI								
11	Board Chair and Officer Responsibilities	AI								
12	Board Committees	AI								
13	Board Meetings	AI								
14	Meeting Procedures and Parliamentary Rules	AI								
15	Executive Sessions	AI								
16	Public Participation in Meetings	AI								
17	Board Communications and Records	AI								
18	Policy Adoption and Revision Procedures	AI								
19	Long-Range Transportation Planning	AI								
20	Annual Strategic Goals	AI								
21	District Performance Measures	AI								
22	Monitoring of Executive Director Performance	AI								
23	Annual Report and Transparency Standards	AI								
24	Board–Executive Director Relationship	AI								
25	Executive Director Hiring, Evaluation, and Termination	AI								
26	Board Training and Orientation	AI								
27	Continuing Education and Conferences	AI								
28	Board Self-Evaluation Procedures	AI								
29	Board Succession Planning	AI								
30	Board bylaws	AI								
31	B-311 Selection of an Auditor	LEGACY						LEGACY		
32	B-101 Board Elections	LEGACY								
33	B-201 Board Orientation	LEGACY								
34	B-301 Board Duties and Responsibilities	LEGACY								
35	B-302 Duties of Chair	LEGACY								

	POLICIES	Governance	Contracting Coordination	Customer Service	Exec Director	Finance	HR	Operations	Appendices	Regulations
36	B-303 Duties of the Vice Chair	LEGACY								
37	B-304 Duties of the Secretary Treasurer	LEGACY								
38	B-305 Duties of the Clerk of the Board	LEGACY								
39	B-306 Board Governance	LEGACY								
40	B-307 Failure to Attend Meetings and Perform Duties	LEGACY								
41	B-308 Board Vacancy	LEGACY								
42	B-309 Political Endorsement	LEGACY								
43	B-310 Selection and Duties of Legal Counsel	LEGACY								
44	B-312 Board Committees	LEGACY								
45	B-401 Board Ethics	LEGACY								
46	Board Members	SDAO								
47	Oath of Office	SDAO								
48	Board Officers	SDAO								
49	Vacancies	SDAO								
50	Board Member Conduct	SDAO								
51	Training Requirements	SDAO								
52	Required Meetings	SDAO								
53	Notice	SDAO								
54	Agenda	SDAO								
55	Executive Sessions	SDAO								
56	Special and Emergency Meetings	SDAO								
57	Minutes	SDAO								
58	Procedural Rules	SDAO								
59	Order and Decorum	SDAO								
60	Public Participation/Comment	SDAO								
61	Virtual Attendance	SDAO								
62	Committees - General	SDAO								
63	Standing Advisory Committees	SDAO								
64	Ad Hoc Advisory Committees	SDAO								
65	Delegation	SDAO								

	POLICIES	Governance	Contracting Coordination	Customer Service	Exec Director	Finance	HR	Operations	Appendices	Regulations
66	Governing Statutes (Ethics)	SDAO								
67	Conflicts of Interest	SDAO								
68	Prohibited Actions	SDAO								
69	Communications with the Media	SDAO								
70	Communications with District Staff	SDAO								
71	Confidentiality	SDAO								
72	Board Member Development - General	SDAO								
73	Board Member Development - Minimum Requirements	SDAO								
74	Partnerships with Local Governments and Tribes		AI							
75	Coordination with ODOT and Statewide Transit Programs		AI							
76	Intergovernmental Agreements		AI							
77	Role of the Executive Director				AI					
78	B-701 Executive Director Role				LEGACY					
79	B-702 Executive Director Selection				LEGACY					
80	B-703 Executive Director Requirements				LEGACY					
81	B-704 Executive Director Evaluation				LEGACY					
82	B-705 Executive Director Action Without Policy				LEGACY					
83	B-815 Executive Director Signing Authority				LEGACY					
84	B-816 Executive Director Vacancy Interim Plan				LEGACY					
85	Management				SDAO					
86	Budget Development and Adoption					AI				
87	Financial Reporting Requirements					AI				
88	Capital Improvement Planning					AI				
89	Reserve and Contingency Policies					AI				
90	Procurement and Contracting Standards					AI				
91	Grants Management					AI				
92	Asset Management and Depreciation					AI				
93	Debt Management					AI				
94	Fare Policy and Revenue Collection Oversight					AI				
95	Fraud Prevention and Internal Controls					AI				

	POLICIES	Governance	Contracting Coordination	Customer Service	Exec Director	Finance	HR	Operations	Appendices	Regulations
96	Compensation and Benefits Oversight					AI				
97	Risk Management and Insurance Requirements					AI				
98	B-801 Finance and Budget					LEGACY				
99	B-802 Formulation of the SETD/NWRC Budget and Budget Committee					LEGACY				
100	B-803 Administration of the Budget					LEGACY				
101	B-804 Depositories and Disbursement of Funds					LEGACY				
102	B-805 Purchase/Sale/Lease of Real Property					LEGACY				
103	B-806 Loans					LEGACY				
104	B-807 Sunset Empire Transportation District Assets					LEGACY				
105	B-809 District Credit Cards					LEGACY				
106	B-811 Board Reimbursement					LEGACY				
107	B-812 Investment Policy					LEGACY				
108	B-817 Timber Revenue					LEGACY				
109	B-820 Board Notification of Delinquent Funding					LEGACY				
110	Board Member Expenses and Compensation					SDAO				
111	Governing Statutes and the Budget Process					SDAO				
112	Workplace Safety Oversight						AI			
113	Nondiscrimination, DEI, and Title VI Responsibilities						AI			
114	Labor Relations and Collective Bargaining Oversight						AI			
115	Whistleblower Protections and Reporting Procedures						AI			
116	Service Standards and Performance Expectations						AI			
117	Service Planning and Changes						AI			
118	Safety and Security						AI			
119	District organizational chart						AI			
120	B-813 Pre-Loss Legal Counsel Consultation						LEGACY			
121	B-814 Legal Counsel Contract Review						LEGACY			
122	ADA Paratransit Service Policies							AI		
123	Vehicle and Fleet Management Standards							AI		
124	Customer Service Expectations							AI		
125	Emergency and Disaster Response Roles							AI		

	POLICIES	Governance	Contracting Coordination	Customer Service	Exec Director	Finance	HR	Operations	Appendices	Regulations
126	Lost and Found Procedures							AI		
127	Complaint and Appeal Processes							AI		
128	Public Engagement Policy							AI		
129	Media and Public Communications							AI		
130	B-901 Equipment Use Policy							LEGACY		
131	B-901 A Equipment Use Policy Definitions Attachment A							LEGACY		
132	Definitions and Key Terms								AI	
133	Key forms and templates								AI	
134	Resolutions archive list								AI	
135	Code of Conduct acknowledgement form								AI	
136	Public Records									AI
137	Records Retention									AI
138	Transparency and Open Meetings Compliance									AI
139	Ethics and Anti-Corruption Requirements									AI
140	Title VI Civil Rights Program									AI
141	ADA and Accessibility Oversight									AI
142	Environmental Compliance and Sustainability Policy									AI
143	Relevant Oregon Revised Statutes excerpts									AI
144	B-402 Definition of a Public Official									LEGACY
145	B-403 Guide for Public Officials									LEGACY
146	B-601 Public Meetings									LEGACY
147	B-810 Public Records									LEGACY

Sunset Empire Transportation District
BOARD OF COMMISSIONERS

Item #8a New Business – Whistleblower Policy

Date: September 15, 2026

Presenter:
Commissioner Tita Montero

Board History:
None

Purpose:
To ensure Operations Whistleblower Policy is compliant with current laws and regulations.

Recommended Action:
Review and revise policy as needed.

Attachments:

- Policy 15 A – Employee Whiteblower Policy
- State of Oregon Whistleblower Protections – Uniform Standards and Procedures Manual

SUNSET EMPIRE TRANSPORTATION DISTRICT EMPLOYEE WHISTLEBLOWER POLICY	Policy # 15.A	Date Approved 11-30-2023
	Executive Director Signature	

Reviewed	Date	Reviewed	Date
Reviewed	Date	Reviewed	Date

PURPOSE

The purpose of the policy is to provide reporting procedures should a Sunset Empire Transportation District (District) employee become aware of improper government action, and for whistleblowers protection under Oregon Revised Statute 659A.200 to 659A.224.

POLICY

Sunset Empire Transportation District encourages any employee with knowledge of or concern of an illegal or dishonest fraudulent District activity to report it to the Human Resources Officer and the Board Chairperson. The employee may also provide the information to a state or federal regulatory agency, a law enforcement agency or an attorney licensed to practice law in Oregon if a confidential communication is made in connection with the alleged violation. Attorneys employed by the District may report violations of law to the Attorney General, subject to rules of professional conduct. All such issues will be investigated in a timely manner to determine fault and institute any appropriate corrective measures.

Examples of illegal or dishonest activities are violations of federal, state, or local laws; billing for services not performed or for goods not delivered; and other fraudulent financial reporting. For any employee wishing more information, further details can be obtained from the Human Resources Officer.

The employee must exercise sound judgment to avoid baseless allegations. An employee who intentionally files a false report of wrongdoing may be subject to corrective action up to and including termination.

Whistleblower protections are provided to maintain confidentiality and to prevent retaliation. While identity may have to be disclosed to conduct a thorough investigation, to comply with the law, and to provide accused individuals their due course, the privacy of the individual making the report will be protected as much as possible.

The District will not retaliate against a whistleblower. This includes, but is not limited to, protection from retaliation in the form of an adverse employment action such as termination, compensation decreases, or poor work assignments and threats of physical harm. Any whistleblower who believes he/she is being retaliated against must contact the Human Resources Officer and Board Chairperson immediately. The right of a whistleblower for protection against retaliation does not include immunity for any personal wrongdoing that is alleged and investigated.

All reports of illegal and dishonest activities will be promptly submitted to the Human Resources Officer and Board Chairperson who are responsible for investigating and coordinating corrective action. Claims of improper government actions will be reported to ODOT while SETD is classified as a high-risk subrecipient.

The Human Resources Officer will keep a record of all whistleblower claims, enabling the identification of repeated claims.

WHISTLEBLOWER PROTECTIONS

Uniform Standards and Procedures Manual

2022 Edition
January 2022
Oregon Bureau of Labor and Industries

WHISTLEBLOWER PROTECTIONS

TOP 10 THINGS TO KNOW

1) Public and certain non-profit employees in Oregon have the **right to report waste, fraud and abuse or other workplace violations** without fear of retaliation.

2) Retaliation can take many forms. Any **adverse employment action** – such as termination, demotion, reduction of hours – **can represent unlawful retaliation** when taken in response to a good faith report of a potential violation of state or federal law.

3) **Private sector employees have similar protections** for disclosures of violations of federal or state law.

4) A report **does not have to be substantiated for the whistleblower to be protected** from retaliation. The employee must simply have a good faith belief when reporting a violation of law or unsafe working conditions.

5) Employees have **civil rights protections** if they experience retaliation due to protected whistleblowing activity, including **filing a complaint with BOLI or suing in circuit court**. Judgments may include job reinstatement, back pay or monetary damages.

