



ZERO TOLERANCE AND ACCOUNTABILITY POLICY

Best Practices Guide

This Zero Tolerance and Accountability Policy, Best Practices Guide is intended to be used to help your company create its own complete and responsive Zero Tolerance and Accountability Policy. This document provides a framework based on best practices that companies can use to create and implement their own systems and practices to ensure that their jobsite culture reflects the values of safety, inclusion, and respect.

We have not supplied you with a one-size-fits-all policy to sign and move on. Instead, we are asking each company to go through the process of really thinking through the WHY and the WHAT as it relates to a safe, inclusive, and respectful jobsite, and then to figure out for themselves (using our guidance and best practices) what their values are around jobsite culture and how they are going to promote and enforce those values. Doing the work of shifting culture is not a box-checking exercise, nor is jumping straight to the implementation stage a successful strategy. Rather, companies must engage in the hard work that actually results in the final product in order to cultivate the buy-in, ownership, accountability, and support that this type of policy requires to be successful. This will also allow individuals within their companies the ability to better respond if/when issues do arise, to feel internally supported in their roles in regards to a response, and to adhere to the policies put in place. In short, companies must create their own policies themselves in order to have the best shot at success in implementation.

Our hope is that by providing these best practices and guidance, we will align our industry under a common set of values. As each company engages in its own internal conversations, with companies across our region talking about the right things and the same things, we will see what we have always known to be true. We are more the alike than we are different and we all want the same thing—to feel safe, to feel included, and to be respected.

HOW TO CREATE A ZERO TOLERANCE AND ACCOUNTABILITY POLICY

STEP 1: UNDERSTAND AND DOCUMENT WHY YOU ARE CREATING A ZERO TOLERANCE AND ACCOUNTABILITY POLICY

- **OVERVIEW:** For a Zero Tolerance and Accountability Policy to be successful, a Company must understand and document why it is important that such a Policy exists and is enforced.
- To assist in reaching this understanding, the following steps should be taken:
 - Companies should engage in a collaborative process to identify their corporate values around Zero Tolerance and Accountability.
 - Leadership throughout all levels of the Company should be engaged in a discussion on the values of this Policy to promote collaboration, ownership, buy-in, and Company accountability.
 - To the extent possible, Companies should engage employees at all levels in this discussion.
 - To the extent they are willing to participate, endeavor to include the voices of Black, Indigenous and other People of Color, women, LGBTQIA+, and other marginalized or underrepresented people
 - The following values should be considered:
 - Awareness is crucial
 - Setting forth expectations for our companies and our jobsites is our responsibility
 - It supports a successful industry
 - It protects our workforce
 - It supports a positive job site culture
 - It upholds the integrity of our companies
- Companies should articulate and document their values around their own Zero Tolerance and Accountability Policies, as well as the purpose behind implementing such policies. Consider the following purpose statement:
 - **PURPOSE:** The purpose of the Zero Tolerance policy is to:
 - ensure that construction jobsites and workplaces are environments that are inclusive, respectful, harassment-free, and safe;
 - set expectations for jobsite culture and conduct are clearly articulated and known by all people working on a jobsite; and
 - end exclusionary practices that keep women, persons with disabilities, LGBTQ+, and people of color from being successful, safe and in leadership positions.

STEP 2: DETERMINE AND COMMUNICATE EXPECTATIONS FOR JOBSITE CULTURE AND CONDUCT

- **OVERVIEW:** This section is used to set the standards for the company, how people should treat other, and to identify the activities and conduct that is not allowed at your company. Employees need to understand that creating a positive culture is good for the company and the industry. We recommend that companies engage in a Company-wide process to determine and communicate standards for jobsite culture and unacceptable conduct by doing the following:
 - Determine and identify conduct which the Company deems unacceptable;

