

## **Reporting Requirements Regarding Sexual Conduct with Students**

Sexual conduct by ESD employees, contractors or agents<sup>1</sup> of the ESD will not be tolerated. All ESD employees, contractors and agents of the ESD are subject to this policy.

“Sexual conduct,” as defined by Oregon law, is any verbal or physical or other conduct by a school employee that is sexual in nature; directed toward a kindergarten through grade 12 student; unreasonably interferes with a student’s educational performance; and creates an intimidating, hostile or offensive educational environment. The definition for sexual conduct does not include behavior that would be considered child abuse as outlined by Oregon law and ESD Board policy JHFE and JHFE-AR - Reporting of Suspected Abuse of a Child.

Any ESD employee, contractor or agent of the ESD or volunteer who has reasonable cause to believe that another person has engaged in sexual conduct with a student must immediately notify their immediate supervisor.

When the ESD receives a report of suspected sexual conduct by an ESD employee, the ESD may decide to place the employee on paid administrative leave or in a position that does not involve direct, unsupervised contact with students while conducting an investigation. When the MESD received a report of sexual conduct by a contractor or agent of the MESD, the MESD may decide to suspend services of that contractor or place the agent in a position that does not involve direct, unsupervised contact with students while conducting an investigation.

An “investigation” is a detailed inquiry into the factual allegations of a report of suspected sexual conduct that may be based on interviews with the complainant, witnesses, the ESD employee, the contractor, the agent of record or the student who is the subject of the report. If the subject of the report is an ESD employee represented by a contract or a collective bargaining agreement, the investigation must meet any negotiated standards of an employment contract or agreement.

If, following the investigation, the report is substantiated, the ESD will inform the ESD employee, contractor or agent of the ESD that the report has been substantiated and provide information regarding the appeal process. The employee may appeal the ESD’s decision through the appeal process provided by the ESD’s collective bargaining agreement, if applicable. A volunteer may appeal the ESD’s decision through the ESD’s complaint procedure. A “substantiated report” means a report of abuse or sexual conduct that: a) an educational provider has reasonable cause to believe is founded based on the available evidence after conducting an investigation; and b) involves conduct that the educational provider determines is sufficiently serious to be documented in the employee’s personnel file or the student’s education record, and in the administrative file for the contractor or agent of record.

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<sup>1</sup>An “agent” is a person authorized to act on behalf of another (called the principal) to create legal relations with a third party.

If the MESD employee, contractor or agent of the MESD 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 or in the administrative file for the contractor or agent of the MESD. The employee, contractor or agent of the MESD will be notified that this information may be disclosed to a potential employer. The MESD will not serve as a reference for a contractor or agent of the MESD that has a substantiated report.

The MESD will post in each school building the name and contact information of the person designated to receive sexual conduct reports, as well as the procedures the personnel director will follow upon receipt of a report. In the event that the designated person is the suspected perpetrator, the personnel director shall receive the report. When the personnel director or superintendent takes action on the report, the person who initiated the report must be notified.

The initiation of a report in good faith about suspected sexual conduct may not adversely affect any terms or conditions of employment or the work environment of the complainant. If a student initiates a report of suspected sexual conduct by an MESD employee, a contractor or an agent of the MESD in good faith, the student will not be disciplined by the Board or any MESD employee.

The MESD will provide annual training to MESD employees, parents and students regarding the prevention and identification of sexual conduct. The MESD will provide to employees, contractors or agents of the MESD at the time of hire a description of conduct that may constitute sexual conduct and a description of records subject to disclosure if a sexual conduct report is substantiated.

Educational providers shall follow hiring and reporting procedures as outlined in ORS 339.374 for all MESD employees.

END OF POLICY

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**Legal Reference(s):**

[ORS 339.370 - 339.400](#)

[ORS 418.746 - 418.751](#)

[ORS 419B.005 - 419B.045](#)

Every Student Succeeds Act, 20 U.S.C. § 7926 (2012).

**MESD Cross Reference(s):**

GBM - Staff Complaints

GBN/JBA - Sexual Harassment

GBNA - Hazing/Harassment/Intimidation/Bullying/Menacing - Staff

GCAB - Personal Communication Devices and Social Media - Staff

GCPD - Discipline and Dismissal of Employees

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

JHFE - Reporting of Suspected Abuse of a Child