6) Public and non-profit employers are **not allowed to disclose the whistleblower's identity** during an investigation without their consent.

7) All public and non-profit **employers must have a written policy** that describes how employees can make protected whistleblowing disclosures.

8) **Effective reporting channels** and protections for whistleblowers not only protect agencies from liability, but can also **lead to better government performance**.

9) Management must protect whistleblowers from retaliation **not just by supervisors, but by co-workers** as well. Employers must **take corrective action** when they determine that co-workers are retaliating against a peer for whistleblowing activity.

10) Agencies should promptly investigate reports of retaliation and work proactively to prevent such violations in the first place. The **best practice** response is to have an **independent, third party investigate** whistleblower reports.

OREGON'S WHISTEBLOWER LAW: SENATE BILL 1559 AT-A-GLANCE

In 2018, Oregon expanded its whistleblowing protection efforts for public employees by establishing a pilot program for anonymous reporting, requiring the creation of uniform standards and procedures for employees, and requiring biennial reports to the state legislature.

Sponsored by Senator Jackie Winters, SB 1559 earned broad, bipartisan support when signed into law by Governor Kate Brown after the 2018 regular session of the state legislature.

The bill strengthens several existing whistleblower protections for public and non-profit employees by requiring the following:

- The **Oregon Health Authority**, the **Oregon Departments of Transportation**, the **Oregon Department of Human Services**, and the **Oregon Department of Environmental Quality** must create procedures for anonymous disclosures pertaining to **ORS 659A.203**, i.e., protected whistleblowing activity. The reporting provision will serve as a pilot program until its sunset on January 2, 2021.

- BOLI shall create and make publicly available a **uniform standards and procedures manual** to serve as a resource for public and non-profit employers and employees alike.

- BOLI must **report to the governor and legislative assembly,** in odd-numbered years the number of whistleblowing disclosures as well as the number of retaliation reports made to the four above-mentioned agencies.

DEFINITIONS

What is Whistleblowing?

Over the years, the Oregon Legislature has expanded protections for "whistleblowers" – employees who report illegal activity by their employers. Oregon public employee whistleblower statutes prohibit public employers from taking action against or prohibiting employees from responding to legislative requests, disclosing information that the employee believes is evidence of a violation of law, reporting public endangerment resulting from an action by a public employer, or disclosing evidence of waste, fraud or

Importance of Whistleblowing

Whistleblowing plays an important role in the health of organizations.

The ability to report mismanagement and abuse is not only protected by law, but can also help improve the efficiency of public agencies and non-profit organizations. Think of whistleblowing as an early warning system for outdated, ineffective or inefficient systems that need attention.

Fostering a culture of improvement can help identify and control risks and threats to your organization. For instance, in 2013, whistleblowers revealed a widespread abuse of overtime rules at the U. S. Department of Homeland Security that was costing taxpayers $37 million annually. In response, Congress set up a new system for determining overtime eligibility for border patrol agents. Recent years have also seen whistleblowers revealing a pattern of negligence at Veterans Affairs hospitals, leading to congressional reforms and increased funding for the Veterans Health Administration.

Private sector whistleblowing can help identify financial malfeasance and corporate fraud. For instance, the Commodity Futures Trading Commission encourages whistleblowing to help protect against manipulation of derivatives and similar financial products. In fact, whistleblowers are often the main line of defense in private financial institutions, which is why the U.S. Securities and Exchange Commission operates a whistleblower program that can award between 10 percent and 30 percent of the money recovered from fraudulent activity at publicly traded companies. In fiscal year 2017, the Commission awarded $45 million to whistleblowers for reporting fraud and enabling the collecting sanctions.

Failure to protect whistleblowers comes at a cost. In the last decade, public entities in Oregon have spent millions of dollars on settling lawsuits that alleged whistleblower retaliation. Although each case is different — and settlement does not represent an admission of an unlawful practice — civil rights claims involving retaliation and whistleblowing have cost the state more than $4.7 million since January 2013.

Similarly, many private companies have seen significant monetary judgments for unlawfully discharging employees that had reported wrongdoing. Each dollar spent resolving these allegations could have been better spent on organizational improvement and innovation.

Setting the right tone – with clear policies and protections for employees stepping forward – can help prevent whistleblower retaliation while fostering a "speak-up" culture of accountability.

Some Notable Retaliation and Whistleblowing Enforcement Actions

In 2016, a complainant sued the Oregon Department of Transportation after he had been discharged following his internal disclosures relating to unsafe working conditions and other violations of law. The State of Oregon settled the lawsuit for $95,000.

In 2015, BOLI awarded a complainant $1,620 in back pay and $20,000 for emotional and mental suffering. The complainant was discharged because he had reported that Blue Gryphon, the adult foster care home that employed him, had an inadequate food supply for its residents. **34 BOLI 216**.

In 2016, a federal court awarded a former University of Oregon public safety officer $755,000 in damages and legal fees after finding that the university's police department retaliated against the officer for reporting department wrongdoing. *Cleavenger v. University of Oregon.*

In 2014, the head of Oregon Correction Enterprises sued the Department of Corrections for unlawful termination due to whistleblowing activity. The state settled the lawsuit for $450,000. In the same year, the state settled with the former chief administrative officer of the Employment Department, who claimed to have been terminated and retaliated against for raising concerns about abuse of authority and violations of state law.

In 2014, BOLI awarded two complainants $100,000 in damages for physical, emotional and mental suffering after they were terminated by a private company, Maltby Biocontrol, Inc., after cooperating with law enforcement, a protected activity under ORS 659A.230. **33 BOLI 121**.

In 2006, a professor brought a lawsuit against the University of Oregon, claiming retaliation for reporting financial irregularities in a university department. As part of a settlement, the University paid the complainant $500,000.

In 2005, BOLI awarded $2,400 in lost wages and $25,000 for emotional distress to a complainant who had been discharged by Cleopatra, Inc. for reporting criminal activity. **26 BOLI 125.**

In 2002, BOLI awarded $2,414 and $30,763 in back pay to complainants, and $5,000 and $10,000 in damages for emotional distress. Complainants had reported perceived criminal activity by their employer, Hermiston Assisted Living, Inc. **23 BOLI 96.**

In 1997, a complainant employed as a kitchen manager, reported health code violations to the county health department and was subsequently discharged. The commissioner awarded $1,917 in back pay and $20,000 in damages for mental suffering for the violations of whistleblower protections. **16 BOLI 21**.

In 1995, a complainant reported unlawful activity by Earth Science Technology Inc., to the Department of Environmental Quality and was discharged. BOLI awarded $20,700 and $30,000 for mental suffering to the complainant. **15 BOLI 115**

In 1993, an Oregon court awarded $90,000 in damages to a correctional officer employed at the Oregon State Correctional Institution, because the officer was demoted after complaining about overcrowding in the prison.

What is Retaliation?

Retaliation occurs when an employer takes **any adverse employment action** against an employee for making a good faith report of a violation of state or federal law, rule or regulation. Adverse employment actions can include discharge, demotion, suspension or discrimination or retaliation in any manner against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment.

Employers must work to ensure that whistleblowers are kept free from retaliation from not only management, but co-workers as well. Employers should set clear expectations

Oregon law protects public and non-profit employees from retaliation for whistleblowing activity. Under state civil rights law**,** public employers may not lawfully retaliate against an employee who has disclosed information that the employee reasonably believes is evidence of a violation of any federal or state law, rule or regulation by the agency. **ORS 659A.199.**

Anti-retaliation measures protect employees for reporting violations of state or federal law if made in good faith (regardless of whether a subsequent investigation substantiates any actual violation). **ORS 659A.199**. Since 2009, the law has provided whistleblowers — including both public and private sector employees — protection when stepping forward to report potential violations of state or federal law, health or safety concerns.

Employers may not discriminate or retaliate against an employee who in good faith reports criminal activity, has caused a complaint to be filed, has cooperated with law enforcement, has brought a civil action against an employer, or has testified at a civil proceeding or criminal trial. **ORS 659A.230.**

Effective January 2017, Oregon law provides an affirmative defense for public and non-profit employees facing civil or criminal charges related to the disclosure of lawfully accessed confidential information. **ORS 659A.230.**

In addition, Oregon law makes it an unlawful employment practice for a covered employer to discharge or otherwise discipline an employee for making such a disclosure of information. **ORS 659A.203**. The law also requires public and non-profit employers to develop a policy that describes an employee's rights and remedies under the law and to distribute the policy in either written or electronic form to each employee. **ORS 659A.210 (6).**

The 2020 Oregon Legislature amended Oregon's whistleblower statute, **ORS 659A.203**, to prohibit school service employers from retaliating against school service employees for reporting any potential violations of any COVID-19 executive orders, laws or safety requirements. The law covers both public employers, but also private contractors performing food service, janitorial, transportation or other educational services.

NOTE: Employees in the health care or residential care sectors may also bring good faith reports of potential violations. **ORS 659A.233.** Employers may not discriminate or retaliate against an employee who has, in good faith, reported a possible violation of health care facility or residential care facility standards contained in **ORS Chapter 441** and **ORS Chapter 442**. According to **ORS 441.057**, employees reporting inappropriate care or any other violation of law or rules shall utilize established reporting procedures within the health care facility first, except if they believe patient safety to be in immediate jeopardy. Similarly, the law protects nursing staff against retaliatory action by hospitals if the employees disclose unsafe, dangerous, or potentially dangerous care practices to a manager in written form first. **ORS 441.181.** If nursing staff is reasonably certain that a practice represents a crime or already known to management, they may report to a private accreditation organization or a public body. Employees of home health or in-home care agencies must also follow the procedures established by their employer when reporting violations of law or rules, except if they believe a client's safety to be in immediate jeopardy. **ORS 443.355.** Despite those specific procedures for certain employees in the health care and residential care sector, they may also be able to rely on the general protection of the whistleblower law in **ORS 659A.199** and **ORS 659A.203**.

Frequently Asked Questions

Q: I know that Oregon law prohibits employers from retaliating against employees who are whistleblowers, but would it be legal for my agency to terminate or take disciplinary action against an employee who reports criminal activity if the reporting employee was also involved in the criminal activity? Here is my situation: Two of my employees are involved in criminal activity in violation of our agency's policy. After a period of time, one employee became uncomfortable with the activities and chose to report them. If, after investigating the allegations, the agency finds that the reporting

employee was also originally involved in the same behavior as the other, may we terminate the reporting employee for violating policy too?

A: It's always legal for you to follow your legitimate, non-discriminatory company policies and discipline employees for violations. If your agency has conducted a thorough investigation and concluded sufficient evidence of criminal activity exists, you may discipline that person as you would any other employee who violated the same policies the same number of times. If your normal policy would be to terminate a similarly situated employee, then yes, you could discharge the reporting employee. Make sure the employee knows that the discipline was for the involvement in criminal activity, not reporting the activity. However, you should discuss the risk of a claim of retaliation with an attorney .