- Effectively communicate expectations for jobsite culture company-wide; and
- Provide training and support to employees responsible for upholding and enforcing Company's jobsite culture expectations.
- Outline Zero Tolerance and Unacceptable Conduct
 - For Zero Tolerance, consider unacceptable conduct for which a response and consequence is mandatory. For example:
 - Hate crimes or bias-motivated conduct
 - Racial or ethnic slurs or epithets
 - Homophobic or transphobic slurs or epithets
 - Sexual assault or harassment
 - Harassment related to race, ethnicity, nationality, age, religious practice, immigrant status, sexual orientation, gender identity or gender expression
 - Threats, intimidation or retaliation including bullying and other forms of aggression
 - Any behaviors that negatively impact a person's well-being mentally or physically, or that impact their ability to work with dignity and pride
 - Leadership within the Company must represent Company expectations for jobsite culture at all times and the Company should recognize and reward that commitment
 - Set expectations for leadership to demonstrate acceptable conduct and an inclusive and safe jobsite culture
 - Set incentives for leaderships' engagement and compliance
 - Set clear consequences for leadership's noncompliance with company policy and/or company leadership expectations
 - Identify performance metrics around compliance and enforcement applicable to positions of leadership and scope of responsibility and include in performance reviews
 - Example: Are conversations about respectful workplace culture being held during employee check ins? Are company leaders telling inappropriate jokes or failing to intervene when jokes are told?
 - Refer to Company employee and Human Resources handbooks that identify unacceptable conduct
 - Ensure compliance with the Oregon Workplace Fairness Act
 - Determine whether there is other conduct, in addition to what is outlined in HR policies, that is unacceptable on a jobsite. If so, identify that in advance and outline that additional unacceptable conduct.
- Communicate expectations for jobsite culture and conduct explicitly. The following methods are recommended:
 - Provide policy to everyone on the first day of employment
 - Have employees sign statements of acknowledgement and commitment to comply with jobsite culture and conduct expectations
 - During job site meetings (such as daily debriefs or ToolBox Talks), discuss unacceptable conduct including unacceptable conduct that could result in termination, how to respond to such incidents, and how to positively promote inclusion, respect, and safety on the job site
 - Create job site signs that communicate expectations and commitment and methods for reporting

- Zero Tolerance signs should be displayed in multiple languages
 - Install signs that express Company commitment to safe and inclusive jobsites
 - Provide signs that communicate employee rights to report unacceptable conduct outside of Company
 - Share Company policies with employees
 - If serving as Prime Contractor, ensure that jobsite culture expectations are also communicated to subcontractors and non-employees working on the jobsite
- Support employees in following and enforcing jobsite culture and conduct expectations
 - Based on the size of the Company, engage HR, DEI staff, consultant or designated person, as appropriate:
 - To work with Site Superintendent and other jobsite management personnel to understand, implement and enforce jobsite culture and expectations for conduct.
 - To provide trainings to all employees on jobsite culture, expectations for conduct, unacceptable conduct, and Company policies.
 - Such training should include: Harassment-prevention, Bystander intervention, Employee support training, and Incident Response.
 - Require all jobsite leadership to complete jobsite culture trainings.
 - Ensure that the lived-experiences of marginalized and underrepresented employees is a substantial consideration in hiring or promoting employees for DEI positions

STEP 3: CREATE AND IMPLEMENT A SYSTEM FOR REPORTING UNACCEPTABLE CONDUCT/GRIEVANCES

- **OVERVIEW:** This section is used to develop a reporting system for when people do not meet the company's expectations for acceptable conduct and jobsite culture. We recommend that companies create and implement a system that provides for accessible and safe reporting of unacceptable conduct by addressing the following:
 - Identify and communicate what type of conduct must be reported;
 - Identify who must report unacceptable conduct;
 - Create a system for how and to whom unacceptable conduct is reported; and
 - Communicate the company's reporting policies and system.
- Outline the type of unacceptable conduct that must be reported regardless of its illegality.
 - Mandatory reporting should be required for conduct that violates state and/or federal laws or Company policies
 - Other mandatory reporting may include the following unacceptable conduct:
 - Hate crimes or bias-motivated conduct
 - Racial or ethnic slurs or epithets
 - Homophobic or transphobic slurs or epithets
 - Sexual assault or harassment
 - Harassment related to race, ethnicity, nationality, age, religious practice, immigrant status, sexual orientation, gender identity or gender expression
 - Threats, intimidation or other threatening behavior including bullying and other forms of aggression or menacing behaviors
 - Determine whether the unacceptable conduct must be reported outside of the Company to other authorities and outline procedure for such reporting

- Just like un-safe activities, everyone must be able to report unacceptable conduct. When a leader or supervisor is made aware of the conduct, there needs to be a formal system to report the unacceptable conduct AND they must understand their responsibilities to take action.
 - Identify who must report unacceptable conduct. Consider the following:
 - Leadership levels
 - Company's hierarchy of power
 - Job description responsibilities
 - Access to jobsite
 - Bystander status

