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Dr. Charlene Williams
Director of the Department of Education

January 3, 2024

BY EMAIL

REDACTED
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Dr. William Fritz
Knappa School District
41535 Old Highway
Astoria, OR 97103

RE: Case #2022-MM-02

REDACTED and Dr. William Fritz:

This letter is the final order on the March 28, 2022, appeal filed by REDACTED (Complainant) alleging that Knappa School District violated OAR 581-022-2050 (Human Sexuality Education), 581-022-2312 (Every Student Belongs), and 581-022-2420 (Educational Leadership – Administrator Standards), and discriminated against LGBTQ+ students with respect to the teaching of human sexuality curriculum and the teacher who taught that curriculum.

To ensure compliance with these rules, the Oregon Department of Education will review school district procedures and make findings of fact to determine whether a violation occurred and what action, if any, should be taken.¹

APPELLATE PROCEDURES FOR COMPLAINTS ALLEGING DISCRIMINATION AND VIOLATIONS OF DIVISION 22 STANDARDS

Complainant argues that Knappa School District violated OAR 581-022-2050 by adopting human sexuality curriculum in response to community pressure. Complainant further argues that by doing so, the district also violated OAR 581-022-2312 and 581-022-2420. Complainant argues

¹ The administrative rules governing the Oregon Department of Education's appeals process are OAR 581-002-0001 to 581-002-0023.

that the adoption of the curriculum discriminated against LGBTQ+ students and the teacher who taught human sexuality.

The Oregon Department of Education has jurisdiction to resolve this appeal under OAR 581-002-0003. When a person files with the department an appeal of a complaint alleging discrimination or a violation of a rule codified in Oregon Administrative Rules Chapter 582, Division 22 (a Division 22 standard), the department will initiate an investigation to determine whether discrimination or the violation may have occurred.²

If the department determines that discrimination or the violation did not occur, the department must issue either notice of compliance, as described in OAR 581-002-0009(3)(a)(C)(i), or a final order, as described in OAR 581-002-0017.³ The Director of the Oregon Department of Education may for good cause extend the time by which the department must issue an order.⁴

If the department determines that discrimination or the violation occurred, the department must issue a final order as described in OAR 581-002-0017.⁵ The final order must include a reference to the district decision that is on appeal, the procedural history of the appeal, the department's findings of fact, the department's conclusions, and a short explanation of any corrective action to be taken.⁶

In this appeal, the department has completed its investigation. This letter constitutes the department's final order as to whether discrimination or a violation of a Division 22 standard may have occurred.

PROCEDURAL BACKGROUND

In February 2022, Complainant filed a complaint with Knappa School District's school board under the district's complaint policy. On February 3, 2022, the school board reviewed the complaint during a school board meeting while in executive session. That same night, the school board elected to take no action in response to the complaint.

In March 2022, Complainant filed an appeal with the Oregon Department of Education. The department accepted Complainant's appeal under OAR 581-002-0005(1)(a)(A), under which a complainant may file an appeal with the department if "the complainant has exhausted the [school] district's complaint process."

² OAR 581-002-0009.

³ OAR 581-002-0009(3)(a)(C).

⁴ OAR 581-002-0009(3)(b).

⁵ OAR 581-002-0009(3)(a)(B).

⁶ OAR 581-002-0017(2).

FINDINGS OF FACT

For purposes of this appeal, the Oregon Department of Education makes the following findings of fact:

1. During times relevant to this appeal, Teacher 1 was employed by Knappa School District as a probationary teacher.
2. The district uses a human sexuality curriculum called “My Future My Choice” for sixth, seventh, and eighth grades. The curriculum is compliant with state standards for human sexuality education.⁷ The curriculum includes a diagram entitled “Genderbread Person.” Teacher 1 taught the curriculum during the spring of 2021. When teaching the curriculum, Teacher 1 utilized a diagram entitled “Gender Unicorn” instead of the Genderbread Person diagram.
3. The Genderbread Person diagram depicted a gingerbread cookie figure with the following labels: “Expression, Identity, Attraction, Sex.” These labels were followed by the following text:

Sex (biological sex): This is the physical parts between a person’s legs. Its included anatomy and organs. It also includes hormones. These parts do not determine sexual orientation or gender identity.