As noted, Oregon law protects employees who report criminal activity, file lawsuits, cooperate with police investigations or testify in court proceedings. **ORS 659A.230.** Do you have sufficient documentation to show that you are basing the discharge on the employee's behavior and alleged criminal activity and not on the actual reporting of the other employee's alleged misconduct? It's always risky to terminate an employee so soon after the employee engages in some legally protected activity – in this case, whistleblowing – because the timing risks making your action appear potentially retaliatory. The closer an adverse employment action is in time to a protected event (reporting waste, testifying at the legislature, etc.) – known as "temporal proximity" – the more likely it is that the action will invite scrutiny and allegations of retaliation.

If you had to defend against a whistleblower retaliation claim, having what's called "comparator" evidence that supports a legitimate non-discriminatory reason for your actions is helpful. For example, are you able to show that other whistleblowers remain at the agency, dispelling the narrative that a pattern of discharging or otherwise taking adverse action against whistleblowers exists? Are you able to show that you have also terminated other employees engaged in the same violations of policy? If not, you should proceed cautiously and think twice before discharging the employee.

Q: I report to the chief financial officer and have discovered what I believe are fraudulent activities in my organization's accounting. I am thinking of going over my supervisor's head to management, but I am worried about losing my job. Would I have legal protection?

A: Yes. There are both state and federal laws that provide protection to employees who report illegal activities. Based on the information you've provided, you likely have protection under the Oregon whistleblower statutes, and federal law could also potentially protect you against retaliation if you report financial fraud within your organization.

Let's start with the Oregon civil rights statutes, which include a general

whistleblower law and one that applies to employees of public agencies.

Oregon's general whistleblower statute protects employees from discrimination or retaliation when they in good faith report criminal activity to any person, cooperate with a criminal investigation, bring a civil proceeding against an employer or testify at a civil proceeding or criminal trial. **ORS 659A.230.**

Some courts have also granted this protection when employees report internally what they in good faith reasonably believe to be a criminal violation. So, you may have protection under this law if you make a report to management, but it would depend in part on your ability to explain your reason for believing that the activity represented a violation of law.

The federal law that could give you protection as a whistleblower is the Sarbanes-Oxley Act, enacted in the wake of corporate scandals at companies like Enron and WorldCom. The Sarbanes-Oxley Act makes it unlawful for an employer to take adverse action against an employee who provides information or cooperates in an investigation related to financial fraud. The act also includes a provision for criminal penalties for persons who interfere with an individual's employment because of protected activity.

Under the law, publicly traded companies must establish complaint procedures regarding financial matters and internal accounting. Companies must allow employees to make confidential, anonymous reports regarding questionable accounting or auditing matters. An employee who reports what they reasonably believe to be a securities law violation is protected from discharge, demotion, harassment or discrimination. The protection applies not only when the employee reports a violation to Congress or a federal agency, but also when the employee reports internally to those with "authority to investigate, discover, or terminate for misconduct."

An employee who wishes to file a complaint under the Sarbanes-Oxley Act must do so within 180 days of the date of the alleged discrimination. To file, contact the Occupational Safety and Health Administration (OSHA), the division at the U.S. Department of Labor that will conduct the investigation. To prevail in whistleblower discrimination claims, employees must show that they engaged in protected activity (reported a violation), that the employer knew or suspected they did so, and that the employee suffered some adverse employment action as a result.

Opposition to Unsafe Working Conditions

No employer may terminate, discipline or discriminate against employees or prospective employees because they have opposed unsafe or unhealthy working conditions. This protected activity includes the right to have complained or assisted in an occupational safety and health proceeding under state law. **ORS 654.062(5).**

Employees may file civil rights complaints with the Civil Rights Division of the Bureau of Labor and Industries or lawsuits in court if they believe that an employer has discriminated against them because they opposed safety or health hazards. Retaliation protection extends not just to employees who have filed formal complaints, but also to those who merely raise issues informally, including any action that puts the employer on notice that an employee believes a health or safety problem exists.

****IMPORTANT**** The window in which to file a retaliation civil rights complaint with BOLI's Civil Rights Division is shorter than the five-year deadline from the date of harm for many other violations. Employees alleging retaliation on the basis of reporting unsafe working conditions **must file a complaint with BOLI's Civil Rights Division within one year** of the date that the individual had reason to believe that an illegal action occurred.

Note: Retaliation law protections usually do not protect an employee who refuses to work, unless that refusal is based upon a reasonable belief that the employee is at immediate risk of serious injury or death, that the employer is not willing to take action to alleviate that perceived risk, and that the refusal is limited to the specific activity that poses the risk.

Frequently Asked Questions

Q: An employee on our maintenance team, Kurt, has raised a number of safety concerns about our forklifts needing basic maintenance and tune-ups. He has also insisted that all warehouse staff wear a mask or face covering when on the job site. As a result, we've increased the number of tune-ups and directed employees that they will face disciplinary action for not wearing proper face coverings. Several employees resent the new safety rules, and Kurt has reported that they are retaliating against him, including calling him a "whiner" who "lives in fear" What is our responsibility here?

A: Oregon law protects employees who oppose unsafe or unhealthy working conditions. The Oregon Safe Employment Act, in particular, makes it unlawful for an employer to retaliate or discipline an employee who raises safety concerns. **ORS 654.062(5).**

In addition, Oregon employers must follow all COVID-19 related executive orders, including the requirement to wear a mask or face covering unless a disability prevents the employee from doing so. By the way, Kurt would be entitled to retaliation protection even if you were unable to determine that his co-workers were actually harassing him. As long as Kurt or any other employee brings a safety concern to you in good faith, you have a duty to protect the employee. Management may not allow retaliation against such a worker.

To avoid legal liability and risk, you should promptly investigate complaints of retaliation. Take them seriously. If you find evidence of harassment, take appropriate corrective action to ensure that Kurt and others are kept free from retaliation and abuse.

The law provides broad protections from discrimination when an employee opposes any illegal health and safety practices, makes any safety-related complaints, files a formal complaint with OSHA, or testifies in an OSHA investigation. “Opposition” may take numerous forms. Employees who exercise their rights to oppose health and safety hazards in the workplace on behalf of other employees or prospective employees are also protected. An employee talking with another co-worker about a safety hazard that is overheard by management would still qualify for protection against unlawful retaliation. The same would apply with an employee writing a letter to the editor of the local paper regarding a protected matter.

Employees may file an OSHA-related discrimination complaint with BOLI within one year of the alleged discriminatory act. But hopefully, you can proactively address your workers’ concerns by encouraging employees to come forward when health or safety issues arise, welcoming employee input, and assuring that your agency and Kurt’s co-workers won’t take adverse action in response.

Q: What should an employer do if an employee complains of retaliation for whistleblowing?

A: The employer must undertake a prompt, thorough investigation to determine whether evidence of retaliation exists. The employer should take detailed statements from the complaining person, the alleged retaliator, and any witnesses, and review and preserve any documents (such as emails, notes or letters) or physical evidence available (voice mail, surveillance video, etc.). Employers should document all steps of the investigation – including rebuttal statements obtained when there is conflict between witnesses’ stories. A final report should include credibility findings whenever possible. Employers may wish to consult an attorney for assistance with retaliation investigations. The investigation should include a written plan for how investigators will conduct the inquiry.

Q: May an employer also be liable for retaliation by co-workers?

A: Yes, if the employer knew or should have known of the conduct, but failed to take immediate and appropriate corrective action, an employer may be held liable for retaliation.

Q: What if the investigation shows that retaliation has occurred?

A: The employer must take "immediate and appropriate corrective action," which means doing whatever is necessary to put a stop to the retaliation. A good indicator that an employer took immediate corrective action is that the behavior does not occur again.

Depending on the severity, appropriate corrective action could include any of the following: verbal or written warnings; counseling; suspension; sensitivity training or education on civil rights laws and appropriate workplace conduct; reassignment of workers to different locations or shifts; or dismissal in more serious cases. When

choosing to make changes in assignments or work locations, it's preferable to apply the changes to the alleged retaliator(s) rather than the victim, otherwise the changes may be construed as further retaliation. If the victim of the alleged retaliation requests a change in their own assignments, schedule or location, it would be wise to get a written acknowledgement from the victim that the change is desired and not viewed as retaliation for having complained.

Q: Does the employee need to first complain to the alleged retaliator or employer before taking legal action?

A: No. An employee alleging unlawful retaliation may file a lawsuit or a complaint with an administrative agency without first exhausting intra-company remedies. It is important however, for an employer to have in place policies, practices and procedures for an employee or aggrieved person to pursue should a potential whistleblower retaliation situation arise at work. In some cases, an employer may be able to avoid liability by showing that the employee or aggrieved person unreasonably failed to take advantage of those policies, practices or procedures, allowing the employer no opportunity to take immediate corrective action to stop the behavior.

Q: What if the complaining worker is also not meeting work performance standards?

A: Employees, including those who allege retaliation for whistleblowing, still must meet work performance standards and the core duties of the position. However, the closer in time you are to protected whistleblowing activity, the greater risk there is that a disciplinary action may appear connected to whistleblowing and not a legitimate performance issue. Proceed with caution.

As an employer, you still have the right to work with your employee to ensure that performance standards are met. Ideally, you should have accurate, existing performance reviews documenting the areas that require improvement. An employee who files a complaint still has a duty to perform the essential functions of the job. You should take special care – and go to greater lengths to document – how your actions are solely rooted in business necessity, rather than serving as a pretext for unlawful discrimination. You still may discipline a non-performing employee, but you should think about how your actions would look if forced to defend them in front of a jury or administrative law judge.

Sample Policy Language:

Protection Against Retaliation. We will not retaliate in any way against an employee who reports discrimination, harassment or other workplace violation nor will we permit any other employee to do so. Any person who retaliates against another employee for reporting a potential violation will face disciplinary action, up to and including termination. Management will consider any adverse employment action – such as loss

Any employee aware of or facing retaliation in the workplace should report that information immediately to company management. An employee may make the report verbally or in writing to the employee's immediate supervisor or higher management, if the employee prefers. As an alternative, an employee may report the harassment to the company's human resources office.
(Note: Employees should always report incidents involving violence or threats of violence immediately to law enforcement). Employees may report to any of the persons listed above, regardless of any particular chain of command.

Investigation. The recipient of the complaint shall promptly forward it to the appropriate human resources official for investigation. All staff should know that the agency will take such complaints seriously, including conducting prompt and discreet investigations, to the degree possible. We will provide the complainant with a written response outlining the results of the investigation within 30 calendar days of receiving the complaint, absent extenuating circumstances. If the agency needs additional time for investigating the allegations or issuing a report, it will notify the complainant in writing.

Note: Nothing in this process precludes any person from filing a formal grievance in accordance with a collective bargaining agreement (if applicable), a complaint with the Bureau of Labor and Industries' Civil Rights Division or the Equal Employment Opportunity Commission, or a lawsuit in court.

STANDARDS AND PROCEDURES FOR ANONYMOUS WHISTLEBLOWING

Procedures for Disclosing Information under 659A.200, 659A.224

Best Practices

An effective whistleblower protection system requires commitment by senior leadership, an organizational culture that encourages speaking up, multiple pathways for disclosing and reporting retaliation, and ongoing training and monitoring across all levels of an organization.

