

## **Sexual Harassment**

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

Sexual harassment of students, staff or third parties shall include, but is not limited to, unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal 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 the conduct or communication is used as the basis for educational 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 unreasonably interfering with a student's educational performance or with 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 site involving the same or other students or staff.

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, 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 or third party 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 their immediate supervisor, building principal, HR director or superintendent, who has overall responsibility for all investigations. If you feel uncomfortable reporting to any of the aforementioned persons, or if one of these officials is the source of the problem, condones the problem, or ignores the problem, report to another administrator or a member of the Collective Risk Management Team.

If none of these alternatives are satisfactory to you, then you may direct your questions, problems, complaints or reports to the Employee Protection Line. You are not required to directly confront the person who is the source of your report, question, or complaint before notifying any of those individuals listed.

A student may also report concerns to a teacher, counselor or school nurse, who will promptly notify the appropriate ESD official. The student and the student's parents 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 ESD 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 ESD 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 ESD 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 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 ESD 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 of students and staff in student/parent and staff handbooks.

END OF POLICY

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**Legal Reference(s):**

[ORS 243.706](#)

[ORS 342.700](#)

[ORS 342.704](#)

[ORS 342.708](#)

[ORS 342.850](#)

[ORS 342.865](#)

[ORS 659.850](#)

[ORS 659A.006](#)

[ORS 659A.029](#)

[ORS 659A.030](#)

[OAR 581-021-0038](#)

[OAR 584-020-0040](#)

[OAR 584-020-0041](#)

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).

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

**Cross Reference(s):**

GBNA - Hazing/Harassment/Intimidation/Cyberbullying/Menacing

JBA/GBN - Sexual Harassment

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