Gender Identity: A person’s inner sense of self. Who someone identifies as. For example, cisgender, girl or woman, transgender, genderqueer, boy or man, agender, etc.

Gender Expression: How people express themselves in society. This can be through clothing, hairstyles and makeup. It can also be through gestures and behaviors.

Attraction (Sexual Orientation): A person’s sexual desire for others. Also, their romantic desire for others. For example, gay, lesbian, bisexual, queer, heterosexual, pansexual, asexual, etc.

4. The Gender Unicorn diagram used by Teacher 1 depicted an image of a unicorn and images of rainbows. The diagram included the following text:

Gender Identity > Female/Woman/Girl, > Male/Man/Boy > Other Gender(s).

⁷ See OAR 581-022-2050 (setting standards for human sexuality education).

Gender Expression > Feminine > Masculine > Other

Sex Assigned at Birth > Female > Male > Other/Intersex

Physically Attracted to > Women > Men > Other Genders

5. In Spring 2022, the district received complaints about My Future My Choice, including Teacher 1's use of the Gender Unicorn diagram. The district received two types of complaints. First, that the Gender Unicorn diagram required students to self-disclose their gender identity, gender expression, who they are physically attracted to, and who they are emotionally attracted to. Second, that parents and student were not given an opportunity to opt-out of My Future My Choice.
6. On May 21, 2021, two district Administrators (Administrator 1 and Administrator 2) received an email from a community organization. The email was entitled "In Opposition to Transgenderism in Knappa Schools." In the email, the community organization argued that My Future My Choice and materials introduced through the curriculum promoted "transgender education."
7. On May 21, 2021, Teacher 1 sent an email to Administrator 2. In the email, Teacher 1 wrote,

So this week has been a tailspin and each day I've been left feeling more confused. To put it bluntly – I don't feel supported as a counselor right now. Each day through some means I hear new little bits of concerning information. As best as I can tell this whole mess started with the [school] board meeting and some parent(s) that got ahold of a paper that had been handed out to students earlier that day. Of course without context they were able to fit it into any narrative they have. This was to be expected and unsurprising. What I did not expect was for you to say to me that I "deviated from the curriculum" or for [Administrator 2] to tell someone in the community that I "supplemented the curriculum without approval." Neither of these statements are true and I'm worried that they're going to allow space to create a dangerous narrative that jeopardizes my position as a counselor. The fact that we have some families currently requesting that I not be allowed to speak with their children already speaks to that. You only addressed me on Monday to ask for clarification as to what the handout was and you appeared fine with my professional judgement at that

time. Obviously since Monday there has been more pushback from some community members and the curriculum is being halted and reviewed.

Teacher 1 wrote that My Future My Choice was “board certified” and in compliance with state law. Teacher 1 stated that they did not deviate from My Future My Choice. “What I did do was use an alternative handout[.]” Teacher 1 specified that “[T]he handout in the curriculum had full definitions whereas the one I used had the same language/terms, but in a much simpler format.” Teacher 1 also wrote that they did not ask students to fill out the Gender Unicorn diagram. “A few students did ask me if they were supposed to and I told them not to and that is was just a handout to help them understand terminology.” Teacher 1 stated that as a counselor, they had a duty to serve all students. Teacher 1 stated that they did not disclose their personal belief system to students.

8. On May 24, 2021, a parent of a child attending school in the district (Parent 1) filed a “Reconsideration Request Form for Reevaluation of Instructional Material (Form/Policy IIA-AR)” with the district. On the form, Parent 1 indicated that they were concerned with My Future My Choice. “Numerous transgender vocabulary and concepts are not appropriate subjects for public school, certainly not young children.” Parent 1 specified that they were concerned with the content of certain worksheets.
9. On June 11, 2021, Administrator 1 sent an email to Teacher 1 authorizing to continue teacher My Future My Choice, but without any supplementary material.
10. On June 18, 2021, another teacher in the district (Teacher 2) sent an email to community members defending Teacher 1. Teacher 2 wrote,

It has been implied that [Teacher 1] asked students to fill out a document that asked students to identify where they fall on the scale of gender identity. It is my recollection that [Teacher 1] never asked students to complete or write on this document, but to use it as a resource for learning and understanding the terms applicable to the lesson and fulfill the requirements as expressed in state standards.

