



## **Safe and Respectful Jobsite Policy Overview**

The Portland Clean Energy Community Benefits Fund (PCEF) is a voter-approved initiative that makes grants to community-based organization for investment in climate action that advances equity and racial justice. The program takes a number of actions to ensure that implementation of PCEF-funded projects aligns with the legislative intent and guiding principles, including investment in Safe and Respectful Jobsite trainings and requirements for contractors working on PCEF-funded projects to adopt or update a Safe and Respectful Jobsite Policy.

The following is a draft Safe and Respectful Jobsite Policy template. This draft policy aims to ensure that there are clear expectations for inclusive and safe worksites, protections for workers, and accountability and improvement when incidents occur.

This template is not to be interpreted as legal advice and this draft will be refined based on stakeholder feedback. This draft is consistent with Oregon’s Workplace Fairness Act that requires employers to adopt a written policy containing procedures and practices to reduce and prevent specific types of unlawful discrimination and sexual assault (<https://www.oregon.gov/boli/workers/Pages/sexual-harassment.aspx>).

It is important to understand that a Safe and Respectful Jobsite Policy is not intended to be a box to check or piece of paper to file: It is intended to build commitment and capacity to deliver inclusive, safe, high-performing jobsites. Greater success achieving these goals is likely if members across the organization are engaged in development, implementation, and refinement of the policy. Doing so helps ensure that there is a clear understanding of why the policy is important and what it means to bring it to life. Organizations may find it helpful to consult the Zero Tolerance and Accountability Policy Guide<sup>1</sup> created by the National Association of Minority Contractors of Oregon (NAMCo) and the Associated General Contractors Oregon Columbia Chapter (AGC). That document, created with contractor and worker input, outlines the process for creating a policy. This document complements the NAMCo – AGC Zero Tolerance and Accountability Policy Guide by providing a draft template.

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<sup>1</sup> A note about language –The phrase “Zero Tolerance Policy” is used by NAMCo and AGC to communicate expectations about safe and inclusive behaviors rather than specifics regarding corrective action and accountability. Thus, while specific behaviors are not to be tolerated, a range of responses may be available to remedy the offense depending on the situation. Here we use the phrase “Safe and Respectful Jobsite Policy.”

## Safe and Respectful Jobsite Policy Template

Name of organization: \_\_\_\_\_

Date policy adopted/updated: \_\_\_\_\_

### **About This Policy**

[Organization name] is committed to creating a safe, inclusive, and respectful work environment. Doing so is essential for recruiting and retaining talent, improving safety and well-being, and boosting employee morale and productivity. It is also our duty to meet standards established by Federal and State law.

This policy has been adopted to support our commitments and legal obligations. It helps us ensure our jobsites are welcoming and safe for people regardless of their identity or status including, but not limited to, race, ethnicity, color, national origin, gender identity, gender expression, sex, sexual orientation, religion, marital or familial status, age, mental or physical disability (as defined by the Americans with Disabilities Act and state law), former incarceration, immigrant status, or veteran status.

The policy includes: 1) definitions for key concepts in order to help ensure a shared understanding and 2) internal procedures for addressing hate, intimidation, harassment, or other behaviors that diminish safety and respect on the jobsite.

### **Definitions**

- *Bias Crime/Hate Crime*: In Oregon, the term “bias crime” is used to describe a hate crime. A bias crime (hate crime) is a crime against a person or persons that is based on the perception of their race, color, religion, gender identity, sexual orientation, disability or national origin. In Oregon, bias crimes of the first degree refer to physical injury or causing someone to fear serious physical injury, while bias crimes of the second degree refer to actual or threatened property tampering or interference, offensive physical contact, or threatening such to the person or member of their family.  
<https://www.doj.state.or.us/oregon-department-of-justice/bias-crimes/about-the-law/>
- *Bias Incident/Hate Incident*: In Oregon a bias incident refers to a hostile expression (verbal, physical, or visual) that may not be a federal, state, tribal, or local crime but is motivated by another person’s or persons’ race, color, disability, religion, national origin, sexual orientation, or gender identity. A bias incident is akin to harassment.  
<https://www.doj.state.or.us/oregon-department-of-justice/bias-crimes/whats-the-difference-between-a-hate-or-bias-crime-and-a-bias-incident/>

