

EMPLOYMENT APPEALS BOARD DECISION
2026-EAB-0656

Affirmed
Disqualification

PROCEDURAL HISTORY: On May 12, 2026, the Oregon Employment Department (the Department) served notice of an administrative decision concluding that claimant quit working for the employer without good cause, Disqualifying claimant from receiving unemployment insurance benefits effective March 1, 2026 (decision # L0017591665).¹ Claimant filed a timely request for hearing. On June 17, 2026, ALJ Andersen conducted a hearing, and on June 26, 2026 issued Order No. 26-UI-333631, affirming decision # L0017591665. On July 15, 2026, claimant filed an application for review with the Employment Appeals Board (EAB).

WRITTEN ARGUMENT: Claimant submitted a written argument on July 15, 2026 with his application for review. Claimant also submitted a written argument on July 31, 2026. EAB did not consider claimant's July 15, 2026 argument because he did not state that he provided a copy of his argument to the employer as required by OAR 471-041-0080(2)(a) (May 13, 2019). EAB considered claimant's July 31, 2026 argument in reaching this decision.

FINDINGS OF FACT: (1) Lane County School District # 19 employed claimant as a teacher, most recently a teacher of kindergarten, from 2007 until March 2, 2026.

(2) The employer had a social media use policy under which employees were subjected to disciplinary action up to and including discharge if their actions on social media websites, while on or off duty, were disruptive to the school environment. Claimant knew the employer had policies on social media use, but did not know exactly what they were. However, claimant had reason to know that advocating violence or genocide on his publicly viewable Facebook page was prohibited by the employer.

¹ Decision # L0017591665 stated that claimant was denied benefits from March 15, 2026 to March 13, 2027. However, as decision # L0017591665 stated that claimant quit on March 2, 2026, the decision should have stated that claimant was disqualified from receiving benefits beginning Sunday, March 1, 2026 and until he earned four times his weekly benefit amount. See ORS 657.176.

(3) Claimant had a Facebook profile page that was viewable to the public, though claimant did not mention on the page that he worked for the employer. Claimant did not think he was Facebook friends with any of the staff or parents of students at the employer's school, though parents and staff could access his publicly viewable Facebook page. Claimant, using his Facebook profile, would, from time to time, comment on messages the employer posted via their Facebook page. Claimant also had a publicly viewable LinkedIn profile page in which he stated that he was a teacher who worked for the employer.

(4) In January 2026, claimant made a Facebook post in which he suggested that Democrats be "investigated for treason and shot." Exhibit 1 at 11. In the year or so prior to January 11, 2026, claimant made Facebook posts advocating for Immigration and Customs Enforcement (ICE) agents to shoot protestors and for the nation of Somalia to be "nuk[ed]." Exhibit 1 at 17.

(5) On January 11, 2026, claimant re-posted an image on his Facebook profile page showing a map of the United States with a crucifix superimposed upon it and in which the original poster had stated, "From sea to shining sea make America Islam free!" Above the original post, claimant wrote, "Time for a new crusade. Kill all illegals and Muslims." Exhibit 1 at 10. Claimant made this post from home using his personal device.

(6) An educator at claimant's school saw claimant's "Kill all illegals and Muslims" post. On January 12, 2026, the educator emailed the principal of claimant's school and other administrators, complaining that the post advocated violence and targeted specific groups. The educator called out from work that day because she had a meeting scheduled with claimant and did not think she could work with him after seeing the post.

(7) On January 13 or 14, 2026, claimant deactivated his Facebook profile. On or about that time, the employer placed claimant on administrative leave and began an investigation into his Facebook posts.

(8) On January 15 and 16, 2026, various local print and television media sources reported on claimant's "Kill all illegals and Muslims" post, as well as some of his earlier posts such as the one relating to Democrats being "investigated for treason and shot." Some of the news accounts interviewed a parent of a student who attended claimant's school, and who stated that they had found claimant's Facebook page by clicking on claimant's profile from a comment he had left on the employer's Facebook page.

(9) On January 15, 2026, a user on Reddit posted screenshots of some of claimant's Facebook posts, including the "Kill all illegals and Muslims" post and the earlier posts advocating for ICE agents to shoot protestors and for Somalia to be "nuk[ed]." The Reddit post received hundreds of comments and upvotes. On or about January 19, 2026, parents of students at claimant's school began circulating flyers with claimant's name and picture, some of his offensive Facebook posts, and a QR code directing users to a petition to remove claimant from his position. The petition was signed by hundreds of people.

