

## **UO Senate Bias and Education Response Team Task Force Final Report**

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### **PROCESS**

The Senate's Bias and Education Response Team Task Force was organized in the Spring of 2016 in response to national coverage of the University of Oregon's Bias Response Team and its potential impact on academic freedom. The Senate, concerned with academic matters, strongly supports the concept of the intellectual autonomy of individual faculty and students. At the same time, the Senate seeks to ensure that students are free to learn without discrimination. Therefore, the task force was developed the following mandate:

National coverage around the Bias Response Team (BRT) and similar efforts across the country have raised some concern regarding the potential for negative effects on classroom discussions. This committee is tasked with assessing the material and perceived impact of the BRT on faculty, student, and staff interactions. The work of this committee is two-fold. First, to gather information about BRT processes as they relate to faculty personnel files and to measure faculty attitudes regarding the Bias Response Team and its work. Second, based on the findings of this research, to offer specific recommendations for working directly with the BRT to create an environment that reflects both academic freedom and inclusivity.

The task force co-chairs and the Senate President initially met with Mr. Quantrell Willis, Assistant Dean of Students and the coordinator of the Bias Response Team on August 15, 2016. The task force met two times during Fall Term (September 21 and October 28) and twice during Winter Term, 2017 (January 10 and February 23).

The Senate task force's assessment is based on a review of a number of documents, including the original charter for the BRT, case review logs (redacted), annual reports since the BRT's

inception, presentation materials developed by the BRT/BERT, volunteer training guidelines, and current campus climate reports. In 2016, the BRT was re-named the Bias and Education Response Team. This report uses the abbreviations BRT and BERT.

**BACKGROUND AND FINDINGS** The Bias Response Team was originally established in 1999 in the wake of a classroom incident involving racial stereotyping and threats of sexual violence. Believing that the administration had not adequately responded to bias-related crimes, the students called for the formation of a bias response team.

Over the seventeen years of its existence, the working definition of “bias” has evolved. In its original charter, for example, the terms “bias-related crimes” and “hate crimes” were often used interchangeably. The following definition is taken from the BRT’s 2003 annual report:

Any physical, spoken or written act of abuse, violence, harassment, intimidation, extortion, use of vulgarity, cursing, making remarks of a personally destructive nature toward any other person, and any restriction or prevention of free movement of an individual. Bias occurs whether that act is deliberate, intentional or unintentional or is directed toward an individual or group regarding race, color, creed, national origin, sex, sexual orientation, physical or mental disability, political or religious ideology.

By 2007, the BRT’s working definition of “bias” was broadened extensively beyond what would previously have been categorized as “abuse, violence, harassment, intimidation, extortion, use of vulgarity, cursing, [or] destructive.” According to the 2007 annual report, the BRT’s definition of bias included the following:

Anything that is said or done that you find discriminatory or offensive qualifies as bias. Bias is not always intentional and doesn’t always violate the student conduct code or state laws. The BRT is not here to determine what bias is and isn’t abuse, but rather to support and protect your right to live and learn on this campus community.

Today, this concept of bias is taught alongside other concepts, including privilege, micro-aggressions, and bystander behavior. According the 2015 BRT annual report, bias is enacted when it meets one of the following criteria:

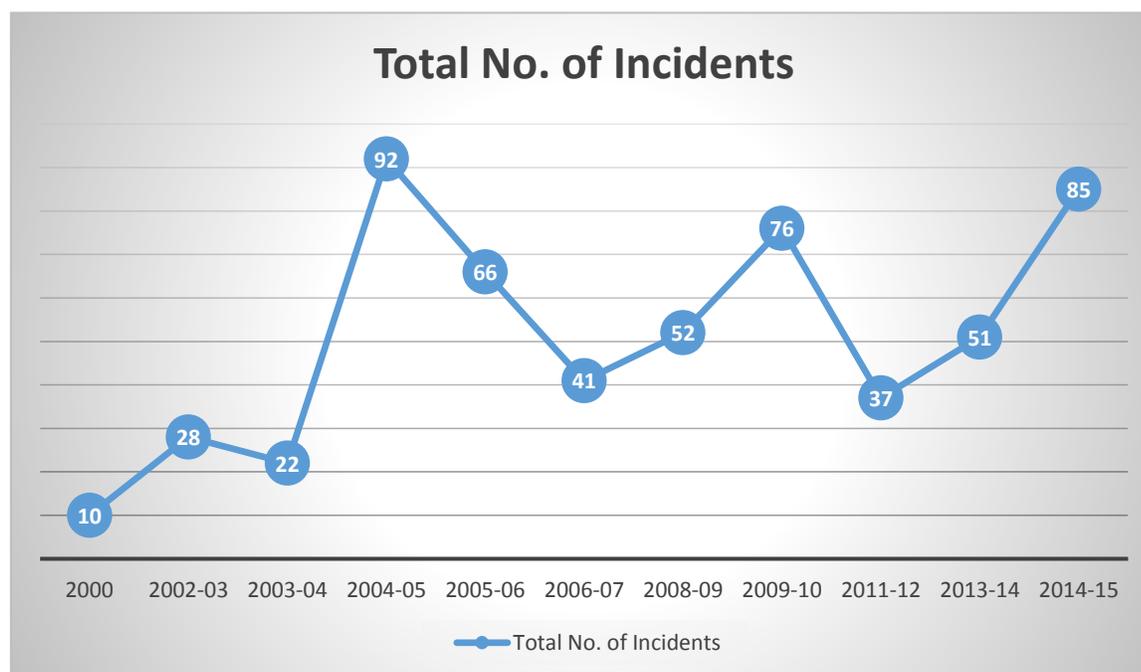
Bias is any physical, spoken, and/or written act that:

- is a threat to the well-being of a person and/or community
- is intentional or unintentional
- targets a marginalized identity whether real or perceived
- commonly elicits feelings of powerlessness, alienation, or exclusion

- negatively impacts the ability to live, work, or learn

When a bias-related incident is reported, information is recorded on the incident including the names of parties involved. This information is stored in the BERT database for five to seven years. When a bias-related incident is reported, that incident is categorized by the BERT as either “for action” or “for information only.” If an incident requires “action,” the reporter is assigned a Case Manager and an Advocate, who are not full-time members of the BERT, but rather volunteers working at other units across campus (i.e. College of Business, Residence Life, etc.). According to the BERT, these individuals will decide on appropriate next steps. In some cases, a secondary member, such as a department head, supervisor, senior administrator, public safety officer, etc. is brought into the process. BERT materials indicate that if a report indicates that a student conduct code, law, or policy has been violated, that report must be acted upon.

A review of annual reports from 2000 to 2015 suggests that a large majority of bias-related incidents occur in the residence halls. We also found that the number of reports of bias-related incidents has been inconsistent over the years. The highest number of reports occurred in 2004-2005.



## EVALUATION OF THE FACTS

## **The Evolving Definition Of Bias**

The change from a restrictive to an extensive definition of bias is significant because it transforms the perspective from which bias is measured. In the previous working definition, bias was measured according to a list of stated standards. Under the broadened definition, bias becomes a subjective standard based on what the reporter finds offensive. This has important implications for classroom dynamics if there is a continued BERT role in directly intervening. Under the broadened definition of bias, *any* classroom exchange may be categorized as “bias” and therefore subject to administrative review, regardless of context or intent.

Because the BERT’s practice is to accept the reporter’s interpretation of events without judgment, it is not in their mandate to ascertain the perspective of those being reported. Furthermore, because the BERT does not see itself as an investigatory body, the coordinator of the Bias and Education Response Team is in the unique position of assessing what is considered bias and, therefore, how an incident will be handled. Who specifically occupies that position will dictate how aggressively incidents of reported bias will be handled.