The following best practices are based on existing procedures from public agencies in Oregon —the Oregon Health Authority, Oregon Departments of Transportation, Oregon Department of Human Services, and the Oregon Department of Environmental Quality — as well as documents from the Occupational Safety and Health Administration (OHSA), the Securities and Exchange Commission (SEC), Transparency International and the Organization for Economic Co-operation and Development (OECD). These recommendations apply to both the public and private sectors.

1) Only an open commitment from senior leadership and supervisors can provide whistleblowers with effective protection against retaliation.

- Leadership should be familiar with definitions of whistleblowing and retaliation and encourage employees to come forward. By emphasizing protections against retaliation, they set a positive tone from the top. Simple steps like offering regular office hours provide a good way to reach out to employees and establish a culture of openness.
- Organizations, where possible, should designate a chief compliance officer who enacts and enforces the whistleblower program independently from regular human resources management.
- Leadership should work with union leaders for represented employees to encourage employees at all levels to come forward when necessary.
- Organizations should have strong ethics codes and whistleblower policies that are written in a clear, accessible manner and known by employees.
- Employers should take action against any employee found to have engaged in retaliation against a co-worker.

Whistleblowers will only come forward if there is an internal speak-up culture.

- Employees are likely to report to their supervisors first. Employers should ensure

that supervisors receive adequate training on how to appropriately address concerns while protecting the whistleblower.

- Agencies should create multiple channels for reporting, so that employees can choose the reporting mechanism with which they are most comfortable. Outlets could include the director of human resources, supervisors, an anonymous fraud, waste, and abuse hotline, an office of Equity and Inclusion or the agency leadership. Your written policy, trainings and posters should spell out the exact ways of reaching those channels. Make it easy!
- An anonymous hotline is the most critical tool for protecting employees and detecting illegal activities (and is required by SB 1559). Employers should work to boost the hotline's visibility so that all employees know about the resource. If possible, the hotline should operate 24 hours a day. Allowing multiple uses of the hotline — for instance, as a helpline or suggestion line — lowers the psychological barriers to usage.
- Allow disclosures to be made in confidence via phone, postal mail, email, website and in person with a designated employee. Include at least one way to disclose information externally to the organization.

Anonymous whistleblowing will solicit more frequent high-quality disclosures.

- Agency policy should clearly identify which reporting avenues are anonymous and which are not. Give specific directions for how to report anonymously. For instance, a hotline can easily take anonymous disclosures, but visiting a supervisor during office hours does not guarantee anonymity. Provide your employees directions for how to write an anonymous letter or email. It is a good practice to create an online form that allows employees to send anonymous emails to the appropriate person.
- You should tell employees that even if reports are made anonymously, sometimes it's possible to know or guess who the complainant must be simply by the nature of the allegations or investigation. State that you will try to keep a complainant's name anonymous or confidential, but you cannot guarantee that no one will figure it out.

A transparent investigative process will instill confidence in whistleblowers and help improve the public agency.

- It's good practice to have a central investigative unit that handles all whistleblower disclosures, regardless of how the organization received the information. However, in many cases, this centralized approach will not be possible since Oregon law has a very broad definition of whistleblowing. Because of the expansive protections in the law, the specifics of an investigation will depend on where an employer files a complaint, which office conducts the investigation and the nature of the potential issue. Nonetheless, you should let your employees know the general investigative process, including how long it will typically take and what follow-up to expect. Tell your employees about the

investigation stages and what they entail, such as interviews, document review and so on. Include information about who will lead the investigation and who to come to with questions.

- Informal resolution and mediation might be options to offer, if all parties agree. Investigators should close with a final report that summarizes the findings and recommended actions. You should make the report available to affected parties, or when appropriate, the agency as a whole.

Only proactive efforts will prevent retaliation.

- Organizations should review their formal policies and informal practices to eliminate incentives that discourage whistleblowing. Your policy should clearly outline how the organization will work to prevent retaliation, and what employees can do if they think they experience retaliation. At a minimum, make clear to everyone in the organization that your policy strictly prohibits retaliation of any kind. You should provide managers with training on the investigative process, including the expectation that the organization does not tolerate retaliation.
- The independent unit charged with investigating whistleblower claims should also proactively work to ensure that there is no retaliation in the first place. When they find evidence of retaliation, they should take immediate corrective action to prevent further harm. Agencies have a duty to protect employees, even if the substance of claims does not represent actual wrongdoing. Avoid the temptation to act defensive. Instead, focus on reviewing the complaint and addressing the concerns.
- Consider creating a retaliation response system separate from the investigation of whistleblower claims. The system should have strong provisions to prevent conflicts of interest. Employees should know that they can elevate matters to higher levels if they believe that current investigators have a conflict. For disclosures involving senior leadership, make sure that to have a process to appoint third-party, independent investigators.

Whistleblowers will only come forward if they know how.

- Good training starts with a written whistleblower and anti-retaliation policy that states in plain language the organizational commitment to a speak-up culture. The policy should include the kinds of information that fall under protected disclosures, proper channels for disclosures, protections in place against retaliation, internal remedies for employees encountering retaliation, as well as external remedies and legal protections. In all instances, agencies should include specific examples of unlawful retaliation. To encourage more employees to come forward, include past examples that demonstrate how your agency has responded to whistleblowing complaints while protecting the employee stepping forward.
- Training should be ongoing and regular to foster an open culture and ensure that employees actually understand company policies and whistleblower rights.
- Training should specifically address what constitutes retaliation, how to respond to it, and what to do when supervisors or co-workers do not respect employee protections.

- Training should also cover relevant law, rights of employees, and what do to when the internal mechanisms of the organization fail.
- Training for managers should specifically address how to protect employees against retaliation, including from their peers. Emphasize that their role is not to immediately defend the organization, but to take whistleblowers seriously. Ultimately, a strong reporting culture and system will strengthen and improve the organization.

Monitor progress in a way that encourages disclosures.

- Don't measure progress by a low number of reports. Instead of sweeping issues under the rug, know that a higher number of reports following a new program's implementation can actually be evidence of a speak-up culture taking hold. Try to design measurements that capture the existence of such a culture.
- Problems often stay hidden from leadership. Consider an independent audit of the program's effectiveness. Tools that can support such transparency include anonymous employee surveys and confidential interviews.
- Track the number of whistleblower reports carefully, and provide your employees and the broader public with feedback on both the number of disclosures and the resolution of each. For certain public agencies, this tracking is required by SB 1559. Put emphasis on how whistleblowers have made the agency more effective and efficient.

Rights and Remedies for Disclosing Information under 659A.200, 659A.224

Civil Rights Laws:

Under ORS 659A.203, public and non-profit employees have the right to report their good faith and reasonable belief of evidence of:

- A violation of any federal, state or local law, rule or regulation;
- Mismanagement, gross waste of funds or abuse of authority; and
- Substantial and specific danger to public health and safety.

In addition, all public and non-profit employees have the right to cooperate with law enforcement, including the duty to report those subject to a felony or misdemeanor warrant for arrest. **ORS 659A.212.**

Public and non-profit employees also have the right to discuss the activities of any public employee or agency with members of any state or local legislative assembly and staff.

The public or non-profit employer may not require the public employee to give notice to their supervisor prior to disclosure. However, public or non-profit employers may establish an optional procedure for disclosing information first to a supervisor. **ORS 659A.221(2).** In addition, any public or non-profit employer must have a written policy on how to disclose information protected as whistleblowing activity. **ORS 659A.210(6).**

The public or non-profit employer may neither discourage disclosure nor take disciplinary action against employees for engaging in protected whistleblowing activity (retaliation). Doing so is an unlawful employment practice and a Class A misdemeanor. **ORS 650A.203(1)(4).**

Disclosing the name of an employee engaged in protected whistleblowing activity without their consent is also an unlawful employment practice. **ORS 659A.218(2).** Finally, adverse employment action against employees that have filed complaints for retaliation is itself unlawful. **ORS 659A.865.**

Oregon law also protects whistleblowing of lawfully-accessed confidential information if it is disclosed to any state or federal regulatory agency, any law enforcement agency, any manager of a public or non-profit employer or an attorney licensed to practice law in Oregon. The statute — **ORS 659A.210** — sets forth the requirements for an employee to establish an affirmative defense to a civil or criminal charge related to the disclosure by the employee.

These rights are in addition to – and go beyond – other state whistleblower rights that apply to all employees, including **ORS 659A.199** protecting reports of violations of the law or health and safety dangers covered by **ORS 654.062.**

In addition, some other whistleblowing activities may enjoy protection under different federal laws administered by various federal agencies.

Remedies

Employees have several remedies when they experience retaliation due to their protected whistleblowing activity:

- Filing a complaint with BOLI's Civil Rights Division;
- Filing a civil suit in state circuit court;
- Complaining through the public employer or non-profit's internal grievance system;
- Appealing to the Employment Relations Board;
- Filing a grievance under a union contract, where applicable; and
- Filing a suit in federal district court or filing a complaint with an agency that administers a federal whistleblowing law protection.

BOLI's Civil Rights Complaint Process

The Civil Rights Division of BOLI (CRD) enforces whistleblower protections. Any person experiencing unlawful discrimination or retaliation may file a complaint within a year of the date of harm or for alleged OSHA-related retaliation, within one year. Under the agency's administrative process, the Civil Rights Division will conduct a fair and thorough investigation.

Investigators do not serve as advocates for complainants or respondents, but rather as neutral fact finders dedicated to determining whether substantial evidence of the alleged retaliation exists, given the unique situation.

There are several steps involved in the civil rights complaint process at BOLI. The steps vary, depending on the findings of the CRD intake officer and the investigator assigned to the complaint. The division must complete most investigations within one year from their filing date by statute, but many take considerably less time.

An employee may initiate a complaint through a telephone call or email to the Civil Rights Division. The aggrieved employee (called a "complainant") will then fill out and return a complaint questionnaire to the division.

Once the Civil Rights Division receives the questionnaire, an intake officer will determine if the division has jurisdiction and if there is prima-facie evidence to draft a formal complaint. The division may contact the complainant to request more information or documentation. If the evidence provided by the complainant does not fall within BOLI's jurisdiction or there is not enough evidence to warrant an investigation, the agency notifies the complainant in writing.

If the complainant provides sufficient evidence to show a basis for alleging discrimination, investigators or intake officers will draft a formal complaint against the employer (called a "respondent"). A formal complaint will include:

- Name and address of the complainant and the respondent;
- Protected class of the complainant; and
- Description of the alleged discriminatory incidents, including:
  - date(s) of occurrence(s);
  - alleged discriminatory action;
  - how the action harmed the complainant; and
  - the causal connection between the complainant's protected class and the alleged harm.

The complainant will receive a mailed formal complaint for review. When the Civil Rights Division receives a signed copy from the complainant, it considers the complaint verified and filed on that date.

