

Columbia Gorge ESD

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The following symbol is used on some policies:

- ** As used in this policy, the term parent includes legal guardian or person in a parental relationship. The status and duties of a legal guardian are defined in ORS 125.005(4) and 125.300-125.325. The determination of whether an individual is acting in a parental relationship, for purposes of determining residency, depends on the evaluation of the factors listed in ORS 419B.373. The determination for other purposes depends on evaluation of those factors and a power of attorney executed pursuant to ORS 109.056. For special education students, parent also includes a surrogate parent, an adult student to whom rights have transferred and foster parent as defined in OAR 581-015-2000.

Columbia Gorge ESD

Code: GA
Adopted: 9/21/11
Orig. Code: GA

Personnel Policy Goals

(OSBA has removed this policy from its samples)

The Board recognizes that a dynamic, competent and efficient staff dedicated to CGESD's mission and goals is necessary to maintain programs and services that are constantly improving. The Board is interested in its personnel as individuals and recognizes its responsibility for promoting general staff welfare.

The Board's personnel goals include:

- Recruiting, selecting, employing, and retaining the most qualified personnel to staff the ESD;
- Providing appropriate compensation and benefit programs for employees;
- Providing a professional development program for all employees;
- Conducting an effective employee evaluation program to meet or exceed the law;
- Encouraging the development and maintenance of good employee morale; and
- Providing personnel policies as appropriate relating to statute and/or human resource needs.

END OF POLICY

Legal Reference(s):

[ORS 334.125 \(5\)](#)

[ORS 342.850](#)

[OAR 581-024-0245](#)

Columbia Gorge ESD

Code: GAB
Adopted: 9/21/11
Orig. Code: GAB

Position/Job Descriptions

~~Position~~/Job descriptions serve to:

1. Describe ~~To describe~~ all essential functions that the individual who holds the position/~~job~~ must be able to perform unaided or with the assistance of a reasonable accommodation;
2. Describe ~~To describe~~ attendance standards;
3. Help ~~To help~~ applicants determine the qualifications needed to fill a position/~~job~~;
4. Help ESD ~~To help district~~ administrators determine which candidates to recommend for appointment; and
5. Assist ~~To assist~~ administrators in the evaluation of the employee's performance of position/~~job~~ responsibilities.

"Essential" ~~Core job~~ functions," as used in this policy means, the fundamental job duties of the employment position. A job function may be considered essential ~~core~~ for ~~any of several~~ reasons, including but not limited to the following:

1. The function may be essential ~~core~~ because the reason the position exists is to perform the function;
2. The function may be essential ~~core~~ because of the limited number of employees available among whom the performance of the job function can be distributed; and/or
3. The function may be highly specialized so that the individual is hired for his/her expertise or ability to perform the particular function.

"Attendance standards," as used in ~~this~~ the policy means, the regular work hours of the position, including leave ~~and vacation~~ provisions available through policy and/or collective bargaining agreements and any special attendance needs of the position as determined by the ESD.

Job ~~Original and modified position/job~~ descriptions will be developed under ~~recommended to~~ the supervision of the ~~ESD~~ superintendent for ~~approval of~~ each position/~~job~~ in the ~~ESD~~ district. Each ~~position~~/job description shall be dated; as ~~As position~~/job descriptions are reviewed and/or revised new dates will be affixed.

~~Position~~/Job descriptions will be coded and retained in a document titled ~~Position~~/Job Descriptions for the Columbia Gorge Education Service District. The document will be available for inspection by any ~~ESD~~ district employee or patron. Each employee shall receive a copy of his/her ~~job~~ position description. Each employee shall affix his/her signature and date after having read the job description.

~~Position~~/Job descriptions ~~will~~^{may} be reviewed annually. The superintendent is authorized to develop and/or modify position/job descriptions for all positions/jobs except that of superintendent.

END OF POLICY

Legal Reference(s):

[ORS 342.850\(2\)\(b\)\(A\)](#)

[OAR 581-024-0245](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2016); 28 C.F.R. Part 35 (2016).

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (2012).

Title II of the Genetic Information Nondiscrimination Act of 2008.

Section 503 of the Rehabilitation Act of 1973.

Americans with Disabilities Act Amendments Act of 2008.

Columbia Gorge ESD

Code: GBA
Adopted: 3/18/20
Orig. Code: GBA

Equal Employment Opportunity

Equal employment opportunity and treatment shall be practiced by the ESD regardless of race, color, national origin, religion, sex, sexual orientation ¹, age, marital status, pregnancy, childbirth or a related medical condition ², veterans' status ³, service in uniformed service, familial status, genetic information, an individual's juvenile record that has been expunged, and disability ⁴ if the employee, with or without reasonable accommodation, is able to perform the essential functions of the position.

The superintendent will appoint an employee to serve as the officer in charge of compliance with the Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendments Act of 2008 (ADA), and Section 504 of the Rehabilitation Act. The superintendent will also designate a Title IX coordinator to comply with the requirements of Title IX of the Education Amendments of 1972. The Title IX coordinator will investigate complaints communicated to the district alleging noncompliance with Title IX. The name, address and telephone number of the Title IX coordinator will be provided to all students and employees.

The superintendent may develop other specific recruiting, interviewing and evaluation procedures as are necessary to implement this policy.

END OF POLICY

¹ "Sexual orientation" means an individual's actual or perceived heterosexuality, homosexuality, bisexuality or gender identity, regardless of whether the individual's gender identity, appearance, expression or behavior differs from that traditionally associated with in the individual's sex at birth.

² This unlawful employment practice related to pregnancy, childbirth or a related medical condition as described in House Bill 2341 (2019) (added to ORS 659A) applies to employers who employ six or more persons.

³ The ESD grants a preference in hiring and promotion to veterans and disabled veterans. A veteran is eligible to use the preference any time when applying for a position at any time after discharge or release from service in the Armed Forces of the United States.

⁴ This unlawful employment practice related to disability as described in ORS 659A.112 applies to employers who employ six or more persons (ORS 659A.106).

Legal Reference(s):

[ORS 174.100](#)
[ORS 243.317 – 243.323](#)
[ORS 326.051](#)
[ORS 334.125\(5\)](#)
[ORS 342.934](#)
[ORS 408.225](#)
[ORS 408.230](#)
[ORS 408.235](#)
[ORS 659.805](#)
[ORS 659.850](#)
[ORS 659.870](#)
[ORS 659A.003](#)
[ORS 659A.006](#)

[ORS 659A.009](#)
[ORS 659A.029](#)
[ORS 659A.030](#)
[ORS 659A.040 - 659A.052](#)
[ORS 659A.082](#)
[ORS 659A.109](#)
[ORS 659A.112](#)
[ORS 659A.147](#)
[ORS 659A.233](#)
[ORS 659A.236](#)
[ORS 659A.309](#)
[ORS 659A.321](#)
[ORS 659A.409](#)

[ORS 659A.820](#)
[OAR 581-021-0045](#)
[OAR 581-024-0245](#)
[OAR 839-003-0000](#)
[OAR 839-003-0000](#)
[OAR 839-006-0435](#)
[OAR 839-006-0440](#)
[OAR 839-006-0450](#)
[OAR 839-006-0455](#)
[OAR 839-006-0460](#)
[OAR 839-006-0465](#)

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. et. seq. (2012).

Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634 (2018); 29 C.F.R Part 1626 (2019).

Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6107 (2012).

Equal Pay Act of 1963, 29 U.S.C. § 206(d) (2018).

Rehabilitation Act of 1973, 29 U.S.C. §§ 791, 794 (2018); 34 C.F.R. Part 104 (2019).

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683, 1701, 1703-1705, 1720 (2018); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2019).

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2019); 28 C.F.R. Part 35 (2019).

Wygant v. Jackson Bd. of Educ., 476 U.S. 267 (1989).

Americans with Disabilities Act Amendments Act of 2008, 42 U.S.C. §§ 12101-12133 (2012).

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, 38 U.S.C. § 4212 (2018).

Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. § 2000ff-1 (2012).

Chevron USA Inc. v. Echazabal, 536 U.S. 736 (2002).

Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. §§ 4301-4303 (2018).

Columbia Gorge ESD

Code: GBA-AR
Revised/Reviewed: 11/16/16
Orig. Code: GBA-AR

Veterans' Preference

Oregon's Veterans' Preference Law requires the ESD~~district~~ to grant a preference to qualified and eligible veterans and disabled veterans at each stage in the hiring and promotion process. To be **qualified** for veterans' preference, a veteran or disabled veteran must meet the minimum and any other special qualifications required for the position sought. To be **eligible** for veterans' preference a veteran or disabled veteran must provide certification they are a veteran or disabled veteran as defined by Oregon law¹.

The ESD~~district~~ is not obligated to hire or promote a qualified and eligible veteran or disabled veteran. The ESD~~district~~ is obligated to interview all minimally qualified veterans or disabled veterans and to hire or promote a qualified or eligible veteran or disabled veteran if he or she is equal to or better than the top candidate after the veterans' preference has been applied.

~~A veteran~~ Veterans may submit request a written requests to the ESD for an explanation of the reasons why they ~~were are~~ not selected for the position.² The ESD³. ~~Upon written request, the district~~ shall provide the reasons for not selecting the candidate when requested.

Recruitment Procedures

All job postings or announcements will include a concise list of minimum and any special qualifications required for the position. Job postings will include a statement that the ESD's~~district's~~ policy is to provide veterans and disabled veterans with preference as required by law and the job posting will require applicants to provide certification of eligibility for preference, in addition to other requested materials.⁴

Selection Procedures⁵

Step 1: Before the review of any applications the Superintendent or designee will establish an evaluation scoring guide based on the minimum and any special qualifications listed in the job posting.

¹ Oregon Revised Statute (ORS) 408.225: definition of veteran.

² Oregon Revised Statute (ORS) 408.230(5)

~~³ Oregon Revised Statute (ORS) 408.230(5)~~

⁴ Verification of Veteran's Preference: ~~A~~ veteran will submit: (a) a copy of their Certificate of Release or Discharge from Active Duty (DD Form 214 or 215); or (b) proof of receiving a nonservice connected pension from the U.S. Department of Veterans Affairs. A disabled veteran will submit a copy of their letter from the Department of Veterans Affairs verifying disabled veteran status.

⁵ OSBA recommends use of a scored system. If the ESD~~district~~ chooses not to use a scored system the law requires that the ESD~~district~~ give special consideration in the ESD's~~district's~~ hiring decision to veterans and disabled veterans and the ESD~~district~~ will need to be able to demonstrate the method used for providing special consideration." ORS 408.230(2)(~~c~~).

Step 2: The Superintendent or designee will review the application materials using the above evaluation scoring guide to determine which applicants meet the minimum and any special qualifications listed in the job posting. In assessing the applicant materials of a veteran or disabled veteran the Superintendent or designee shall evaluate whether the skill experience obtained in the military are transferable to the posted position. In this step the ESD~~district~~ does not apply a veterans' preference. Any applicants that do not meet the minimum and any special qualifications shall be removed from the applicant pool.

Step 3: Based on Step 2, the Superintendent or designee determines who will be interviewed. All qualified and eligible veterans or disabled veterans shall be given an opportunity to interview.

Step 4: Interview questions and scoring sheets will be developed and each scoring sheet must be completed after each interview by the interviewers.

Step 5: Following completion of the interviews, the Superintendent or designee shall complete the selection matrix and score the applicants based on the scoring sheets completed during interviews. Veterans' preference points must be applied by adding 5 points to an eligible veteran and 10 points to an eligible disabled veteran.⁶

Step 6: The Superintendent or designee makes the offer to the applicant with the highest final score. The ESD~~district~~ is not obligated to hire or promote a qualified and eligible veteran or disabled veteran.

The ESD~~district~~ is obligated to hire or promote a qualified or eligible veteran or disabled veteran if they are equal or better than the top candidate after the veterans' preference has been applied.

A veteran may request a written explanation of the reasons why they were not selected for the position. Upon written request, the ESD~~district~~ shall provide the reasons for not selecting the candidate.

Filing a Complaint

A veteran or disabled veteran is encouraged to contact the human resource office, if they have any concerns or questions concerning the application of or the process used for veterans' preference.

A veteran or disabled veteran claiming to be aggrieved by a violation of Board policy GBA - Equal Employment Opportunity or this administrative regulation, may file a written complaint with the Civil Rights Division of the Bureau of Labor and Industries (BOLI) in accordance with Oregon Revised Statute (ORS) 659A.820.

⁶ The points are based on a 100 point scoring matrix. If a 100 point scoring matrix is not used, the ESD~~district~~ must use a multiplier equivalent to 5 percent for a veteran and 10 percent for a disabled veteran, or the equivalent.

Columbia Gorge ESD

Code: GBAA
Adopted: 9/21/11
Orig. Code: GBAA

RETAIN – DO NOT DELETE

Fair Labor Standards Act

~~(OSBA has removed this policy from its samples)~~

In compliance with the Fair Labor Standards Act, administrators, directors and/or supervisors shall give written notification to non-exempt employees, as defined by the Act, of the Board's following expectations:

- What constitutes non-exempt working hours;
- What constitutes normal working hours;
- That employees are not to work before, beyond, or outside their normal working hours or are not to work overtime without prior authorization;
- That employee time sheets be a true reflection of all time worked, whether it is more or less than normally scheduled hours;
- That a written corrective statement be given to employees not complying with established procedures.

END OF POLICY

Legal Reference(s):

[ORS 653.261](#)

[ORS 653.268](#)

[OAR 839-020-0005](#)

Fair Labor Standards Act of 1938, 29 U.S.C., §§ 206 and 207 (2006)

Garcia v. San Antonio Metropolitan Transit Authority. 469 U.S. 528 (1985)

Opinions of the Attorney General, Vol. 41, p. 409 (1981)

Columbia Gorge ESD

Code: GBC
Adopted: 9/26/18
Orig. Code: GBC

Staff Ethics

I. Prohibited Use of Official Position ~~for~~ Financial Gain

~~No~~ ESD employees will ~~not~~ attempt to use their ESD positions to obtain financial gain or avoidance of financial detriment for themselves, relatives, members of household or for any business with which the employee, a household members, or relative is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the ESD employee's employment with the ESD.

This prohibition does not apply to any part of an official compensation package as approved by the Board, honorarium, reimbursement of expenses, or unsolicited awards of professional achievement. Further, this prohibition does not apply to gifts from one without a legislative or administrative interest. Nor does it apply if the gift is under the \$50 gift limit for one who has a legislative or administrative interest in any matter subject to the decision or vote of the ESD employee.

The employee may receive ESD logo apparel as part of the employee's compensation package.

ESD employees will not engage in, or have a personal financial interest in, any activity that raises a reasonable question regarding the use of their official position in regards to their duties and responsibilities as ESD employees. This would also apply to any personal financial benefit for the ESD employee's relative or member of household of the employee, or any business with which the ESD employee or a relative or ~~a~~ member of the household of the ESD employee is associated.

This means that:

1. Employees, relatives or members of the ESD employee's household will not use the employee's position to obtain financial gain or avoidance of financial detriment from students, parents or staff;
2. Any device, publication or any other item developed during the employee's paid time shall be ESD property;
3. Employees will not further personal gain through the use of confidential information gained in the course of or by reason of position or activities in any way;
4. No ESD employee may serve as a Board or budget committee member in the ESD;
5. An employee will not perform any duties related to an outside job during his/her regular working hours or during the additional time that he/she needs to fulfill the position's responsibilities; nor will an employee use any ESD facilities, equipment or materials in performing outside work;
6. If an employee authorizes a public contract, the employee may not have a direct beneficial financial interest in that public contract for two years after the date the contract was authorized.

If an ESD employee has a potential or actual conflict of interest, the ESD employee must notify his/her supervisor in writing of the nature of the conflict and request that the supervisor dispose of the matter giving rise to the conflict. This must be done on each occasion the ESD employee is met with a conflict of interest.

“Potential conflict of interest” means any action or any decision or recommendation by an ESD employee that could result in a financial benefit or detriment for self or relatives or for any business with which the ESD employee or relatives are associated, unless otherwise provided by law.

“Actual conflict of interest” means any action or ~~any~~ decision or recommendation by an ESD employee that would result in a financial benefit or detriment for self or relatives or for any business with which the ESD employee or relatives are associated, unless otherwise provided by law.

In order to avoid violation of nepotism provisions and ESD policy, ESD employees must abide by the following when an employee’s relative or member of the household of the ESD employee, is seeking and/or holds a position with the ESD:

1. An ESD employee may not appoint, employ, promote, discharge, fire, or demote or advocate for such an employment decision for a relative or a member of the household, unless he/she complies with the conflict of interest requirements of Oregon Revised ~~Statute~~ ~~Statue~~ (ORS) Chapter 244. This rule does not apply to employment decisions regarding unpaid volunteer position, unless it is a Board-related position~~;~~.
2. An ESD employee may not participate as a public official in any interview, discussion, or debate regarding the appointment, employment, promotion, discharge, firing, or demotion of a relative or a member of the household. An employee may still serve as a reference, provide a recommendation, or perform other acts that are part of the normal job functions of the employee~~;~~.
3. More than one member of an employee’s family may be hired as a regular ESD employee. In accordance with Oregon law, however, the ESD may refuse to hire individuals, or may transfer current employees, in situations where an appointment would place one family member in a position of exercising supervisory, appointment or grievance adjustment authority over another member of the same family. Employees who are members of the same family may not be assigned to work in the same building except by the superintendent’s approval.

“Member of ~~the~~ household” means any person who resides with the employee.

“Relative” means: the spouse¹, parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the employee; or the parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the spouse of the employee. Relative also includes any individual for whom the employee has a legal support obligation, whose employment provides benefits² to the employee, or who receives any benefit from the employee’s public employment.

¹ The term spouse includes domestic partner~~s~~.

² Examples of benefits may include, but not be limited to, elements of an official compensation package including benefits such as insurance, tuition or retirement allotments.

II. Gifts

ESD employees must comply with the following rules involving gifts:

Employees are public officials and therefore will not solicit or accept a gift or gifts with an aggregate value in excess of \$50 from any single source in a calendar year that has a legislative or administrative interest in any matter subject to the decision or vote of the ESD employee. All gift-related provisions apply to the employee, their relatives, and members of their household. The \$50 gift limit applies separately to the employee, and to the employee's~~their~~ relatives or members of~~the~~ household, meaning that the employee and each member of their household and relative can accept up to \$50 each from the same source/gift giver. A gift may be received by the ESD employee from, but not limited to, another ESD employee, a student or parent of a student or a vendor. Except for exclusions in ORS 244.040(2), an item received by an employee from the ESD is prohibited.

“Gift” means something of economic value given to an employee without valuable consideration of equivalent value, which is not extended to others who are not public officials on the same terms and conditions.

“Relative” means: the spouse³, parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the employee; or the parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the spouse of the employee. Relative also includes any individual for whom the employee has a legal support obligation, whose employment provides benefits⁴ to the employee, or who receives any benefit from the employee's public employment.

“Member of the household” means any person who resides with the employee.

Determining the Source of Gifts

Employees, the employee's relatives or members of the employee's household should not accept gifts in any amount without obtaining information from the gift giver as to who is the source of the gift. It is the employee's personal responsibility to ensure that no single source provides gifts exceeding an aggregate value of \$50 in a calendar year, if the source has a legislative or administrative interest in any matter subject to the decision or vote of the ESD employee. If the giver does not have a legislative~~or~~ administrative interest, the \$50 limit does not apply and the employee need not keep track of it, although they are advised to do so anyway in case of a later dispute.

Determining Legislative and Administrative Interest

A “legislative or administrative interest” means an economic interest, distinct from that of the general public, in any action subject to the official decision of an employee.

A “decision” means an act that commits the ESD to a particular course of action within the employee's scope of authority and that is connected to the source of the gift's economic interest. A decision is not a recommendation or work performed in an advisory capacity. If a supervisor delegates the decision to a

³ Ibid. p. 2

⁴ Ibid. p. 3~~2~~

subordinate but retains responsibility as the final decision maker, both the subordinate and supervisor's actions would be considered a "decision."

Determining the Value of Gifts

The fair market value of the merchandise, goods, or services received will be used to determine benefit or value.