During our examination of the annual reports, we did encounter numerous incidents that would clearly be categorized as explicitly anti-Semitic, homophobic, and racist. However, in its reporting process, the BERT does not distinguish between hate-speech and other forms of classroom interactions. Therefore, reports of swastika graffiti and “sexual and physical assault” exist alongside a claim that a professor penalized a student for an absence (all in the 2004 -2005 annual report). Both incidents are categorized as bias and made publicly available. In both cases, data is recorded on the accused and the accuser and kept on file subject to administrative review and public records requests. Both are subject to intervention by the BERT without a clear set of guidelines. This raises the important question of the punitive nature of the BERT.

## **The Mandate and Processes of the Bias and Education Response Team**

According to the BERT’s documents, part of the mission is to:

Respond in an educational way to incidents that go against the university’s values of equity and inclusion by delivering trainings, workshops, and facilitating conversations with people involved, as well as providing resources and/or referrals. The services provided by the BRT can be used by anyone in the campus community.

Based on the organization’s mission statement, the BERT can be seen as providing three different functions: education, referral, and response (intervention). These three functions are assessed independently in the following section:

**Function #1: *Responding in an educational way to incidents that go against the university's values of equity and inclusion by delivering trainings and workshops***

We find that BERT serves an important function by providing educational resources to a number of on-campus organizations. One member of the Senate task force has worked directly with the BERT to educate that member's department on bias-related issues and opportunities to create a more inclusive environment. Such opportunities included facilitated listening sessions between students, faculty, and staff.

In July, 2016, the Bias Response Team changed its name to the Bias and Education Response Team in an effort to emphasize its role in promoting education about bias.

Aside from the data provided in the BERT's annual reports, the task force found that there is a general lack of data regarding bias included in campus climate surveys. For example, in the Graduate Experience Survey, 71% of survey respondents rated their programs' efforts to "promote a diverse, inclusive community" as excellent, very good, or good. By contrast, 12% of respondents described those efforts as fair while only 7% described them as poor. It is the opinion of the task force that such data is not adequately designed to assess perceptions of bias on campus and that an instrument needs to be developed specifically for this purpose.

**Function #2: *"Providing resources and/or referrals"***

Today there are a number of avenues here for reporting bias, including the university's Ombuds office, Title IX, Affirmative Action, Public Safety, and the Bias and Education Response Team. Given the number of avenues for students, faculty, and staff to report incidents of bias, there is the potential for confusion about where students should go and how incidents of bias are referred. The establishment of [respect.uoregon.edu](http://respect.uoregon.edu) further complicates this issue because the BERT and [respect.uoregon.edu](http://respect.uoregon.edu) occupy similar spaces and utilize the same online reporting form.

The BERT maintains that it is not investigatory or punitive and that it doesn't respond to incidents on campus that involve violations of the student conduct code or federal laws. According to the BERT, such incidents are referred to the Office of Affirmative Action and Equal Opportunity or Title IX. During our research, however, we found a number of cases where it appeared that students were not channeled to the appropriate resource given the nature of the incident. Consider the following cases:

*Incident:* Student harassed and assaulted outside residence hall due to sexual orientation.

*Response:* Followed up with student just to check in. The student was thankful for contact. (annual report 2002-2003)

*Incident:* Student was attacked by an unidentified individual. Student had a pie thrown in face.

Only Black student in the classroom. *Response:* BRT created a safe dialogue where a resolution was reached satisfactory to all parties involved; BRT coordinated a satisfactory institutional response. Also, BRT created an educational outreach program to address the issue involved in the case (annual report 2005-2006).

*Incident:* A student reported that residents physically threatened another student. *Response:* A BRT Case Manager referred to Housing Staff to communicate community standards and expectations to the entire hall (annual report 2014-2015).