(10) For weeks after claimant's "Kill all illegals and Muslims" post came to light, the principal of claimant's school spent an average of two to three hours per day addressing media requests and parents' concerns, resulting in her missing meetings and collaboration time with teachers. Dozens of parents and staff members met or communicated with the principal and the employer's school district director to request claimant be removed from his position. Some staff members threatened to resign their employment and a couple of parents threatened to withdraw their children from the school if claimant

was not removed from his position. One student missed school for about a month due to their parents' concerns regarding claimant.

(11) On or about February 16, 2026, the employer completed their investigation. On February 16, 2026, the employer presented claimant with a written notice that documented the investigation. *See* Exhibit 1 at 9-18. The notice explained that the employer was considering discharging claimant and chronicled the evidence in support of the proposed discipline. The notice concluded that the employer considered their investigation to have substantiated that claimant had violated their social media policy with his "Kill all illegals and Muslims" post, as well as some of the earlier posts. Exhibit 1 at 16-17.

(12) On February 17 or 18, 2026, claimant and his union representative met with the employer's assistant director of human resources (HR) for a hearing to discuss claimant's Facebook posts and the employer's proposed discipline. The employer's procedures required them to first recommend discharge to the school board and for the school board to adopt that recommendation before claimant could be discharged. In the hearing, claimant's union representative asked if the employer planned to recommend discharge to the school board. The assistant director of HR confirmed that the employer was planning to do so at the next meeting of the school board.

(13) Claimant and his union representative considered claimant's options. They both felt that claimant would inevitably be discharged. The two discussed that if claimant separated from the employer, it would be difficult for him to find a future job in education because of the news accounts and public controversy that arose after his "Kill all illegals and Muslims" post came to light. The union representative also told claimant that if he resigned and later applied for a job with another school district, he would be required to disclose that he had resigned from the employer in lieu of termination. Claimant ultimately proposed that he resign his employment to avoid the inconvenience of going before the school board, and the union representative supported that idea.

(14) On March 2, 2026, claimant voluntarily quit working for the employer. He did so because he had determined that being discharged was inevitable, and he wanted to avoid being discharged and the inconvenience of going before the school board.

CONCLUSIONS AND REASONS: Claimant voluntarily left work without good cause.

A claimant who leaves work voluntarily is disqualified from the receipt of benefits unless they prove, by a preponderance of the evidence, that they had good cause for leaving work when they did. ORS 657.176(2)(c); *Young v. Employment Department*, 170 Or App 752, 13 P3d 1027 (2000). "Good cause . . . is such that a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, would leave work." OAR 471-030-0038(4) (September 22, 2020). "[T]he reason must be of such gravity that the individual has no reasonable alternative but to leave work." OAR 471-030-0038(4). The standard is objective. *McDowell v. Employment Department*, 348 Or 605, 612, 236 P3d 722 (2010). A claimant who quits work must show that no reasonable and prudent person would have continued to work for their employer for an additional period of time.

Per OAR 471-030-0038(5)(b), leaving work without good cause includes:

* * *

(F) Resignation to avoid what would otherwise be a discharge for misconduct or potential discharge for misconduct[.]

Case law holds that a person may quit work with good cause where the impending discharge would not be for misconduct and other criteria are met. *See McDowell v. Employment Dep't.*, 348 Or 605, 236 P3d 722 (2010) (claimant had good cause to quit work to avoid being discharged, not for misconduct, when the discharge was imminent, inevitable, and would be the “kiss of death” to claimant’s future job prospects). The evidence is sufficient to conclude that claimant faced an impending discharge. The assistant director of HR had confirmed that the employer planned to recommend to the school board that claimant be discharged. It is more likely than not that the school board would have adopted that recommendation given the controversy that arose after claimant’s “Kill all illegals and Muslims” post came to light, as well as the substantial support among parents and staff that claimant be removed from his position.

However, the record shows that claimant’s impending discharge would have been for misconduct. Therefore, claimant resigned to avoid what would otherwise have been a discharge for misconduct, and OAR 471-030-0038(5)(b)(F) controls. As such, claimant quit work without good cause.