11. On June 21, 2021, Parent 1 gave public comment at a district school board meeting. Parent 1 suggested that “the school board suspend My Future My Choice curriculum, pending a review this fall. Use any and all means to craft a curriculum that aligns more with the community.” Other community members gave similar public comment.

12. At the June 21st meeting, Administrator 1 spoke about the district's use of My Future My Choice. Meeting notes summarized Administrator 1's comments as follows:

[Administrator 1] stated that the [district's] curriculum committee reviewed [the May 21st] complaint, a full copy of the curriculum, state standards and board policy. They held two meetings[,] only five were present at the second meeting, they had talked with [the Oregon Department of Education] and were informed that this is the only curriculum that exists that covers all of the standards, if we remove it we need to have a full committee review with professionals to create our own. [The department] stated we are obligated due to Division 22 standards, if we chose not to we would need to work with [the department] to meet the standards, we could lose state funding if we didn't comply, the committee voted to retain the curriculum, they discussed how to make the opt out process better for the future.

13. At the June 21st school board meeting, the board voted to suspend the district's use of My Future My Choice. Meeting notes summarized the vote as follows:

[Board Member 1] moved to overturn the [curriculum] committee decision to reinstate the [My Future My Choice] curriculum pending a review in the fall, [Board Member 2] seconded, moved to vote, discussion followed, [Board Member 3] yes, [Board Member 1] yes, [Board Member 2] yes, [Board Member 4] no, [Board Member 5] no[,] motion carries 3-2 to suspend the curriculum until the fall for review. No further discussion.

14. On October 6, 2021, Teacher 1 sent an email to Administrator 1, requesting that they be added to the human sexuality curriculum adoption committee for grades 6-8. Administrator 1 responded, stating that Teacher 1 would be added to the human sexuality curriculum adoption committee for grades K-5. "Given the level of interest in both committees, I am hoping you will be willing to serve on the K-5 committee (and not the middle school one) so that we aren't overloading that on with staff."

15. On October 25, 2021, Teacher 1 sent an email to Administrator 1, again requesting that they be added to the human sexuality curriculum adoption committee for grades 6-8.

I just wanted to follow up . . . from a while ago. I know the curriculum review teams are going to be starting up soon and you have yet to respond to any of the points I made about me being on the middle/high school team. I really strongly feel that not having me be a part of the team is a disservice to students (unless you have included [Teacher 3] on them, of course). I also have to admit I feel somewhat disrespected that not only was my email not responded to, but also at the idea that I would NOT be included in the social emotional curriculum review. I'm hopeful that both are just an oversight due to these weird covid times of stress.

Later that day, Administrator 1 responded,

Thank you for the reminder. [Teacher 3] is participating on the committee. I apologize for not getting back with you in response to your message. I would like you to be part of the K-5 process.

Teacher 1 responded,

I'm not sure what bothers me more. The fact that you still didn't respond to my points or that you asked [Teacher 3] to join the committee RIGHT before you responded to me so that you could avoid me being on it. It was convenient that [Teacher 3] happened to be in the district office right then. I don't understand why you really don't want me to be on that committee.

16. In November 2021, the district submitted its Division 22 Assurances to the Oregon Department of Education for the 2020-2021 school year. As part of that submission, the district reported that the district was not in compliance with the standard relating to human sexuality education.
17. On January 14, 2022, Teacher 1 provided students with a genogram as part of an assignment to create a family tree. The genogram contained instructions on how to demarcate, as part of the family tree, a family member's sex, birth date, age or date of death, location, and annual income. The genogram contained instructions on how to demarcate whether a family member was homosexual, bisexual, transgender, had therapy or an "institutional connection," had a "secret," was an immigrant, or had lived in more than one culture. The genogram also contained instructions on how to

demarcate a child's relationship with their parents, such whether the child was a biological, foster, or adopted child, or whether a pregnancy ended in stillbirth, miscarriage, or abortion. The genogram contained instructions on how to demarcate the "interactional patterns between people," such as whether they were close to one another, hostile toward one another, distant from one another, or had a positive relationship. Lastly, the genogram contained information on how to demarcate the "Addiction, Physical or Mental Illness, or Other Problem" of a person, including whether a person had a physical or psychological illness, engaged in substance abuse, was suspected of engaging in substance abuse, was a smoker, or was obese.