BOLI's federal counterpart, the Equal Employment Opportunity Commission (EEOC), investigates violations of federal discrimination laws (Title VII of the Civil Rights Act of 1964, Age Discrimination in Employment Act of 1967, and the Americans with Disabilities Act). If an allegation includes potential violations of both state and federal law, a complaint filed with BOLI is automatically co-filed with the federal counterpart, the EEOC. These are called dual filings.

After the agency receives the complaint, the Civil Rights Division sends a notification letter to both the complainant and the respondent. The division determines what additional information, if any, is necessary to make a determination in the case. Investigators may request additional information from the respondent, complainant or third parties.

In considering whether to dismiss the complaint, the investigator examines the evidence offered by both the complainant and respondent. If the division believes that substantial evidence of discrimination exists, it issues what's called a "Notice of Substantial Evidence Determination." Oregon law defines substantial evidence as "proof that a reasonable person would accept as sufficient to support the allegations of the complaint." **OAR 839-003-0005(15)(a).**

When investigators dismiss a complaint, they notify all parties and in applicable cases, send the complainant a notice of their right to file a civil suit. **ORS 659A.880.**

At any time, BOLI may facilitate settlement and conciliation between the complainant and the respondent. If the investigator makes a substantial evidence determination, the enforcement division will contact both parties and may attempt to reach a voluntary, no-fault settlement and conciliation of the complaint. If the parties reach a conciliation agreement, the agency will close the file.

After a substantial evidence finding, if the parties do not agree on a settlement, the Civil Rights Division will review the case to decide whether to refer the case to BOLI's Administrative Prosecution Unit (APU) for further action. If either the Civil Rights Division management or the Administrative Prosecution Unit decide against an administrative hearing, the agency will close the case and issue a notice to the complainant of their right to file a civil suit within 90 days.

If agency administrative prosecutors accept the case, the complainant has the option of moving toward a contested hearing before an agency administrative law judge, or withdrawing their complaint from BOLI and filing a lawsuit in state or federal court.

If the agency finds that the public or non-profit employer has engaged in an unlawful practice, the BOLI commissioner may issue an appropriate cease and desist order including requiring the respondent to:

- Eliminate the effects of the unlawful practice, including paying an award of actual damages suffered by the complainant, complying with injunctive or other

equitable relief;
- Protect the rights of the complainant and other similarly situated persons;
- Submit reports to the commissioner to ensure compliance; and
- Refrain from any action specified in the order that would jeopardize the rights of the complainant or other persons similarly situated.

Employees and whistleblowers can **contact the Bureau of Labor and Industries' Civil Rights Division** at (971) 673-0764 or visit the agency's website at oregon.gov/boli/civil-rights. Potential complainants can have an informal, confidential conversation with division staff prior to filing a formal civil rights complaint. Please note that actual civil rights complaints are public records subject to disclosure after they are filed. **ORS 659A.850.**

State Civil Court

Any person alleging unlawful retaliation for whistleblowing activity may file a civil action in circuit court. The court may order injunctive relief and any other equitable relief that may be appropriate, including:

- Reinstatement or the hiring of employees with or without back pay;
- Awarding prevailing party costs and reasonable attorney fees at trial and on appeal; and
- Compensatory and punitive damages.

The employee or affected party must file within one year after the occurrence of the unlawful employment practice, unless a timely complaint was first filed with BOLI. **659A.885.** If BOLI dismisses a complaint, the complainant has 90 days to file in circuit court. **659A.880.**

Bringing a Case:

- To establish a prima facie case under the whistleblower protection law, a plaintiff must show that: (1) they engaged in a protected activity; (2) they suffered an adverse employment decision; and (3) there was a causal link between the protected activity and the adverse employment decision. *Lindsey v. Clatskanie People's Utility District; Shepard v. City of Portland.* If a prima facie case is established, the McDonnell Douglas burden-shifting framework applies, i.e., the employer needs to articulate a legitimate non-discriminatory reason for termination and the employee needs to show that this reason was a mere pretext. *Shepard v. City of Portland.*
- To determine whether there is a causal connection between a public employee's termination and the employee's protected conduct under the whistleblower protection law as required by the McDonnell Douglas burden-shifting framework, a court examines the knowledge of employee's reports by the supervisor responsible for employee's discharge and the timing of that discharge. *Harper v.*

Mt. Hood Community College; Medina v. State of Oregon.

- Constructive discharge is prohibited retaliation under the whistleblower protection law. *See OAR 839-005-0011.*
- An employee may not blow the whistle on their own misconduct to escape disciplinary action. *Minter v. Multnomah County.*

Remedies:

- The statutory remedies available under the whistleblower protection law do not prevent employees from bringing common law action for wrongful discharge. *McGuire v. Jackson Education Service District; Olsen v. Deschutes County*.
- Recovery of damages from public employers under the whistleblower protection law are limited by the Oregon Tort Claims Act. *Rabkin v. Oregon Health Science University.* Liability limits for personal injury and death awards for public entities are regularly adjusted for inflation and other factors. They can be found in **ORS 30.271** and **ORS 30.272**.

Complaining Through the Public Employer or Non-profit's Internal Grievance System

Check employer's policies.

Appealing to the Employment Relations Board

The employee may also appeal to the Employment Relations Board any adverse acts of the employer based on protected whistleblowing activity. **ORS 240.560 via 659A.215.**

To file an unfair labor practice (ULF) complaint with the Employment Relations Board, an employee may use the form from the agency's website (oregon.gov/erb), and submit it with a $300 filing fee to:

- Employment Relations Board, 528 Cottage St. NE, Suite 400, Salem, OR 97301;
- ERB.Filings@oregon.gov; or
- Fax: (503) 373-0021 (there is a $25 fax filing fee).

Filing a Grievance Under a Union Contract

Represented employees may always consult their union when deciding how to proceed when they have been subjected to unlawful employment practices. Under some circumstances, the grievance officer of the union may be able to resolve an issue through the formal grievance process.

Federal Protections

Federal law does not have general whistleblower protections for public and non-profit employees in the same way Oregon organizes its protections. However, many federal

laws include whistleblower protection related to the implementation and enforcement of specific laws, including the Energy Reorganization Act of 1974, the Fair Labor Standards Act of 1938, the Federal Mine Safety and Health Act, the Federal Water Pollution Control Act of 1972, the Occupational Safety and Health Act of 1970, the Safe Drinking Water Act, the Solid Waste Disposal Act, the Surface Mining Control and Reclamation Act and the Toxic Substances Control Act. In many cases, employees may file retaliation complaints with the U.S. Secretary of Labor or in federal district court. In addition, certain retaliatory actions might be covered by federal anti-discrimination law and a complaint may be filed with the federal Equal Employment Opportunity Commission (EEOC).

Other federal whistleblowing laws for employees in specific industries include the Dodd-Frank Wall Street Reform and Consumer Protection Act, the FDA Food Safety Modernization Act, the Longshore and Harbor Workers' Compensation Act, the Migrant and Seasonal Agricultural Worker Protection Act, the Sarbanes-Oxley Act of 2002, and the Department of Defense Authorization Act of 1987. In addition, other federal protections for federal employees include the Whistleblower Protection Act of 1989 and the Whistleblower Protection Enhancement Act of 2012, with specified grievance procedures for retaliation.

Additional federal resources include:

The Directorate of Whistleblower Protection Programs at the Occupational Safety and Health Administration (OSHA) receives and investigates complaints in relation to many of these laws. However, only some apply to public employees in state and local government.

If an employee experiences retaliation due to a report of certain unsafe working conditions, such as a threat related to asbestos, pipeline safety, or public transportation, the worker can file a report with OSHA. Similarly, employees can also complain to OSHA if you are retaliated against due to reporting unsafe cargo, unsafe drinking water, other types of pollution, illegal waste disposal or violations of the Affordable Care Act.

A whistleblower may not file an OSHA complaint anonymously. Reports may be filed:

- **Online:** osha.gov/whistleblower/WBComplaint.html

- **Email:** OSHA-REG10-WB@DOL.gov

- **Mail:**
  Assistant Regional Administrator for WPP
  U.S. Department of Labor – OSHA
  300 Fifth Avenue, Room 1280
  Seattle, Washington 98104

- **Phone:** 206-757-6700

Note: If an employee experiences unsafe working conditions, or believes an employer

is not following OSHA standards, the employee may file a complaint with Oregon OSHA and request an inspection. Employees do not have to know whether a specific OSHA standard has been violated in order to file a complaint. The complaint should be filed as soon as possible after noticing the hazard or lack of compliance because OSHA citations may only be issued for violations that currently exist or existed in the past six months.

- Online: www4.cbs.state.or.us/exs/osha/hazrep
- Contact any Oregon OSHA field office via phone, fax, email or letter.

Implementation of Statutes and Rules Under 659A.200 and 659A.224, Including Relevant Case Law

Several court decisions provide additional clarity around the application of whistleblower protections provided under Oregon law. **ORS 659A.200 to 650A.224.**

- Whistleblower protections apply to public employees. A public employee is a person employed by or under contract with the state or any agency of or political subdivision in the state; or (b) employed by or under contract with any person authorized to act on behalf of the state or agency of the state or subdivision in the state, with respect to control, management or supervision of any employee. **OAR 839-010-0010**.
- In *Dinicola v. State of Oregon* the Oregon Court of Appeals elaborated that "employed by" means having one's personal services engaged or used by an employer, with the employer reserving the right to control the means by which such service is or will be performed. "Under contract with" means providing services to an employer, but not being subject to the employer's control over the method by which services are provided. However, if the employee is on paid leave, and a private party reimburses the state for the salary, the employee is not considered employed by the state for the purposes of the whistleblower protection law. *Dinicola v. State of Oregon.*
- Whistleblower protections apply to employees whose work for their employer routinely includes disclosure of information that the employee reasonably believes is evidence of a violation of law, mismanagement or gross waste of funds. *Harper v. Mt. Hood Community College.*
- Whistleblower protections also apply to disclosures of covered information made to the respective agency itself. *Bjurstrom v. Oregon Lottery*; *Folz v. State of Oregon.*
- Protected disclosures must reveal previously unknown conduct. Reporting publicly available information does not constitute a protected disclosure. Recommendations on how to resolve internal personnel issues do not constitute protected disclosures. *Folz v. State of Oregon.*
- Court decisions affirm administrative rules on whistleblower protections and definitions (**OAR 839-010-0010**): Mismanagement means serious agency misconduct having the effect of actually — or potentially — undermining the agency's ability to fulfill its public mission. *Bjurstrom v. Oregon Lottery; Hall v. Douglas County.*

Other Notable Cases

Under the federal anti-discrimination statutes in employment, Title VII of the 1964 Civil Rights Act, and Oregon counterpart laws have provisions that prohibit a covered employer from retaliating against an employee for complaining about alleged discriminatory employment practices. The complaining individual is sometimes referred to as a "whistleblower." The U.S. Supreme Court in *Thompson v. North American Stainless*, *LP,* 562 U.S. 170 (2011), found that a complaining party's family member or friend who falls within the "zone of interests" is also protected from retaliation based on the whistleblowing activities. In this case, Thompson and Thompson's fiancée at the time were both employees of North American Stainless, LP. Thompson's fiancée filed a sex discrimination complaint against the employer with the EEOC.

