

Multnomah Education Service District

Code: **JBA/GBN**
Adopted: 11/18/80
Revised/Readopted: 3/17/87; 9/20/94; 11/15/05;
8/14/13; 5/07/14; 8/20/14;
8/21/18
Orig. Code(s): 3112; JBA

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, staff, or third parties on or immediately adjacent to ESD property, at any ESD-sponsored activity, on any ESD-provided transportation or at any official ESD bus stop by other students, staff members, 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 staff member is at any MESD sponsored, approved or related activity or function such as field trips or athletic events where students are under the jurisdiction of the MESD or where the staff member is engaged in MESD business. The prohibition also includes off duty conduct which is incompatible with MESD job responsibilities.

Sexual harassment of students, staff members 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 members;
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 a staff member’s ability to perform job responsibilities; 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 members or third parties.

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 students, staff members or third parties who has knowledge of conduct in violation of this policy or feels is a victim of sexual harassment must immediately report concerns to the building administrator, program director, compliance officer or superintendent, who has overall responsibility for all investigations. Students may also report concerns to a teacher, counselor or school nurse, who will promptly notify the appropriate MESD official.

Upon receipt of a complaint by a student, student's parents, a staff member or a third party alleging behavior that may violate this policy, the ESD shall provide written notice as required by Oregon Revised Statute (ORS) 342.704(4) to the complainant.

The student and/or the student's parents or guardians or staff member or third party who initiated the complaint will be notified that the investigation has been concluded as to whether a violation of this policy was found to have occurred to the extent allowable under state and federal confidentiality laws.

The initiation of a complaint in good faith about behavior that may violate this policy will not adversely affect the educational assignments or educational environment of a student complainant, any terms or conditions of employment or work environment of the staff member complainant or any terms of conditions of employment or of work or educational environment of a third party 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. Staff members 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 the 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 members 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 upon request to all students, parents of students, staff members and third parties, posted on the ESD website and in student/parent and staff handbooks. The MESD's policy shall be posted on a sign in all programs. Posted signs shall be at least 8 1/2" x 11" in size.

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

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	HB 4150 (2018)

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2012).

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2012).

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2012); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2017).

Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999).

Gebser v. Lago Vista Indep. Sch. Dist., 524 U.S. 274 (1998).

Cross Reference(s):

GBN/JBA - Sexual Harassment

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