*Incident:* A student reported that a professor refused to provide them with accommodations for health issues. *Response:* A BRT Advocate offered to meet with the reporter, who chose to instead meet with the Accessible Education Center. A BRT Case Manager also held an informative conversation with the professor (annual report 2014-2015).

In several of these cases, even though students appear to be under imminent threat of physical danger, there is no mention of a referral to Public Safety, Title IX, or Affirmative Action. This seems to be a conspicuous omission given the severity of the actions being described. Additionally, there was inconsistency in handling cases in which students do not have access to resources, as illustrated in the incident involving a professor who allegedly refused to provide a student with accommodations for health issues. While this appears to be a violation of student rights, there is no mention of referral to the appropriate channel.

These cases demonstrate that there is no consistent process for directing students to the appropriate campus resource. Given that the handling of individual cases is a subjective process, there is no assurance that a case will be channeled to the appropriate resource. This is problematic because the specific needs of students, faculty, and staff may not be inadequately served.

### **Function #3: “*facilitating conversations with people involved*”**

According to the BERT, some bias-related incidents call for specific interventions, which usually take the form of a facilitated conversation between the reporter and the reported. It is in this final function that the task force found several incidents in which the BERT acted against its stated protocol and also infringed upon academic freedom. There were a number of cases in which classroom interactions were subject to review and intervention based on unclear information. We also found instances in which the supervisor of an individual accused of bias was brought into this discussion.

Here, it is important to re-visit the notion of academic freedom. In his discussion of the role of

academic freedom and the modern university, Boyer (2002) described the conditions in which a free exchange of ideas can be ensured:

Nowadays, most faculty routinely assume that they may teach their special subjects and areas of expertise in ways that make the most sense to them, and, moreover, that they have a right to speak or write in public on scholarly issues as they see fit, on campus, and beyond the walls of our local community. Our students share in these assumptions, for the University does not regulate student speech – we do not censor student newspapers, and we do not regulate the programmatic statements of student clubs and other organizations. Moreover, our institutional structures are designed to reflect these highly individualistic values.

According to Boyer, the sign of a healthy university is when faculty have the freedom to teach and speak as they see fit, even on controversial issues. Similarly, students must feel empowered to contribute to classroom discussions and ask difficult questions. To assure the faculty and students in this process, administrative institutions must promote rather than constrain free speech. All are aware that academic discourse must be balanced by collegial interaction or what Boyer describes as “everyday practical communitarian values.”

As previously mentioned, we found several instances in which classroom interactions were subject to review by the BERT based on unclear information. Consider the following examples:

*Incident:* An international student reported that an instructor scrutinized them more than other students when proctoring an exam. *Response:* A BRT Advocate met with the reporter, and a BRT Case Manager contacted the appropriate supervisor, who had a professional development conversation with the instructor. (annual report 2014-2015).

*Incident:* A student reported that a guest lecturer characterized a group of people in a biased and discriminatory manner. *Response:* A BRT Advocate met with the reporter, and a BRT Case Manager facilitated a conversation between the student and the professor (annual report 2014-2015).

Based on the data provided in the annual reports, we have only brief snapshots of classroom interactions and the BERT offers little information about the specific nature these interactions, intent, or context. Furthermore, we have little information regarding the specifics of the BERT’s response. Given the lack of information, it is difficult to ascertain the full nature of the case.

While classroom interactions were subject to review, we also encountered an incident in which the BERT made direct contact with the student press regarding their editorial content:

*Incident:* An anonymous student reported that a newspaper gave less press coverage to trans students and students of color. *Response:* A BRT Case Manager held an educational conversation with the newspaper reporter and editor (annual report 2014-2015).

Direct engagement with the student press raises unique considerations. The University of Oregon's policies on Academic Freedom and Freedom of Speech and Inquiry make clear that academic freedom extends to other forms of speech, including the student press. While members of the BERT may maintain that such a discussion is merely educational, a formal visit from an administrative organization may itself be seen as a form of coercion and an attempt to influence editorial policy. The incident also demonstrates the inconsistency in which such matters are handled. For example, the 2009-2010 annual report indicates that a "student reported consecutive articles that were unfairly discriminatory toward a student of color." In this case, there is no mention of an intervention by the BERT.