"Fair market value" is the dollar amount goods or services would bring if offered for sale by a person who desired, but was not obligated, to sell and purchased by one who is willing, but not obligated, to buy. Any portion of the price that was donated to charity, however, does not count toward the fair market value of the gift if the employee does not claim the charitable contribution on personal tax returns. Below are acceptable ways to calculate the fair market value of a gift:

1. In calculating the per person cost at receptions or meals the ~~payor~~**payer** of the employee's admission or meal will include all costs other than any amount donated to a charity. For example, a person with a legislative or administrative interest buys a table for a charitable dinner at \$100 per person. If the cost of the meal was \$25 and the amount donated to charity was \$75, the benefit conferred on the employee is \$25. This example requires that the employee does not claim the charitable contribution on personal tax returns.
2. For receptions and meals with multiple attendees, but with no price established to attend, the source of the employee's meal or reception will use reasonable methods to determine the per person value or benefit conferred. The following examples are deemed reasonable methods of calculating value or benefit conferred:
 - a. The source divides the amount spent on food, beverage and other costs (other than charitable contributions) by the number of persons whom the ~~payor~~**payer** reasonably expects to attend the reception or dinner;
 - b. The source divides the amount spent on food, beverage and other costs (other than charitable contributions) by the number of persons who actually attend the reception or dinner; or
 - c. The source calculates the actual amount spent on the employee.

Upon request by the employee, the source will give notice of the value of the merchandise, goods, or services received.

Attendance at receptions where the food or beverage is provided as an incidental part of the reception is permitted without regard to the fair market value of the food and beverage provided.

Value of Unsolicited Tokens or Awards: Resale ~~Value~~**value**

Employees may accept unsolicited tokens or awards that are engraved or are otherwise personalized items. Such items are deemed to have a resale value under \$25 (even if the personalized item cost the source more than \$50.~~00~~), unless the personalized item is made from gold or some other valuable material that would have value over \$25 as a raw material.

Entertainment

Employees may not ~~solicit or~~ accept any gifts of entertainment over \$50 in value from any single source in a calendar year that has a legislative or administrative interest in any matter subject to the decision of the employee unless:

1. The entertainment is incidental to the main purpose of another event (i.e. a band playing at a reception). Entertainment that involves personal participation is not incidental to another event (such as a golf tournament at a conference); or
2. The employee is acting in their official capacity for a ceremonial purpose.

Entertainment is ceremonial when an employee appears at an entertainment event for a “ceremonial purpose” at the invitation of the source of the entertainment who requests the presence of the employee at a special occasion associated with the entertainment. Examples of an appearance by an employee at an entertainment event for a ceremonial purpose include: throwing the first pitch at a baseball game, appearing in a parade and ribbon cutting for an opening ceremony.

Exceptions

The following are exceptions to the ethics rules on gifts that apply to employees.

1. Gifts from relatives and members of the household to the employee are permitted in an unlimited amount; they are not considered gifts under the ethics rules.
2. Informational or program material, publications, or subscriptions related to the recipient’s performance of official duties.
3. Food, lodging, and travel generally count toward the \$50.00 aggregate amount per year from a single source with a legislative or administrative interest, with the following exceptions:

Organized Planned Events. Employees are permitted to accept payment for travel conducted in the employee’s official capacity, for certain limited purposes:

- a. Reasonable expenses (i.e., food, lodging, travel, fees) for attendance at a convention, fact-finding mission or trip, or other meeting do not count toward the \$50.00 aggregate amount IF:
 - (1) The employee is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the ESD; AND
The giver is a unit of a:
 - (a) Federal, state, or local government;
 - (b) An Oregon or federally recognized Native American Tribe; OR
 - (c) Nonprofit corporation.
 - (2) The employee is representing the ESD:
 - (a) On an officially sanctioned trade-promotion or fact-finding mission; OR

(b) Officially designated negotiations or economic development activities where receipt of the expenses is approved in advance by the ~~S~~superintendent.

b. The purpose of the exception in ~~a. (4)~~ above is to allow employees to attend organized, planned events and engage with the members of organizations by speaking or answering questions, participating in panel discussions or otherwise formally discussing matters in their official capacity. This exception to the gift definition does not authorize private meals where the participants engage in discussion.

4. Food or beverage, consumed at a reception, meal, or meeting IF held by an organization and IF the employee is representing the ESD.

“Reception” means a social gathering. Receptions are often held for the purpose of extending a ceremonial or formal welcome and may include private or public meetings during which guests are honored or welcomed. Food and beverages are often provided, but not as a plated, sit-down meal.

5. Food or beverage consumed by employee acting in an official capacity in the course of financial transactions between the public body and another entity described in ORS 244.020(~~7~~6)(b)(I)(i);~~4~~.

6. Waiver or discount of registration expenses or materials provided to employee at a continuing education event that the employee may attend to satisfy a professional licensing requirement;.

7. ~~An~~A gift item received by the employee as ~~a~~ part of the usual or customary practice of the employee’s private business, employment or position as a volunteer that bears no relationship to the employee’s ~~position~~;employment.

8. Reasonable expenses paid to employee for accompanying students on an educational trip.

Honoraria

An employee may not solicit or receive, whether directly or indirectly, honoraria for the employee or any relative or member of the household of the employee if the honoraria are solicited or received in connection with the official duties of the employee.

The honoraria rules do not prohibit the solicitation or receipt of an honorarium or a certificate, plaque, commemorative token, or other item with a value of \$50 or less; or the solicitation or receipt of an honorarium for services performed in relation to the private profession, occupation, avocation, or expertise of the employee.

END OF POLICY

Legal Reference(s):

[ORS 244.010 - 244.400](#)
[ORS 332.016](#)

[ORS 659A.309](#)

[OAR 199-005-0001 - 199-020-0020](#)
[OAR 584-020-0040](#)

OR. ETHICS COMM’N, OR. GOV’T ETHICS LAW, A GUIDE FOR PUBLIC OFFICIALS.

Columbia Gorge ESD

Code: GBC-AR
Revised/Reviewed: 9/26/18
Orig. Code: GBC-AR

Staff Ethics

ESD employees are allowed financial benefits as identified in Oregon Revised Statute (ORS) 244.040(2), such as their official compensation package, reimbursed expenses, limited honoraria and unsolicited awards for professional achievement. ESD employees are prohibited from using or attempting to use his/her ESD position to obtain a financial gain or to avoid a financial detriment for the ESD employee, a relative or member of the household of the employee, or any business with which the employee or a relative or member of the household of the employee is associated, if the opportunity for financial gain or avoidance of a financial detriment would not otherwise be available but for the employee's position with the ESD. Specifically, this means that:

1. Employees will not use ESD equipment for personal use, unless it is available to a significant segment of the general public. This includes, but is not limited to, the personal use of the ESD's:
 - a. Fax machine¹;
 - b. Phones to make long distance personal calls;
 - c. ESD vehicles;
 - d. Professional technology equipment (e.g., wood shop, automotive shop, CAD); and
 - e. Athletic facilities (e.g., pool or weight room).

Further, the ESD's supplies, facilities, equipment, employees, records or any other public resources are not to be used to engage in private business interests. For example, the ESD's computer cannot be used to sell products on an auction website during school hours.

2. When employees are traveling on official ESD business, any gift given because of this travel must be either declined or passed on to the ESD for use for future ESD travel. For example, if the hotel where the employee is staying gives the employee a free night's stay on a future visit, this must be declined or given back to the ESD for future ESD travel. The frequent flyer miles earned when traveling on official ESD business can only be used for ESD travel. If the employee's spouse is traveling with the employee, the employee is responsible for all additional charges (i.e., additional room charge).
3. Employees may not use personal credit cards for ESD travel or other ESD business and receive incentives such as cash reimbursements, frequent flyer miles and other benefits based upon the dollar amount of purchases made.
4. Employees may not use discounts offered by private companies for the employee's personal benefit if the discount is only offered because of the employee's official position. For example, an office supplies store provides all teachers a 10 percent discount. Because the teachers are receiving this

¹ The ESD could establish a fee schedule that would allow only ESD employees to pay for the personal use of the ESD fax machines. If the ESD established a fee schedule for the use of fax machines the fee schedule must be equal to or exceed the prevailing rates offered at commercial businesses.

discount only because of their official position, they cannot use the discount to purchase personal items. Teachers may use the discount to purchase items for ESD use. Employees can also accept the discount if it is also available to a substantial segment of the population who are not public officials.

5. Employees may accept free passes to ESD extracurricular events if they are attending these events in their official capacity (i.e., chaperoning, ticket sales or managing concession sales). In order to promote employee participation in extracurricular activities, the ESD may include free passes in employees' official compensation packages or employees may be reimbursed by the ESD for the cost of admission.
6. The employee's ESD position is not to be used to take official action that could have a financial impact on a private business with which the employee, a relative or member of the employee's household are associated. For example, if the employee's brother owns a pest-control business which is seeking a contract with the ESD, and the employee is part of the decision-making process, the employee must declare an actual conflict of interest, in writing, describing the nature of the employee's conflict, and provide this to the employee's supervisor.
7. Confidential information gained as an ESD employee is not to be used to obtain a financial benefit for the employee, a relative or member of the ~~employee's~~ ~~public official's~~ household or a business with which any are associated. For example, the employee should not use the information that a student in ~~his/her~~ ~~your~~ class is falling behind in math to provide the parents a referral to the employee's sister's tutoring business.
8. ESD employees who mentor student teachers may not receive direct payments from sponsoring colleges or universities. The payment may be provided by the college or university to the ESD, which can then distribute the compensation to the teachers as an element of their official compensation package.
9. ESD employees must follow Oregon Government Ethics Commission guidelines for outside employment if the employee acts as a chaperone for student group trips on personal time and the ESD employee accepts compensation in the form of travel expenses from a private business or organization. Specifically, ESD employees must conduct all activities related to the trip on personal time and cannot use the classroom or school environment to plan the off-campus trip. Employees may use ESD facilities for this purpose only if they comply with the ESD's public use of facilities policy. It is not an ethics violation for the employee to accept reasonable expenses for accompanying students on an education trip.

These restrictions do not apply if the teacher is chaperoning students on a fact-finding mission that is officially sanctioned by the Board.

Columbia Gorge ESD

Code: GBCA
Adopted: 6/20/12
Orig. Code: GBCA

Staff Religious Dress

All staff, when on duty, shall be allowed to wear religious attire, in accordance with the employee's sincerely-held religious beliefs, while maintaining religious neutrality and refraining from endorsing religion in the educational environment.

The ESD retains the authority to specify religious dress guidelines for staff that will prevent such matters from having an adverse impact on the educational process.

The superintendent may develop administrative regulations to implement this policy.

END OF POLICY

Legal Reference(s):

[ORS 243.650\(7\)](#)
[ORS 327.109](#)

[ORS 334.125\(7\)](#)
[ORS 339.351](#)

[ORS 659.850](#)
[ORS 659A.030](#)

OR. CONST., art. I, § 5.
U.S. CONST. amend. I.

Columbia Gorge ESD

Code: GBCA-AR
Revised/Reviewed: 6/20/12
Orig. Code: GBCA-AR

Staff Religious Dress

“Religious clothing” means religious dress worn in accordance with the employee’s sincerely-held beliefs, including but not limited to head coverings, jewelry, emblems and other types of religious dress.

In assessing whether the ESD may restrict or prohibit the wearing of religious clothing, the ESD should consider:

1. Whether the employee’s intent of wearing the religious clothing or by wearing the clothing is likely to be perceived by students, parents or employees to indoctrinate or proselytize students and/or create the impression that the ESD endorses religion or the employees particular religious belief.
 - a. Specific factors to be considered when assessing employee’s intent and reasonable perception should include but not be limited to:
 - (1) The size and visibility of the religious clothing;
 - (2) The inclusion of any writing or symbols on the religious clothing that communicates a direct message;
 - (3) Any accompanying verbal statements or declarations of a religious nature that goes beyond a limited explanation of the religious significance or obligation associated with the wearing of the religious clothing;
 - (4) The number of employees requesting or wearing the same or similar religious clothing in the school; and
 - (5) The reasonableness of this perception should take into account the age, background and sophistication of the student, parent or employee in the school who regularly encounters the employee.
 - b. Whether the wearing of religious clothing disrupts the educational process, harasses, intimidates, coerces or otherwise interferes with the rights of students, parents or another school employee in the ESD.

Columbia Gorge ESD

Code: GBD
Adopted: 4/21/10
Orig. Code: GBD

Board-Staff Communications

The Board desires to maintain open communication channels between itself and the staff. The basic line of communication will be through the superintendent. ~~This~~ However, this policy does not restrict protected labor relations communications of bargaining unit members. The superintendent will develop and recommend to the Board, processes for communications between the Board and ESD employees.

Communications or reports to the Board or Board committee from any staff member or members should be submitted through the superintendent. This procedure will not be construed as denying the right of any employee to address the Board about issues which are neither part of an active administrative procedure, nor disruptive to the operation of the ESD.

All official communications, policies and directives of staff interest and concern will be communicated to staff members through the superintendent. The superintendent will communicate as appropriate to keep staff fully informed of the Board's concerns and actions.

END OF POLICY

Legal Reference(s):

[OAR 581-024-0245](#)

Anderson v. Central Point Sch. Dist., 746 F.2d 505 (9th Cir. 1984).

Connick v. Myers, 461 U.S. 138 (1983).

Lebanon Education Association/OEA v. Lebanon Community School District, 22 PECBR 323 (2008).

Columbia Gorge ESD

Code: GBDA(1)
Adopted: 5/22/19
Orig. Code: GBDA

Mother in Friendly Workplace

(duplicate)

The ESD recognizes that a normal and important role for mothers is to have the option and ability to express milk or breast feed in the workplace. Employees must give notice of intent to express milk or breast-feed to her supervisor. Unless otherwise agreed upon by the ESD and the employee, the ESD shall provide the employee a 30-minute rest period to express milk or breast-feed during each 4-hour work period, or the major part of a 4-hour work period, to be taken by the employee approximately in the middle of the work period. If feasible, the employee will take the rest period at the same time as the rest periods or meal periods provided by the ESD. The Board directs the superintendent/designee to take measures and develop regulations to ensure that all ESD employees shall be provided with an adequate location for the expression of milk or breast-feeding.

The ESD will make a reasonable effort to provide a location, other than a public restroom or toilet stall, in close proximity to the employee's work area, where an employee can express milk or breast-feed in private, concealed from view and without intrusion by other employees or the public. "Close proximity" means within walking distance from the employee's work area that does not appreciably shorten the rest or meal period. If a private location is not within close proximity to the employee's work area, the ESD may not include the time taken to travel to and from the location as part of the break period.

An employee who expresses milk during work hours may use the available refrigeration to store the expressed milk. The ESD must allow the employee to bring a cooler or other insulated food container to work for storing the expressed milk and ensure there is adequate space in the workplace to accommodate the employee's cooler or insulated food container.

This policy and the list of designated locations is published in the employee handbook. The list of designated locations is available upon request in the ESD's central office and the central office of each facility.

This policy only applies to employees who are expressing milk or breast-feeding for children 18 months of age or younger.

END OF POLICY

Legal Reference(s):

[ORS 243.650](#)
[ORS 334.125](#)

[ORS 653.077](#)
[ORS 653.256](#)

[OAR 839-020-0051](#)

Columbia Gorge ESD

Code: GBDA
Adopted: 12/18/19
Orig. Code: GBDA

Expression of Milk or Breast-feed in the Workplace *

Columbia Gorge ESD supports our employees' choice regarding their expression of milk or breast-feeding in the workplace. When possible, an employee must give reasonable notice of the intent to express milk or breast-feed to their supervisor, to facilitate effective scheduling. The ESD shall provide the employee a reasonable rest period for expressing milk or breast-feeding each time the employee has a need to express milk or breast-feed. If feasible, the employee will take their rest period at the same time as the rest periods or meal periods provided by the ESD.

The ESD will make a reasonable effort to provide an appropriate location, other than a public restroom or toilet stall, in close proximity to the employee's work area, where an employee may express milk or breast-feed in private, concealed from view and without intrusion by other employees or the public. Employees are not obligated to express milk or breast feed in private.

"Close proximity" means within walking distance from the employee's work area that does not appreciably shorten the rest or meal period. If a private location is not within close proximity to the employee's work area, the ESD may not include the time taken to travel to and from the location as part of the break period.

An employee who expresses milk during work hours may use the available refrigeration to store the expressed milk. The ESD must allow the employee to bring a cooler or other insulated food container to work for storing the expressed milk and ensure there is adequate space in the workplace to accommodate the employee's cooler or insulated food container.

This policy and the list of designated locations is published in the employee handbook. The list of designated locations is available upon request in the ESD's central office and the central office of each facility.

This policy only applies to employees who are expressing milk or breast-feeding ~~for children 18 months of age or younger.~~

END OF POLICY

Legal Reference(s):

[ORS 243.650](#)
[ORS 334.125](#)

[ORS 653.077](#)
[ORS 653.256](#)

[OAR 839-020-0051](#)

Columbia Gorge ESD

Code: GBE
Adopted: 10/19/11
Orig. Code: GBE

Staff Health and Safety *

The Board authorizes the superintendent to take appropriate means to provide for the health and safety of all employees while engaged in the performance of their duties.

The superintendent, in consultation with the district safety committee, will develop training and written procedures necessary to accomplish this goal and to meet the requirements of the law.

All employees will be trained to recognize and respond appropriately to the presence of hazardous materials.

All employees shall conduct their work in compliance with the safety rules of the district.

The superintendent will provide staff members with the Safety Data Sheets (SDS), which must accompany any hazardous substance used in the school setting.

END OF POLICY

Legal Reference(s):

ORS 243.650	OAR 437-002-0140	OAR 437-002-0368
ORS 329.095	OAR 437-002-0144	OAR 437-002-0377
ORS 453.001 to -453.275	OAR 437-002-0145	OAR 437-002-0390
OAR 437-001-0760	OAR 437-002-0180 to -0182	OAR 437-002-0391
OAR 437-002-0020 to -0075	OAR 437-002-0360	OAR 581-024-0275

Columbia Gorge ESD

Code: GBE-AR
Adopted: 10/19/11
Orig. Code: GBE-AR

Staff Health and Safety - Safety Rules

~~(is this current?) REMOVE AND SUBMIT TO THE SAFETY COMMITTEE~~

Employees shall conduct their work in compliance with the safety rules of the district such as:

1. All injuries shall be reported immediately to the person in charge or other responsible representative of the district.
2. It is the duty of all employees to make full use of safeguards provided for their protection. It shall be the employee's responsibility to abide by and perform the following requirements:
3. Employees shall not remove, deface or destroy any warning, danger sign or barricade or interfere with any other form of accident prevention device or practice provided which they are using or which is being used by any other worker.
4. Employees must not work underneath or over others thereby exposing them to a hazard without first notifying the other employee(s) or seeing that proper safeguards or precautions have been taken.
5. Employees shall not work in unprotected, exposed or hazardous areas under floor openings.
6. Long or unwieldy articles shall not be carried or moved unless adequate means of guarding or guiding are provided to prevent injury.
7. Hazardous conditions or practices observed at any time shall be reported as soon as practicable to the person in charge or some other responsible representative of the employer.
8. Employees observed working in a manner which might cause immediate injury to either themselves or other workers shall be warned of the danger.
9. Before leaving a job, workers shall correct, or arrange to give warning of, any condition which might result in injury to others unfamiliar with existing conditions.
10. Good housekeeping methods shall be observed in all operations. Materials shall be handled and stored as to minimize falling, tripping or collision hazards.
11. Working and storage areas and passageways shall be kept free of unnecessary obstructions. No loose object shall be placed in any area where its presence will necessitate employees crowding between such objects as moving machinery or other objects with which contact would be dangerous.
12. Any materials which might cause an employee to slip or fall shall be removed from floors and other treading surfaces immediately or suitable means or methods shall be used to control the hazardous condition.
13. All sharp, pointed or otherwise hazardous projections in work areas shall be removed or rendered harmless.