18. The genogram generated significant discussion about its appropriateness on social media.
19. On January 14, 2022, a parent sent an email to Administrator 2, requesting that the district remove their child from Teacher 1's class.
20. On January 14, 2022, another parent sent an email to Administrator 2, Administrator 1, and Teacher 1. In the email, the parent wrote,

Hello [Teacher 1]. I am writing this email to you because [my child] shared with me an assignment that was handed out by you I your class today. My husband and I are raising our children to be Christians and it is not your place to be putting these kinds of ideas into my child's mind! I also fail to see how LGBTQ has anything to do with independent living or anything you teach in our school! If that is how you want to raise your children then that is your choice but keep it out of my child's schooling! If this is an issue then [my child] will no longer attend any of your classes!

21. On January 15, 2022, a third parent sent an email to Administrator 1, stating that they did not have a child enrolled in Teacher 1's classroom, but nonetheless found the genogram to be an "inappropriate schematic for creating a family tree."

[I]f this indeed was handed out by [Teacher 1], I have zero confidence in [Teacher 1's] ability to be in any authoritative position[] in our kids' lives. If this is true it would not be the first time [Teacher 1] has handed out very inappropriate information to students. This schematic of a family tree is grossly inappropriate for [Junior] High kids and has no place in the school system.

22. The district investigated Teacher 1's use of the genogram. Several students reported that the assignment made them uncomfortable. Some students reported that information contained in the genogram, such as extramarital relationships, was discussed in class. Three students did not turn in the assignment. Other students stated that Teacher 1 did not request personal information as part of the assignment. One student asked Teacher 1 if they could present their family tree to the class. After Teacher 1 was interviewed by the district, Teacher 1 wrote a letter documenting the circumstances under which they provided students with the genogram.

On Friday, Jan 14, 2022, my Adulting 101 class was assigned a family tree project. During my 2nd period class I gave the students a copy of a genogram (a technical family tree) key that showed various ways a family tree could be used to talk about family relationships in a clinical setting. I then instructed students to use ONLY the male/female, pet, married, not married, divorced, and children symbols from the key. I asked them to think about who in their family has made a positive impact in their lives and to only include those individuals on their family tree.

* * * * *

During my second period class, one student took and sent a photo of the key to their parent and said they were being asked to fill it out and their parent called the school to request their student be excused from the assignment as their student, nor they, felt comfortable with sharing that much personal information. When my class period ended, I saw the email about the phone message from the parent and immediately called the parent to address their concerns and to explain what the assignment was. The parent understood and agreed that the assignment that I was asking for was fine.

At that point, I then recreated a key to only include the symbols that I was asking students to use so that moving forward there would be less confusion. I then took the first key and the second key to [Administrator 2] and [Administrator 1] and explained the parent phone call, the assignment, and the changes I made. Both were satisfied with my proactive approach and I continued with my lesson in 4th period.

During my 4th period class, I handed students the revised key and explained the assignment. The students had a lot of questions and “what ifs” about their family trees and relationships and so I showed them the original key and explained to them that while there are lots of ways we could create their family trees, we would only be focusing on the positive relationships.

23. During January 2022, Administrator 1 and Administrator 2 received letters from students and community members advocating for Teacher 1 and refuting allegations that Teacher 1 had requested personal information from students.
24. On February 8, 2022, Administrator 1 provided Teacher 1 with notice of the administrator’s recommendation to the school board to not renew Teacher 1’s contract.
25. On February 9, 2022, Administrator 1 met with Teacher 1 to discuss the genogram. At that meeting, Administrator 1 told Teacher 1 that the district had concluded that Teacher 1 had violated district policy on January 14, 2022.
26. On February 16, 2022, Administrator 1 provided Teacher 1 with a letter documenting the administrator’s recommendation to the school board to not renew Teacher 1’s contract. Administrator 1 based their decision on the determination that Teacher 1 had violated district policy on January 14, 2022. Specifically, that Teacher 1 had violated school board policy KAB “by providing a personally identifiable assignment that included self-disclosure of personal information about students and families, including, but not limited to mental and psychological problems of the student or the student’s family, sex behavior or attitudes, illegal, antisocial, self-incriminating, or demeaning behavior, beliefs of the student or the student’s parents, and/or income.” The letter further stated that “[i]n doing so, you did not provide an opt out opportunity for families as required by [the] policy.”
27. On February 16, 2022, the Oregon Department of Education sent a letter to the district about the district not being compliant with the Division 22 standard relating to human sexuality education. In that letter, the department wrote that it had reviewed the district’s proposed corrective action plan and was approving it. The department specified that the district must complete the corrective action plan no later than the beginning of the 2022-2023 school year.