THE PUNITIVE NATURE OF BERT INTERVENTION

The BERT maintains that it is not a punitive organization and that it doesn't investigate incidents of bias. Furthermore, when facilitated conversations are called for, the BERT maintains that such conversations are voluntary and the accused person may decline to participate. During our research, however, we encountered a number of instances in which the accused persons' supervisors were directly contacted. Consider the following examples in which the supervisors of the accused person were drawn into a facilitated conversation:

*Incident:* A student reported that a faculty member retaliated against them for sending a written notification of disability and accommodations. *Response:* A BRT Advocate met with the reporter and connected them with the Accessible Education Center, and a BRT Case Manager held a professional development conversation with the department head (annual report, 2014-2015).

*Incident:* A student reported unhelpful, unequal treatment from an employee. *Response:* A BRT advocate met with the reporter and empowered them to submit a complaint to the employee's supervisor, and a BRT Case Manager followed up with the supervisor (annual report 2014-2015)

*Incident:* Anonymous staff members reported that another staff member asked a co-worker inappropriate questions and did not refer to them correctly. *Response:* A BRT Case Manager contacted the appropriate supervisor, who checked in with the target of these incidents and held a professional development conversation with the co-worker" (annual report 2014-2015).

In each of these cases, a member of the BERT directly contacted the supervisor of the accused person. At worst, such involvement can cause potential damage to an individual's reputation and

career on the basis of accusation alone and without the benefit of an open and transparent process. The threat of involving one's direct supervisor in educational conversations has the clear potential to have a conservative effect on classroom interactions as direct contact from an administrative delegate may be seen as a form of coercion. Furthermore, administrative inquiries into the speech and scholarship of faculty members have the potential to suppress speech, particularly on issues related to diversity and inclusion. Consequently, the BERT's practices have the potential to undermine the inclusive environment they hope to achieve.

## PRIVACY

Based on our research, the Senate task force found that the BERT does not ensure the privacy of individuals involved in a bias-related incident. If an individual is named in a bias-incident, that individual's name is made part of a record that is held at the Office of Student Life for five to seven years. Currently, personal information is neither redacted nor expunged after a case has been resolved.

Furthermore, when an incident of bias is reported, information on the case is distributed to a number of relevant players across campus. For example, a case response team is comprised of three different groups: advocates, the administrative team, and secondary members. Advocates may include individuals from across campus. For example, in 2014-2015 the Bias Response Advocacy team included individuals from the College of Business, Residence Life, International Affairs, Outdoor Programs, Non-Profit Management, and others. The administrative team includes BERT staff as well as graduate employees, student interns, and student volunteers. Finally, secondary members include department heads, senior administrators, and Public Safety representatives.

## CONCLUSION AND RECOMMENDATIONS

Overall, we found that the work of the BERT, as envisioned in its original mission, is currently being handled by other resources on campus, including Title IX, the Ombuds Office, AAEO, and the newly launched [respect.uoregon.edu](http://respect.uoregon.edu). Consequently, there is a duplication of effort among these various organizations.

In October 2016, the university administration established [respect.uoregon.edu](http://respect.uoregon.edu), a separate online resource for reporting bias-related incidents. This resource was formed in response to a spike in hate-related incidents on campus. It appears that [respect.uoregon.edu](http://respect.uoregon.edu) and the BERT occupy a similar space. Both resources utilize the CARE reporting form. The similarities have the potential for creating confusion about which resource is the appropriate one.