Columbia Gorge ESD

Code: GBEA
Adopted: 3/18/20
Orig. Code: GBEA

Workplace Harassment *

Workplace harassment is prohibited and shall not be tolerated. This includes workplace harassment that occurs between ESD employees or between an ESD employee and the ESD in the workplace or at a work-related event that is off ESD premises and coordinated by or through the ESD, or between an ESD and an ESD employee off ESD premises. Elected school board members, volunteers and interns are subject to this policy.

Any ESD employee who believes they have been a victim of workplace harassment may file a report with the ESD employee designated in the administrative regulation GBEA -AR - Workplace Harassment Reporting and Procedure, may file a report through the Bureau of Labor and Industries' (BOLI) complaint resolution process or under any other available law. The reporting of such information is voluntary. The ESD employee making the report is advised to document any incidents of workplace harassment.

“Workplace harassment” means conduct that constitutes discrimination prohibited by Oregon Revised Statute (ORS) 659A.030 (discrimination in employment based on race, color, religion, sex, sexual orientation, national origin, marital status, age, or expunged juvenile record), including conduct that constitutes sexual assault¹ or that constitutes conduct prohibited by ORS 659A.082 (discrimination against person in uniformed service) or 659A.112 (discrimination in employment based on disability).

The ESD, upon receipt of a report from an ESD employee who believes they are a victim of workplace harassment, shall provide information about legal resources and counseling and support services, including any available employee assistance services. The ESD employee receiving the report, whether a supervisor of the employer or the ESD employee designated to receive reports, is advised to document any incidents of workplace harassment, and shall provide a copy of this policy and accompanying administrative regulation to the victim upon their disclosure about alleged workplace harassment.

All incidents of behavior that may violate this policy shall be promptly investigated.

Any person who reports workplace harassment has the right to be protected from retaliation.

The ESD may not require or coerce an ESD employee to enter into a nondisclosure² or non-disparagement³ agreement.

¹ “Sexual assault” means unwanted conduct of a sexual nature that is inflicted upon a person or compelled through the use of physical force, manipulation, threat or intimidation.

² A “nondisclosure” agreement or provision prevents either party from disclosing the contents of or circumstances surrounding the agreement.

³ A “non-disparagement” agreement or provision prevents either party from making disparaging statements about the other party.

The ESD may not enter into an agreement with an employee or prospective employee, as a condition of employment, continued employment, promotion, compensation, or the receipt of benefits, that contains a nondisclosure provision, a non-disparagement provision or any other provision that has the purpose or effect of preventing the employee from disclosing or discussing workplace harassment that occurred between ESD employees or between an ESD employee and the ESD, in the workplace or at a work-related event that is off ESD premises and coordinated by or through the ESD, or between an ESD employee and employer off ESD premises.

The ESD may enter into a settlement agreement, separation or severance agreement that includes one or more of the following provisions only when an ESD employee claiming to be aggrieved by workplace harassment requests to enter into the agreement: 1) a nondisclosure or non-disparagement provision; 2) a provision that prevents disclosure of factual information relating to the claim of workplace harassment; or 3) a no-rehire provision that prohibits the employee from seeking reemployment with the ESD as a term or condition of the agreement. The agreement must provide the ESD employee at least seven days after signing the agreement to revoke it.

If the ESD determines in good faith that an employee has engaged in workplace harassment, the ESD may enter into a settlement, separation or severance agreement that includes one or more of the provisions described in the previous paragraph.

It is the intent of the Board that appropriate corrective action will be taken by the ESD to stop workplace harassment, prevent its recurrence and address negative consequences. Staff members in violation of this policy shall be subject to discipline, up to and including dismissal and/or additional workplace harassment awareness training, as appropriate. Other individuals (e.g., board members and volunteers) 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 the Board.

The ESD shall make this policy available to all ESD employees and shall be made a part of ESD orientation materials provided and copied to new ESD employees at the time of hire.

The superintendent will establish a process of reporting incidents of workplace harassment and the prompt investigation.

END OF POLICY

Legal Reference(s):

[ORS 243.317 - 243.323](#)
[ORS 659A.001](#)
[ORS 659A.003](#)
[ORS 659A.006](#)
[ORS 659A.029](#)

[ORS 659A.030](#)
[ORS 659A.082](#)
[ORS 659A.112](#)
[ORS 659A.820](#)
[ORS 659A.875](#)

[ORS 659A.885](#)
[OAR 584-020-0040](#)
[OAR 584-020-0041](#)

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 (2018); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2019).

Bartsch v. Elkton School District, FDA-13-011 (March 27, 2014).

Columbia Gorge ESD

Code: GBEA-AR
Revised/Reviewed: 3/18/20
Orig. Code: GBEA-AR

Workplace Harassment Reporting and Procedure

Any ESD employee who believes they have been a victim of workplace harassment may file an oral or written report consistent with this administration regulation, may file a report through the Bureau of Labor and Industries' (BOLI) complaint resolution process, or under any other available law.

Additional information regarding the filing of a report may be obtained through the ~~principal,~~ compliance officer or superintendent.

A complaint alleging an unlawful employment practice as described in ORS 659A.030, 659A.082 or 659A.112 or section 4 of Senate Bill 479 (2019) must be filed no later than five years after the occurrence of the alleged unlawful employment practice.

All documentation related to workplace harassment complaints may become part of the personnel file of the employee who is the alleged harasser, as appropriate. Additionally, a copy of all workplace harassment reports, complaints, and documentation will be maintained by the ESD as a separate confidential file and stored in the ESD office.

Investigation Procedure

The superintendent is responsible for investigating reports concerning workplace harassment. The investigator(s) shall be a neutral party having had no involvement in the report presented. If the alleged workplace harassment involves superintendent, the employee may report to the board chair. All reports of alleged workplace harassment behavior shall be investigated.

The investigator shall:

1. Document the alleged, reported incident of workplace harassment;
2. Provide information about legal resources and counseling and support services, which may include ESD-provided assistance services available to the ESD employee;
3. Provide a copy of the ESD's Board policy GBEA-Workplace Harassment and this administrative regulation to the ESD employee; and
4. Complete the following steps:

Step 1 Promptly initiate an investigation. The investigator will arrange such meetings as may be necessary to discuss the issue with all concerned parties within five working days after receipt of the report. The parties will have an opportunity to submit evidence and a list of witnesses. All findings of the investigation, including the response of the alleged harasser, shall be reduced to writing. The investigator shall notify the complainant in writing that the

investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law.

A copy of the report, complaint, or other documentation about the incident, and the date and details of notification to the complainant of the results of the investigation, together with any other documentation related to the workplace harassment incident, including disciplinary action taken or recommended, shall be forwarded to the superintendent.

- Step 2 If a complainant is not satisfied with the decision at Step 1, the complainant may submit a written appeal to the superintendent. Such appeal must be filed within 10 working days after receipt of the Step 1 decision. The superintendent shall review the investigators report and findings. The superintendent will arrange such meetings with the complainant and other affected parties as deemed necessary by the superintendent to discuss the appeal. The superintendent shall provide a written decision to the complainant within 10 working days after receipt of the appeal.
- Step 3 If a complainant is not satisfied with the decision at Step 2, the complainant may submit a written appeal to the Board. Such appeal must be filed within 10 working days after receipt of the Step 2 decision. The Board will review the findings and conclusion of the superintendent in a public meeting to determine what action is appropriate. Appropriate action may include, but is not limited to, holding a hearing, requesting additional information, and adopting the superintendent's decision as the ESD's final decision.

If the Board conducts a hearing, the complainant shall be given an opportunity to present the appeal at a Board meeting. The Board may hold the hearing in executive session if the subject matter qualifies under Oregon law. The parties involved may be asked to attend such hearing for the purposes of making further explanations and clarifying the issues. The Board shall decide, within 20 days, in open session what action, if any, is warranted. The Board shall provide a written decision to the complainant within 10 working days following completion of the hearing.

If the Board chooses not to hear the appeal, the superintendent's decision in Step 2 is final.

Reports involving the superintendent should be referred to the Board chair on behalf of the Board. The Board chair will cause the information required to be issued to the complainant as described in this administrative regulation. The Board chair shall present the complaint to the Board at a Board meeting. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. The Board may hold the hearing in executive session if the subject matter qualifies under Oregon law. The Board shall decide, within 30 days, in open session what action if any is warranted. The Board chair shall notify the complainant in writing within 10 days that the investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law.

Follow-up Procedures

The superintendent will follow up with the ESD employee of the alleged harassment once every three months for the calendar year following the date on which the superintendent received a report of harassment, to determine whether the alleged harassment has stopped or if the employee has experienced retaliation. The [position title] will document the record of this follow-up. The superintendent will

continue follow-up in this manner until and unless the employee directs the superintendent in writing to stop.

Other Reporting Options and Filing Information

Nothing in this policy prevents an employee from filing a formal grievance in accordance with a collective bargaining agreement (CBA) or a formal complaint with BOLI or the Equal Employment Opportunity Commission (EEOC); or if applicable, the U.S. Department of Labor (USDOL) Civil Rights Center. Review the CBA for any provision that requires an employee to choose between the complaint procedure outlined in the CBA and filing a BOLI or EEOC complaint.

Nothing in Board policy GBEA - Workplace Harassment or this administrative regulation prevents any person from seeking remedy under any other available law, whether civil or criminal.

An employee or claimant must provide advance notice of claim against the employer as required by ORS 30.275.

Filing a report with the U.S. Department of Labor (USDOL) Civil Rights Center.

An employee whose agency receives federal financial assistance from the USDOL under the Workforce Innovation and Opportunity Act, Mine Safety and Health Administration, Occupational Safety and Health Administration, or Veterans' Employment and Training Service, may file a complaint with the state of Oregon Equal Opportunity Officer or directly through the USDOL Civil Rights Center. The complaint must be written, signed and filed within 180 days of when the alleged discrimination or harassment occurred.

COLUMBIA GORGE EDUCATION SERVICE DISTRICT
400 EAST SCENIC DRIVE #207, THE DALLES, OR 97058 | 541-298-5155

WORKPLACE HARASSMENT REPORTING OR COMPLAINT FORM

Name of person making report/complainant: _____

Position of person making report/complainant: _____

Date of complaint: _____

Name of alleged harasser: _____

Date and place of incident or incidents: _____

Description of alleged misconduct: _____

Name of witnesses (if any): _____

Evidence of workplace harassment, i.e., letters, photos, etc. (attach evidence if possible): _____

Any other information: _____

I agree that all of the information on this form is accurate and true to the best of my knowledge.

Signature: _____

Date: _____

COLUMBIA GORGE EDUCATION SERVICE DISTRICT
400 EAST SCENIC DRIVE #207, THE DALLES, OR 97058 | 541-298-5155

WITNESS DISCLOSURE FORM

Name of Witness: _____

Position of Witness: _____

Date of Testimony/Interview: _____

Description of Instance Witnessed: _____

Any Other Information: _____

I agree that all the information on this form is accurate and true to the best of my knowledge.

Signature: _____ Date: _____

Columbia Gorge ESD

Code: GBEAA
Adopted: 10/19/11
Orig. Code: GBEAA

Staff Protection

Employees may take reasonable and necessary action to protect themselves from immediate impending assault, but the employee must also use appropriate measures to avoid assault.

END OF POLICY

Legal Reference(s):

[ORS 243.650](#)
[ORS 243.706](#)
[ORS 334.125 \(7\)](#)
[ORS 656.240](#)

Columbia Gorge ESD

Code: GBEAA-AR
Adopted: 10/19/11
Orig. Code: GBEAA-AR

Job Related Assaults

Job-related assault will be defined as any physical assault or battery upon an employee which takes place at any time during an employee's performance of work-related duties, either on district grounds or off.

1. **Self-Protection.** Employees may take reasonable and necessary action to protect themselves from immediate impending assault, but the employee must also use appropriate measures to avoid assault.
2. **Reporting the Assault:**
 - a. The employee will report the assault or see that the assault is reported to his/her supervisor as soon as possible after the event;
 - b. The supervisor will assist in: (1) seeing that appropriate medical attention is given and/or arranged for; (2) seeing that the assault is reported and/or filed with the appropriate police agency; (3) reporting the incident to the district safety officer so insurance procedures can be initiated;
 - c. The incident will be reported to the district's attorney by the superintendent or a designee.
3. **Attorney Accessibility.** The district will arrange a conference with the district's attorney at district expense. The attorney will provide the employee with information and/or direction in regard to:
 - a. Filing the complaint with the proper authority;
 - b. Criminal trial procedure;
 - c. The availability of civil remedies.
4. **Days Missed as a Result of Assault.** Days absent from duty, whether for injury, doctor's direction, hospitalization, attorney consultation or court proceeding directly relating to the assault, will not be charged against any leave days, but the absence(s) must be consistent with workers' compensation guidelines.

Limitations:

- a. The district reserves the right of approval of the choice of doctors;
 - b. The doctor must release the employee for return to work;
 - c. Upon the doctor's release, the employee must return to work. If the employee chooses to be absent after the doctor's release and if the absence is or is claimed to be a result of the assault, the absence(s) will be subtracted from the employee's accumulated sick leave;
 - d. The district reserves the right to be in consultation with the attending doctor before and/or after the release of the employee.
5. **Medical Expenses as a Result of Assault.** The district will apply for workers' compensation on behalf of the employee. The employee will also be eligible for the district's medical insurance and

accidental death and dismemberment if the employee is on the roll for these benefits prior to the assault.

6. **D** Salary of the Employee. The district will pay the difference between what workers' compensation pays and the employee's regular daily salary for as long as the employee is absent from work as a direct result of the assault.

Limitations: The district will pay the difference for no longer than one calendar year.

7. **E** Termination of Assault Benefits. The benefits described will terminate when:
 - a. The doctor has released the employee to go back to work;
 - b. The employee is found to be the aggressor in the incident; or
 - c. The employee resigns.
8. Findings of Fault. In the event a court of law finds that the employee was the aggressor in the assault incident, all payments of benefits will cease and the district will have a cause of action against the employee for repayment of benefits.

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Columbia Gorge ESD

Code: GBEB
Adopted: 10/21/20
Orig. Code: GBEB

Communicable Disease – Staff

The ESD shall provide reasonable protection against the risk of exposure to communicable disease for employees while engaged in the performance of their duties. Reasonable protection from communicable disease is generally attained through immunization, exclusion or other measures as provided by Oregon law, by the local health department or in the Communicable Disease Guidance published by the Oregon Department of Education (ODE) and the Oregon Health Authority (OHA).

Employees shall comply with all other measures adopted by the ESD and with all rules adopted by the Oregon Health Authority, Public Health Division and the local health department.

An employee may not attend work while in a communicable stage of a restrictable disease or when an administrator has reason to suspect that the employee has or has been exposed to any disease for which exclusion is required in accordance with law and per administrative regulation GBEB -AR - Communicable Diseases-Staff. If the disease is a reportable disease, the administrator will report the occurrence to the local health department.

Employees shall provide services to students as required by law. In cases when a restrictable or reportable disease is diagnosed and confirmed for a student, the administrator shall inform the appropriate employees with a legitimate educational interest to protect against the risk of exposure.

The ESD shall protect the confidentiality of an employee's health condition and record to the extent possible and consistent with federal and state law.

The ESD will include, as part of its emergency plan, a description of the actions to be taken by the ESD staff in the case of a declared public health emergency or catastrophe that disrupts ESD operations.

The superintendent will develop administrative regulations necessary to implement this policy.

END OF POLICY

Legal Reference(s):

[ORS 334.125](#)
[ORS 431.150 - 431.157](#)
[ORS 433.001 - 433.526](#)
[OAR 333-018](#)

[OAR 333-019-0010](#)
[OAR 333-019-0014](#)
[OAR 437-002-0360](#)
[OAR 437-002-0377](#)

[OAR 581-024-0275](#)
[OAR 581-024-0280](#)

OREGON DEPARTMENT OF EDUCATION AND OREGON HEALTH AUTHORITY, *Community Disease Guidance* (2020).
Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (2018); Family Educational Rights and Privacy, 34 C.F.R. Part 99 (2019).
Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §§ 1320d to -1320d-8 (2018); 45 C.F.R. Parts 160, 164 (2019).

Columbia Gorge ESD

Code: GBEB-AR
Revised/Reviewed: 10/21/20
Orig. Code: GBEB-AR

Communicable Diseases – Staff

In accordance with state law, administrative rule, the local health authority and the Communicable Disease Guidance, the procedures established below will be followed.

1. “Restrictable diseases” are defined by rule and include but are not limited to COVID-19¹, chickenpox, diphtheria, hepatitis A, hepatitis E, measles, mumps, pertussis, rubella, Salmonella enterica serotype Typhi infection, scabies, Shiga-toxigenic Escherichia coli (STEC) infection, shigellosis and infectious tuberculosis, and may include a communicable stage of hepatitis B infection if, in the opinion of the local health officer, the person poses an unusually high risk to others (e.g., a child that exhibits uncontrollable biting or spitting). Restrictable disease also includes any other communicable disease identified in an order issued by the Oregon Health Authority or the local public health officer as posing a danger to the public’s health. A disease is considered to be a restrictable disease if it is listed in Oregon Administrative Rule (OAR) 333-019-0010, or it has been designated to be a restrictable disease by the local public health administrator after determining that it poses a danger to the public’s health.
2. “Susceptible” for an employee means lacking evidence of immunity to the disease.
3. “Reportable diseases” means a disease or condition, the reporting of which enables a public health authority to take action to protect or to benefit the public health.

Restrictable Diseases

1. An employee of the ESD will not attend or work at an ESD school or facility while in a communicable stage of a restrictable disease, including a communicable stage of COVID-19², unless authorized to do so under Oregon law. When an administrator has reason to suspect that an employee has a restrictable disease, the administrator shall send the employee home.
2. An administrator shall exclude an employee if the administrator has reason to suspect that an employee has or has been exposed to measles, mumps, rubella, diphtheria, pertussis, hepatitis A, or hepatitis B, unless the local health officer determines that exclusion is not necessary to protect the public’s health. The administrator may request the local health officer to make a determination as allowed by law. If the disease is reportable, the administrator will report the occurrence to the local health department.

¹ Added per OAR 333-019-1000(2).

² “Communicable stage of COVID-19” means having a positive presumptive or confirmed test of COVID-19.

3. An administrator shall exclude an employee if the administrator has been notified by a local public health administrator or local public health officer that the employee has had a substantial exposure to an individual with COVID-19 and exclusion is deemed necessary by same.
4. An employee will be excluded in such instances until such time as the employee presents a certificate from a physician, a physician assistant licensed under Oregon Revised Statute (ORS) 677.505-677.525, a nurse practitioner licensed under ORS 678.375-678.390, local health department nurse or school nurse stating that the employee does not have or is not a carrier of any restrictable disease.
5. An administrator may allow attendance of an employee restricted for chickenpox, scabies, staphylococcal skin infections, streptococcal infections, diarrhea or vomiting if the restriction has been removed by a school nurse or health care provider.
6. More stringent exclusion standards for employees from school or work may be adopted by the local health department or by the ESD through policy adopted by the Board.
7. The ESD's emergency plan shall address the ESD's plan with respect to a declared public health emergency at the local or state level.

Reportable Diseases Notification

1. All employees shall comply with all reporting measures adopted by the ESD and with all rules set forth by Oregon Health Authority, Public Health Division and the local health department.
2. An administrator may seek confirmation and assistance from the local health officer to determine the appropriate ESD response when the administrator is notified that an employee or a student has been exposed to a restrictable disease that is also a reportable disease.
3. ESD staff with impaired immune responses that are of childbearing age or some other medically fragile condition should consult with a medical provider for additional guidance .
4. An administrator shall determine other persons who may be informed of an employee's communicable disease, or that of a student's when a legitimate educational interest exists or for health and safety reasons, in accordance with law.

Equipment and Training

1. The administrator or designee shall, on a case-by-case basis, determine what equipment and/or supplies are necessary in a particular classroom or other setting in order to prevent disease transmission.
2. The administrator or designee shall consult with the ESD's school nurse or other appropriate health officials to provide special training in the methods of protection from disease transmission.
3. All ESD personnel will be instructed annually to use the proper precautions pertaining to blood and body fluid exposure per the Occupational Safety and Health Administration (OSHA). (See policy EBBAA).