- Create a formal system for reporting unacceptable conduct
 - Internal – Identify individuals within the Company to whom unacceptable conduct is to be reported
 - Consider the following:
 - Identify multiple individuals (within or external to the Company) to whom reporting must be made in the event that the supervising employee engaged in the unacceptable conduct
 - Implement an independent third-party reporting system to support reporting and investigation
 - Hierarchy of power and leadership and what type of conduct must be reported to the highest levels within a Company
 - Ensure that protocols are in place to ensure a safe mechanism for reporting
 - System of reporting must include an option to provide for anonymity
 - Whether to remain anonymous shall be at the discretion of the person or persons reporting the incident
 - Retaliation reports stemming from unacceptable conduct shall be immediately investigated and person(s) perpetuating retaliation may need to be removed from or relocated within the job site pending completion of the investigation to ensure the safety of the harmed person(s) or reporter(s)
 - System of reporting must provide multiple avenues for reporting (verbal, written, in-person, complaint box)
 - Create a system for escalating reports up the chain of command in a timely manner where there is inaction, unreasonable delay in response, or where bias or favoritism is impacting the integrity of the process
 - External – Identify the specific instances for which external reporting is required and provide information to employees regarding their rights to report unacceptable conduct outside of the Company
 - Required external reporting of unacceptable conduct and optional external reporting by employees may include the following entities:
 - Owner or Developer
 - Host Employers
 - Local, State, or Federal agencies
 - State and Federal labor and industry departments such as, Oregon Bureau of Labor and Industries, Washington Department of Labor and Industries, and Federal Department of Labor

- Oregon Safety and Health Administration
 - Trade Unions
 - Apprenticeship Programs
- Unacceptable conduct should be reported through any third party reporting systems utilized by the Company, related to the project, or to which the harmed person(s) or reporter(s) have access
- Required external reporting of unacceptable conduct and optional external reporting by employees may include the following entities:
 - If you are a general contractor - what are the contractual requirements to report to the project owner?
 - If you are a subcontractor - what are the contractual requirements to report to the general contractor?
 - Consider Local, State, or Federal agencies
- Implement a system to communicate Company's reporting policies, mechanisms and protocols with employees
 - Discuss reporting system during ToolBox Talks or during other jobsite meetings
 - Post information on how to file a complaint, to whom complaints should be submitted, and how to receive resources and support, along with any other pertinent reporting information, PREDOMINATELY on the jobsite, including in restrooms, breakrooms, or other high-traffic areas of the job site
 - Where a service is utilized for reporting, include QR Code on wallet cards, policy and posters
 - If serving as Prime Contractor, ensure that reporting policies, mechanisms and protocols are also communicated to subcontractors and non-employees working on the jobsite

STEP 4: CREATE AND IMPLEMENT A SYSTEM TO INVESTIGATE AND RESPOND TO REPORTS OF UNACCEPTABLE CONDUCT

- **OVERVIEW:** This section is used to develop an investigation process in response to receiving a report of unacceptable conduct. We recommend that companies create and implement a system that provides for a thorough investigation into all matters relevant to the unacceptable conduct at issue by addressing the following:
 - Investigation should be as transparent as is allowable under all HR policies, applicable laws, Union collective bargaining agreements, and other contract requirements as applicable;
 - Investigations should be timely and thorough as dictated by the complexity of the issues being investigated; and
 - Investigation should include the harmed person(s) in meaningful ways.
- Investigation processes should include the following:
 - Incident to be reported internally to the HR department or other person designated to address jobsite complaints within two (2) hours of incident being reported which shall immediately be reported to the Company designee as dictated by the Company's reporting policy
 - Person to address complaint must have training sufficient to investigate reports

- Based on the level of concern, the Company president or designee may order temporary stoppage of the work
 - IN NO EVENT shall the person(s) harmed by the unacceptable conduct or the reporter(s) of the unacceptable conduct be moved from or relocated within the job site unless they request such relocation
- Investigations should be thorough with an Initial Written Report to be prepared as close to incident as possible by person(s) with personal knowledge of incident (if known) and person to whom incident was reported including the following details:
 - Date/time of incident
 - Location of incident
 - Steps taken to secure the location of the incident:
 - Person(s) involved – Name(s):
 - Witnesses – Name(s):
 - Description of incident:
 - Description of resultant harm:
 - Impact to jobsite:
- Investigation into the facts set forth in the Initial Written Report and any other facts shared verbally (which shall also be put into writing) shall be conducted by either the HR department, other designated person, or a third-party investigator.
 - Such investigation shall include:
 - Interviews with person(s) identified in private and secure location
 - Site visit to the location of the incident
 - Confirmation of facts through review of photos, cell phone records, witness statements, and other information as acquired
 - Analysis of impact on harmed person(s) and jobsite
 - Provide multiple, safe, designated private spaces for interview and investigation to ensure safety and confidentiality of person(s) reporting to reduce further harm
 - Provide support to harmed person(s) to avoid or minimize retraumatization including having advocate or safe person included in interviews
 - Person accused of unacceptable conduct should not be present during harmed person(s) and report(s) interview and must be interviewed separately
- Final Report to be prepared by investigator that sets forth the information, indicates how information was verified, and provides a final conclusion on whether the Incident violates Company's Zero Tolerance and Accountability Policy
 - Ensure Final Report maintained anonymity of harmed person(s) and reporter(s)
 - Ensure any final reports that may be released outside of the organization does not violate any offender's rights to privacy as an employee.
 - Include a system for acknowledging harmed person(s) as part of conclusion of investigation
 - Include a system that ensures the investigation and Final Report are reviewed and approved by all positions of supervision from harmed person(s) to the highest levels within the Company