ANALYSIS

The question on appeal is whether Knappa School District violated OAR 581-022-2050 (Human Sexuality Education), 581-022-2312 (Every Student Belongs), and 581-022-2420 (Educational Leadership – Administrator Standards), and discriminated against LGBTQ2SIA+ students and Teacher 1 with respect to the teaching of human sexuality.

I. Allegation #1: Whether Knappa School District violated OAR 581-022-2050

Under OAR 581-022-2050,

Each school district shall provide an age-appropriate, comprehensive plan of instruction focusing on human sexuality education, HIV/AIDS and sexually transmitted infections and disease prevention in elementary and secondary schools as an integral part of health education and other subjects. Course material and instruction for all human sexuality education courses that discuss human sexuality in public elementary and secondary schools shall enhance students' understanding of sexuality as a normal and healthy aspect of human development.

According to Complainant, Knappa School District stopped teaching “an age-appropriate comprehensive plan of instruction on human sexuality” in response to parents’ and community members’ reaction to My Future My Choice, specifically Teacher 1’s use of the Gender Unicorn diagram and the genogram.

The evidence does demonstrate that on June 21, 2021, the district school board voted to suspend teaching My Future My Choice even though the district’s curriculum committee voted to continue teaching it. However, the evidence also demonstrates that in November 2021, the district reported to the Oregon Department of Education that it was not in compliance with OAR 581-022-2050 when submitting its Division 22 Assurances for the 2020-2021 school year. On February 16, 2022, the department responded to this report, informing the district that it had reviewed the district’s proposed corrective action plan and had approved it.

In short, the district self-reported to the department that it was not in compliance with OAR 581-022-2050, the district developed a corrective action plan to remedy that noncompliance, and the department approved the correction action plan on February 16, 2022. Under these circumstances, the question about whether Knappa School District was in compliance with OAR 581-022-2050 was moot on March 28, 2022, the date on which the department accepted Complainant’s appeal. At that time, the department was all already monitoring the district to ensure compliance with OAR 581-022-2050.

II. Allegation #2: Whether Knappa School District violated OAR 581-022-2312

OAR 581-022-2312 requires school districts to “prohibit the display of symbols of hate on school property or in an education program” and to adopt a policy to address bias incidents and displays of symbols of hate.” The rule defines “bias incident” to mean “a person’s hostile expression of animus toward another person, relating to the other person’s perceived race, color, religion, gender identity, sexual orientation, disability or national origin[.]”

According to Complainant, Knappa School District failed to respond to parents’ and community members’ “hostile expression of animus” toward Teacher 1.

The evidence does demonstrate that parents and community members expressed dissatisfaction with My Future My Choice and Teacher 1. However, that dissatisfaction did not constitute “a person’s hostile expression of animus toward” Teacher 1 because of Teacher 1’s “perceived race, color, religion, gender identity, sexual orientation, disability or national origin.” Instead, the evidence demonstrates that parents and community members disapproved of My Future My Choice and Teacher 1’s use of the Gender Unicorn diagram and genogram.

After Teacher 1 provided students with the Gender Unicorn diagram, a community organization sent an email to the district entitled “In Opposition to Transgenderism in Knappa Schools.” In the email, the community organization argued that My Future My Choice and materials introduced through the curriculum promoted “transgender education.” Additionally, Parent 1 filed a “Reconsideration Request Form for Reevaluation of Instructional Material (Form/Policy IIA-AR)” with the district. On the form, Parent 1 indicated that they were concerned with My Future My Choice and the content of certain worksheets.

After Teacher 1 provided students with the genogram, the district received several emails about the family tree assignment. On January 14, 2022, a parent sent an email to Administrator 2 requesting that the district remove their child from Teacher 1’s class. On January 14, 2022, another parent sent an email to Administrator 2, Administrator 1, and Teacher 1. In that email, the parent expressed dissatisfaction with the genogram and anger toward Teacher 1. On January 15, 2022, a third parent sent an email to Administrator 1, stating that they did not have a child enrolled in Teacher 1’s classroom, but nonetheless found the genogram to be an “inappropriate schematic for creating a family tree.”