- *BOLI*: Among other duties, the Oregon Bureau of Labor and Industry (BOLI) exists to protect employment rights and support apprenticeship programs.  
<https://www.oregon.gov/boli/about/Pages/what-we-do.aspx>
- *Bullying*: Bullying refers to repeated, unreasonable, and unwelcome behavior directed to a worker or group of workers that can lead to physical or psychological harm and creates a risk to health and safety. While the terms bullying and harassment often are used interchangeably there are distinctions: bullying usually involves repeated incidents, involves a power differential, and may or may not be directed to a member of a protected class.
- *Bystander Intervention*: There are a variety of things someone can do when witnessing an act of hate, harassment, or intimidation. Common bystander interventions are sometimes referred to as the 5 Ds (distract, delegate, document, delay, direct). Examples can be found at <https://riseup4equity.org/job-box/> and <https://www.ihollaback.org/bystander-resources/>.
- *Corrective Action*: Corrective action refers to the steps taken in response to a documented incident of unacceptable behavior. Corrective actions should be proportional to the severity and harm of the incident and are designed to support the victim's sense of healing and safety, build the offender's capacity and commitment to acceptable behaviors, and foster a safe and respectful jobsite. Examples of corrective actions may include, but are not limited to, training, coaching, probation, discipline, reparation, mediation, legal action, termination.
- *Discrimination*: Discrimination occurs when a person is treated differently based on a their membership in a protected class. Information about discrimination in the workplace in Oregon can be found on the BOLI website:  
<https://www.oregon.gov/boli/workers/Pages/discrimination-at-work.aspx>.
- *Harassment*: Workplace harassment is a form of employment discrimination that includes unwelcome conduct. Harassment directed toward a member of a protected class is illegal. Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. The victim does not have to be the person harassed, but can be anyone affected by the offensive conduct. Workplace harassment laws exist at the Federal and State level. The following are examples of types of workplace harassment; this is not an all-inclusive list.
  - Physical harassment includes but is not limited to unwelcome physical contact such as touching, impeding or blocking movement, or any physical interference with work;
  - Verbal harassment includes but is not limited to disparaging or disrespectful comments, jokes, slurs, innuendoes, teasing, and sexual talk such as jokes, personal inquiries, persistent unwanted courting and derogatory insults;

- Nonverbal harassment includes but is not limited to suggestive or insulting sounds, obscene gestures, leering or whistling;
- Visual harassment includes but is not limited to displays of explicit or offensive calendars, circulation of derogatory content, posters, pictures, drawings or cartoons that reflect disparagingly upon a class of persons or a particular person;
- Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, or other conduct that creates a hostile work environment when such conduct is directed toward an individual because of that individual's sex, sexual orientation, or gender identity.
- *Intent and Impact*: Intent refers to whether someone knowingly and willfully engaged in an unacceptable behavior. Impact refers to whether a behavior is perceived to be hateful, intimidating, discriminatory, bullying or otherwise contributing to a work environment that is not inclusive, respectful, and safe. Impact must be addressed regardless of the offender's intent.
- *Intimidation*: Frightening or threatening someone, often with the intention of making the person do or not do something (compel or deter).
- *Jobsite*: Also referred to as the worksite or workplace, the jobsite is where work is being conducted but also includes when workers are on organization premises, at an organization-sponsored off-site event, traveling on behalf of the organization, or conducting organization business, regardless of location.
- *Microaggression*: Subtle interactions or behaviors, whether intentional or unintentional, that communicate bias and/or reinforce stereotypes and privilege.
- *No-rehire provision*: Under this policy, a no-rehire provision is an agreement that prohibits an employee from seeking reemployment with the company and allows a company to not rehire that individual in the future.
- *Non-disclosure*: Under this policy, a nondisclosure agreement is any agreement by which one or more parties agree not to discuss or disclose information regarding any complaint of work-related harassment, discrimination, or sexual assault.
- *Non-disparagement*: Under this policy, a non-disparagement agreement is any agreement by which one or more parties agree not to discredit or make negative or disparaging written or oral statements about any other party or the company.