Columbia Gorge ESD

Code: GBEBA
Adopted: 5/22/19
Orig. Code: GBEBA

Staff - HIV, AIDS, and HBV

The ESD~~district~~ will strictly adhere in its policies and procedures to the Oregon law and Oregon Administrative Rules as they relate to staff infected with HIV, AIDS, or HBV¹.

The ESD~~district~~ recognizes a staff member has no obligation under any circumstance to report a condition to the ESD~~district~~ and the staff member has a right to continue working.

If the staff member reports a condition to the ESD~~district~~, strict adherence to written guidelines outlined by the staff member shall be followed. These guidelines shall identify who may have the information, who will give the information, how the information will be given, where and when the information will be given. All such information will be held in confidence in accordance with Oregon law.

Accommodations for a staff member infected with HIV, AIDS, or HBV shall be the same as with any other illness.

END OF POLICY

Legal Reference(s):

[ORS 342.850\(8\)](#)
[ORS 433.008](#)
[ORS 433.045](#)

[ORS 433.260](#)
[OAR 333-017-0000](#)

[OAR 333-018-0000](#)
[OAR 333-018-0005](#)
[OAR 581-024-0245](#)

¹ HIV - Human Immunodeficiency Virus; AIDS - Acquired Immune Deficiency Syndrome; HBV - Hepatitis B Virus

Columbia Gorge ESD

Code: GBEBC
Adopted: 10/19/11
Orig. Code: GBEBC

Infection Control - HIV, HBV and Other Bloodborne Pathogens

(OSBA has removed this policy from its samples)

The Board recognizes that staff/students may incur some risk of infection and illness each time they are exposed to blood or other potentially infectious materials. While the risk to staff/students of exposure to body fluids due to casual contact with individuals in the school environment is very low, the Board regards any such risk as serious.

Consequently, the Board directs adherence to standard precautions. Standard precautions require that staff and students approach infection control as if all direct contact with human blood and body fluids is known to be infectious for HIV, AIDS, HBV and/or other bloodborne pathogens.

In order to reduce the risk to staff/students by minimizing or eliminating staff exposure incidents to bloodborne pathogens*, the Board directs the superintendent to develop and implement an Exposure Control Plan. The plan shall be reviewed and updated annually and whenever necessary to reflect new or revised employee positions with occupational exposure.

The plan shall include training followed by an offer of immunization with Hepatitis B vaccine for all staff who are required to provide first aid to students and/or staff, and/or for all staff who have occupational exposure as determined by the district. Personal protective equipment appropriate to job task shall be provided by the district. Follow up by nursing/medical personnel will be provided by the district to any employee sustaining an occupational exposure.

Staff and students will receive an annual in-service. Spill, cleanup and first aid kits will be placed in each school or work area and in each district vehicle for use by designated individuals.

END OF POLICY

Legal Reference(s):

[OAR 581-022-0705](#)

[OAR 581-022-1440](#)

[OAR 581-053-0517 \(13\) \(c\) \(e\)](#)

*HIV - Human Immunodeficiency Virus

AIDS - Acquired Immune Deficiency Syndrome

HBV - Hepatitis B Virus

Columbia Gorge ESD

Code: GBEC
Adopted: 4/21/10
Orig. Code: GBEC

Drug-Free Workplace *

The ESD~~district~~ shall provide a drug-free workplace.

The purpose of this policy is to promote safety, health and efficiency by prohibiting the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or alcohol in the workplace.

This policy applies to all employees, including, but not limited to, those exempt, unclassified, management service, classified and temporary employees who are paid directly or indirectly from funds received under a federal grant or contract.

The ESD shall provide to each employee a copy of this policy.

An employee shall not unlawfully manufacture, distribute, dispense, possess or use a controlled substance or alcohol in the workplace.

No ESD employee shall knowingly sell, market or distribute steroid or performance enhancing substances to kindergarten through grade 12 students with whom the employee has contact as part of employee's ESD duties; or knowingly endorse or suggest the use of such drugs.

An employee shall, as a condition of employment, abide by the provisions of this policy.¹

1. Definitions

- a. "Controlled substance": ~~A controlled substance~~ shall include any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana or other controlled substance.
- b. "Alcohol": ~~Alcohol~~ shall include any form of alcohol for consumption, including beer, wine, wine coolers or liquor.
- c. "Conviction" means a: ~~A~~ finding of guilt (including a plea of no contest) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.
- d. "Criminal drug statute" means a Federal: ~~A federal~~ or State ~~state~~ criminal statute involving the manufacture, distribution, dispensation, possession or use of any controlled substance or alcohol.
- e. "Drug-free workplace" means a: ~~A~~ site for the performance of work at which employees are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance or alcohol.

¹ ESDs directly receiving grants or contracts from the federal government are required to meet this obligation.

~~2. Purpose~~ (moved to beginning of policy)

~~The purpose of this policy is to promote safety, health and efficiency by prohibiting, in the workplace, the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or alcohol.~~

~~3. Applicability~~

~~This policy applies to all employees, including, but not limited to, those exempt, unclassified, management service, classified and temporary employees who are paid directly or indirectly from funds received under a federal grant or contract.~~

~~4. Prohibitions~~

~~An employee shall not, in the workplace, unlawfully manufacture, distribute, dispense, possess or use a controlled substance or alcohol.~~

~~No ESD employee shall knowingly sell, market or distribute steroid or performance enhancing substances to pre-kindergarten through grade 12 students with whom the employee has contact as part of employee's ESD duties; or knowingly endorse or suggest the use of such drugs.~~

~~5. Compliance with Policy~~²

~~An employee shall, as a condition of employment, abide by the provisions of this policy.~~

~~6.2. Sanctions and Remedies~~³

- a. The ESD ~~district~~, upon determining that an employee has engaged in the unlawful manufacture, distribution, dispensation or possession of a controlled substance or alcohol, or upon having reasonable suspicion ~~(, under the section below), 7. of an employee's this policy, of employee~~ unlawful use of a controlled substance or alcohol in the workplace, shall, pending any criminal drug statute conviction for a violation occurring in the workplace, take ~~action with regard to the employee determined to be~~ appropriate ~~action~~ which may include transfer, granting of leave with or without pay or suspension with or without pay.
- b. Within 30 ~~calendar~~ days of learning of an employee's criminal drug statute conviction for a violation occurring in the workplace, the ESD ~~district~~ shall:
 - (1) Take ~~action with regard to the employee determined to be~~ appropriate ~~action~~, which may include discipline up to and including termination; and/or
 - (2) Require satisfactory participation by the employee in a drug ~~abuse~~ assistance or rehabilitation program approved for such purpose by a federal, state or local health, law enforcement or other appropriate agency.

~~7.3. Basis for Reasonable Suspicion of Employee Use of Controlled Substance/Alcohol~~

² ~~Districts directly receiving grants or contracts of \$100,000 or more from the federal government are required to meet this obligation.~~

³ Ibid. p. 1

Reasonable suspicion of employee use of an unlawful controlled substance or alcohol shall be based upon any of the following:

- a. Observed abnormal behavior or impairment in mental or physical performance (e.g., ~~for example,~~ slurred speech, ~~or~~ difficulty walking);
- b. Direct observation of use in the workplace;
- c. The opinion of a medical professional;
- d. Reliable information concerning use in the workplace, the reliability of any such information shall be determined by the employer;
- e. A work-related accident in conjunction with a basis for reasonable suspicion as listed above.

~~8.4.~~ Employee Assistance Program

An employee having a drug or alcohol problem is encouraged to seek assistance, on a confidential basis, under the Employee Assistance Program if such program is provided by the employer.

~~9.—Leave for Participation in Abuse Assistance or Rehabilitation Program~~

The ~~ESD~~ ~~district~~ shall, upon employee request, grant leave with or without pay to permit an employee to participate in a drug abuse assistance or rehabilitation program.

~~10.5.~~ Establishment of Drug-Free Awareness Program

The ~~ESD~~ ~~district~~ shall establish a drug-free awareness program to inform employees of the:

- a. Dangers of drug abuse in the workplace;
- b. Existence of, and content of this policy for maintaining a drug-free workplace;
- c. Availability of drug-counseling, rehabilitation and employee assistance programs; and
- d. Penalties that may be imposed for drug abuse violations occurring in the workplace.

~~11.6.~~ Notification by Employee of ~~Conviction~~⁴ ~~Conviction~~

An employee shall, as a condition of employment, notify the ~~ESD~~ ~~school in writing~~ ~~district~~ of any criminal drug statute conviction for a violation occurring in the workplace no later than five ~~calendar~~ days after such conviction.

~~12.7.~~ Notification by Columbia Gorge Education Service District of ~~an~~ Employee Conviction

The ~~ESD~~ ~~district~~ shall notify the appropriate federal granting or contracting agency, ~~in writing~~, of an employee's criminal drug statute conviction for a violation occurring in the workplace no later than 10 ~~calendar~~ days after receiving notice of such conviction.

~~13.—Provision of Copy of Policy to Employees~~

~~The district shall provide to each employee a copy of this policy.~~

END OF POLICY

⁴ Ibid. p. 1

Legal Reference(s):

[ORS 243.650](#)
[ORS 342.721](#)
[ORS 342.723](#)

[ORS 342.726](#)
[ORS Chapter 475](#)
[ORS 657.176](#)

[ORS 659A.127](#)
[OAR 581-022-2210](#)

Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 701-707 (2012); General Principles Relating to Suspension and Debarment Actions, 34 C.F.R. §§ 85.600-85.645 (2016).
Controlled Substances Act, 21 U.S.C. § 812 (2012); Schedules of Controlled Substances, 21 C.F.R. §§ 1308.1-1308.15 (2016).
Safe and Drug-Free Schools and Communities Act, 20 U.S.C. §§ 7101-7117 (2012).

Columbia Gorge ESD

Code: GBED
Adopted: 4/21/10
Orig. Code: GBED

Medical Examinations and Drug Testing *

Medical Examination

The ESD may require medical examinations after ~~an~~ employment ~~offer has~~ **offers have** been made to ~~a~~ job applicants and before ~~the~~ applicants begins ~~his/her~~ **their** employment duties. Any such requirement will ensure that all entering employees in the same job category will complete a medical examination regardless of disability.

All offers of employment may be made contingent on medical examination results.

Medical examinations will be conducted by a health-care professional selected by the ESD. ESD-required medical examination expenses will be paid by the ESD.

The successful applicant must be qualified and must be able to perform the essential functions of a position with or without reasonable accommodations. The ESD may withdraw an offer of employment should the medical examination reveal that the individual does not satisfy certain employment criteria under the following conditions:

1. The exclusionary criteria are job related and consistent with business necessity;
2. There is no reasonable accommodation that will enable the individual with a disability to perform the essential functions of the job;
3. The medical condition poses a direct threat to the health or safety of others in the workplace and cannot be eliminated or reduced to an acceptable level by a reasonable modification of policies, practices, procedures or by the provision of auxiliary aids or services;
4. The requested or necessary accommodation would impose an undue hardship on the ESD, unless funding is available through other sources. Individuals with a disability may be offered an opportunity of paying for a portion of the costs that constitutes an undue hardship or of personally providing the accommodation.

Drug Testing

Offers of employment for certain positions ~~shall~~ **may** be contingent upon successful passage of a ESD-required drug test. The ESD will require drug tests for safety-sensitive positions (e.g. bus drivers, heavy machinery operators) and positions in which the person is responsible for students' safety and security.¹ The ESD will designate when and where such testing will be conducted. The cost of the drug test shall be paid by the candidate and reimbursed by the ESD upon receipt of negative drug test results. The ESD will

¹ Based on Lanier v. City of Woodburn – "Safety sensitive" may also include positions that have heavy student contact and in loco parentis responsibility (e.g., teachers, administrators, paraprofessionals).

not reimburse individuals who test positive for drugs. The offer of employment will be withdrawn from candidates who test positive for drugs.

Information the ESD receives regarding medical examinations and drug testing will be collected and maintained on separate forms and in separate files apart from personnel files. All such records will be kept confidential, maintained for a minimum of one year and released only in accordance with provisions of the Americans with Disabilities Act or other applicable laws.

END OF POLICY

Legal Reference(s):

[ORS 334](#).125(7)

[ORS 659A](#).133

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2016); 28 C.F.R. Part 35 (2016).

Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. §§ 31301-31317 (2012); 49 C.F.R. Parts 40, 382, 391-395 (2016).

Lanier v. City of Woodburn, 518 F3d. 1147 (9th Cir. 2008).

Americans with Disabilities Act Amendments Act of 2008.

Columbia Gorge ESD

Code: GBF
Adopted: 2/20/19
Orig. Code: GBF

Staff Participation in Community Activities - Volunteer Time-Off (VTO)

The Board encourages district employees to participate constructively in community activities, which have the improvement of the general welfare of the community, state, and nation as their objectives.

The purpose of the District's volunteer program is to support activities that enhance and serve communities in which we live and work and the issues that impact quality of life.

The intention is to participate in giving back and supporting the community and to allow the employees of the District to share in that effort. At the same time, the District recognizes that participating in these sorts of activities enriches the lives of its employees.

All regular full-time and part-time employees can donate up to eight hours (1 day) per fiscal year toward a 501(c)(3) charitable organization (or equivalent), in accordance with these guidelines. More than one organization may be chosen. All full-time regular employees of the District are eligible to participate in this program after six months from date-of-hire. Part-time employees are eligible at a pro-rated schedule if their regularly scheduled hours are 20 or more per week.

This donated time will be considered paid time off. The pay rate will be the employee's current base salary on the day(s) the time is taken.

This time is refreshed at the beginning of each fiscal year, unless the program is amended or discontinued, and does not accrue from year to year. Usage of this time or lack thereof does not affect sick leave usage or other paid time-off.

Eligibility:

All full-time regular employees of the District are eligible to participate in this program. There is no minimum service requirement for participation in this program. Employees can choose a charity of their choice or work together with other employees of the District on a team effort.

Ineligibility:

You are ineligible to participate in the Program, if:

1. The employee's employment with the District terminates for any reason.
2. The employee is on a Performance Improvement Plan.
3. The Program is discontinued. The District reserves the right to amend or terminate this program at any time without prior notice. The District also reserves the right to revoke approval if it is felt that the employee is misusing the Program.

Approval Process:

Employees must fill out a leave request form and submit it to ~~his/her~~ **their** supervisor at least one week before the requested time off. Approval is at the discretion of the employee's supervisor. The District sponsored VTO may not be used for organizations that discriminate based on creed, race, religion or sexual orientation.

Examples of appropriate uses for VTO:

- Building a house for Habitat for Humanity
- Donating your time at a food bank
- Cleaning up the beach, highway or park
- Volunteering at a local hospital
- Becoming a Big Brother/Big Sister

Inappropriate examples **include, but are not limited to:**

- Taking a ski vacation and charitably giving ski lessons
- Coaching your child's basketball team
- Attending your child's PTA conference
- Serving as your child's scout leader
- Attending a professional, religious, or personal interest conference

END OF POLICY

Legal Reference(s):

[ORS 332.107](#)

Columbia Gorge ESD

Code: GBG
Adopted: 11/16/11
Orig. Code: GBG

Staff Participation in Political Activities

Employees may exercise their right to participate fully in affairs of public interest on a local, county, state and national level on the same basis as any citizen in a comparable position in public or private employment and within the law.

All district employees are privileged within the limitations imposed by state and federal laws and regulations to choose any side of a particular issue and to support their viewpoints as they desire by vote, discussion or persuading others. Such discussion and persuasion, however, will not be carried on during the performance of district duties, except in open discussion during classroom lessons that consider various candidates for a particular office or various sides of a particular political or civil issue.

On all ~~controversial~~ political issues, employees must designate that the viewpoints they represent on the issues are personal and are not to be interpreted as the district's official viewpoint.

No employee will use district facilities, equipment or supplies in connection with ~~his/her~~ campaigning, nor ~~will he/she they~~ use any time during the working day for campaign purposes.

END OF POLICY

Legal Reference(s):

[ORS Chapter 244](#)
[ORS 260.432](#)

Oregon Constitution, Article XV, Section 8 (adopted Nov. 4, 1958)

Columbia Gorge ESD

Code: GBH/JECAC
Adopted: 8/16/17
Orig. Code: GBH/JECAC

Staff/Student/Parent Relations**

The Board encourages parents to be involved in their student's educational activities and, unless otherwise ordered by the courts, an order of sole custody on the part of one parent shall not deprive the other parent of the following authority as it relates to:

1. Receiving and inspecting their student's education records and consulting with staff concerning the student's welfare and education, to the same extent as provided the parent having sole custody;
2. Authorizing emergency medical, dental, psychological, psychiatric or other health care for the student if the custodial parent is, for practical reasons, unavailable.

It is the responsibility of the parent with sole custody to provide any court order or parental plan that curtails the rights of the noncustodial parent at the time of enrollment or any other time a court order is issued.

In the case of joint custody, the **ESD**~~district~~ will adhere to all conditions specified and ordered by the court. The ESD will use reasonable methods to identify and authenticate the identity of both parents.

END OF POLICY

Legal Reference(s):

[ORS 107.101](#)
[ORS 107.102](#)

[ORS 107.106](#)
[ORS 107.154](#)

[ORS 109.056](#)
[ORS 163.245 - 163.257](#)

Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (2012); Family Educational Rights and Privacy, 34 C.F.R. Part 99 (2017).
Protection of Pupil Rights, 20 U.S.C. § 1232h (2012); Student Rights in Research, Experimental Programs and Testing, 34 C.F.R. Part 98 (2017).

Columbia Gorge ESD

Code: GBI
Adopted: 9/20/17
Orig. Code: GBI

Gifts and Solicitations

Students and their parents shall be discouraged from giving gifts to ESD employees. The Board welcomes, as appropriate, the writing of letters by students to staff members expressing gratitude and appreciation.

Individual employees will refrain from giving gifts¹ to staff members who exercise any direct or indirect administrative or supervisory jurisdiction over them. Collecting money for group gifts is discouraged except in special circumstances such as bereavement, serious illness or retirement gifts. Staff-initiated “sunshine funds” are exempt from this policy.

No staff member may solicit funds in the name of the ESD through the use of, including but not limited to, internet-sourced crowdfunding or other similar types of fund raising, without the approval of the superintendent.

Individual employees need to be accountable for maintaining integrity and avoid accepting anything of value offered by another for the purpose of influencing ~~his/her~~their professional judgment.

All employees are prohibited from accepting items of material value from companies or organizations doing business with the ESD. “Material value” is defined as \$50 from a single source in a single year.

No organization may solicit funds from staff members within the schools, nor may anyone distribute flyers or other materials related to fund drives through the ESD without the superintendent’s approval. Staff members may not be made responsible or assume responsibility for collecting money or distributing any fund-drive literature within the ESD without the superintendent’s approval.

The soliciting of staff by sales people, other staff or agents during on-duty hours is prohibited. Any solicitation should be reported at once to the administrator or supervisor. Advertising is not allowed in the ESD without the superintendent’s approval.

END OF POLICY

Legal Reference(s):

[ORS 244.010](#) to-244.400
[ORS 339.880](#)

[OAR 199-005](#)-0005 to-199-020-0020
[OAR 584-020](#)-0000 to-0045

“Gift” means something of economic value given to a public official or the public official’s relative or household member without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or the relatives or household members of public officials on the same terms and conditions; and something of economic value given to a public official or the public official’s relative for valuable consideration less than that required from others who are not public officials. See ORS Chapter 244 for gift definition exceptions.

Columbia Gorge ESD

Code: GBI-AR
Revised/Reviewed: 9/20/17
Orig. Code: GBI-AR

Internet-Sourced Crowdfunding Solicitation

All ESD internet-sourced crowdfunding, or other similar types of monetary solicitation, shall be in compliance with all ESD fund-raising policies, requiring preapproval from the superintendent.

The superintendent shall monitor the internet-sourced crowdfunding site to ensure that no student information is disclosed improperly and no images are used without permission.

The superintendent shall ensure that the internet-sourced crowdfunding site is legitimate, and that the terms of the site are being followed.