Both incidents – Teacher 1 providing students with the Gender Unicorn diagram and Teacher 1 providing students with the genogram – generated significant discussion in the community and on social media.

Understandably, Teacher 1 felt denigrated by the community and unsupported by the district. Parents and community members reacted negatively to My Future My Choice, a district approved

curriculum. In response, the district told Teacher 1 that they had “deviated from the curriculum” because they had used the Gender Unicorn diagram instead of the Genderbread Person diagram. Later, the district investigated Teacher 1’s use of the genogram. However, these incidents did not involve Teacher 1’s “perceived race, color, religion, gender identity, sexual orientation, disability or national origin[.]” They involved My Future My Choice, the Gender Unicorn Diagram, the genogram, and parents’ and community members’ fears – and discriminatory attitude – toward the curriculum and the worksheets.

In consideration of the facts, the department finds that there is insufficient evidence to establish that the district violated OAR 581-022-2312.

III. Allegation #3: Whether Knappa School District violated OAR 581-022-2420

Under OAR 581-022-2420, “School Districts shall use the educational leadership-administrator standards to evaluate administrator effectiveness.” Those standards include the following:

(1) Visionary Leadership: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by stakeholders.

(2) Instructional Improvement: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by sustaining a positive school culture and instructional program conducive to student learning and staff professional growth.

(3) Effective Management: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by ensuring management of the organization, operation, and resources for a safe, efficient, and effective learning environment.

(4) Inclusive Practice: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by collaborating with faculty and community members, responding to diverse community interests and needs, and mobilizing community resources in order to demonstrate and promote ethical standards of democracy, equity,

diversity, and excellence, and to promote communication among diverse groups.

(5) Ethical Leadership: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by acting with integrity, fairness, and in an ethical manner.

(6) Socio-Political Context: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context.

On appeal, Complainant argues that the conduct of Administrator 1 indicates that the administrator failed to meet these standards.

It is first important to understand what OAR 581-022-2420 requires. OAR 581-022-2420 does not require administrators to meet the prescribed standards. The rule requires districts to *use* the standards when evaluating administrators. In *Webster's Third New International Dictionary*, "use" means "the act or practice of using something" or "to employ." In other words, OAR 581-022-2420 requires school districts to practice using, or to employ, the criteria of visionary leadership, instructional improvement, effective management, inclusive practice, ethical leadership, and socio-political context when evaluating administrators. The standards function as guidelines for districts to use during an evaluation process, not as an enforceable code of conduct subject to regulation by the Oregon Department of Education.⁸

Complainant fails in their claim because they misunderstand the scope of OAR 581-022-2420. The rule does not require Administrator 1 to meet the prescribed standards. Rather, the rule requires Knappa School District to use the standards when evaluating Administrator 1. If the standards are used, the department's inquiry is over. The department will not second-guess the application of the standards by the district.

IV: Allegation #4: Whether Knappa School District discriminated against LGBTQ+ students with respect to the teaching of human sexuality curriculum and against the teacher who taught that curriculum

Under Oregon's anti-discrimination statute,

A person may not be subjected to discrimination in any public elementary, secondary or community college education program

⁸⁸ In contrast, the Teacher Standards and Practices Commission may directly regulate whether an administrator made their "best effort" to comply with "educational leadership-administrator standards." See OAR 584-235-0010.

or service, school or interschool activity or in any higher education program or service, school or interschool activity where the program, service, school or activity is financed in whole or in part by moneys appropriated by the Legislative Assembly.⁹

For purposes of this prohibition, “discrimination” is defined to mean “any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation, either of which is based on race, color, religion, sex, sexual orientation, national origin, marital status, age or disability.”¹⁰

On appeal, Complainant argues that Knappa School District discriminated against LGBTQ2SIA+ students with respect to the teaching of human sexuality curriculum because the district changed the curriculum it taught in response to parents’ and community members’ reaction to My Future My Choice and Teacher 1’s use of the Gender Unicorn diagram and genogram. Complainant also argues that the district discriminated against Teacher 1 by not renewing their contract because Teacher 1 provided students with the genogram.