ORS 657.176(2)(a) requires a disqualification from unemployment insurance benefits if the employer discharged claimant for misconduct connected with work. “As used in ORS 657.176(2)(a) . . . a willful or wantonly negligent violation of the standards of behavior which an employer has the right to expect of an employee is misconduct. An act or series of actions that amount to a willful or wantonly negligent disregard of an employer's interest is misconduct.” OAR 471-030-0038(3)(a). “[W]antonly negligent” means indifference to the consequences of an act or series of actions, or a failure to act or a series of failures to act, where the individual acting or failing to act is conscious of his or her conduct and knew or should have known that his or her conduct would probably result in a violation of the standards of behavior which an employer has the right to expect of an employee.” OAR 471-030-0038(1)(c).

Isolated instances of poor judgment are not misconduct. OAR 471-030-0038(3)(b). To be isolated, an instance of poor judgment must be a single or infrequent occurrence rather than a repeated act or pattern of other willful or wantonly negligent behavior. OAR 471-030-0038(1)(d)(A). However, acts that violate the law, that are tantamount to unlawful conduct, or that create irreparable breaches of trust in the employment relationship or otherwise make a continued employment relationship impossible exceed mere poor judgment and do not fall within the exculpatory provisions of OAR 471-030-0038(3). OAR 471-030-0038(1)(d)(D).

Claimant’s impending discharge would have been for misconduct connected with work. The employer’s policy prohibited claimant from engaging in activities on social media websites, while on duty or off duty, that were disruptive to the school’s environment. Claimant’s January 11, 2026 “Kill all illegals and Muslims” post clearly violated this policy.

The post advocated violence against specific groups and was publicly viewable on claimant’s profile page where it was seen by a work colleague who informed the employer of it. The post caused a cascade of events disruptive to the school’s environment: the complaining work colleague’s absence from work; numerous local print and television media reports and a popular Reddit post; circulation of a flyer directing users to join a petition to remove claimant from his position, which petition was signed by

hundreds of people; the principal of claimant's school missing meetings in order to address media requests and parents' concerns; staff members threatening to resign and parents threatening to withdraw their children from the school; and a student missing school for about a month due to their parents' concerns regarding claimant.

In violating the employer's policy by making the "Kill all illegals and Muslims" post, claimant acted with wanton negligence. Claimant made the post consciously, and he acted with indifference to the consequences of his actions when he did so. Claimant also should have known that posting the message would probably result in a violation of the employer's standards of behavior.

At hearing, claimant testified that he knew the employer had policies on social media use, but did not know exactly what they were. Audio Record at 13:25 to 13:49. However, the "Kill all illegals and Muslims" post was an explicit call to commit mass murder. The post could be disseminated with ease because claimant's Facebook profile was publicly viewable. And it was possible to deduce that claimant's Facebook profile was his and that he was a teacher who worked for the employer. This could be ascertained via claimant's publicly viewable LinkedIn profile or, as was the case for the parent interviewed in some news reports, by clicking on claimant's profile from comments claimant had left on messages the employer posted on their Facebook page. Given the incendiary nature of the post, coupled with these factors suggesting a risk that the post could circulate widely, and be traced back to claimant with his relationship to the employer exposed, claimant should have known that making the "Kill all illegals and Muslims" post would probably result in a violation of the employer's standards of behavior.

Moreover, claimant's conduct was work-connected. Although claimant made the post on his personal page while at home using his own device, the message was transmitted onto the internet where anyone could view it. Many in the local community did view it and readily ascertained that claimant was a teacher who worked for the employer, resulting in numerous effects detrimental to the employer's workplace. For off-duty conduct to constitute work-connected misconduct, it must affect or have a reasonable likelihood of affecting the employee's work or the employer's workplace. *See Sun Veneer v. Employment Div.*, 105 Or App 198, 804 P2d 1174 (1991); *Levu v. Employment Dept.*, 149 Or App 29, 33-34, 941 P2d 1056, 1059 (1997) ("In making our inquiry into whether claimant's off-duty conduct is 'connected with work,' we have generally looked at whether claimant's off-duty conduct had any actual impact in the workplace."). Here, claimant's "Kill all illegals and Muslims" post impacted the employer's workplace in numerous and significant ways, including by subjecting the workplace to unflattering local media coverage, causing the principal to miss meetings, causing a student and a staff member to be absent, and causing employees to threaten to resign.