All ESD fund raising will be on the ESD's system and shall follow appropriate policies and use guidelines.

All technology purchases or request for purchase will be approved by the Director of Technology.

All non-monetary items obtained become property of the ESD and all inventory procedures apply.

All monetary donations shall be recorded in the proper ESD fund. No ESD banking information shall be given out. A check will be requested to be mailed to the ESD in the name of the ESD and not to the individual.

A file will be maintained by the superintendent that documents the superintendent approval, details of the project, a print out of the website, copies of all agreements and permission forms, copies of any checks of monetary donation received as well as the inventory listing non-monetary donations.

Columbia Gorge ESD

Code: GBJ
Adopted: 2/20/19
Orig. Code: GBJ

Weapons in Schools - Staff *

Employees, ESD contractors and/or their employees and ESD volunteers shall not possess a dangerous or deadly weapon or firearm on ESD property or at school-sponsored events. This prohibition includes those who may otherwise be permitted by law to carry such weapons.

For purposes of this policy, and as defined by state and federal law, weapon includes:

1. “Dangerous weapon” means any weapon, device, instrument, material or substance, which under the circumstances in which it is used, attempted to be used or threatened to be used is readily capable of causing death or serious physical injury;
2. “Deadly weapon” means any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury;
3. “Firearm” means any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive, frame or receiver of any such weapon, any firearm silencer or any other destructive device including any explosive, incendiary or poisonous gas.

Weapons under the control of law enforcement personnel are permitted.

The superintendent will ensure notice of this policy is provided.

Employees in violation of this policy will be subject to discipline up to and including dismissal. Individuals contracting with the ESD and volunteers will be subject to appropriate sanctions. A referral to law enforcement may be made.

END OF POLICY

Legal Reference(s):

[ORS 161.015](#)

[ORS 166.210 to -166.370](#)

[ORS 334.125](#)

Gun-Free School Zones Act of 1990, 18 U.S.C. §§ 921(a)(25)-(26), 922(q) (2012).
Doe v. Medford Sch. Dist. 549C, 232 Or. App. 38, 221 P3d 787 (2009).

Columbia Gorge ESD

Code: GBK/KGC
Adopted: 4/18/18
Orig. Code: GCK/KGC

Prohibited Use, Distribution or Sale of Tobacco Products and Inhalant Delivery Systems**

To be consistent with Oregon law, the use, distribution or sale of tobacco products or inhalant delivery systems by staff and all others is prohibited on ESD premises in any building or facility, on ESD grounds, including parking lots, in any vehicle owned, leased, rented or chartered by the ESD, school or public charter school and at all ESD-sponsored activities.

For the purpose of this policy, “tobacco products” is defined to include, but not limited to, any lighted or unlighted cigarette, cigar, pipe, bidi, clove cigarette, and any other smoking product, spit tobacco, also known as smokeless, dip, chew, or snuff, in any form. This does not include products that are USFDA-approved for sale as a tobacco cessation product or for any other therapeutic purpose, if marketed and sold solely for the approved purpose.

For the purpose of this policy, “inhalant delivery system” means a device that can be used to deliver nicotine or cannabinoids in the form of a vapor or aerosol to a person inhaling from the device; or a component of a device or a substance in any form sold for the purpose of being vaporized or aerosolized by a device, whether the component or substance is sold or not sold separately. This does not include products that are USFDA-approved for sale as a tobacco cessation product or for any other therapeutic purpose, if marketed and sold solely for the approved purpose.

Violation of this policy by staff may result in discipline up to and including dismissal.

Violation of this policy by the public may result in the individual's removal from ESD property. The ESD reserves the right to restrict access to ESD property by individuals who are repeat offenders.

This policy shall be enforced at all times.

END OF POLICY

Legal Reference(s):

ORS 334.125	ORS 433.835 to -433.990	OAR 581-053-0330(1)(m)
ORS 336.227		OAR 581-053-0430(12)
ORS 339.883	OAR 581-021-0110	OAR 581-053-0531(11)
ORS 431A.175	OAR 581-053-0230(9)(s)	

Pro-Children Act of 1994, 20 U.S.C. §§ 6081-6084 (2012).

Columbia Gorge ESD

Code: GBL
Adopted: 7/15/20
Orig. Code: GBL

Personnel Records *

An official personnel file will be established for each person employed by the ESD. Personnel files will be maintained in a central location.

All records containing employee medical condition information such as workers' compensation reports and release or/ permission to return to work forms will be kept confidential, in a separate file from personnel records. Such records will be released only in accordance with the requirements of the Americans with Disabilities Act or other applicable law.

The superintendent will be responsible for establishing proceduresregulations regarding the control, use, safety and maintenance of all personnel records. Employees will be given a copy of evaluations, complaints and written disciplinary actions placed in their personnel file. All charges resulting in disciplinary action shall be considered a permanent part of the employee's personnel file and shall not be removed for any reason. Employees may submit a written response to any materials placed in their personnel file.

Except as provided below, or required by law, ESD employees' personnel records will be available for use and inspection only by the following:

1. ~~The individual employee. An employee or designee~~ Employees may arrange with the personnel office to inspect the contents of their personnel file on any day the personnel office is open for business;
2. Others designated by the employee in writing may arrange to inspect the contents of the employee's personnel file in the same manner described above;
3. The comptroller or auditor, when such inspection is pertinent to carrying out their respective duties, or as otherwise specifically authorized by the Board. Information so obtained will be kept confidential. No files will be removed from their central location for personal inspection;
4. A Board member when specifically authorized by the Board. Information will be kept confidential. No files will be removed from their central location for personal inspection;
5. The superintendent and members of the central administrative staff designated by the Superintendent;
6. ESD administrators and supervisors who currently or prospectively supervise the employee;
7. Employees of the personnel office;
8. Attorneys for the ESD or the ESD's designated representative on matters of ESD business;

9. Records created pursuant to **Oregon Revised Statute (ORS)** 339.388 (8)(c) are confidential and are not public records as defined in ORS 192.311. The ESD may use the record as a basis for providing the information required to be disclosed about an employee under ORS 339.378~~385~~(1);
10. Upon request from a law enforcement agency, the Oregon Department of Human Services, the Teacher Standards and Practices Commission, or the Oregon Department of Education, in conducting an investigation related to suspected abuse or suspected sexual conduct, to the extent allowable by state and federal law, including laws protecting a person from self-incrimination.

The superintendent may permit persons other than those specified above to use and to inspect ~~employee~~ personnel records when, in their opinion, the person requesting access has a legitimate official purpose. The superintendent will determine in each case the appropriateness and extent of such access.

Release of personnel records to parties other than those listed above, will be in-line with the ESD's public records procedures. The ESD will attempt to notify the employee of the request and that the ESD believes it is legally required to disclose certain records.

END OF POLICY

Legal Reference(s):

[ORS 339.370](#) to -339.374
[ORS 339.388](#)

[ORS 342.143](#)
[ORS 342.850](#)

[ORS 652.750](#)
[OAR 581-024-0245](#)

OSEA v. Lake County Sch. District, 93 Or. App. 481 (1988).

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12112 (2018); 29 C.F.R. Part 1630 (2019); 28 C.F.R. Part 35 (2019).

Americans with Disabilities Act Amendments Act of 2008, 42 U.S.C. § 2000ff-1 (2018).

Columbia Gorge ESD

Code: GBLA
Adopted: 7/15/20
Orig. Code: GBLA

Disclosure of Information

Authorized ESD officials may disclose information about a former employee's job performance to a prospective employer. ESD officials are immune from civil liability for such disclosures under the following conditions:

1. The disclosure of information regarding the former employee's job performance is upon request of the prospective employer or the former employee. This disclosure is presumed to be in good faith. Presumption of good faith is rebutted by showing the information disclosed was:
 - a. Knowingly false;
 - b. Deliberately misleading;
 - c. Rendered with malicious purpose; or
 - d. Violated civil right of the employee protected under Oregon Revised Statute (ORS) 659 or ORS 659A.
2. Records created pursuant to ORS 339.388(8)(c) are confidential and are not public records as defined by ORS 192.311. The ESD may use the record as a basis for providing the information required to be disclosed about an employee under ORS 339.378 (1).
3. The disclosure is the result of a request from a law enforcement agency, the Oregon Department of Human Services, the Teacher's Standards and Practices Commission or the Oregon Department of Education in conducting an investigation related to suspected abuse or suspected sexual conduct to the extent allowable by state and federal law, including laws protecting a person from self-incrimination.
4. Not later than 20 days after receiving a request under ORS 339.374 (1)(b), the ESD, if it has or has had an employment relationship with the applicant shall disclose the information requested.

END OF POLICY

Legal Reference(s):

[ORS 30.178](#)
[ORS 339.370 - 339.400](#)

[ORS 339.388](#)
[ORS Chapter 659](#)

[ORS Chapter 659A](#)

OR. ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL.

Columbia Gorge ESD

Code: GBM
Adopted: 9/21/16
Orig. Code: GBM

Staff Complaints *

The superintendent or designee will develop a complaint procedure which will be available for all employees who wish to report a violation, misinterpretation or inappropriate application of ESD district personnel policies and/or administrative regulations and/or a mismanagement, gross waste of funds or abuse of authority; or created a substantial and specific danger to public health and safety by its actions. The complaint procedure will provide an orderly process for the consideration and resolution of problems in the application or interpretation of district personnel policies.

The complaint procedure will not be used to resolve disputes and disagreements related to the provisions of any collective bargaining agreement, nor will it be used in any instance where a collective bargaining agreement provides a dispute resolution procedure. Disputes concerning an employee's dismissal, contract non-renewal or contract non-extension will not be processed under this procedure.

Reasonable efforts will be made to resolve complaints informally.

Administrative regulations will be developed to outline procedural timelines and steps under this policy, as necessary. The ESD will use the complaint process in administrative regulation GMA AR-Staff Complaints to address any alleged violations of this policy.

END OF POLICY

Legal Reference(s):

[ORS 334.125](#)

[ORS 659A.199 to -659A.224](#)

[OAR 581-024-0245](#)

Anderson v. Central Point Sch. Dist., 746 F.2d 505 (9th Cir. 1984).
Connick v. Myers, 461 U.S. 138 (1983).

Columbia Gorge ESD

Code: GBM-AR
Adopted: 9/21/16
Orig. Code: GBM-AR

Staff Complaints

When reporting a violation, problem or concern of a particularly sensitive or complex nature, or when an employee wishes to preserve their anonymity, a complaint may be reported through the District's designated whistleblower hotline service. The contact information for this service shall be provided to each staff member in written or electronic form.

Initiating a Complaint: Step One

An employee who wishes to express a complaint is encouraged to discuss the matter with the employee involved (teacher, administrative assistant, etc.) It is the intent of ~~CGESD~~ CGESD to solve problems and address all complaints as close as possible to their origin.

The Administrator: Step Two

If unable to resolve a problem or concern at step one then the complainant should work with the supervising administrator to resolve the complaint or concern.

The Superintendent: Step Three

If such a discussion does not resolve the complaint or if such discussion is not practical under the circumstances, the complainant, ~~if he/she they wishes to~~ may pursue the action, shall file a signed, written complaint with the superintendent clearly stating the nature of the complaint and a suggested remedy. (A form is available, but is not required.)

The superintendent shall investigate the complaint, confer with the complainant and the parties involved, and prepare a written report of ~~his/her~~ findings and ~~his/her~~ their conclusion in a timely manner.

The Board: Step Four

If the complainant is dissatisfied with the superintendent's findings and conclusion, the complainant may appeal the decision to the Board. The Board shall hold a hearing to review the findings and conclusion of the superintendent, to hear the complainant, and to take such other evidence as it deems appropriate. Generally all parties involved, including the administration, will be asked to attend such meeting for the purposes of presenting additional facts, making further explanations, and clarifying the issues.

The Board may hold the hearing in executive session in accordance with law, ~~unless the employee wants the hearing in a public session~~. The decision of the Board will be final, except for possible appeal to appropriate courts or state agencies as provided by law.

Columbia Gorge ESD

Code: GBMA
Adopted: 6/14/17
Orig. Code: GBMA

Whistleblower *

When an employee has good faith and reasonable belief the ESD has violated any federal, state or local law, rule or regulation; has engaged in mismanagement, gross waste of funds or abuse of authority; or created a substantial and specific danger to public health and safety by its actions, and an employee then discloses or plans to disclose such information, it is an unlawful employment practice for an ESD to:

1. Discharge, demote, transfer, reassign or take disciplinary action against an employee or threaten any of the previous actions.
2. Withhold work or suspend an employee.
3. Discriminate or retaliate against an employee with regard to promotion, compensation or other terms, conditions or privileges ~~of~~^{for} employment.
4. Direct an employee or to discourage an employee to not disclose or to give notice to the ESD prior to making any disclosure.
5. Prohibit an employee from discussing, either specifically or generally, the activities of the state or any agency of or political subdivision in the state, or any person authorized to act on behalf of the state or any agency of or political subdivision in the state, with:
 - a. Any member of the Legislative assembly;
 - b. Any Legislative committee staff acting under the direction of any member of the Legislative assembly; or
 - c. Any member of the elected governing body of a political subdivision in the state or any elected auditor of a city, county or metropolitan service district.

An employee's good faith and reasonable belief shall serve as an affirmative defense to civil or criminal charges related to the employee's disclosure of lawfully accessed information related to the violation, including information that is exempt from disclosure by public records law.

The ESD will use the complaint process in administrative regulation GBM-AR – Staff Complaints to address any alleged violations of this policy. ~~This process may include the option for employees to report activities covered under this policy via a “whistleblower hotline service.”~~

The ESD shall deliver a written or electronic copy of this policy to each staff member.

END OF POLICY

Legal Reference(s):

[ORS 192](#).501 - 192.505

[ORS 659A](#).199 - 659A.224

[OAR 581-022](#)-2405

Anderson v. Central Point Sch. Dist., 746 F.2d 505 (9th Cir. 1984).

Connick v. Myers, 461 U.S. 138 (1983).

Columbia Gorge ESD

Code: GBN/JBA
Adopted: 8/19/20
Orig. Code: GBN/JBA

Sexual Harassment

(Version 1)

(see new version)

The ESD is committed to the elimination of sexual harassment in ESD activities and programs. Sexual harassment is strictly prohibited and shall not be tolerated. This includes sexual harassment: of students by staff members, other students or third parties; of staff members by students, other staff members or third parties; and of third parties by staff members and students. This policy applies to third parties who are on or immediately adjacent to ESD property, are at any ESD-sponsored activity or program, or are off ESD property, if a student or staff member acts toward the person in a manner that creates a hostile environment for the person while at an ESD-sponsored activity or program. "Third parties" include, but are not limited to, volunteers, parents, visitors, service contractors or others engaged in ESD business, such as employees of businesses or organizations participating in cooperative work programs with the ESD and others not directly subject to ESD control at inter-district and intra-district athletic competitions or other ESD events. "ESD" includes ESD facilities, ESD premises and non-ESD property if the student or staff member is at any ESD-sponsored, ESD-approved or ESD-related activity or function, such as field trips or athletic events where students are under the jurisdiction of the ESD, or where the staff member is engaged in ESD business. The prohibition also includes off duty conduct, which is incompatible with ESD job responsibilities.

All staff members, students, and third parties are subject to this policy.

Sexual harassment of students, staff members or third parties shall include:

1. A demand or request for sexual favors in exchange for benefits;
2. Unwelcome conduct of a sexual nature that is physical, verbal or nonverbal and that interferes with a student's educational program or activity or that creates an intimidating, offensive or hostile educational environment; unwelcome conduct of a sexual nature that is physical verbal or nonverbal and that interferes with the staff member's ability to perform the job or that creates an intimidating, offensive or hostile work environment; or unwelcome conduct of a sexual nature that is verbal or nonverbal and that creates an intimidating, offensive or hostile environment; and
3. Assault when sexual contact occurs without the student's, staff member's or third party's consent because the student, staff member or third party is under the influence of drugs or alcohol, is unconscious or is pressured through physical force, coercion or explicit or implied threats.

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 other students or others as to appearance, sexual activity or performance.

All complaints about behavior that may violate this policy shall be promptly investigated.

Any staff member who becomes aware of behavior that may violate this policy shall immediately report to the superintendent so that the superintendent (and the reporting staff member when the victim of the harassment is a student or third party) may coordinate efforts to take any action necessary to ensure the:

1. Student is protected and to promote a non-hostile learning environment;
2. Staff member is protected and to promote a non-hostile work environment; or
3. Third party who is subjected to the behavior is protected and to promote a non-hostile environment.

This includes providing resources for support measures to the student, staff member or third party who was subjected to the behavior and taking any actions that are necessary to remove potential future impact on the student, staff member or third party, but are not retaliatory against the student, staff member or third party being harassed or the staff member who reported to the ESD official.

Any student or staff member who feels they are a victim of sexual harassment are encouraged to immediately report their concerns to ESD officials, this includes officials such as the principal, compliance officer or superintendent. Students may also report concerns to a teacher, counselor or school nurse, who will promptly notify the appropriate ESD 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(5) to the complainant.

The person who initiated the complaint and if applicable the student's parents or person's parents shall be notified when the investigation is initiated and 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 and the participation in an investigation, in good faith about behavior that may violate this policy may not adversely affect the educational assignments or any terms or conditions of employment or of work or educational environment of the person who initiated the complaint or who participates in the investigation. There shall be no retaliation by the ESD 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 ESD 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. Staff members 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 the Board.

Additionally, the ESD 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 shall 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 ESD officials responsible for accepting and managing sexual harassment complaints, business phone numbers, address 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 ESD's policy shall be posted on a sign in all programs. Posted signs shall be at least 8 ½ inches by 11 inches in size.

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

END OF POLICY

Legal Reference(s):

[ORS 243.706](#)
[ORS 334.125](#)
[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 (2018).

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2018).

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2018); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2020).

Bartsch v. Elkton School District, FDA-13-011 (March 27, 2014).

Columbia Gorge ESD

Code:
Adopted:

GBN/JBA

Sexual Harassment (Version 2)

The ESD is committed to eliminating sexual harassment. Sexual harassment will not be tolerated in the ESD. All students, staff members and other persons are entitled to learn and work in an environment that is free of harassment. All staff members, students and third parties are subject to this policy. Any person may report sexual harassment.

The ESD processes complaints^{1} or reports of sexual harassment under Oregon Revised Statute (ORS) 342.700 et. al. and federal Title IX laws found in Title 34 C.F.R. Part 106. Individual complaints may require both of these procedures, and may involve additional complaint procedures.

General Procedures

When information, a report or complaint regarding sexual harassment is received by the ESD, the ESD will review such information, report or complaint to determine which law applies and will follow the appropriate procedures. When the alleged conduct could meet both of the definitions in ORS 342 and Title IX, both complaint procedures should be processed simultaneously (*see* GBN/JBA-AR(1) - Sexual Harassment Complaint Procedure and GBN/JBA-AR(2) - Federal Law (Title IX) Sexual Harassment Complaint Procedure). The ESD may also need to use other complaint procedures when the alleged conduct could meet the definitions for other complaint procedures^{2}.

OREGON DEFINITION AND PROCEDURES

Oregon Definition

Sexual harassment of students, staff members or third parties³ shall include:

1. A demand or request for sexual favors in exchange for benefits;
2. Unwelcome conduct of a sexual nature that is physical, verbal, or nonverbal and that:

^{1} Some ESDs choose not to use the terms “complaint” and “complainant” because they feel the stigma associated with the terms discourage victims from reporting conduct. The terms used in this policy are consistent with those included in the law. If you choose to change these terms, make sure that you are consistent and clear. Note, “complainant” is defined under federal law.}

^{2} Common complaint procedures that may also be involved include: Nondiscrimination (AC), Workplace Harassment (GBEA), [Hazing,]Harassment, Intimidation, Bullying, [Menacing,]Cyberbullying, Teen Dating Violence and Domestic Violence – Student (JFCF), and Reporting Requirements for Suspected Sexual Conduct with Students (GBNAA/JHFF)

³ “Third party” means a person who is not a student or a school or ESD staff member and who is: 1) on or immediately adjacent to school grounds or ESD property; 2) at a school-sponsored activity or program; or 3) off school grounds or ESD property if a student or a school or ESD staff member acts toward the person in a manner that creates a hostile environment for the person while on school or ESD property, or at a school- or ESD-sponsored activity.