Parents of children attending school in the district and other community members did demonstrate discriminatory attitudes toward LGBTQ2SIA+ persons, particularly with respect to the provision of the genogram. However, the evidence indicates that the district followed proper protocols when changing the curriculum.

On May 24, 2021, Parent 1 filed a “Reconsideration Request Form for Reevaluation of Instructional Material (Form/Policy IIA-AR)” with the district. In response, Administrator 1 convened the district’s curriculum committee. The curriculum committee contacted the Oregon Department of Education about My Future My Choice and learned that if it did not use My Future My Choice, it would have to work with the department to develop an alternate curriculum. The curriculum committee then recommended to Knappa School District’s school board to continue teaching the curriculum, but without the use of supplementary materials. The school board voted to *suspend* the curriculum. Then, in November 2021, the district reported to the Oregon Department of Education that it was not in compliance with OAR 581-022-2050 when submitting its Division 22 Assurances for the 2020-2021 school year. On February 16, 2022, the department responded to this report, informing the district that it had reviewed the district’s proposed corrective action plan and had approved it.

The analysis here, is similar to the one used by the department to determine whether the district violated OAR 581-022-2050. The district received a request to change curriculum. In accordance with school policy, the district’s curriculum committee convened to consider changing the

⁹ ORS 659.850(2). OAR 581-021-0045(2) applies this prohibition specifically to the types of schools regulated by the Department: “No person in Oregon shall be subjected to discrimination in any public elementary or secondary school, educational program or service, or interschool activity where the program, service, school, or activity is financed in whole or part by monies appropriated by the Legislative Assembly.”

¹⁰ ORS 659.850(1). OAR 581-021-0045(1)(a) uses an identical definition for “discrimination” for purposes of the Department’s regulatory authority over public elementary and secondary schools.

curriculum. As the ultimate decision-maker, the school board voted to suspend teaching the curriculum while the district developed new curriculum that otherwise would comply with OAR 581-022-2050. The district then self-reported to the department that it was not in compliance with OAR 581-022-2050. The district developed a corrective action plan to remedy that noncompliance, and the department approved the correction action plan on February 16, 2022. In consideration of the evidence, the department finds that Knappa School District changed from My Future My Choice to an alternate curriculum in accordance with district policy, and that the new curriculum met the standards set forth in OAR 581-022-2050.

Undoubtedly the district felt a great deal of pressure from the community about the content of My Future My Choice, pressure that demonstrated discriminatory attitudes toward LGBTQ2SIA+ persons. However, in response to that pressure, the district followed its own policies and procedures and developed a new curriculum that complied with state law.

With respect to not renewing Teacher 1's contract, the question on appeal is whether there is evidence that the district did not renew the contract as a result of their support for LGBTQ2SIA+ persons. First, it should be noted that the district was under no obligation to renew the contract. Teacher 1 was employed by the district as a probationary teacher. Second, and more importantly, Teacher 1's contract was not renewed for a discriminatory reason. Rather, it was not renewed because Teacher 1 had violated school board policy KAB "by providing a personally identifiable assignment that included self-disclosure of personal information about students and families, including, but not limited to mental and psychological problems of the student or the student's family, sex behavior or attitudes, illegal, antisocial, self-incriminating, or demeaning behavior, beliefs of the student or the student's parents, and/or income."

Complainant argues that the district reacted too harshly to Teacher 1 providing students with the genogram. However, on its face, the genogram did demonstrate how to include sensitive information as part of a family tree, making several students uncomfortable with the assignment. That said, the department is not in a position to judge the district's evaluation of Teacher 1 during their probationary period. The department only may regulate discriminatory conduct. Here, there is insufficient evidence to establish that the district did not renew Teacher 1's contract as a result of their support for LGBTQ2SIA+ persons.

CONCLUSION

In consideration of the evidence before the Oregon Department of Education, the department finds that there is insufficient evidence to establish that Knappa School District violated OAR 581-022-2050, 581-022-2312, or 581-022-2420, or discriminated against LGBTQ2SIA+ students or Teacher 1 with respect to the teaching of human sexuality curriculum.

Do not hesitate to contact me if you have any questions about the content of this order.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Mayer', enclosed in a light gray rectangular box.

Mark Mayer, Complaint and Appeals Specialist
Office of the Director
Oregon Department of Education
Mark.Mayer@state.or.us