Claimant's wantonly negligent conduct of making the "Kill all illegals and Muslims" post was not an isolated instance of poor judgment. First, the violation was not isolated. In January 2026, claimant made a Facebook post in which he suggested that Democrats be "investigated for treason and shot." In the year or so prior to January 2026, claimant made Facebook posts advocating for ICE agents to shoot protestors and for Somalia to be "nuk[ed]." Exhibit 1 at 17. These posts were strikingly similar to the "Kill all illegals and Muslims" post. They advocated violence against specific groups; contributed to disruption of the employer's school environment; were made with wanton negligence as they were posted on claimant's publicly viewable page when it was readily ascertainable that claimant was a teacher who worked for the employer; and were work-connected as they contributed to detrimental impacts to the employer's workplace. As such, the "Kill all illegals and Muslims" post was not a single

or infrequent occurrence but rather was part of a repeated act or pattern of other willful or wantonly negligent behavior.

Claimant's wantonly negligent conduct of making the "Kill all illegals and Muslims" post was also not an isolated instance of poor judgment because it made a continued employment relationship impossible and therefore exceeded mere poor judgment. Claimant's conduct caused a public controversy in which hundreds of people signed a petition to remove claimant from his position. Some staff members threatened to resign their employment, and a couple of parents threatened to withdraw their children from the school if claimant was not removed. Given the outcry against claimant's conduct, the employer could not realistically continue to employ him, and claimant's actions therefore made a continued employment relationship impossible. Accordingly, claimant's wantonly negligent conduct of making the "Kill all illegals and Muslims" post was work-connected misconduct and not an isolated instance of poor judgment.

For the reasons outlined in the paragraphs above, the record shows that claimant resigned to avoid what would otherwise have been a discharge for misconduct. Claimant therefore quit work without good cause pursuant to OAR 471-030-0038(5)(b)(F).

Claimant quit work without good cause and therefore is disqualified from receiving unemployment insurance benefits effective March 1, 2026.

DECISION: Order No. 26-UI-333631 is affirmed.

D. Hettle and A. Steger-Bentz;
S. Serres, not participating.

DATE of Service: August 27, 2026

NOTE: You may appeal this decision by filing a Petition for Judicial Review with the Oregon Court of Appeals **within 30 days of the date of service stated above.** See ORS 657.282. For forms and information, visit <https://www.courts.oregon.gov/courts/appellate/forms/Pages/appeal.aspx> and choose the appropriate form under "File a Petition for Judicial Review." You may also contact the Court of Appeals by telephone at (503) 986-5555, by fax at (503) 986-5560, or by mail at 1163 State Street, Salem, Oregon 97301.

Please help us improve our service by completing an online customer service survey. To complete the survey, please go to <https://www.surveygizmo.com/s3/5552642/EAB-Customer-Service-Survey>. If you are unable to complete the survey online and wish to have a paper copy of the survey, please contact our office.



Understanding Your Employment Appeals Board Decision

English

Attention – This decision affects your unemployment benefits. If you do not understand this decision, contact the Employment Appeals Board immediately. If you do not agree with this decision, you may file a Petition for Judicial Review with the Oregon Court of Appeals following the instructions written at the end of the decision.

Simplified Chinese

注意 – 本判決會影響您的失業救濟金。如果您不明白本判決，請立即聯繫就業上訴委員會。如果您不同意此判決，您可以按照該判決結尾所寫的說明，向俄勒岡州上訴法院提出司法複審申請。

Traditional Chinese

注意 – 本判決會影響您的失業救濟金。如果您不明白本判決，請立即聯繫就業上訴委員會。如果您不同意此判決，您可以按照該判決結尾所寫的說明，向俄勒岡州上訴法院提出司法複審申請。

Tagalog

Paalala – Nakakaapekto ang desisyong ito sa iyong mga benepisyo sa pagkawala ng trabaho. Kung hindi mo naiintindihan ang desisyong ito, makipag-ugnayan kaagad sa Lupon ng mga Apela sa Trabaho (Employment Appeals Board). Kung hindi ka sumasang-ayon sa desisyong ito, maaari kang maghain ng isang Petisyon sa Pagsusuri ng Hukuman (Petition for Judicial Review) sa Hukuman sa Paghahabol (Court of Appeals) ng Oregon na sinusunod ang mga tagubilin na nakasulat sa dulo ng desisyon.