- a. Interferes with a student’s educational activity or program;
 - b. Interferes with a school or ESD staff member’s ability to perform their job; or
 - c. Creates an intimidating, offensive or hostile environment.
3. Assault when sexual contact occurs without the student’s, staff member’s or third party’s consent because the student, staff member or third party is under the influence of drugs or alcohol, is unconscious or is pressured through physical force, coercion or explicit or implied threats. {⁴}

Sexual harassment does not include conduct that is necessary because of a job duty of a school or ESD staff member or because of a service required to be provided by a contractor, agent, or volunteer, if the conduct is not the product of sexual intent or a person finding another person, or another person’s action, offensive because of that other person’s sexual orientation or gender identity.

Examples of sexual harassment may include, but not be limited to, {⁵} 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 sexual behaviors in front of others; or spreading rumors about or rating other students or others as to appearance, sexual activity, or performance.

Oregon Procedures

Reports and complaints of sexual harassment should be made to the following individual

Name	Position	Phone	Email
Bob Dais	Human Resources Director	541-298-5155	bdais@cgesd.k12.or.us

This individual is responsible for accepting and managing complaints of sexual harassment. Persons wishing to report should contact them using the above information. This person is also designated as the Title IX Coordinator. {⁶} See GBN/JBA-AR(1) - Sexual Harassment Complaint Procedure.

Response

Any staff member who becomes aware of behavior that may violate this policy shall report to a ESD official. The ESD official (with coordination involving the reporting staff member when appropriate) will take any action necessary to ensure the:

1. Student is protected and to promote a nonhostile learning environment;

{⁴ The statutory definition (ORS 342.704) for sexual harassment includes separate definitions with slightly different language for students, staff members and third parties. The language used in this policy comes from OAR 581-021-0038(1)(b). If the ESD would like to include the full statutory definition, it can do so.}

{⁵ OAR 581-021-0038 requires that the policy include a “examples of harassing behaviors covered by policy” The bracketed list in this policy reflects OSBA’s recommendations. The ESD has discretion in what is included in this list. If you are listing behaviors not reflected in our recommendations, please make sure that you have your list reviewed by your school ESD’s legal counsel.}

{⁶ This must be communicated elsewhere, but it is a good reason to specify it here as well.}

2. Staff member is protected and to promote a nonhostile work environment; or
3. Third party who is subjected to the behavior is protected and to promote a nonhostile environment.

This includes providing resources for support measures to the student, staff member or third party who was subjected to the behavior and taking any actions necessary to remove potential future impact on the student, staff member or third party, but are not retaliatory against the student, staff member or third party being harassed or the person who reported to the ESD official.

Any student or staff member who feels they are a victim of sexual harassment are encouraged to report their concerns to ESD officials, this includes officials such as the principal, compliance officer or superintendent. Students may also report concerns to a teacher, counselor or school nurse, who will promptly notify the appropriate ESD official.

Investigation

All reports and complaints about behavior that may violate this policy shall be investigated. The ESD may use, but is not limited to, the following means for investigating incidents of possible harassment:

1. Interviews with those involved;
2. Interviews with witnesses;
3. Review of video surveillance;
4. Review of written communications, including electronic communications;
5. Review of any physical evidence; and
6. Use of third-party investigator.

The ESD will use a reasonable person standard when determining whether a hostile environment exists. A hostile environment exists if a reasonable person with similar characteristics and under similar circumstances would consider the conduct to be so severe as to create a hostile environment.⁷

The ESD may take, but is not limited to, the following procedures and remedial action to address and stop sexual harassment:

1. Discipline of staff and students engaging in sexual harassment;
2. Removal of third parties engaged in sexual harassment;
3. Additional supervision in activities;
4. Additional controls for ESD electronic systems;

{⁷ We strongly recommend that the board receive input from ESD administration prior to adopting a standard here. Of note, Title IX's definition of sexual harassment includes "unwelcome conduct determined *by a reasonable person* to be..." 34 CFR 106.30(a), emphasis added. It is important to consider the different definitions under Oregon law and Title IX when determining which standards will apply for the Oregon process.}

5. Trainings and education for staff and students; and
6. Increased notifications regarding ESD procedures and resources.

When a student or staff member is harassed by a third party, the ESD will consider the following:

1. Removing that third party's ability to contract or volunteer with the ESD, or be present on ESD property;
2. If the third party works for an entity that contracts with the ESD, communicating with the third party's employer;
3. If the third party is a student of another district, ESD or school, communicate information related to the incident to the other district, ESD or school;
4. Limiting attendance at ESD events; and
5. Providing for additional supervision, including law enforcement if necessary, at ESD events.

No Retaliation

Retaliation against persons who initiate complaints or otherwise report sexual harassment or who participate in an investigation or other related activities is prohibited. The initiation of a complaint, reporting of behavior, or participation in an investigation, in good faith about behavior that may violate this policy may not adversely affect the:

1. Educational assignments or educational environment of a student or other person initiating the complaint, reporting the behavior, or participating in the investigation; or
2. Any terms or conditions of employment or of work or educational environment of a school or ESD staff member or other person initiating the complaint, reporting the behavior, or participating in the investigation.

Students who initiate a complaint or otherwise report harassment covered by the policy or who participate in an investigation may not be disciplined for violations of the ESD's drug and alcohol policies that occurred in connection with the reported prohibited conduct and that were discovered because of the report or investigation, unless the student gave another person alcohol or drugs without the person's knowledge and with the intent of causing the person to become incapacitated and vulnerable to the prohibited conduct.

Notice

When a person⁸ who may have been affected by this policy files a complaint or otherwise reports behavior that may violate the policy, the ESD shall provide written notification to the following:

1. Each reporting person;

⁸ Student, staff member, or third party, or if applicable, the student or third party's parent. If the person is a minor, the ESD should consider when to contact the person's parent.

2. If appropriate, any impacted person who is not a reporting person;
3. Each reported person; and
4. Where applicable, a parent or legal guardian of a reporting person, impacted person, or reported person.

The written notification must include⁹:

1. Name and contact information for all person designated by the ESD to receive complaints;
2. The rights of the person that the notification is going to;
3. Information about the internal complaint processes available through the school or ESD that the person who filed the complaint may pursue, including the person designated for the school or ESD for receiving complaints and any timelines.
4. Notice that civil and criminal remedies that are not provided by the school or ESD may be available to the person through the legal system and that those remedies may be subject to statutes of limitation;
5. Information about services available to the student or staff member through the school or ESD, including any counseling services, nursing services or peer advising;
6. Information about the privacy rights of the person and legally recognized exceptions to those rights for internal complaint processes and services available through the school or ESD;
7. Information about, and contact information for, services and resources that are available to the person, including but not limited to:
 - a. For the reporting person, state and community-based resources for persons who have experienced sexual harassment; or
 - b. For the reported persons, information about and contact information for state and community-based mental health services;
8. Notice that students who report about possible prohibited conduct and students who participate in an investigation under this policy may not be disciplined for violations of the ESD's drug and alcohol policies that occurred in connection with the reported prohibited conduct and that were discovered as a result of a prohibited conduct report or investigation unless the student gave another person alcohol or drugs without the person's knowledge and with the intent of causing the person to become incapacitated and vulnerable to the prohibited conduct; and
9. Prohibition of retaliation.

Notification, to the extent allowable under state and federal student confidentiality laws, must be provided when the investigation is initiated and concluded. The notification at the conclusion must include whether a violation of the policy was found to have occurred.

⁹ Remember confidentiality laws when providing any information.

The notice must:

1. Be written in plain language that is easy to understand;
2. Use print that is of a color, size and font that allows the notification to be easily read; and
3. Be made available to students, students' parents, staff members and member of the public at each office, at the ESD office and on the website of the school or ESD.

Oregon Department of Education (ODE) Support

The ODE will provide technical assistance and training upon request.

FEDERAL DEFINITION AND PROCEDURES

Federal Definition

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the ESD conditioning the provision of an aid, benefit, or service of the ESD on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the ESD's education program or activity¹⁰;
3. "Sexual assault": an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
4. "Dating violence": violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship;
5. "Domestic Violence": felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction; or
6. "Stalking": engaging in a course of conduct directed at a specific person that would cause a reasonable person fear for the person's own safety or the safety of others, or suffer substantial emotional distress.

¹⁰ "Education program or activity" includes locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs. (Title 34 C.F.R. § 106.44(a))

This definition only applies to sex discrimination occurring against a person who is a subject of this policy in the United States. A ESD's treatment of a complainant or a respondent in response to a formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX.

Federal Procedures

The ESD will adopt and publish grievance procedures that provide for the prompt and equitable resolution of the student and employee complaints alleging any action that would be prohibited by this policy. *See* GBN/JBA-AR(2) - Title IX Sexual Harassment Grievance Procedures.

Reporting

Any person may report sexual harassment. This report may be made in person, by mail, by telephone, or by electronic mail, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. The report can be made at any time.

[Person or position] is designated as the Title IX Coordinator [and can be contacted at [insert phone number]]. The Title IX Coordinator will coordinate the ESD's efforts to comply with its responsibilities related to this AR. The ESD prominently will display the contact information for the Title IX Coordinator on the ESD website and in each handbook.^{11}

Response

The ESD will promptly respond to information, allegations or reports of sexual harassment when there is actual knowledge of such harassment, even if a formal complaint has not been filed.¹² The ESD shall treat complainants and respondents equitably by providing supportive measures¹³ to the complainant and by following a grievance procedure¹⁴ prior to imposing any disciplinary sanctions or other actions that are not supportive measures against a respondent. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes, with respect to supportive measures, inform the complainant

^{11} Note the difference in requirements for Title IX and Oregon law. It makes sense to align these requirements}

¹² (Title 34 C.F.R. § 106.44(a)) Response cannot be deliberately indifferent. A recipient is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

¹³ (Title 34 C.F.R. § 106.44(a)) Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the ESD's educational environment, or deter sexual harassment.¹³ The ESD must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide supportive measures. (Title 34 C.F.R. § 99.30(a))

¹⁴ This grievance procedure must meet the requirements of Title 34 C.F.R. § 106.45 (included in accompanying administrative regulation, *see* GBN/JBA-AR(2) - Federal Law (Title IX) Sexual Harassment Complaint Procedure).

of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.¹⁵

If after an individualized safety and risk analysis, it is determined that there is an immediate threat to the physical health or safety of any person, an emergency removal of the respondent can take place.¹⁶ The ESD must provide the respondent with notice and an opportunity to challenge the decision immediately following the removal. A non-student employee may also be placed on non-disciplinary administrative leave pending the grievance process.

Notice

The ESD shall provide notice to all applicants for admission and employment, students, parents or legal guardians, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the ESD of the following:

1. The name or title, office address, electronic mail address, and telephone number of the Title IX Coordinator(s);
2. That the ESD does not discriminate on the basis of sex in the education program or activity that it operates, as required by Title IX. This includes admissions and employment; and
3. The grievance procedure and process, how to file a formal complaint of sex discrimination or sexual harassment, and how the ESD will respond.

[Inquiries about the application to Title IX and its requirements may be referred to the Title IX Coordinator or the Assistant Secretary¹⁷, or both.]

No Retaliation

Neither the ESD or any person may retaliate¹⁸ against an individual for reporting, testifying, providing evidence, being a complainant, otherwise participating or refusing to participate in any investigation or process in accordance with this procedure. The ESD must keep confidential the identity of parties and participating persons, except as disclosure is allowed under Family Educational Rights and Privacy Act (FERPA), as required by law, or to carry out the proceedings herein. Complaints of retaliation may be filed using these procedures.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding does not constitute retaliation.

¹⁵ The Title IX Coordinator may also discuss that the Title IX Coordinator has the ability to file a formal complaint.

¹⁶ The ESD may still have obligations under Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 or the American with Disabilities Act (ADA). (Title 34 C.F.R. § 106.44(c))

¹⁷ Of the United States Department of Education

¹⁸ Retaliation includes, but is not limited to, intimidation, threats, coercion, and discrimination.

Publication

This policy shall be made available to students, parents of students and staff members. This policy [and contact information for the Title IX Coordinator] shall be prominently published in the [school] [ESD] student handbook and on the [school][ESD] website. This policy shall also be made available at each school office and at the ESD office. The ESD shall post this policy on a sign in all grade 6 through 12 schools, on a sign that is at least 8.5 inches by 11 inches in size. A copy of the policy will be made available to any [student, parent of a student, school or ESD staff member, or third party] [person] upon request.

END OF POLICY

Legal Reference(s):

[ORS 243.706](#)
[ORS 334.125](#)
[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 (2018).

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2018).

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2018); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2020).

Bartsch v. Elkton School District, FDA-13-011 (March 27, 2014).

Columbia Gorge ESD

Code: GBN/JBA-AR(1)

Revised/Reviewed:

Sexual Harassment Complaint Procedure

{¹} Reports and complaints of sexual harassment should be made to the following individual:

Name	Position	Phone	Email
Bob Dais	Human Resources Director	541-298-5155	bdais@cgesd.k12.or.us

The ESD official receiving the complaint shall issue the required written notice as outlined under Oregon Procedures in Board policy GBN/JBA - Sexual Harassment.

Step 1 The ESD official receiving the report or complaint shall promptly initiate an investigation using procedures and standards, including but not limited to, those identified in Board policy GBN/JBA - Sexual Harassment and will notify the complainant or reporting person, any impacted person who is not a reporting person (if appropriate), each reported person, and where applicable the parents of a reporting person, impacted person, or reported person, when such investigation is initiated. The official will arrange such meetings as may be necessary to discuss the issue with all concerned parties within five working days after receipt of the report or complaint. The parties will have an opportunity to submit evidence and a list of witnesses. All findings of the investigation shall be reduced to writing. The official conducting the investigation shall notify the parties in writing that the investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law within 30 days of receipt of the report or complaint.

A copy of the required written notice(s) and the date and details of notification of the notice of investigation and results of the investigation, together with any other documentation related to the sexual harassment incident, including disciplinary action taken or recommended, shall be forwarded to the superintendent.

Step 2 If a complainant is not satisfied with the decision at Step 1, the complainant may submit a written appeal to the superintendent[or designee. Such appeal must be filed within 10 working days after receipt of the Step 1 decision. The superintendent or designee will arrange such meetings with the complainant and other affected parties as deemed necessary to discuss the appeal within 5 working days of receipt of the appeal. The superintendent or designee shall provide a written decision to the complainant within 10 working days.

Step 3 If a complainant is not satisfied with the decision at Step 2, the complainant may submit a written appeal to the Board. Such appeal must be filed within 10 working days after receipt of the Step 2 decision. The Board will review the decision of the superintendent or designee in a public meeting to determine what action is appropriate. The Board may use executive session if the subject matter qualifies under Oregon law. Appropriate action may include, but is not

{¹ Align with same positions identified in policy.}

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limited to, holding a hearing, requesting additional information, and adopting the superintendent's or designee's decision. All parties involved, including the school administration, may be asked to attend a hearing for the purposes of making further explanations and clarifying the issues. The Board shall provide a written decision to the complainant within 30 working days following receipt of the appeal.

If the Board chooses not to hear the complaint, the superintendent's or designee's decision in Step 2 is final².

The superintendent is authorized to amend these procedures (including timelines) when the superintendent feels it is necessary for the efficient handling of the complaint. Notice of any amendments will be promptly provided to the parties.

Complaints against ~~the principal~~ an administrator may start at Step 2 and may be filed with the superintendent or designee. The superintendent or designee will cause the required notices to be provided. The superintendent or designee will investigate the complaint and will notify the parties in writing that the investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law. If the complaint remains unresolved within 10 working days of receipt by the superintendent or designee, the complainant may appeal to the Board in Step 3.

Complaints against the superintendent or a Board member (other than the Board chair) may start at Step 3 and should be referred to the Board chair on behalf of the Board. The Board chair will cause required notices to be provided. The Board chair shall present the complaint to the Board. The Board may use executive session if the subject matter qualifies under Oregon law. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. After receiving the results of the investigation, the Board shall decide, within 20 days, in open session what action, if any, is warranted. The Board chair shall notify the parties in writing that the investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law.

Complaints against the Board chair may start at Step 3 and should be referred to the Board vice chair on behalf of the Board. The Board vice chair will cause required notices to be provided. The Board vice chair shall present the complaint to the Board. The Board may use executive session if the subject matter qualifies under Oregon law. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. After receiving the results of the investigation, the Board shall decide, within 20 days, in open session what action, if any, is warranted. The Board vice chair shall notify the parties in writing that the investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law.

Direct complaints related to employment may be filed with the U.S. Department of Labor, Equal Employment Opportunity Commission or Oregon Bureau of Labor and Industries.

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² [If the Board chooses to accept the superintendent's decision as the ESD's final decision on the complaint, the superintendent's written decision must meet the requirements of OAR 581-022-2370(4)(b).]

Direct complaints related to educational programs and services may be made to the Regional Civil Rights Director, U.S. Department of Education, Office for Civil Rights, Region X, 915 2nd Ave., Room 3310, Seattle, WA 98174-1099.

Additional information regarding filing of a complaint or report may be obtained through the principal, compliance officer or superintendent.

All documentation related to sexual harassment complaints may become part of the student's education record or employee's personnel file, as appropriate. Additionally, a copy of all sexual harassment complaints or reports and documentation will be maintained as a confidential file and stored in the ESD office.

The superintendent shall report the name of any person holding a teaching license or registered with Teacher Standards and Practices Commission (TSPC) or participating in a practicum under Oregon Administrative Rule (OAR) Chapter 584, Division 17, when, after appropriate investigation, there is reasonable cause to believe the person may have committed an act of sexual harassment. Reports shall be made to TSPC within 30 days of such a finding. Reports of sexual contact with a student shall be given to a representative from law enforcement or Oregon Department of Human Services, as possible child abuse.

Columbia Gorge ESD
400 East Scenic Drive, Suite 207 The Dalles, Oregon 97058
(541) 298-5155

SEXUAL HARASSMENT COMPLAINT FORM

Name of complainant: _____

Position of complainant: _____

Date of complaint: _____

Name of alleged harasser: _____

Date and place of incident or incidents: _____

Description of misconduct: _____

Name of witnesses (if any): _____

Evidence of sexual harassment, i.e., letters, photos, etc. (attach evidence if possible): _____

Any other information: _____

I agree that all the information on this form is accurate and true to the best of my knowledge.

Signature: _____ Date: _____

Columbia Gorge ESD
400 East Scenic Drive, Suite 207 The Dalles, Oregon 97058
(541) 298-5155

WITNESS DISCLOSURE FORM

Name of Witness: _____

Position of Witness: _____

Date of Testimony/Interview: _____

Description of Instance Witnessed: _____

Any Other Information: _____

I agree that all the information on this form is accurate and true to the best of my knowledge.

Signature: _____ Date: _____

Columbia Gorge ESD

Code:
Adopted:

GBN/JBA-AR(2)

Federal Law (Title IX) Sexual Harassment Complaint Procedure

Additional Definitions

“Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to the ESD’s Title IX Coordinator or any official of the ESD who has authority to institute corrective measures on behalf of the ESD, or to any employee of an elementary or secondary school.¹

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

“Formal complaint” means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent² and requesting that the ESD investigate the allegation of sexual harassment.³

“Supportive measures” means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the ESD’s educational environment, or deter sexual harassment.⁴ The ESD must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide supportive measures.

Formal Complaint Procedures

Upon receipt of a formal complaint, the ESD will provide the parties⁵ written notice of the following:

1. Notice of the ESD’s grievance process, including any informal resolution process.

¹ This standard is not met when the only official with knowledge is the respondent.

² “Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

³ A complainant must be participating in or attempting to participate in the education program or activity of the ESD with which the formal complaint is filed.

⁴ Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

⁵ Parties include the complainant and the respondent, if known.

2. Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details⁶ known at the time and with sufficient time to prepare a response before any initial interview.
3. That the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility be made at the conclusion of the grievance process.
4. That the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
5. The parties may inspect and review evidence.
6. A reference to any provision in the ESD's code of conduct^{7} that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

The Title IX Coordinator will contact the complainant and the respondent to discuss supportive measures. If necessary, the Title IX Coordinator will arrange for an individualized safety and risk analysis. If necessary, a student or non-student employee may be removed or placed on leave.

Investigation

The Title IX Coordinator will coordinate the ESD's investigation. The investigation must:

1. Include objective evaluation of all relevant evidence, including inculpatory and exculpatory evidence.
2. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the ESD and not on the parties.⁸
3. Provide an equal opportunity for the parties to present witnesses, and other inculpatory and exculpatory evidence.
4. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
5. Provide the parties with the same opportunities to have other present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by

⁶ Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known.

^{7} The ESD is encouraged to review policy JFC and codes of conduct found in handbooks for applicable language.}

⁸ The ESD cannot access, consider, disclose, or otherwise use a party's records that are made of maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's capacity, and which are maintained in connection with the provision of treatment to the party, unless the ESD obtains the party's (or eligible student's parent's) voluntary, written consent to do so.

the advisor of their choice.⁹ The ESD may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.

6. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
7. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint.¹⁰ Prior to completion of the investigative report, the ESD must send to each party and party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report;
8. Create an investigative report that fairly summarizes relevant evidence and is sent to each party and party's advisor in electronic format or hard copy at least 10 days prior to any hearing (if required or provided) or other time of determination of responsibility. The party and advisor will be allowed to review and provide a written response.

After the ESD has sent the investigative report to the parties and before reaching a determination regarding responsibility, the decision maker(s) must afford each party the opportunity to submit written, relevant questions¹¹ that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

Credibility determinations are not based on the person's status as a complainant, respondent or witness.

No person designated as a Title IX Coordinator, investigator, decision-maker, or any person designated by the ESD to facilitate an informal resolution process may have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

If, in the course of an investigation, the ESD decides to investigate allegations about the complainant or respondent that are not included in the notice previously provided, the ESD must provide notice of the additional allegations to the parties whose identities are known.

⁹ In addition to an advisor, complainants and respondents may also be entitled to other accompaniment as required by law or as necessary for conducting of grievance procedures, including but not limited to: translators, services for students with disabilities and parents of minor students.

¹⁰ This includes the evidence upon which the ESD does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the investigation. The ESD must make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

¹¹ Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the question and evidence concern specific incidents of the complainants prior sexual behavior with respect to the respondent and are offered to prove consent.

At no point in the process will the ESD, or anyone participating on behalf of the ESD, require, allow, rely upon, or otherwise use questions or evidence that constitutes, or seeks disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

Determination of Responsibility

The respondent must be deemed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

The standard to be used for formal complaints in determining whether a violation has occurred is the preponderance of the evidence¹² standard.

The person deciding the question of responsibility (the “decision-maker”) must be someone other than the Title IX Coordinator or the investigator(s). The decision-maker must issue a written determination which must include:

1. Identification of the allegations potentially constituting sexual harassment;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the ESD’s code of conduct to the facts;
5. A statement of, and rationale for, the result as to each allegation, including:
 - a. A determination regarding responsibility;
 - b. Any disciplinary sanctions the ESD imposes on the respondent; and
 - c. Whether remedies designed to restore or preserve equal access to the ESD’s education program or activity will be provided by the ESD to the complainant; and
6. The ESD’s procedures and permissible bases for the complainant and respondent to appeal.

The ESD must provide the written determination to the parties simultaneously.

The determination regarding responsibility becomes final either on the date that the recipient provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

¹² A preponderance of the evidence standard is understood to mean concluding that a fact is more likely than not to be true. U.S. Department of Education, Title IX Regulations commentary, p. 1268, FN 1409.

Remedies

The Title IX Coordinator is responsible for effective implementation of any remedies.

The disciplinary sanctions¹³ may include:

1. Discipline up to and including suspension and expulsion;
2. Removal from various activities, committees, extra-curricular, positions, etc.
3. Disqualification for awards and honors;
4. Discipline up to and including termination, in accordance with laws, agreements, contracts, handbooks, etc. .¹⁴

4.5. Other remedies, May include Educational Programming

Dismissal of a Formal Complaint

The ESD must dismiss a formal complaint with regard to Title IX sexual harassment if the alleged conduct:

1. Would not constitute sexual harassment, even if proved;
1. Did not occur in the ESD's education program or activity¹⁵; or
2. Did not occur against a person in the United States.

The ESD may dismiss a formal complaint with regard to Title IX sexual harassment if at any time during the investigation or hearing, if provided:

1. A complainant notifies the Title IX Coordinator in writing that the complaint would like to withdraw the formal complaint or any allegations therein;
2. The respondent is no longer enrolled or employed by the ESD; or
3. Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

¹³ ESDs should review any other disciplinary procedures and requirements prior to imposing any discipline, and should consult legal counsel with questions.

¹⁴ It is important to keep supportive measures separate from disciplinary sanctions. Supportive measures must be “non-disciplinary” and “non-punitive.”

¹⁵ Includes locations, events, or circumstances over which the ESD exercised substantial control over both the respondent the respondent and the context in which the sexual harassment occurs[, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution]. (Title 34 C.F.R. §106.44(a))

Upon dismissal of a formal complaint, the ESD must promptly send written notice of the dismissal and the reason(s) therefor simultaneously to the parties.

The dismissal of a formal complaint under Title IX does not preclude the ESD from continuing any investigation and taking action under a different process. The ESD may have an obligation to continue an investigation and process under a different process.

Consolidation of Complaints

The ESD may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by one or more complainant against one or more respondents, or by one party against another party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Informal Resolution

If the ESD receives a formal complaint, at any time prior to reaching a determination regarding responsibility, the ESD may offer an optional informal resolution process, provided that the ESD:

1. Provides written notice to the parties disclosing:
 - a. The allegations;
 - b. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
 - c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
2. Obtains the parties' voluntary written consent to the informal resolution process; and
3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

Appeals

Either party may file an appeal from a determination regarding responsibility or from a dismissal of a formal complaint, within 15 days of the decision, on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.
4. Additional bases may be allowed, if made available equally to both parties.

When an appeal is filed, the ESD must:

1. Notify the other party in writing;
2. Implement appeal procedures equally for both parties;
3. Ensure the decision-makers(s) for the appeal is not the same person as the decision-maker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
4. Ensure the decision-maker for the appeal is free from conflicts of interest and bias;
5. Give both parties a reasonable equal opportunity to submit a written statement in support of, or challenging the outcome;
6. Issue a written decision describing the result of the appeal and the rationale for the result; and
7. Provide the written decision simultaneously to both parties.

Timelines

The ESD will complete the following portions of the grievance process within the specified timelines:

1. General grievance process (from receipt of formal complaint to determination of responsibility: 90 days;
2. Appeals (from receipt of appeal): 60 days;
3. Informal resolution process: 60 days.

Temporary delays of the grievance process, or limited extensions of time will be allowed for good cause¹⁶ with written notice to the parties.

Records

Records will be created and maintained in accordance with the requirements in 34 CFR 106.45(a)(10).¹⁷

Training

Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must receive training on the definition of sexual harassment, the scope of the ESD's

¹⁶ Good cause may include considerations such as the absence of a party, a party's advisor or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. (Title 34 C.F.R. § 106.45(b)(1)(v))

¹⁷ This includes creating a record for each investigation. This record must include:

- Supportive measures, or reasons why the response was not clearly unreasonable under the circumstances;
- Basis for the conclusion that the ESD's response was not deliberately indifferent; and
- What measures were taken to restore or preserve equal access to the ESD's educational program or activity. (Title 34 C.F.R. § 106.45(a)(10)(ii))

Most records (including training) must be retained for at least seven years.

education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and information resolution processes. The training must also include avoiding prejudgment of the facts at issue, conflicts of interest and bias.

Decision-makers must receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions about evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.

Investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes, must promote impartial investigations and adjudications of formal complaints of sexual harassment and must be made publicly available on the ESD's website.^{18}

^{18} If a ESD does not have a website, the ESD must make these materials available upon request for inspection by members of the public.

Columbia Gorge ESD

Code: GBN/JBA-AR
Revised/Reviewed: 8/19/20
Orig. Code: GBN/JBA-AR

Sexual Harassment Complaint Procedure

(see the 2 new version)

The superintendent has responsibility for reports, complaints and investigations concerning sexual harassment. The investigator(s) shall be a neutral party having had no involvement in the complaint presented.

Step 1 Any sexual harassment information (i.e., reports, complaints, rumors, etc.) shall be presented to the superintendent. All such information shall be reduced to writing and will include the specific nature of the sexual harassment and corresponding dates.

The ESD official receiving the complaint shall cause the ESD to provide written notice from the ESD to the complainant that includes:

1. The rights of the student, student's parents, staff member, person or person's parents who filed the complaint;
2. Information about the internal complaint processes available through the ESD that the student, student's parents, staff member, person or person's parents may pursue including the person designated for the ESD for receiving complaints;
3. Notice that civil and criminal remedies that are not provided by the ESD may be available to the complainant through the legal system and that those remedies may be subject to statutes of limitation;
4. Information about services available to the student or staff member complainant through the ESD including any counseling services, nursing services or peer advising;
5. Information about the privacy rights of the student, student's parents, staff member, person or person's parents and legally recognized exceptions to those rights for internal complaint processes and services available through the ESD;
6. Information about, and contact information for, state and community-based services and resources that are available to persons who have experienced sexual harassment; and
7. Notice that students who report information about possible prohibited conduct and students who participate in an investigation under this policy may not be disciplined for violations of the ESD's drug and alcohol policies that occurred in connection with the reported prohibited conduct and that were discovered as a result of a prohibited conduct report or investigation unless the student gave another person alcohol or drugs without the person's knowledge and with the intent of causing the person to become incapacitated and vulnerable to the prohibited conduct.

This written notification must be:

1. Written in plain language that is easy to understand;
2. Use print that is of the color, size and font that allows the notification to be easily read; and
3. Made available to students, students' parents, staff members and members of the public at the ESD central office and on the ESD website.

Step 2 The ESD official receiving the information or complaint shall promptly initiate an investigation and will notify the complainant when such investigation is initiated. The official will arrange such meetings as may be necessary to discuss the issue with all concerned parties within five working days after receipt of the information or complaint. All findings of the investigation, including the response of the alleged harasser, shall be reduced to writing. The ESD official(s) conducting the investigation shall

notify the complainant in writing that the investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law. The parties will have an opportunity to submit evidence and a list of witnesses.

D A copy of the notification letter provided in step 1 and the date and details of notification to the complainant of the results of the investigation, together with any other documentation related to the sexual harassment incident, including disciplinary action taken or recommended, shall be forwarded to the superintendent.

Step 3 If a complainant is not satisfied with the decision at step 2, complainant may submit a written appeal to the superintendent or designee. Such appeal must be filed within 10 working days after receipt of the step 2 decision. The superintendent or designee will arrange such meetings with the complainant and other affected parties as deemed necessary to discuss the appeal. The superintendent or designee shall provide a written decision to the complainant within 10 working days.

Step 4 If a complainant is not satisfied with the decision at step 3, complainant may submit a written appeal to the Board. Such appeal must be filed within 10 working days after receipt of the step 3 decision. The Board shall, within 20 working days, conduct a hearing at which time the complainant shall be given an opportunity to present the appeal. The Board may use executive session if the subject matter qualifies under Oregon law. The Board shall provide a written decision to the complainant within 10 working days following completion of the hearing.

Complaints against an ESD administrator may start at step 3 and may be filed with the superintendent. The superintendent will cause the notice requirements identified in step 1 to be completed and the notice to the complainant when the investigation is initiated. The superintendent will investigate the complaint and will notify the complainant in writing that the investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law. If the complaint remains unresolved within 10 working days of receipt by the superintendent, the complainant may appeal to the Board in step 4.

Complaints against the superintendent may start at step 4 and should be referred to the Board chair on behalf of the Board. The Board chair will cause the notice requirements identified in step 1 to be completed and the notice to the complainant when the investigation is initiated. The Board chair shall present the complaint to the Board. The board may use executive session if the subject matter qualifies under Oregon law. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. The Board chair shall notify the complainant in writing that the investigation is concluded and if a violation of policy was found to have occurred to the extent allowable by law. After receiving the results of the investigation, the Board shall decide, within 20 days, in open session what action, if any, is warranted.

Direct complaints related to employment may be filed with the U.S. Department of Labor, Equal Employment Opportunity Commission or Oregon Bureau of Labor and Industries.

Direct complaints related to educational programs and services may be made to the Regional Civil Rights Director, U.S. Department of Education, Office for Civil Rights, Region X, 915 Second Ave., Room 3310, Seattle, WA 98174-1099.

Additional information regarding filing of a complaint may be obtained through the superintendent.

All documentation related to sexual harassment complaints may become part of the student's education record or employee's personnel file, as appropriate. Additionally, a copy of all sexual harassment complaints and documentation will be maintained as a confidential file and stored in the ESD office.

The superintendent shall report the name of any person holding a teaching license or registered with Teacher Standards and Practices Commission (TSPC) or participating in a practicum under Oregon Administrative Rule

(OAR) Chapter 584, Division 17, when, after appropriate investigation, there is reasonable cause to believe the person may have committed an act of sexual harassment. Reports shall be made to TSPC within 30 days of such a finding. Reports shall be made to TSPC within 30 days of such a finding. Reports of sexual contact with a student shall be given to a representative from law enforcement or Oregon Department of Human Services, as possible abuse of a child.

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SEXUAL HARASSMENT COMPLAINT FORM

Name of complainant: _____

Position of complainant: _____

Date of complaint: _____

Name of alleged harasser: _____

Date and place of incident or incidents: _____

Description of misconduct: _____

Name of witnesses (if any): _____

Evidence of sexual harassment, i.e., letters, photos, etc. (attach evidence if possible): _____

Any other information: _____

I agree that all of the information on this form is accurate and true to the best of my knowledge.

Signature: _____ Date: _____

WITNESS DISCLOSURE FORM

Name of witness: _____

Position of witness: _____

Date of testimony/interview: _____

Name of alleged harasser: _____

Description of instance witnessed: _____

Any Other Information: _____

I agree that all of the information on this form is accurate and true to the best of my knowledge.

Signature: _____ Date: _____

Columbia Gorge ESD

Code: GBNA
Adopted: 5/22/19
Orig. Code: GBNA

Hazing, Harassment, Intimidation, Bullying, Menacing, or Cyberbullying – Staff

The Board is committed to providing a positive and productive learning and working environment.

Hazing, harassment, intimidation, ~~menacing~~, bullying, ~~menacing~~, and acts of cyberbullying of staff or third parties by students, staff, or third parties is strictly prohibited and shall not be tolerated in the ESD.

Retaliation against a victim, any person who reports, is thought to have reported, files a complaint, or otherwise participates in an investigation or inquiry is strictly prohibited. Such retaliation shall be considered a serious violation of Board policy and independent of whether a complaint is substantiated. False charges shall also be regarded as a serious offense and will result in disciplinary action or other appropriate sanctions.

Staff whose behavior is found to be in violation of this policy will be subject to consequences and appropriate remedial action, which may include discipline, up to and including dismissal. Third parties 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 the Board. Students whose behavior is found to be in violation of this policy will be subject to consequences and appropriate remedial action, which may include discipline, up to and including expulsion.

Individuals may also be referred to law enforcement officials. Licensed staff may be reported to Teacher Standards and Practices Commission if required by Oregon Administrative Rules (OAR) 584-020-0041.

The superintendent is directed to develop administrative regulations to implement this policy. Regulations shall include descriptions of prohibited conduct, reporting, and investigative procedures, and provisions to ensure notice of this policy is provided to staff, students, and third parties.

END OF POLICY

Legal Reference(s):

[ORS 163.190](#)

[ORS 163.197](#)

[ORS 166.065](#)

[ORS 166.155](#) - 166.165

[ORS 174.100](#)

[ORS 334.125](#)

[ORS 339.250](#)

[ORS 659A.006](#)

[ORS 659A.029](#)

[ORS 659A.030](#)

[ORS 659A.103](#) - 659A.143

[ORS 659A.199](#) - 659A.224

[OAR 839-003-0000](#)

[OAR 839-005-0021](#)

[OAR 839-005-0030](#)

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

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

Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634 (2012); 29 C.F.R. Part 1626 (2018)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2018); 28 C.F.R. Part 35 (2018).

Americans with Disabilities Act Amendments Act of 2008, 42 U.S.C. §§ 12101-12133 (2012).

Bartsch v. Elkton School District, FDA-13-011 (March 27, 2014).

OREGON BUREAU OF LABOR AND INDUSTRIES, *Workplace Bullying* (visited Feb. 26, 2019),
<<https://www.oregon.gov/boli/docs/WorkplaceBullyingPoster-2018.pdf>>.

Columbia Gorge ESD

Code: GBNA-AR
Revised/Reviewed: 5/22/19
Orig. Code: GBNA-AR

Hazing, Harassment, Intimidation, Bullying, Menacing, or Cyberbullying Reporting Procedures – Staff

The following definitions and procedures shall be used for reporting, investigating, and resolving reports of hazing, harassment, intimidation, bullying, cyberbullying, and menacing of staff or third parties.

Definitions

1. “Third parties” include, but are not limited to, coaches, school volunteers, parents, school visitors, service contractors, or others engaged in ESD business, such as employees of businesses or organizations participating in cooperative work programs with the ESD and others not directly subject to ESD control at other ESD-sponsored programs and activities.
2. “ESD” includes ESD facilities, ESD premises, and non-ESD property if the employee is at any ESD-sponsored, ESD-approved, or ESD-related activity or function, such as field trips, athletic events or where the employee is engaged in ESD business.
3. “Hazing” includes, but is not limited to, any act that recklessly or intentionally endangers the mental health, physical health or safety of a staff member for the purpose of initiation or as a condition or precondition of attaining membership in, or affiliation with, any ESD-sponsored activity, work group or work assignment, or other such activities intended to degrade or humiliate regardless of the person’s willingness to participate.
4. “Harassment” is unwelcome conduct that is based on ~~age (40 or older)~~, race, color, religion, ~~color~~, sex (including pregnancy), ~~national origin, disability~~, sexual orientation¹, national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful when 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.
5. “Intimidation” includes, but is not limited to, any threat or act intended to tamper, substantially damage or interfere with another’s property, cause substantial inconvenience, subject another to offensive physical contact or inflict serious physical injury on the perception of the other’s race, color, religion, national origin, disability, or sexual orientation.
6. “Bullying” is a pattern of repeated mistreatment that harms, intimidates, undermines, offends, degrades, or humiliates an employee.

¹ “Sexual orientation” means an individual’s actual or perceived heterosexuality, homosexuality, bisexuality or gender identity, regardless of whether the individual’s gender identity, appearance, expression or behavior differs from that traditionally associated with the individual’s sex at birth.

7. “Cyberbullying” means the use of any electronic device to convey a message in any form (e.g., text, image, audio, or video) that intimidates, harasses, or otherwise harms, insults, or humiliates another in a deliberate, repeated, or hostile and unwanted manner under a person’s true or false identity. In addition, any communication of this form, which substantially disrupts or prevents a safe and positive working environment, may also be considered cyberbullying. Staff will refrain from using personal electronic devices or ESD equipment to harass or stalk another person or people.
8. “Menacing” includes, but is not limited to, any act intended to place an ESD employee, student, or third party in fear of imminent serious physical injury.
- ~~9. “Bullying” is a pattern of repeated mistreatment that harms, intimidates, undermines, offends, degrades, or humiliates an employee.~~

Reporting Procedures

The superintendent has responsibility for investigations concerning reports of hazing, harassment, intimidation, bullying, menacing, or acts of cyberbullying of staff or third parties. The investigator(s) shall be a neutral party having had no involvement in the report presented.

Any employee or third party who has knowledge of conduct in violation of Board policy GBNA – Hazing, Harassment, Intimidation, Bullying, Menacing, or Cyberbullying – Staff and this administrative regulation or feels they have been hazed, harassed, intimidated, bullied, menaced, or cyberbullied in violation of Board policy or this administrative regulation is encouraged to immediately report concerns to the superintendent.

