

Greater Albany SD 8J
Board Policy

Code: **JBA/GBN**
Adopted: 3/11/91
Readopted: 3/12/01; 5/20/02; 8/13/07;
8/25/14; 2/09/15
Orig. Code(s): BP 1711

Sexual Harassment

The Board is committed to the elimination of sexual harassment in district schools and activities. Sexual harassment is strictly prohibited and shall not be tolerated. This includes sexual harassment of students, or staff, or third parties by other students, staff, Board members or third parties. "Third parties" include, but are not limited to, school volunteers, parents or guardians¹, school visitors, service contractors or others engaged in district business, such as employees of businesses or organizations participating in cooperative work programs with the district and others not directly subject to district control at interdistrict and intradistrict athletic competitions or other school events. "District" includes district facilities, district premises and nondistrict property if the student or employee is at any district-sponsored, district-approved or district-related activity or function, such as field trips or athletic events, where students are under the control of the district or where the employee is engaged in district business. The prohibition also includes off duty conduct which is incompatible with district job responsibilities.

Sexual harassment consists of, but is not limited to, unwelcome sexual advances, requests for sexual favors and other inappropriate verbal or physical conduct of a sexual nature when:

1. The conduct or communication has the purpose or effect of demanding sexual favors in exchange for benefits;
2. Submission to or rejection of such conduct or communication by an individual is used as the basis for decisions affecting a student or employment or assignment of staff;
3. The conduct or communication is so severe, persistent or pervasive that it has the purpose or effect of substantially unreasonably interfering with a student's educational performance or an employee's ability to perform his/her job; or creates an intimidating, offensive or hostile educational or working environment. Relevant factors to be considered will include, but not be limited to, did the individual view the environment as hostile; was it reasonable to view the environment as hostile; the nature of the conduct; how often the conduct occurred and how long it continued; age and sex of the complainant; whether the alleged harasser was in a position of power over the student or staff member subjected to the harassment; number of individuals involved; age of the alleged harasser; where the harassment occurred; and other incidents of sexual harassment at the school involving the same or other students or staff.

¹As used in this policy, the term parent includes legal guardian or person in a parental relationship. The status and duties of a legal guardian are defined in ORS 125.005 (4) and 125.300 - 125.325. The determination of whether an individual is acting in a parental relationship, for purposes of determining residency, depends on the evaluation of the factors listed in ORS 419B.373. The determination for other purposes depends on evaluation of those factors and a power of attorney executed pursuant to ORS 109.056. For special education students, parent also includes a surrogate parent, an adult student to whom rights have transferred and foster parent as defined in OAR 581-015-0005 (18).

Examples of sexual harassment may include, but not be limited to, physical touching or graffiti of a sexual nature; displaying or distributing of sexually explicit drawings, digital images, pictures and written materials; sexual gestures or obscene jokes; touching oneself sexually or talking about one's sexuality in front of others; or spreading rumors about or rating other students or others as to appearance, sexual activity or performance.

All complaints about behavior that may violate this policy shall be promptly investigated. Any student or employee who has knowledge of conduct in violation of this policy or feels he/she is a victim of sexual harassment must immediately report his/her concerns to the building principal, compliance officer or superintendent, who has overall responsibility for all investigations. A student may also report concerns to a teacher, counselor or school nurse, who will promptly notify the appropriate district official. The student and the student's parents or guardians or staff member who initiated the complaint shall be notified of the findings of the investigation and, if appropriate, that remedial action has been taken.

The initiation of a complaint in good faith about behavior that may violate this policy shall not adversely affect the educational assignments or study environment of a student complainant or any terms or conditions of employment or work environment of the staff complainant. There shall be no retaliation by the district against any person who, in good faith, reports, files a complaint or otherwise participates in an investigation or inquiry of sexual harassment.

It is the intent of the Board that appropriate corrective action will be taken by the district to stop the sexual harassment, prevent its recurrence and address negative consequences. Students in violation of this policy shall be subject to discipline up to and including expulsion and/or counseling or sexual harassment awareness training, as appropriate. The age and maturity of the student(s) involved and other relevant factors will be considered in determining appropriate action. Employees in violation of this policy shall be subject to discipline, up to and including dismissal and/or additional sexual harassment awareness training, as appropriate. Other individuals whose behavior is found to be in violation of this policy shall be subject to appropriate sanctions as determined and imposed by the superintendent or Board.

Additionally, the district may report individuals in violation of this policy to law enforcement officials. Licensed staff, staff registered with the Teacher Standards and Practices Commission (TSPC) and those participating in practicum programs, as specified by Oregon Administrative Rules, shall be reported to the TSPC.

The superintendent shall ensure appropriate periodic sexual harassment awareness training or information is provided to all supervisors, staff and students and that annually, the name and position of district officials responsible for accepting and managing sexual harassment complaints, business phone numbers, addresses or other necessary contact information is readily available. This policy as well as the complaint procedure will be made available to all students, parents or guardians of students and staff in student/parent and staff handbooks. The district's policy shall be posted in all district sites. Such posting shall be by a sign of at least 8.5 by 11 inches.

The superintendent will establish a process of reporting incidents of sexual harassment.

Any person with a discrimination complaint has the option of contacting and requesting assistance from the U.S. Department of Education’s Office of Civil Rights, 915 Second Avenue, Room 3310, Seattle, WA 98174-1099, Telephone 206-607-1600.

END OF POLICY

Legal Reference(s):

ORS 243.706	ORS 342.865	OAR 581-021-0038
ORS 342.700	ORS 659.850	OAR 584-020-0040
ORS 342.704	ORS 659A.006	OAR 584-020-0041
ORS 342.708	ORS 659A.029	
ORS 342.850	ORS 659A.030	

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2006).

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2006).

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2006); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2006).

Bartsch v. Elkton School District, FDA-13-011 (March 27, 2014).

Cross Reference(s):

GBNA - Hazing/Harassment/Intimidation/Bullying/Cyberbullying/Menacing – Staff

JBA/GBN - Sexual Harassment

JFCF - Hazing/Harassment/Intimidation/Bullying/Cyberbullying/Menacing/Teen Dating Violence – Student