According to the university's Office of the General Counsel (OGC), these two resources are

meant to be complementary, with respect.uoregon.edu serving as a form of “triage” for students, faculty, and staff facing imminent threats. By contrast, OGC relegates BERT to dealing with “lower level” forms of bias. The demarcation between higher and lower tiers of bias is a new development and has the potential to shift the role of the BERT. Since respect.uoregon.edu is tasked with channeling students to the appropriate resources for severe forms of bias, then questions arise regarding the responsibilities of the BERT.

That said, we found that the BERT serves an important function in educating the campus community about bias by delivering trainings, workshops, and talks with various campus organizations. The many incidents received by the BERT make it clear to us that the university community must continue to make a concerted effort to improve the climate on campus and help reduce incidents of bias.

While the BERT can be effective at addressing bias-related issues, the Senate task force has a high level of concern regarding the large number of instances in which cases have been mishandled at the individual level. BERT’s inability to provide adequate privacy for those involved in bias-related incidents, the inconsistency in how cases are handled, and the punitive nature of some interventions all have the potential to jeopardize the careers and reputations of individuals implicated in bias-related reports without due diligence. Given these issues, the Senate task force recommends the following solutions:

### **With Regard to the BERTS’s Education Function**

For purposes of recording bias-related incidents, BERT may continue its use of a broad definition of bias. However, such incidents should be recorded in a way that no personal information is included. Specifically, we recommend that the BERT adopt the Ombuds Office policies for securing private information. The task force further asks that the BERT report its confidentiality procedures to Senate.

In fulfillment of its educational function, we recommend that the BERT continue to advise and empower students who are faced with bias-related issues. We recommend that the BERT equip students with skills needed to resolve these issues, and to educate students on free speech. In particular, it is apparent that the high number of incidents experienced in the residence halls warrants ongoing education efforts in this setting.

In an effort to provide the BERT with more data regarding campus climate issues as they relate to bias, we recommend that the administration invest in research designed specifically for this purpose or share existing research with the various units on campus. We recommend that such information be used for educational purposes, not to penalize particular units.

### **With Regard to the BERT's Referral Function**

If a report of a bias-related incident elevates to the level of harassment or discrimination, then the case should be directed to other resources that are more adequately equipped to handle such cases (e.g. Affirmative Action or Title IX).

If the BERT decides to report and refer the incident to another entity, then a narrower definition of bias should be enacted when making these decisions. This definition should focus on violations of federal law prohibiting discrimination that harms the ability of students to obtain an education (Titles VI and IX).

The BERT website should clearly state that while the BERT will provide educational services designed to reduce other inappropriate or harassing behavior, including advice about how students and faculty should handle specific situations and appropriate referrals, it will not intervene.

The BERT website and documents should make it clear that the BERT is not a confidential resource, and that BERT employees may be required to report incidents to AAEO or the Title IX Coordinator *even if the reporter does not want this*.

### **With Regard to the BERTS's Intervention Function**

The task force recommends that the BERT should refrain from classroom interventions, including facilitated conversations with faculty, staff and their supervisors. Such matters should be handled by the appropriate entity (Affirmative Action, Title IX, etc.).

Bias incidents that involve potential violations of employment law should be handled by Human Resources, not the BERT

We recommend that the practices of the BERT be subject to Senate review through an oversight committee. We also recommend that a representative of the BERT provide an annual report to the Senate and to the leadership of the Associated Students of the University of Oregon. Such meetings would add much needed context to the data provided by the BERT and should prompt ongoing dialogue regarding bias-related issues.

We urge the Senate to draft a resolution addressing academic freedom. The purpose of this resolution is to reassure the campus community that classroom interactions will not be subject to review unless there is a clear violation of established policies and rights, that the university will not attempt to influence the student press, and that students will not be discouraged from engaging in difficult conversations.

While the Senate task force recognizes the contributions of the Bias and Education Response Team, we found that substantive changes to the organization's professional practices are needed to ensure that the BERT can meet its mandate of creating a more inclusive environment. The current recommendations are designed to help the BERT create an environment that promotes rather than impedes open and honest dialogue around issues of diversity and inclusion.