The employer fired Thompson but not his fiancée who actually filed the charge. An "aggrieved person" is interpreted broadly in an EEOC whistleblowing case.

OTHER RESOURCES FOR EMPLOYEES

The Oregon Secretary of State has designated the Oregon Audits Division to receive reports of waste, inefficiency or abuse by state agencies, state employees, or people under contract with state agencies, as part of their administration of the Government Waste Hotline.

The hotline can be contacted through the following channels:

- Toll free phone, 24/7: 800-336-8218
- FAX: 503-378-6767
- Mail: Oregon Audits Division, Government Waste Hotline, 255 Capitol Street NE, Suite 500, Salem, Oregon 97310
- Online: oregonsos.alertline.com

The identity of anyone calling the Government Waste Hotline or otherwise making a report under ORS 177.170 is confidential per ORS 177.180(2). Whistleblowers should make sure to mark written communications as “confidential.”

Based on reports, the Government Waste Hotline of the Audits Division conducts special investigations regarding potential misuse of state resources. These investigations may occur at state agencies, or may involve local governments or contractors receiving state or federal funds from state agencies.

CONTACTING BOLI

The mission of BOLI is to protect employment rights, advance employment opportunities and protect access to housing and public accommodations free from discrimination.

The four principal duties of BOLI are to:

- Protect the rights of workers and individuals to equal, non-discriminatory treatment through the enforcement of anti-discrimination laws that apply to workplaces, housing and public accommodations;
- Encourage and enforce compliance with state laws relating to wages, hours, terms and conditions of employment;
- Educate and train employers to understand and comply with both wage and hour and civil rights law; and
- Promote the development of a highly skilled, competitive workforce in Oregon through the apprenticeship program and through partnerships with government, labor, business and educational institutions.

If you have questions about any of these areas, please feel free to contact us.

oregon.gov/boli

BOLI_help@boli.oregon.gov

971-673-0761

RESOURCES FOR EMPLOYERS

BOLI's Technical Assistance for Employers Program oregon.gov/boli/employers works to help public agencies, non-profits and other employers stay compliant so that they can avoid potential violations in the first place. We can help employers navigate retaliation and other civil rights protection through our confidential employment assistance hotline and email resources. In addition, we can provide low cost, on-site seminars customized to help your workforce and management team understand Oregon's regulatory requirements and civil rights laws.

Contact us at:

- **Technical Assistance Hotline:** 971-361-8400
- **Email Resource for Employer Questions:** ta.email@boli.oregon.gov.

Thank you!

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Sunset Empire Transportation District
BOARD OF COMMISSIONERS

Item #8b New Business – Respectful & Safe Workplace Policy

Date: September 15, 2026

Presenter:
Commissioner Tita Montero

Board History:
None

Purpose:
To ensure operational policies are following current laws and regulations.

Recommended Action:
To review and revise operational policy as necessary.

Attachments:

- Equal Opportunity Employer Policy
- Discrimination and Harassment Policy
- BOLI Respectful Workplace Laws and Requirements
- BOLI Model of Respectful Workplace Policy
- Draft Model Respectful Workplace Policy

SUNSET EMPIRE TRANSPORTATION DISTRICT EQUAL OPPORTUNITY EMPLOYER POLICY		Policy # 15.B	Date Approved 11-30-2023
		Executive Director Signature	
Reviewed	Date	Reviewed	Date
Reviewed	Date	Reviewed	Date

Sunset Empire Transportation District has a strong commitment to all district employees and the community we serve. As an equal opportunity employer, we are dedicated to ensuring that no person will be unlawfully excluded from employment opportunities based on race, color, religion, national origin, sex (including gender identity, sexual orientation, and pregnancy), age, genetic information, disability, veteran status, or other protected class.

Sunset Empire Transportation District's Equal Employment Opportunity (EEO) policy applies to all employment actions, including but not limited to, recruitment, hiring, selection for training, promotion, transfer, demotion, layoff, termination, rates of pay, or other forms of compensation.

All applicants and employees have the right to file complaints alleging discrimination. Retaliation against an individual who files a charge or complaint of discrimination, participates in an employment discrimination proceeding (such as an investigation or lawsuit), or otherwise engages in protected activity is strictly prohibited and will not be tolerated.

Sunset Empire Transportation District is committed to providing reasonable accommodations to applicants and employees who need them because of a disability or to practice or observe their religion, absent undue hardship.

All employees, supervisors and management personnel share the responsibility and are accountable for implementing, monitoring and upholding Sunset Empire Transportation District's EEO Policy for employees and those seeking employment.

As Sunset Empire Transportation District's Executive Director, I maintain overall responsibility and accountability for Sunset Empire Transit's compliance with its EEO policy. To ensure day-to day management, program preparation, compliance, monitoring, and complaint investigation, I have appointed the Human Resources Officer as Sunset Empire Transit's EEO officer. The Human Resources Officer will report directly to me and act with my authority with all levels of management and employees.

Any employee or applicant that believes he or she has been subject to discrimination or retaliation should directly contact Sunset Empire Transportation District's Human Resources Officer.

SUNSET EMPIRE TRANSPORATION DISTRICT DISCRIMINATION AND HARRASSMENT POLICY	Policy # 17-01	Effective Date: October 26, 2017
	Signature	
	Reviewed	Reviewed

I. PURPOSE

The purpose of this policy is to clearly establish Sunset Empire Transportation District (SETD) commitment to provide a work environment free from harassment, to define discriminatory harassment and to set forth the procedure for investigating and resolving internal complaints of harassment.

II. POLICY

Harassment of an applicant, contractor, vendor, customer, board member, supervisor, manager, or employee by a supervisor, management employee or co-worker on the basis of race, color, national origin, religion, age, marital status, sexual orientation, gender, gender identification or disability is explicitly in violation of State and/or Federal law and will not be tolerated by SETD. It is critical that all employees treat all other employees with dignity and respect. This policy applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, reinstatement, transfer, leave of absence, compensation and training. Employees, supervisors or management employees found to be participating in any form of job-based harassment or retaliating against any other employee shall be subject to disciplinary action up to and including termination from employment.

III. DEFINITIONS:

A. Verbal Harassment - Epithets, derogatory comments, slurs, propositioning, or otherwise offensive words or comments on the basis of race, color, national origin, religion, age, marital status, sexual orientation, gender, gender identification or disability, whether made in general, directed to an individual or to a group of people regardless of whether the behavior was intended to harass. This includes but is not limited to inappropriate sexually-oriented comments on appearance, including dress or physical features, sexual rumors, and race oriented stories.

B. Physical Harassment - Assault, impeding or blocking movement, leering, or the physical interference with normal work, privacy or movement when directed at an individual on the basis of race, color, national origin, religion, age, marital status, sexual orientation, gender, gender identification or disability. This includes pinching, patting, grabbing, inappropriate behavior in or near SETD facilities or facilities where SETD events are being conducted, or making explicit or implied threats or promises in return for submission to physical acts.

C. Visual Forms of Harassment - Derogatory, prejudicial, stereotypical or otherwise offensive posters, photographs, cartoons, notes, bulletins, drawings or pictures on the basis of race, color, national origin, religion, age, marital status, sexual orientation, gender, gender identification or disability. This applies to both posted material and material maintained in or on SETD equipment or personal property in the workplace.

D. Sexual Harassment - Any act which is sexual in nature and is made explicitly or implicitly a term or condition of employment, is used as the basis of an employment decision, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile or offensive work environment.

IV. COMPLAINT PROCESS:
The use of this procedure is limited to complaints related to discriminatory workplace harassment on the basis of race, color, national origin, religion, age, marital status, sexual orientation, gender, gender identification or disability.
If any person feels they are the victim of any form of harassment, they should inform the person(s) participating in this behavior that he/she finds it offensive. This one-on-one confrontation has been demonstrated to be an effective way to end harassing behaviors. If the inappropriate behaviors do not stop, the offended employee can initiate the complaint process as described below. Because confrontation is difficult for some people and because of the complex nature of harassment, employees are not required to confront an offending party prior to initiating this complaint procedure.

A. Filing a Preliminary Complaint - Any applicant, contractor, vendor, customer, board member, supervisor, manager, or employee who alleges to be a victim of discriminatory workplace harassment should contact the Human Resources Officer or designee, either verbally or in writing, within thirty (30) calendar days of the alleged incident.

B. Review of Preliminary Complaint - Upon notification of a harassment complaint, the Human Resources Officer or designee shall conduct an initial investigation to make a preliminary determination as to whether there is merit to the complaint. If no merit is found, the Human Resources Officer or designee may still meet with the parties involved to attempt to conciliate the complaint or conflict between the parties.

C. Formal Complaint - If after an initial investigation is conducted, there is no resolution and/or no conciliation of the preliminary complaint, a formal written complaint can be filed by the complainant. The Human Resources Officer or designee will issue a Discriminatory Workplace Harassment form (Attachment A) to the complainant. This form shall be completed, signed and returned to the Human Resources Officer within five (5) days after issuance. Upon receipt of the formal written complaint, the Human Resources Officer or designee will contact the alleged harasser(s) who will be informed of the basis of the complaint, will be given a copy of the complainant's form, and will be provided an opportunity to respond. The response shall be in writing, addressed to the complainant and received by the Human Resources Officer, within ten (10) calendar days after being notified of the complaint. Concurrently, a formal investigation of the complaint may be commenced.

D. Review of Response and Findings - Upon receipt of the response, the Human Resources Officer may further investigate the formal complaint. Such investigation may include interviews with the complainant, the accused harasser(s) and any other persons determined by the Human Resources Officer to possibly have relevant knowledge concerning the complaint. This may include other victims of similar conduct. Factual information gathered through the investigation will be reviewed to determine whether the alleged conduct constitutes harassment, giving consideration to all factual information, the totality of the circumstances including the nature of the verbal, physical, visual or sexual conduct and the context in which the alleged incident(s) occurred. The results of the investigation and the determination as to whether harassment occurred shall be final and binding and will be reported to appropriate persons including the complainant and the alleged harasser(s) within twenty (20) calendar days from the receipt of the response.

V. DISCIPLINARY ACTION
If harassment is determined to have occurred, the Human Resources Officer shall take prompt and effective remedial action against the harasser. The action will be commensurate with the severity of the

offense, up to and including termination from employment. If discipline is imposed, the nature and extent of the discipline will not be divulged to the complainant.

VI. RETALIATION

Retaliation in any manner against a person for filing a harassment charge or initiating a harassment complaint, testifying in an investigation, providing information or assisting in an investigation, is expressly prohibited and subject to disciplinary action up to and including termination. The Human Resources Officer will take reasonable steps to protect the victim and other potential victims from further harassment, and to protect the victim from any retaliation as a result of communicating the complaint.

VII. CONFIDENTIALITY

Confidentiality will be maintained to the fullest extent possible in accordance with applicable Federal, State and local law.