- *Portland Clean Energy Community Benefits Fund (PCEF)*: Voter-approved initiative to make climate investments in ways that advance equity and justice. The program is housed within the City of Portland’s Bureau of Planning and Sustainability and is guided by a nine-member community-based PCEF Grants Committee.
- *Protected Class*: This term refers to groups of people that share a common trait and are legally protected from discrimination and harassment on the basis of that trait. Protected classes have been defined in a number of Federal and State laws. Generally workers in Oregon have the right to be free from unlawful discrimination or harassment on the basis of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age, expunged juvenile record, performance of duty in a uniformed service or physical or mental disability, or any other characteristic protected by local law, regulation, or ordinance. Additional information about protected classes can be found at this BOLI site: <https://www.oregon.gov/boli/workers/Pages/discrimination-at-work.aspx>
- *Restorative Justice*: Restorative justice is a process for engaging affected parties in understanding the impact of an incident and identifying ways to heal and “make things right.” Key features include participation by those affected, creation of a safe environment for expression and developing shared understanding, identification of opportunities to make amends and reintegrate.
- *Retaliation*: In this policy, retaliation refers to adverse actions to punish a worker for filing a complaint or cooperating in an investigation. Retaliation can take many forms and can be subtle. Examples include, but are not limited to, demotion, termination (firing or layoff), denying promotion, salary or hours reduction, intimidation, isolating or excluding, negative reassignment, unwarranted negative performance review or warning, or making work conditions intolerable. Employer retaliation is illegal even if the claim turns out to be unfounded, as long as the claim was made in good faith.
- *Sexual Assault*: Unwanted conduct of a sexual nature that is inflicted upon a person or compelled through the use of physical force, manipulation, threat, or intimidation. Sexual harassment is defined above under Harassment.
- *Unacceptable Behaviors*: Actions of hate, intimidation, bullying, discrimination, or otherwise that contribute to a worksite culture that is not safe, inclusive, and respectful. Examples of unacceptable behaviors on our jobsites include, but are not limited to:
  - Slurs, insults, jokes, innuendo, teasing, or other comments that are racist, sexist, disrespectful, stereotyping, or degrading – regardless of whether delivered with words, sounds, graffiti, gestures, pictures, drawings, cartoons, signs, symbols, or other forms of verbal or nonverbal communication.
  - Unwelcome sexual remarks or physical contact including persistent unwanted courting, suggestive or insulting sounds, obscene gestures, leering or whistling, requests for sexual favors, unwanted and inappropriate touching.

- Physical interference with work, contact that impedes or blocks movement, pushing, shoving, punching, kicking, choking, biting, assaulting, injuring, or otherwise causing or being likely to cause physical harm or danger.
- Threatening, intimidating, or bullying including to a person, their family, or their property.
- Giving insulting or condescending orders or assigning undesirable tasks or opportunities for skill-building advancement differently based on individual characteristics (e.g., sex, color, religion).
- Concealing a weapon or use of any weapon.
- Acts of discrimination and harassment.

### ***Contractor (Owner, Employer) Responsibilities<sup>2</sup>***

As the owner of this organization, we have the following responsibilities:

#### *Leadership, Management, and Training*

- Lead by example including through our words, actions, incentives, and performance metrics.
- Provide bystander intervention training to all workers.
- Incorporate safe and respectful jobsite practices into job site meetings (e.g., daily debriefs or Toolbox talks).
- Provide training on managing difficult situations to supervisors.
- Ensure that persons designated as a contact or lead for incident response is sufficiently trained to do so.
- Provide work site assignments that reduce risk factors and promote positive mentoring and worker guidance (See, for example, Appendix C of EEOC Study of Harassment in the Workplace, [https://www.eeoc.gov/select-task-force-study-harassment-workplace#\\_Toc453686314](https://www.eeoc.gov/select-task-force-study-harassment-workplace#_Toc453686314)).
- Assess worksite culture including the presence or extent of harassment, develop and implement an appropriate response, and track performance over time.
- Make this policy available to existing employees and new hires and provide a copy to the complainant when an incident of unacceptable behavior is reported. Provide materials in languages appropriate to the workers.
- Post on jobsites and make available on wallet cards that rights of workers on the site include a) participation in positive jobsite trainings and b) copies of policies about hate, intimidation, or harassment including how to report and how to receive support. Provide these materials in languages inclusive of the workforce.

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<sup>2</sup> This section draws from a number of sources including <https://www.seattle.gov/purchasing-and-contracting/social-equity/acceptable-work-sites>.

### *Incident Response*

- Respond as follows to incidents that pose an immediate threat to physical and/or mental safety.
  - For incidents of racist or hate symbols including but not limited to nooses<sup>3</sup> or swastikas, respond within 24 hours as follows:
    - Consider a work stoppage if appropriate.
    - Document the incident; for example, take a photo with time-stamp and collect names of witnesses.
    - Once documented, remove the hate symbol and other items that may endanger physical or mental safety.
    - Report actual or potential hate crime to authorities.
    - Investigate and resolve as defined below.
  - For incidents of actual or potential physical harms such as assault, fights, or equipment tampering, respond immediately as follows:
    - Assure safety of all and seek appropriate medical and/or legal attention.
    - Document the incident as appropriate; for example, take a photo with time-stamp and collect names of witnesses.
    - Report to authorities actual or potential hate crime.
    - Investigate and resolve as defined below.
- For all incidents:
  - Investigate incidents in a prompt, thorough, and impartial manner including the following:
    - Date and time of incident
    - Location of incident
    - Person(s) involved and witnesses
    - Description of incident (what occurred, where, resultant harm, impact to jobsite)
    - Any other relevant details relevant to the intent and impact of the actions.
  - Ensure that information gathered as part of an investigation will be kept confidential to the extent possible consistent with a thorough and impartial investigation. The identity of an individual who submits a report, a witness who provides information regarding a report, and the target of the complaint, will be kept confidential to the extent possible consistent with a thorough and impartial investigation.

