

Multnomah Education Service District

Code: **JBA/GBN**
Adopted: 3/17/87, 9/20/94
Readopted: 12/20/05
Orig. Code(s): 3112

Sexual Harassment

MESD will maintain a working environment that is free from any form of harassment related to a person's sex. Sexual harassment is strictly prohibited and shall not be tolerated. This includes sexual harassment of students or staff 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 MESD and others not directly subject to MESD control.

"MESD" includes MESD facilities, premises and non-MESD property if the student or employee is at any MESD sponsored, approved or related activity such as field trips, where students are under the control of MESD or where the employee is engaged in MESD business.

"Sexual harassment" includes, but is not limited to, any unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other conduct or communication of a sexual nature when:

Submission to or rejection of the conduct or communication is made a term or condition of employment or assignment; or

Submission to or rejection of the conduct or communication is used as the basis for educational decisions affecting a student; or

The conduct or communication is so severe, persistent or pervasive that it has the purpose or effect of substantially interfering with a student's educational performance or with an employee's ability to perform his/her job; or

The conduct or communication has the purpose or effect of creating an intimidating, hostile or offensive working environment.

No employee will use the authority of his/her position to subject any other employee to sexual harassment, as defined above.

Administrators and supervisors are responsible for their conduct and for their employees' conduct and will take affirmative steps to stop sexual harassment by subordinates when observed or brought to their attention, including warning or disciplining the offending employee.

The Superintendent will establish a process of reporting for those employees experiencing or observing acts of sexual harassment. There will be no retaliation by MESD against any person who, in good faith, reports sexual harassment.

An act of sexual harassment shall subject an employee to discipline up to and including dismissal.

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.

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 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 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 and 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 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 MESD 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, 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, shall be reported to TSPC.

The Superintendent and Cabinet 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 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.

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).

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

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