VIII. FALSE COMPLAINTS

Any complaint made by an employee of District regarding job-based harassment which is conclusively proven to be false, shall result in discipline of the complainant up to and including termination. This section is not intended to discourage employees from making complaints regarding job-based harassment. However, false complaints adversely impact the workplace and the career of the accused, even when disproved, and will not be tolerated.

Attachment A: Complaint Reporting Forms

Attachment A

SUNSET EMPIRE TRANSPORTATION DISTRICT

DISCRIMINATION OR HARASSMENT INCIDENT REPORT FORM

Department:	Person Reporting:
Date/Time of Occurrence:	Position:
Description of event (*"who, what, when, where, why"*): BE SPECIFIC **Conclusion**: *Have the allegations been substantiated as factual?* ❒ Yes ❒ No *Does the conduct violate Co. policy?* ❒ No ❒ Sexual ❒ Other _____	
Disciplinary Action: Was disciplinary action taken? ❒ Yes ❒ No If so, explain:	
Victim Assistance/Support: ❒ Manager/Supervisor ❒ Executive Director ❒ other *(describe)*	
Notes / Additional Comments:	

FORMS ATTACHED:

❒ Checklist ❒ Complaint Form ❒ Respondent / Witness Form

CHECKLIST FOR HARASSMENT OR DISCRIMINATORY COMPLAINTS

COMPLAINANT: _____

Date of Incident: _____ **Department:** _____

DATE	NAME/INITIALS	ACTION
Executive Director/Human Resources/Manager		
_____	_____	Received notice of incident or complaint from: _____
_____	_____	Notified Human Resources Officer
_____	_____	Interviewed Complainant.
_____	_____	Notified ❒ H.R. Director and ❒ supervisor of employee involved.
_____	_____	Notified Family, if applicable.
_____	_____	Notified Police, if applicable.
_____	_____	Completed investigation and processing of parties involved in incident. Offered victim assistance (counseling, medical) Interviewed alleged perpetrator ("Respondent") Interviewed witnesses, if applicable Initiated sexual harassment education process, if applicable Initiated disciplinary procedures, if applicable
_____	_____	Forwarded documentation to HR Officer (*including this completed checklist*).
_____	_____	Coordinated investigation of complaint, if applicable. Confirmed initiation of harassment education, victim assistance and/or counseling for all parties as needed, including witnesses, and co-workers Followed up execution of proper disciplinary procedures or corrective action, as applicable
_____	_____	Informed Complainant and Respondent of outcome of the investigation, if applicable.
_____	_____	Turned report in to Human Resources, showing final disposition, for year-end report to Executive Director, if applicable.
_____	_____	Closed file.

SETD HARASSMENT OR DISCRIMINATION COMPLAINT FORM

Complainant:			Department:
Home Address:			Home Phone:
			Date/Time of Incident:
			Emergency Contact:
Employees:	Position:		Supervisor:

Name of person you believe harassed or discriminated against you or another person: _____

If the alleged harassment was toward another person, identify that person: _____

_____

Describe the incident(s) as clearly as possible. Include a full description of the events, verbal statements (threats, requests, demands, remarks etc.), the location, and what, if any, physical contact was involved.

_____

_____

_____

_____

List any witnesses who were present: _____

_____

How did you or the person (if not you) react to the harassment or discrimination? _____

_____

_____

What contact did you or the person harassed or discriminated against (if not you) have with the alleged harasser or person that discriminated against you before the first incident? _____

_____

This complaint is based upon my honest belief that _____

harassed or discriminated against me or another person. I hereby certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge.

_____ _____

Complainant's signature Date

_____ _____

Witnessed by Date

Attach additional pages as necessary

SETD HARASSMENT OR DISCRIMINATION FORM: RESPONDENT OR WITNESS

Person Alleged to Have Been Harassed or Discriminated against:

_____

Respondent/Witness:			**Department:**
Home Address:			**Home Phone:**
			Date/Time of Incident:
			Emergency Contact:
Employees:	**Position:**		**Supervisor:**
Describe the incident *(Where did it take place? What happened? What did you say and do? What did other people say and do? Include names, verbal statements, and a thorough description of physical contact, if any was involved.)*			

List any witnesses who were present: _____

Respondent: If you admit that statements made in the complaint are correct, why did you act the way that you did? If you disagree, please explain. _____

_____

_____

I hereby certify that the information I have provided in these answers is true, correct and complete to the best of my knowledge.

_____ _____

Respondent or Witness's signature **Date**

_____ _____

Witnessed by **Date**

	https://www.oregon.gov/boli/Pages/index.aspx

Respectful Workplace Policy

EMPLOYER RESOURCES

- Guidance on specific employment topics
- Trainings for employers
- Required Worksite Posters
- Purchase employment law handbooks
- Prevailing Wage
- Fact Sheets
- **Workplace Bullying**
- **Respectful Workplace Policy**

Best practices for mitigating risk and maximizing morale

With SB 851 (2023), the Oregon Legislature tasked the Bureau of Labor and Industries (BOLI) with providing employers with a model respectful workplace policy.

The Legislature also directed BOLI to create and make available informational materials that identify the harms to employees and employers caused by workplace bullying — that material is available here.

While not required by statute, a clear and consistently applied respectful workplace policy can help to prevent conduct that could escalate to unlawful harassment and discrimination as well as promote professional workplace behavior and a safer workspace overall.

As a best practice, in addition to providing the policy required by the Oregon Workplace Fairness Act that addresses unlawful harassment, discrimination, and sexual assault, BOLI recommends employers provide a written policy containing procedures and practices to reduce and prevent inappropriate workplace behavior. Ideally, the policy:

- Provides a process for employees to report prohibited conduct;
- Identifies the individual or position (for example the Store Manager or HR Director) as well as an alternate individual or position to whom an employee can report prohibited conduct;

- Includes a statement that some forms of inappropriate workplace behavior are also unlawful and refers the employee to the organization's policy on unlawful harassment and discrimination (required by Oregon's Workplace Fairness Act).

Sample Language

(Word document available in English and Spanish)

POLICY STATEMENT:

Mutual respect between and among managers, employees, temporary employees, contractors, and volunteers is an integral value of [*Insert organization name*]. Only when all individuals work together can we create and maintain a work environment that is respectful, professional, and free from inappropriate workplace behavior.

Inappropriate Workplace Behavior includes unwelcome or unwanted conduct or behavior that causes a negative impact or disruption to the workplace or results in the erosion of employee morale. Inappropriate workplace behavior may also rise to the level of unlawful harassment or discrimination when in conjunction with an employee's protected class status such as race, gender, or disability. See also our policy prohibiting workplace harassment and discrimination [*Insert link or location of the organization's policy*].
Examples of inappropriate workplace behavior include, but are not limited to, comments, actions or behaviors of an individual or group, that are wholly disconnected from concerted or other protected activity, that purposefully humiliate, intimidate, disparage, demean, or show disrespect for another employee, a manager, a subordinate, a volunteer, a customer, a contractor, or a visitor in the workplace.

Inappropriate workplace behavior does not include actions taken to form, join, or assist labor organizations, to bargain collectively through representatives, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Inappropriate workplace behavior generally does not include actions of performance management such as giving supervisory instructions, setting expectations, giving feedback, administering disciplinary actions, or conducting investigatory meetings.

Inappropriate workplace behavior generally does not include assigned, requested, or unsolicited constructive peer feedback on projects or work.

POLICY:

Employees of all types as well as temporary employees and volunteers at every level of the organization must foster an environment that encourages professionalism and discourages disrespectful behavior. All employees, temporary employees, and volunteers must behave respectfully and professionally and refrain from engaging in inappropriate workplace behavior.

Addressing Inappropriate Workplace Behavior

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(b) If an employee, temporary employee, or volunteer observes or experiences inappropriate workplace behavior, they may:

- Redirect inappropriate conversations or behavior to workplace business.
- Tell the offending employee, temporary employee, or volunteer their behavior is offensive and ask them to stop.
- Report the observation or experience to a manager, human resources, or other designated individuals.

REPORTING INAPPROPRIATE WORKPLACE BEHAVIOR:

Any employee aware of or experiencing bullying or inappropriate behavior in the workplace should report that information immediately to a company designee. Specifically, an employee may make the report verbally or in writing to the employee's immediate supervisor or higher management, if the employee prefers. As an alternative, an employee may report the experience to the company's human resource office. Employees may report to any of the persons listed above, regardless of any particular chain of command. All employees are encouraged to document any incidents involving bullying or inappropriate workplace behavior as soon as possible.

RETALIATION PROTECTIONS:

[*Insert organization name*] prohibits retaliation against any employee for filing a complaint regarding conduct in violation of this policy. [*Insert organization name*] will not tolerate retaliation against any employee for raising a good faith concern, for providing information related to a concern, or for otherwise cooperating in an investigation of a reported violation of this policy. Any employee who retaliates against anyone involved in an investigation is subject to disciplinary action, up to and including dismissal.

PENALTIES:

We will not tolerate inappropriate workplace behavior. Any individual found to have engaged in such conduct may face disciplinary action up to, and including, dismissal. The company may also subject managers and supervisors who fail to report known harassment or fail to take prompt, appropriate corrective action to disciplinary action, up to and including dismissal.

Whistleblowing protections

- **CIVIL RIGHTS**
  - Your Rights to Public Places
  - Fair Housing
  - Racial discrimination
  - Disability Rights
  - Housing Discrimination Complaint
  - Cuestionario de discriminacion en el empleo
- **DISCRIMINATION AT WORK**

- Pay Equity
- Gender/Gender Identity at Work
- Pregnancy Accommodations
- Whistleblowing protections

Any worker may report actions they believe violate local, state, or federal laws. Workers making these reports are commonly known as “whistleblowers."

These reports are protected, which means that it is illegal for employers to discharge, demote, suspend or in any manner discriminate or retaliate against a worker for making a good faith report of information the worker believes violates the law.

It is illegal to discriminate or retaliate against a worker for these reports in promotion, compensation or other terms, conditions or privileges of employment.

- All Oregon employees are also protected for opposing unlawful employment practices.
- A report does not have to be substantiated for the whistleblower to be protected from retaliation. The worker must simply have a good faith belief when reporting a violation of law or unsafe working conditions.
- Employees have civil rights protections if they experience retaliation due to protected whistleblowing activity, including filing a complaint with BOLI or suing in circuit court. Judgments may include job reinstatement, back pay or monetary damages
- Public and certain non-profit employees in Oregon also have the right to report waste, fraud and abuse or other workplace violations without fear of retaliation.

If you think your employer is violating this law, you can make a complaint or contact us to get help.

The law

ORS 659A.030(1)(f)

ORS 659A.199.

ORS 659A.203.

ORS 659A.885(2)(a).

Which types of employees are covered?

All employees working in Oregon are covered under ORS 659A.030 and ORS 659A.199. Members of a board of directors of a covered nonprofit organization are also covered employees for purposes of the public-sector Whistleblower Law. ORS 659A.200.

What are some examples of reporting protected under state whistleblowing laws?