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<sup>3</sup> Note, as of June 2021 it is a class A misdemeanor in Oregon to display a noose in public or private property without permission, with the intent of causing intimidation or fear of harm. Violators could face up to 364 days in jail, a fine of up to \$6,250 in fines, or both (SB 398).

- Make clear that an employee that retaliates against any individual who submits a report or provides information regarding a report will be disciplined appropriately.
- Take immediate and proportionate corrective action to unacceptable behaviors.
- Support and protect impacted workers by acknowledging the reported incident, reviewing the response procedures, clarifying anti-retaliation policies, offering options for restorative justice, and providing assistance in identifying additional sources of support.
- Communicate the determination of an investigation to all parties including, where appropriate, any corrective actions and/or sanctions.
- We will not request, require, or coerce employees to enter into a non-disclosure, non-disparagement, or no-rehire agreement, and acknowledge and provide clear direction that an employee claiming to be aggrieved by unlawful discrimination or sexual assault may voluntarily that requests to enter into a settlement, separation or severance agreement which contains a non-disclosure, non-disparagement, or no-rehire provision has at least seven days to revoke the agreement after signing.
- For projects that include funding by the Portland Clean Energy Community Benefits Fund (PCEF), notify the PCEF grantee (project owner) and PCEF staff of reported incidents and investigations. PCEF staff can be reached at [cleanenergyfund@portlandoregon.gov](mailto:cleanenergyfund@portlandoregon.gov) or 503-823-7713.

### ***Worker Rights and Responsibilities***<sup>4</sup>

Everybody has the right to be treated with respect and dignity and to be safe on the job. Worker rights and responsibilities include the following:

- Be aware of what constitutes unacceptable behavior.
- Do not engage in unacceptable behavior.
- Intervene as appropriate when experiencing or witnessing unacceptable behavior. In addition to trainings offered by our organization there are a variety of bystander intervention resources available including <https://riseup4equity.org/job-box/> and <https://www.ihollaback.org/bystander-resources/>.
- Document and report potential violations of acceptable behavior
  - a. Document the incident – for example, take a photo, record the time, collect names of witnesses.
  - b. When possible, report to your supervisor and/or [designated person from management or human resources]

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<sup>4</sup>This section draws from a number of sources including <https://www.seattle.gov/purchasing-and-contracting/social-equity/acceptable-work-sites>.



- c. If you are not comfortable reporting within our organization or want to report to authorities in addition to our organization the following options are available:
- Oregon's Bureau of Labor and Industries:
    - Resources can be found at <https://www.oregon.gov/boli/civil-rights/Pages/default.aspx>
    - Discrimination incident report can be filed at <https://www.oregon.gov/boli/workers/Pages/employment-discrimination-questionnaire.aspx>.
  - Oregon Hate/Bias Crime Reporting Hotline has trained staff available to help victims connect with resources best suited to their needs; operates Monday through Friday from 9 to 5 and is accessible to 240+ languages. The Hotline is 1-844-924-BIAS (2427) (dial 711 for Oregon Relay). Online reporting is available in 8 languages with additional languages available by request and can be accessed at: <https://justice.oregon.gov/CrimeReporting/BiasCrime>. Additional information can be found at:  
<https://justice.oregon.gov/CrimeReporting/BiasCrime>  
<https://www.doj.state.or.us/oregon-department-of-justice/bias-crimes/about-the-law/>
  - City of Portland Office of Equity and Human Rights 503-823-4433, Portland Police Bias Crimes Investigations 503-823-0400.  
<https://www.portlandoregon.gov/police/article/423009>
  - For projects that include funding by the Portland Clean Energy Community Benefits Fund (PCEF), reports can be made to PCEF staff at [cleanenergyfund@portlandoregon.gov](mailto:cleanenergyfund@portlandoregon.gov) or 503-823-7713.
- Assist in the investigation of a complaint when requested to do so.
  - Know that you can request support, protection, and opportunities for restorative justice.
  - Do not engage in retaliation against any worker who has made a complaint or assisted with the investigation of a complaint; report any incidents of retaliation.
  - A complaint or legal action about unlawful discrimination or sexual assault can be filed up to five years after the occurrence of a violation.
  - You cannot be required or coerced into signing a nondisclosure or non-disparagement agreement regarding unlawful discrimination or sexual assault. If you voluntarily enter into a settlement, separation or severance agreement regarding unlawful discrimination or sexual assault that contains a nondisclosure, non-disparagement, or no-rehire provision you have at least seven days to revoke the agreement after signing.