Vietnamese

Chú ý - Quyết định này ảnh hưởng đến trợ cấp thất nghiệp của quý vị. Nếu quý vị không hiểu quyết định này, hãy liên lạc với Ban Kháng Cáo Việc Làm ngay lập tức. Nếu quý vị không đồng ý với quyết định này, quý vị có thể nộp Đơn Xin Tái Xét Tư Pháp với Tòa Kháng Cáo Oregon theo các hướng dẫn được viết ra ở cuối quyết định này.

Spanish

Atención – Esta decisión afecta sus beneficios de desempleo. Si no entiende esta decisión, comuníquese inmediatamente con la Junta de Apelaciones de Empleo. Si no está de acuerdo con esta decisión, puede presentar una Aplicación de Revisión Judicial ante el Tribunal de Apelaciones de Oregon siguiendo las instrucciones escritas al final de la decisión.

Russian

Внимание – Данное решение влияет на ваше пособие по безработице. Если решение Вам непонятно – немедленно обратитесь в Апелляционный Комитет по Трудоустройству. Если Вы не согласны с принятым решением, вы можете подать Ходатайство о Пересмотре Судебного Решения в Апелляционный Суд штата Орегон, следуя инструкциям, описанным в конце решения.

Khmer

ចំណុចសំខាន់ – សេចក្តីសម្រេចនេះមានផលប៉ះពាល់ដល់អត្ថប្រយោជន៍គ្មានការងារធ្វើរបស់លោកអ្នក។ ប្រសិនបើលោកអ្នកមិនយល់អំពីសេចក្តីសម្រេចនេះ សូមទាក់ទងគណៈកម្មការឧទ្ធរណ៍ការងារភ្លាមៗ។ ប្រសិនបើលោកអ្នកមិនយល់ស្របចំពោះសេចក្តីសម្រេចនេះទេ លោកអ្នកអាចដាក់ពាក្យប្តឹងសុំឲ្យមានការពិនិត្យរឿងក្តីឡើងវិញជាមួយតុលាការឧទ្ធរណ៍រដ្ឋ Oregon ដោយអនុវត្តតាមសេចក្តីណែនាំដែលសរសេរនៅខាងចុងបញ្ចប់នៃសេចក្តីសម្រេចនេះ។

Laotian

ເອົາໃຈໃສ່ – ຄໍາຕັດສິນນີ້ມີຜົນກະທົບຕໍ່ກັບເງິນຊ່ວຍເຫຼືອການຫວ່າງງານຂອງທ່ານ. ຖ້າທ່ານບໍ່ເຂົ້າໃຈຄໍາຕັດສິນນີ້, ກະລຸນາຕິດຕໍ່ຫາຄະນະກຳມະການອຸທອນການຈ້າງງານໃນທັນທີ. ຖ້າທ່ານບໍ່ເຫັນດີນຳຄໍາຕັດສິນນີ້, ທ່ານສາມາດຍື່ນຄໍາຮ້ອງຂໍການທົບທວນຄໍາຕັດສິນນຳສານອຸທອນລັດ Oregon ໄດ້ໂດຍປະຕິບັດຕາມຄໍາແນະນຳທີ່ບອກໄວ້ຢູ່ຕອນທ້າຍຂອງຄໍາຕັດສິນນີ້.

Arabic

هذا القرار قد يؤثر على منحة البطالة الخاصة بك، إذا لم تفهم هذا القرار، إتصل بمجلس منازعات العمل فوراً، و إذا كنت لا توافق على هذا القرار، يمكنك رفع شكوى للمراجعة القانونية بمحكمة الاستئناف بأوريغون و ذلك بإتباع الإرشادات المدرجة أسفل القرار.

Farsi

توجه - این حکم بر مزایای بیکاری شما تاثیر می گذارد. اگر با این تصمیم موافق نیستید، بلافاصله با هیأت فرجام خواهی استخدام تماس بگیرید. اگر از این حکم رضایت ندارید، می‌توانید با استفاده از دستورالعمل موجود در پایان آن، از دادگاه تجدید نظر اورگان درخواست تجدید نظر کنید.

Employment Appeals Board - 875 Union Street NE | Salem, OR 97311

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Website: www.Oregon.gov/employ/pages/employment-appeals-board.aspx

The Oregon Employment Department is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Language assistance is available to persons with limited English proficiency at no cost.

El Departamento de Empleo de Oregon es un programa que respeta la igualdad de oportunidades. Disponemos de servicios o ayudas auxiliares, formatos alternos y asistencia de idiomas para personas con discapacidades o conocimiento limitado del inglés, a pedido y sin costo.