

Multnomah Education Service District

Code: **GBN/JBA**
Adopted: 3/17/87
Revised/Readopted: 9/20/94; 11/15/05; 8/14/13;
8/20/14
Orig. Code(s): 3112

Sexual Harassment

The Board is committed to the elimination of sexual harassment in MESD programs and activities. Sexual harassment is strictly prohibited and will 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, volunteers, parents, visitors, service contractors or others engaged in MESD business, such as employees of businesses or organizations participating in cooperative work programs with the MESD and others not directly subject to the MESD control at inter-district and intra-district athletic competitions or other MESD events.

“MESD” includes MESD facilities, premises and non-MESD property if the student or employee is at any MESD sponsored, approved or related activity or function such as field trips or athletic events where students are under the control of the MESD or where the employee is engaged in MESD business. The prohibition also includes off duty conduct which is incompatible with MESD job responsibilities.

Sexual harassment of students, staff or third parties shall include, but is not limited to, any unwelcome sexual advances, requests for sexual favors and or 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 a basis for educational decisions affecting a student or condition of 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:
 - a. Did the individual view the environment as hostile;
 - b. Was it reasonable to view the environment as hostile;
 - c. The nature of the conduct;
 - d. How often the conduct occurred and how long it continued;
 - e. Age and sex of the complainant;
 - f. Whether the alleged harasser was in a position of power over the student or staff member subjected to the harassment;
 - g. Number of individuals involved, age of the alleged harasser;
 - h. Where the harassment occurred; and
 - i. 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 students or others as to appearance, sexual activity or performance.

All complaints about behavior that may violate this policy will be promptly investigated. Any student, 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 the building administrator, program director, 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 MESD official. The student, the student's parents or guardians or staff member who initiated the complaint will 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 will 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 will be no retaliation by the MESD 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 MESD to stop the sexual harassment, prevent its recurrence and address negative consequences. Students in violation of this policy will 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 will 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 will be subject to appropriate sanctions as determined and imposed by the superintendent or Board.

Additionally, the MESD 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, will be reported to TSPC.

The superintendent and cabinet will 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 the MESD 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. The MESD's policy shall be posted in all programs. Such posting shall be a sign of at least 8 1/2" x 11".

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

END OF POLICY

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/Bullying/Menacing – Staff

JBA/GBN - Sexual Harassment

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