

Reporting Requirements Regarding Sexual Conduct with Students

Reporting

Any employee having reasonable cause to believe that another district/school employee or volunteer has engaged in sexual conduct with a student, s/he must immediately notify the director of human resources.

If known, such report shall contain the names and addresses of the child, the child's parents or other persons responsible for the child's care, the child's age, the nature and extent of the sexual misconduct, any explanation given for the misconduct, and any other information which the person making the report believes might be helpful in conducting an investigation.

The written record of each reported incident of sexual misconduct, action taken by the ESD and any findings as a result of the report shall be maintained by the ESD.

The written record of the sexual misconduct report shall not be placed in the student's educational record. A copy of the written report shall be retained by the employee making the report and a copy shall be provided to the employee's supervisor and/or superintendent.

When the ESD receives a report of sexual misconduct by one of its employees, the district may decide to place the employee on paid administrative leave or in a position that does not involve direct, unsupervised contact with students while an investigation occurs. If the district receives a report of suspected sexual conduct by a volunteer, the district may decide to suspend the volunteer from being on any school property and making any contact with students during the investigation. If following the investigation, the report is substantiated, the district will inform the accused employee that the report has been substantiated and provide information regarding the appeal process to the employee. The accused employee may appeal the district's decision through the applicable appeal process, which may include a collective bargaining agreement's grievance procedure or neutral third party.

If the employee decides not to appeal the determination, or if the determination is sustained after an appeal, a record of the substantiated report will be placed in the employee's personnel file. The employee will be notified that this information may be disclosed to a potential employer.

The written record of each reported incident of sexual misconduct, action taken by the ESD and any findings as a result of the report shall be maintained by the ESD.

Definitions

“Sexual conduct” means any verbal or physical conduct by a school employee that:

1. Is sexual in nature;
2. Is directed toward a kindergarten through grade 12 student;
3. Has the effect of unreasonably interfering with a student’s educational performance; and
4. Creates an intimidating, hostile or offensive educational environment.

Description of conduct that may constitute sexual conduct: Please note that this is not an exhaustive list.

1. A student sitting on a staff member’s lap.
2. Holding hands with a student older than second grade.
3. Staff performing back rubs on a student.
4. Kissing students.
5. Touching students frequently.
6. Commenting on students’ bodies or appearance in a sexual manner.
7. Exchanging romantic gifts or communications with a student.
8. Showing pornography and obscene or suggestive photos to the student.
9. Videotaping or photographing a student in revealing or suggestive poses.
10. Discussing/writing about sexual topics unrelated to curriculum with students, making sexual jokes, gestures, pictures and innuendos or engaging in inappropriate banter with students (e.g. discussion of student’s dating behavior).
11. Sharing your own sexual exploits or marital difficulties.
12. Intentionally invading the student’s privacy (e.g. walking in on him/her in the bathroom intentionally).
13. Going to the student’s home without parent supervision.
14. Using e-mail, text-messaging, or instant messaging to discuss sexual topics with individual students.
15. Dating students.

Confidentiality of Records

The name, address and other identifying information about the employee who made the report are confidential and are not accessible for public inspection.

The disciplinary records of an ESD employee or former ESD employee convicted of a crime listed in ORS 342.143 are not exempt from disclosure under ORS 192.501 or 192.502. Therefore, if an ESD employee or former employee is convicted of a crime listed in ORS 342.143, the ESD that is or was the employer of that employee when the crime was committed shall disclose the disciplinary records of the employee to any person upon request. However, prior to the disclosure of a disciplinary record, the ESD shall remove any personally identifiable information from the record that would disclose the identity of a child, a crime victim or an ESD employee who is not the subject of the disciplinary record.

Failure to Comply

Any employee who fails to report sexual misconduct as provided by this policy and the prescribed Oregon law commits a violation punishable by law. An employee who fails to comply with the confidentiality of records requirements commits a violation punishable by the prescribed law. If an employee fails to report sexual misconduct or fails to maintain confidentiality of records as required by this policy, the employee will be disciplined.

Law Enforcement

Since sexual conduct may involve violations of state law, the district may report such conduct to local law enforcement, as well. Local law enforcement may conduct an additional investigation to determine if charges, if any, would be filed against the individual.