- Do not consider investigation closed or final until proposed resolution is communicated to the harmed person(s) and they are given an opportunity to discuss the investigation and outcome, as allowable by law
- Include the harmed person(s) in Company's handling and investigation into the unacceptable conduct
 - Provide resources to the harmed person(s) to educate them on their legal rights, contractual rights (including any Master Collective Bargaining or Apprenticeship Agreements) and communicate with the harmed person(s) on how to participate in the investigation
 - Provide support to harmed person(s) to avoid or minimize retraumatization
 - Create a workplan to support the harmed person(s) to ensure continuity of employment and compensation.
 - Provide transparency to the harmed person(s) on status of investigation, including regular updates throughout the course of the investigation and findings

STEP 5: CREATE AND IMPLEMENT A SYSTEM OF ACCOUNTABILITY

- **OVERVIEW:** This section is used to develop accountability measures and consequences for unacceptable conduct that are appropriate, consistent, and supported to ensure integrity within the process. We recommend that companies create and implement a system that provides for individual and Company accountability by doing the following:
 - Develop matrix of unacceptable conduct and range of consequences for violations;
 - Identify methodology to be utilized in determining consequences;
 - Set forth expectations for Company leaderships' participation in outcome; and
 - Engage individuals and organizations outside of the Company in final assessment of investigation and outcomes, where appropriate and feasible.
- In Step 2, you identified unacceptable conduct. Using those items, describe 'bright line rules' about expected behavior and consequences for unacceptable conduct on jobsites. Consider the following potential consequences for unacceptable conduct and identify the types of conduct that may warrant each consequence below:
 - Verbal Warning
 - Written Reprimand
 - Written Reprimand and Temporary Leave
 - Suspension
 - Termination
- When determining the consequences, consider engaging the following people to ensure Company support, adherence to Company policies, and consistency:
 - Company leadership should be engaged and actively participate in the process of determining consequences for unacceptable conduct
 - DO NOT require or request that the harmed person(s) or reporter(s) participate in determining the appropriate consequence for the unacceptable conduct
 - To the extent the harmed person(s) or reporter(s) request to be involved in assessing or determining the appropriate consequence for the unacceptable conduct, engage their participation in meaningful ways

- Identify who in the company will be making decisions on consequence of unacceptable conduct
 - Consider chain of command/hierarchy of power within the Company, type of unacceptable conduct at issue, position of person engaged in unacceptable conduct
- Ensure leadership in the field is informed on job site conduct and is responsive to issues
- Ensure Company leadership is providing support to field leadership in implementing consequences
 - Create a system to create ownership and buy-in for consequences to be implemented
- When determining the consequences, identify and document factors to be considered to ensure Company support, adherence to Company policies, and consistency:
 - Take into account past conduct, history of unacceptable conduct, willingness to admit wrongdoing, investment and receptivity to being held accountable
 - Consider a Restorative Justice model that includes an assessment of harms caused to person(s) most impacted, coworkers, company, owners, self, family; inclusion of all harmed individuals in resolution of the issue; making amends and transformational change
 - Consider rehabilitation or other processes that encourage opportunities for reflection, education, and improved behavior
 - Develop guidelines for discretionary decisions allowed in determining consequences
 - Ensure that the Company process can and are equitable applied and enforced such that women and people of color are not disparately impacted
- Include individuals and organizations from outside of the Company to ensure objectivity and transparency where feasible and appropriate
 - Submit report to a third party arbitration panel made up of AGC, Company, and NAMC or panel of industry advocates such as Oregon Tradeswomen, Inc., minority caucus groups from trade unions, or a panel of mediators for a determination on the outcome
 - Engage ombudsman or other oversight entity to provide independent determination of Company's handling of the complaint of unacceptable conduct
 - Publish report company-wide, ensuring confidentiality as appropriate and where required by law
 - Engage with industry partners, Unions, and public agencies to create a regionwide tracking system that maintains ongoing records of unacceptable conduct
 - A long-term industry-wide goal is to share Final Reports (with or without Company identification), accountability practices, and educational experiences with organizations outside of the Company in order to enhance Best Practices of our industry

*Ensure the Company Zero Tolerance and Accountability Policy complies with other requirements, including any applicable Union collective bargaining agreements and project contracts. To the extent conflicts exist, engage in best efforts to negotiate the ability to implement the best practices set forth in this Policy.