Employees may not be discharged or treated differently for reporting activities they believe in good faith to be a violation of state or federal law, rule or regulation, including reporting allegations of sexual harassment, failures to provide required breaks or lunches, driving under the influence, or for reporting unfair trade practices and violations of consumer protection laws. It is important to note that the employee does not need to be correct in their reporting – they simply need to have a good faith belief that what they are reporting is unlawful.

How is "reporting" defined under the law?

Reporting to any person, orally or in writing, any information the employee believes in good faith to be a violation of the law. The report does not have to be made directly to a supervisor for an employee to be protected under state whistleblowing laws.

What are the prohibitions in this law?

It is an unlawful employment practice for an employer to take any adverse employment action against an employee for making a good faith report of a violation of state or federal law, rule or regulation. Adverse employment action includes, but is not limited to, discharge, demotion, suspension or in any manner discrimination or retaliation against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment.

How are whistleblowing laws enforced in Oregon?

Employees who believe the employer has violated the law are authorized to file a complaint with BOLI or file a civil action, and a court may order injunctive relief and other equitable relief, including reinstatement, back pay and reasonable attorney fees. ORS 659A.885.

Note: Under the Oregon Safe Employment Act, it is an unlawful employment practice for any person to bar or discharge from employment or otherwise discriminate against any employee or prospective employee because the employee or prospective employee has made any complaint to the employer, federal OSHA, or Oregon OSHA of any violation of law, regulation or standard pertaining to safety and health in the place of employment. The complaining party is generically referred to as a "whistleblower." ORS 654.062(5).

Under the federal anti-discrimination statutes in employment, Title VII of the 1964 Civil Rights Act, and the Oregon counterparts have provisions that prohibit a covered employer from retaliating against an employee for complaining about alleged discriminatory employment practices. The complaining individual is sometimes referred to as a "whistleblower." The U.S. Supreme Court in Thompson v. North American Stainless, LP, 562 U.S. 170 (2011), found that a complaining party's family member or friend who falls within the "zone of interests" is also protected from the retaliation based on the whistleblowing activities. In this case, Thompson and Thompson's fiancée at the time were both employees of North American Stainless, LP. Thompson's fiancée filed a sex discrimination complaint against the employer with the EEOC. The employer fired Thompson but not his fiancée who actually filed the charge. An "aggrieved person" is interpreted broadly in an EEOC whistleblowing case.

Workplace Bullying

EMPLOYER RESOURCES

- Guidance on specific employment topics
- Trainings for employers
- Required Worksite Posters
- Purchase employment law handbooks
- Prevailing Wage
- Fact Sheets
- **Workplace Bullying**
- **Respectful Workplace Policy**

Best practices for mitigating risk and maximizing morale

Employers that take steps to prevent, identify and resolve psychosocial workplace stress benefit from a more productive, resilient and inclusive work culture.

The business case

Occupational health and safety laws are clear — employers must implement processes to ensure employees have a workplace free of known health and safety hazards.[1] What has evolved is an increasing consensus that the scope of health and safety hazards includes psychosocial stressors like workplace bullying.[2]

What is workplace bullying?

Bullying is usually seen as acts or verbal comments that could psychologically or 'mentally' hurt or isolate a person in the workplace.[3] Bullying can involve negative physical contact as well. Bullying often involves repeated incidents or a pattern of behavior that is intended to intimidate, offend, degrade or humiliate a particular person or group of people. It has also been described as the assertion of power through aggression.

Bullying can come from both peers or from supervisors and managers. According to one study, 65% of bullies are individuals with a higher rank than their target.[4] Supervisors might bully subordinates by:

- Assigning unreasonable workloads for the purpose of negatively impacting the employee – setting them up to fail
- Constantly criticizing a person or their contributions before their peers
- Changing assignments and responsibilities without explanation or reason
- Underutilizing staff talent to diminish the person's self-esteem
- Intentionally blocking staff from training, sought-after projects, or opportunities for advancement.

Peers may bully coworkers by:

- Sabotaging their coworker's contribution to group efforts
- Intruding on another's privacy by pestering, spying or stalking
- Threatening physical or verbal behavior
- Sharing a coworker's personal and confidential information without authorization
- Spreading rumors to damage a coworker's reputation
- Creating exclusive groups or cliques within the workplace

While Oregon law does not define bullying behavior specifically, the basic question is, "Would most people consider a given action one intended to cause physical or psychological harm?"

The impact of bullying extends beyond an unpleasant experience and may result in lasting negative consequences both for victims and their organizations:

Targets of bullying may experience shock, anger, frustration, a sense of vulnerability and loss of confidence as well as physical symptoms like the inability to sleep or a loss of appetite.[5]

In the work environment, bullying can impact the overall health of the organization. Unchecked, bullying can result in an increase in absenteeism, turnover, stress related responses. In extreme cases, bullying can result in employees filing a workers' compensation claim for workplace psychological injuries . The same factors can lead to a decrease in engagement, morale and productivity as well as impacts to the organization's public image on social media. Even if abuse does not rise to the level of a civil rights violation, employees have choices and will leave if they're being treated unfairly.

Of course, workplace bullying can escalate to inappropriate workplace behavior based on protected classes and become unlawful harassment and discrimination. Employers that fail to take prompt, effective corrective action to prevent harassment and discrimination risk substantial liability in legal actions.

On the other hand, a workplace in which employees feel confident that they and their best work are always welcome is one where staff are empowered to take ownership of their efforts, incorporate diverse perspectives and work toward success.

Steps to take

Preventing bullying in the workplace should start at the top and include implementing consistently applied policies against bullying, harassment, and discrimination. These policies should ensure employees have the information they need to recognize and appropriately respond to bullying in the workplace. Preventing bullying also means providing leaders with training and holding them accountable for recognizing and effectively intervening in unhealthy workplace behaviors. Employees should have multiple reporting paths to go around a manager or supervisor who is the bully. Consider posting resources (examples listed just below) in areas frequented by employees throughout their day.

Resources for employees

As an employee, you have the right to call out inappropriate workplace behavior. Keep detailed records noting who was involved, what happened, when it occurred and the outcome. Documentation like emails and chat threads can be critical to establishing the facts in a dispute.

Avoid escalating the situation or risking your reputation by responding in kind; instead, report bullying to your manager or supervisor or human resources department if needed.

Seek help and support from friends outside the workplace as well as assistance from any employee assistance program your organization provides.

- If you experience bullying in the workplace on the basis of protected classes like your race, sex or religion, reach out to the Bureau of Labor and Industries, submit a complaint or contact a private attorney.
- Make use of any employer-provided Employee Assistance Program and counseling resources.
- Call 211 for information on local, nonprofit, government and faith-based health and social services programs in Oregon and Southwest Washington.
- Call 988 for in-person help with emotional and mental health crises.

Checklist for employers

- **Implement (and periodically revisit) a respectful workplace policy.**

BOLI's model language page is a great place to start.

- **Create multiple reporting pathways**

Ensure employees are aware of multiple reporting avenues to report bullying and other inappropriate or unlawful behaviors.

- **Train supervisory and management staff**

Ensure supervisors and managers are trained on their role in preventing and responding to inappropriate workplace behavior.

- **Define expectations**

Have clear, accurate job descriptions, performance metrics, and consistent evaluations for all positions. All of these create space for employers and employees to align around shared expectations for their working relationship.

- **Do performance evaluations in three dimensions**

Provide staff avenues to regularly share (anonymous) evaluations of their managers.

- **Conduct regular workplace culture surveys**

Share the results with both staff and management as appropriate. For surveys to be effective tools, respondents need to know their input will be reviewed, carefully considered, and contribute to concrete data-driven changes.

Model
Respectful Workplace Policy

Note to Employers

With SB 851 (2023), the Oregon Legislature tasked the Bureau of Labor and Industries (BOLI) with providing employers with a model respectful workplace policy. The Legislature also directed BOLI to create and make available informational materials that identify the harms to employees and employers caused by workplace bullying.

While not required by statute, a clear and consistently applied respectful workplace policy can help to prevent conduct that could escalate to unlawful harassment and discrimination as well as promote professional workplace behavior and a safer workspace overall.

As a best practice, in addition to providing the policy required by the Oregon Workplace Fairness Act that addresses unlawful harassment, discrimination, and sexual assault, BOLI recommends employers provide a written policy containing procedures and practices to reduce and prevent inappropriate workplace behavior. Ideally, the policy:

(a) Provides a process for employees to report prohibited conduct;
(b) Identifies the individual or position (for example the Store Manager or HR Director) as well as an alternate individual or position to whom an employee can report prohibited conduct;
(c) Includes a statement that some forms of inappropriate workplace behavior are also unlawful and refers the employee to the organization's policy on unlawful harassment and discrimination (required by Oregon's Workplace Fairness Act).

Sample Language

POLICY STATEMENT:
Mutual respect between and among managers, employees, temporary employees, contractors and volunteers is an integral value of [Insert organization name]. Only when all individuals work together can we create

and maintain a work environment that is respectful, professional, and free from inappropriate workplace behavior.

Inappropriate Workplace Behavior includes unwelcome or unwanted conduct or behavior that causes a negative impact or disruption to the workplace or results in the erosion of employee morale. Inappropriate workplace behavior may also rise to the level of unlawful harassment or discrimination when in conjunction with an employee's protected class status such as race, gender, or disability. See also our policy prohibiting workplace harassment and discrimination [insert link or location of the organization's policy].

Examples of inappropriate workplace behavior include, but are not limited to, comments, actions or behaviors of an individual or group, that are wholly disconnected from concerted or other protected activity, that purposefully humiliate, intimidate, disparage, demean, or show disrespect for another employee, a manager, a subordinate, a volunteer, a customer, a contractor, or a visitor in the workplace.

Inappropriate workplace behavior does not include actions taken to form, join, or assist labor organizations, to bargain collectively through representatives, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Inappropriate workplace behavior generally does not include actions of performance management such as giving supervisory instructions, setting expectations, giving feedback, administering disciplinary actions, or conducting investigatory meetings.

Inappropriate workplace behavior generally does not include assigned, requested, or unsolicited constructive peer feedback on projects or work.

POLICY:
Employees of all types as well as temporary employees and volunteers at every level of the organization must foster an environment that encourages professionalism and discourages disrespectful behavior. All employees, temporary employees, and volunteers must behave respectfully and professionally and refrain from engaging in inappropriate workplace behavior.

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Draft

Model Respectful Workplace Policy

Policy Statement:

Mutual respect between and among managers, employees, temporary employees, contractors, and volunteers is an integral value of Sunset Empire Transportation District. Only when all individuals work together can we create and maintain a work environment that is respectful, professional, and free from inappropriate workplace behavior.

Inappropriate Workplace Behavior includes unwelcome or unwanted conduct or behavior that causes a negative impact or disruption to the workplace or results in the erosion of employee morale. Inappropriate workplace behavior may also rise to the level of unlawful harassment or discrimination when in conjunction with an employee's protected class status such as race, gender, or disability. See also our policy prohibiting workplace harassment and discrimination [placeholder policy name and reference].

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