Any ESD employee or third party who has knowledge of conduct in violation of Board policy prohibiting acts of hazing, harassment, intimidation, bullying, menacing, acts of cyberbullying, or incidents of teen dating violence involving any component district or ESD student shall immediately report concerns to the component district designated administrator or ESD superintendent.

Reports and information will be promptly investigated in accordance with the following procedures:

- Step 1 Any reports or information on acts of hazing, harassment, intimidation, bullying, menacing, or acts of cyberbullying (e.g., complaints, rumors) shall be presented to the ESD superintendent. Reports against the ESD administrator shall be filed with the superintendent. Information may be presented anonymously. Reports against the superintendent shall be filed with the Board chair. All such information will be reduced to writing and will include the specific nature of the offense and corresponding dates.
- Step 2 The ESD official receiving the report shall promptly investigate. Parents will be notified of the nature of any report involving their student. The ESD official will arrange such meetings as may be necessary with all concerned parties within five working days after receipt of the information or report. The parties will have an opportunity to submit evidence and a list of witnesses. All findings related to the report will be reduced to writing. The ESD official(s) conducting the investigation shall notify the person making the report within ten working days of receipt of the information or report, and parents as appropriate, in writing, when the investigation is concluded and a decision regarding disciplinary action, as warranted, is determined.

- Step 3 If the person making the report is not satisfied with the decision at Step 2, they may submit a written appeal to the superintendent or designee. Such appeal must be filed within 10 working days after receipt of the Step 2 decision. The superintendent or designee will arrange such meetings with the person making the report and other affected parties as deemed necessary to discuss the appeal. The superintendent or designee shall provide a written decision to the appeal within 10 working days.
- Step 4 If the person making the report is not satisfied with the decision at Step 3, a written appeal may be filed with the Board. Such appeal must be filed within 10 working days after receipt of the Step 3 decision. The Board shall, within 20 working days, conduct a hearing at which time the person making the report shall be given an opportunity to present the information or report. The Board shall provide a written decision to the person making the report within 10 working days following completion of the hearing.

Reports against the superintendent should be referred to the Board chair on behalf of the Board. The Board chair shall present the report to the Board. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. After receiving the results of the investigation, the Board shall decide, within 20 days, in open session what action, if any, is warranted.

Reports against the Board as a whole or against an individual Board member should be made to the Board chair on behalf of the Board. The Board chair shall present the report to the Board. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. After receiving the results of the investigation, the Board shall decide, within 20 days, in open session what action, if any, is warranted.

Reports against the Board chair may be made directly to the Board vice-chair on behalf of the Board. The Board vice-chair shall present the report to the Board. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. After receiving the results of the investigation, the Board shall decide, within 20 days, in open session what action, if any, is warranted.

Timelines may be extended upon written agreement between both parties. This also applies to reports filed against the superintendent or any Board member.

Direct complaints of discriminatory harassment related to employment may be filed with the Oregon Bureau of Labor and Industries, Civil Rights Division, or the U.S. Department of Labor, Equal Employment Opportunities Commission.

Documentation related to the incident may be maintained as a part of the employee's personnel file. Additionally, a copy of all reported acts of hazing, harassment, intimidation, bullying, menacing, or cyberbullying and documentation will be maintained as a confidential file in the ESD office

Columbia Gorge ESD

Code: GBNAA/JFCFA
Adopted: 4/21/10
Orig. Code: GBNAA/JFCFA

Cyberbullying

(included in previous policy)

The Board is committed to providing a positive and productive learning and working environment. Any form of harassment using electronic devices, commonly known as “cyberbullying,” by staff, students or third parties is prohibited and will not be tolerated in the ESD. “Cyberbullying” is the use of any electronic communication device to convey a message in any form (text, image, audio or video) that defames, intimidates, harasses or is otherwise intended to harm, insult or humiliate another in a deliberate, repeated or hostile and unwanted manner under a person’s true or false identity. In addition, any communication of this form which disrupts or prevents a safe and positive educational or working environment may also be considered cyberbullying. Staff and students will refrain from using personal communication devices or ESD property to harass or stalk another.

The ESD will take any report of cyberbullying seriously and will investigate credible reports promptly. Staff will take appropriate action and will bring it to the attention of the principal when students report an incident of cyberbullying. Staff will attempt to preserve evidence of the cyberbullying and will submit any evidence to the principal.

Staff whose behavior is found to be in violation of this policy will be subject to discipline, up to and including dismissal. Students whose behavior is found to be in violation of this policy will be subject to loss of privileges, discipline, up to and including expulsion. Third parties 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. The ESD may also report individuals to law enforcement if necessary.

END OF POLICY

Legal Reference(s):

[ORS 163.190](#)
[ORS 166.065](#)
[ORS 166.155](#) - 166.165
[ORS 334.125](#)

Columbia Gorge ESD

Code: GBNAA/JHFF
Adopted: 6/17/20
Orig. Code: GBNAA/JHFF

Reporting Requirements for Suspected Sexual Conduct with Students *

Sexual conduct by ESD employees, contractors¹, ~~or~~ agents², and volunteers³ is not tolerated. All ESD employees, contractors, ~~and~~ agents, and volunteers of the ESD are subject to this policy.

“Sexual conduct,”² means verbal or physical conduct or verbal, written or electronic communications by a school employee, a contractor, an agent or a volunteer that involve a student and that are sexual advances or requests for sexual favors directed toward the student, or of a sexual nature that are directed toward the student or that have the effect of unreasonably interfering with a student’s educational performance, or of creating an intimidating, hostile or offensive educational environment. “Sexual conduct” does not include touching that is necessitated by the nature of the school employee’s job duties or by the services required to be provided by the contractor, agent or volunteer, and for which there is no sexual intent.

“Student” means any person who is in any grade from prekindergarten through grade 12 or 21 years of age or younger and receiving educational or related services from the ESD that is not a post-secondary institution of education, or who was previously known as a student by the person engaging in sexual conduct and who left school or graduated from high school within 90 days prior to the sexual conduct.

Any ESD employee, contractor, agent or volunteer who has reasonable cause to believe that a student has been subjected to sexual conduct by another ESD employee, contractor, agent or volunteer, or that another ESD employee, contractor, agent or volunteer has engaged in sexual conduct with a student shall immediately report such suspected sexual conduct to the district superintendent or the alternate designated licensed administrator for their school building. If the superintendent is the alleged perpetrator the report shall be submitted to the Assistant Superintendent who shall report the suspected sexual conduct to the Board chair.

If an employee fails to report suspected sexual conduct or fails to maintain confidentiality of records, the employee will be disciplined up to and including dismissal.

When the designated licensed administrator receives a report of suspected sexual conduct by an ESD employee, contractor, agent or volunteer, the administrator will follow procedures established by the ESD and set forth in the ESD’s administrative regulation JHFF/GBNAA-AR – Suspected Sexual Conduct Report Procedures and Form. All such reports will be reported to the Oregon Department of Education (ODE) or Teacher Standards and Practices Commission (TSPC) as appropriate, for investigation. The

¹ “Contractor” means a person providing services to the ESD under a contract in a manner that requires the person to have direct, unsupervised contact with students.

² “Agent” means a person acting as an agent for the ESD in a manner that requires the person to have direct, unsupervised contact with students.

³ “Volunteer” means a person acting as a volunteer for the ESD in a manner that requires the person to have direct, unsupervised contact with students.

agency receiving a report will complete an investigation regardless of any changes in the relationship or duties of the person who is the alleged perpetrator.

When there is reasonable cause to support the report, an ESD employee suspected of sexual conduct shall be placed on paid administrative leave pending an investigation and the ESD will take necessary actions to ensure the student's safety.

When there is reasonable cause to support the report, an ESD contractor, agent or volunteer suspected of sexual conduct shall be removed from providing services to the ESD and the ESD will take necessary actions to ensure the student's safety.

The ESD will post in each school building the names and contact information of the employees designated for the school building to receive reports of suspected sexual conduct and the procedures the designee will follow upon receipt of the report.

The ESD will notify, as allowed by state and federal law, the person who was subjected to the suspected sexual conduct about any actions taken by the ESD as a result of the report.

An ESD employee, contractor or agent will not assist another ESD employee, contractor or agent in obtaining a new job if the individual knows, or has reasonable cause to believe the ESD employee, contractor or agent engaged in sexual conduct. Nothing in this policy prevents the ESD from disclosing information required by law or providing the routine transmission of administrative and personnel files pursuant to law. 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 person who initiated the report or who may have been subject to sexual conduct. If a student initiates a report of suspected sexual conduct by an ESD employee, contractor, agent, or volunteer in volunteering good faith, the student will not be disciplined by the ESD or any ESD employee, contractor, agent or volunteer.

The ESD will provide to employees at the time of hire, or to a contractor, agent or volunteer at the time of beginning service for the ESD, the following:

1. A description of conduct that may constitute sexual conduct;
2. A description of the investigatory process and possible consequences if a report of suspected sexual conduct is substantiated; and
3. A description of the prohibitions imposed on ESD employees, contractors and agents when they attempt to obtain a new job, pursuant to ORS 339.378(2).

All ESD employees are subject to Board policy GCAB – Personal Electronic Devices and Social Media – Staff regarding appropriate electronic communications with students.

Any electronic communications with students by a contractor, agent or volunteer for the ESD will be appropriate and only when directed by ESD administration. When communicating with students electronically regarding school-related matters, contractors, agents or volunteers shall use mailing lists and/or other internet messaging to a group of students rather than individual students or as directed by ESD administration. Texting or electronically communicating with a student through contact information gained as a contractor, agent or volunteer for the ESD is prohibited.

The superintendent shall develop administrative regulations to implement this policy and to comply with state law.

END OF POLICY

Legal Reference(s):

[ORS 334.125](#)

[ORS 339.370 - 339.400](#)

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

Every Student Succeeds Act, 20 U.S.C. § 7926 (2018).

Columbia Gorge ESD

Code: GBNAA/JHFF-AR
Revised/Reviewed: 6/17/20
Orig. Code: GBNAA/JHFF-AR

Suspected Sexual Conduct Report Procedures and Form *

When the designee receives a report of suspected sexual conduct that may have been committed by a person licensed¹ through Teacher Standards and Practices Commission (TSPC), the designee shall notify TSPC as soon as possible. When the designee receives a report of suspected sexual conduct that may have been committed by a person who is not licensed through TSPC, the designee shall notify the Oregon Department of Education (ODE) as soon as possible.

The ESD posts in each school building the names and contact information of the employees in each school building designated to receive reports of suspected sexual conduct and the procedures the designee will follow upon receipt of the report.

If the superintendent is the alleged perpetrator the report shall be submitted to the Assistant Superintendent who shall refer the report to the Board chair.

When the designee receives a report of suspected sexual conduct by an ESD employee, and there is reasonable cause to support the report, the ESD shall place the ESD employee on paid administrative leave² and take necessary actions to ensure the student's safety. The employee shall remain on leave until TSPC or ODE determines that the report is substantiated and the ESD takes appropriate employment action against the employee, or cannot be substantiated or is not a report of sexual conduct and the ESD determines either: 1) an employment policy was violated and the ESD will take appropriate employment action against the employee; or 2) an employment policy has not been violated and an employment action against the employee is not required. The ESD will investigate all reports of suspected sexual conduct by persons who are licensed by the TSPC, unless otherwise requested by TSPC, and all reports of suspected sexual conduct by persons who are not licensed by TSPC, unless otherwise requested by ODE.

When the designee receives a report of suspected sexual conduct by a contractor, an agent or a volunteer, the ESD shall prohibit the contractor, agent or volunteer from providing services to the ESD. If the ESD determines there is reasonable cause to support a report of suspected sexual conduct, the ESD shall prohibit the contractor, agent or volunteer from providing services. The ESD may reinstate the contractor, agent or volunteer, and such reinstatement may not occur until such time as a report of suspected sexual conduct has been investigated and a determination has been made by TSPC or ODE that the report is unsubstantiated.

Upon request from ODE or TSPC the ESD will provide requested documents or materials to the extent allowed by state and federal law.

¹ "License" includes a license, registration or certificate issued by the Teacher Standards and Practices Commission.

² The ESD employee cannot be required to use any accrued leave during the imposed paid administrative leave.

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

An “investigation” means a detailed inquiry into the factual allegations of a report of suspected sexual conduct that is based on interviews with the person who initiated the report, the person who may have been subjected to sexual conduct, witnesses and the person who is the subject of the report, and results in a finding that the report is a substantiated report, cannot be substantiated, or is not a report of sexual conduct. 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 such employment contract or agreement.

Nothing prevents the ESD from conducting its own investigation, unless another agency requests to lead the investigation or requests the ESD to suspend the investigation, or taking an employment action based on information available to the ESD before an investigation conducted by another agency is completed. The ESD will cooperate with agencies assigned to conduct such investigations.

A “substantiated report” means a report of sexual conduct that TSPC or ODE determines is founded.

If, following the investigation, the ESD decides to take an employment action, the ESD will inform the ESD employee of the employment action to be taken and provide information about the appropriate appeal process. The employee may appeal the employment action taken through the appeal process provided by the applicable collective bargaining agreement.

If the ESD is notified that the employee decided not to appeal the employment action or if the determination of an appeal sustained the employment action, the ESD shall create a record of the findings of the substantiated report and the employment action taken by the ESD will be placed in the records on the school employee maintained by the ESD. Such records created are confidential and not public records as defined in Oregon Revised Statute (ORS) 192.311, however the ESD may use the record as a basis for providing information required to be disclosed about an ESD employee under ORS 339.378(1). The ESD will notify the employee that information about substantiated reports may be disclosed to a potential employer.

Training

The ESD shall provide training each school year to ESD employees on the following:

1. Prevention and identification of sexual conduct;
2. Obligations of ESD employees under ORS 339.388 and 419B.005 - 419B.050 and under adopted board policies to report suspected sexual conduct; and
3. Appropriate electronic communications with students.

The ESD shall make available each school year the training described above to contractors, agents, volunteers and to parents and legal guardians of students attending ESD-operated schools, and will be made available separately from the training provided to ESD employees.

The ESD shall provide to contractors, agents and volunteers each school year information on the following:

1. Prevention and identification of sexual conduct;
2. Obligations of ESD employees under adopted board policies to report suspected sexual conduct; and
3. Appropriate electronic communications with students.

The ESD shall make available each school year training that is designed to prevent sexual conduct to students attending ESD-operated schools.

Columbia Gorge ESD

SUSPECTED SEXUAL CONDUCT REPORT FORM

Name of person making report: _____

Position of person making report: _____

Name of person suspected of sexual conduct: _____

Date and place of incident or incidents: _____

Description of suspected sexual conduct: _____

Name of witnesses (if any): _____

Evidence of suspected sexual conduct, e.g., letters, photos, etc. (attach evidence if possible): _____

Any other information: _____

I agree that all of the information on this form is accurate and true to the best of my knowledge.

Signature: _____ Date: _____

Columbia Gorge ESD

WITNESS DISCLOSURE FORM

Name of witness: _____

Position of witness: _____

Date of testimony/interview: _____

Description of instance witnessed: _____

Any other information: _____

I agree that all the information on this form is accurate and true to the best of my knowledge.

Signature: _____ Date: _____

Columbia Gorge ESD

Code: GC
Adopted: 11/16/11
Orig. Code: GC

Licensed Staff Positions

(OSBA has removed this policy from its samples)

Licensed employees will be employed by the Board upon the recommendation of the superintendent, in accordance with provisions of the budget in regard to salaries and other expenses. Consideration for placement on the salary schedule will be based on the district's negotiated agreement.

The superintendent may approve the temporary employment of a licensed individual until the next scheduled Board meeting when the Board can officially hire. Unless the superintendent's approval for such temporary employment is in writing, there shall be no temporary employment.

END OF POLICY

Legal Reference(s):

[ORS 334.125 \(5\)](#)

[OAR 581-24-245](#)

Columbia Gorge ESD

Code: GCA
Adopted: 1/17/18
Orig. Code: GCA

License Requirements

The Board, in adhering to Oregon Revised Statutes, shall require all applicants selected for employment to positions that require licensure, to hold a valid Oregon license as a condition of employment. The ESD must be able to verify the current license of applicants offered employment before the Board will consider approving their employment.

An applicant whose teaching license application with the Teacher Standards and Practices Commission (TSPC) is pending, may teach with Board approval for 90 calendar days after the date of submission of the application, if the applicant has:

1. Submitted an application in the manner and form required by the TSPC, including payment of all required fees;
2. Completed a background clearance conducted by the TSPC that includes having:
 - a. Furnished fingerprints, if required;
 - b. Provided satisfactory responses to character questions in the form and manner required by the TSPC; and
 - c. Completed a criminal records check pursuant to state law and a background check through the interstate clearinghouse for revoked or suspended licenses, and is eligible for a teaching license.

The ESD will complete a review of the applicant's employment history prior to beginning employment.

The ESD will verify the employee is properly licensed on the 91st calendar day after the application was submitted to the TSPC, if the employee's license application is pending and the employee is teaching in or for the ESD.

This 90-day teaching option will only be applied to the positions of high need, specialty areas or emergency assignments as determined by the ESD.

~~This TSPC~~ verification includes all license endorsements. It shall be each licensed staff member's responsibility to keep all endorsements current.

END OF POLICY

Legal Reference(s):

[ORS 339.374](#)

[ORS 342.120 to -342.203](#)

[OAR Chapter 584](#)

Columbia Gorge ESD

Code: GCAB
Adopted: 9/17/14
Orig. Code: GCAB

Personal Electronic Devices and Social Media - Staff**

Staff possession or use of personal electronic devices on ESD property, in ESD facilities during the work day and while the staff is on duty in attendance at ESD-sponsored activities may be permitted subject to the limitations set forth in this policy and consistent with any additional school rules as may be established by the superintendent. At no time, whether on or off duty, will a personal electronic device be used in a manner that interferes with staff duty and responsibility for the supervision of students.

A “personal electronic device (PED)” is a device, not issued by the ESD, and is capable of electronically communicating, sending, receiving, storing, recording, reproducing and/or displaying information and data.

Personal electronic devices shall be silenced during instructional time, while on duty or at any other time where such use of the device would cause a disruption of school activities or interfere with a work assignment. Devices, which have the capability to take photographs or record video or audio, shall not be used for such purposes while on ESD property or while a staff member is on duty in ESD-sponsored activities, unless as expressly authorized by the principal or designee for a use directly related to and consistent with the employee’s assigned duties. Computers, tablets, iPads or similar devices brought to school will be restricted to academic activities during on duty time.

The ESD will not be liable for loss or damage to personal electronic devices brought to ESD property and ESD-sponsored activities.

Staff members, while on or off duty, will utilize social media websites, public websites and blogs, judiciously by not posting confidential information about students, staff or ESD business.¹ Staff may not post images of district ESD facilities, staff, students, volunteers or parents without written authorization from persons with authority to grant such a release. Staff members, while on or off duty, will treat fellow employees, students and the public with respect while posting on social media websites, etc., in order to prevent substantial disruption in school. Communication with students using personal electronic devices will be appropriate and professional. Communication with students using personal electronic devices regarding non-school-related matters is prohibited during working hours and strongly discouraged at all other times. If communicating with students electronically regarding school matters, staff should use ESD e-mail using mailing lists to a group of students rather than individual students. Texting students during work hours is prohibited. Texting students while off duty is strongly discouraged.

Exceptions to the prohibitions set forth in this policy may be made for health, safety or emergency reasons with superintendent or designee approval.

¹ Nothing in this policy is intended in any form to limit the right of employees to engage in protected labor activities via the use of social media.

Staff are subject to disciplinary action up to and including dismissal for using a personal electronic device in any manner that is illegal or violates the terms of this policy. Staff actions on social media websites, public sites, and blogs, while on or off duty, which disrupt the school environment, are subject to disciplinary action up to and including dismissal. A “disruption” for purposes of this policy includes but is not limited to, one or more parent threatens to remove their children from a particular class or particular school, actual withdrawal of a student or students from a particular class or particular school and/or a threatened or actual negative impact on the learning environment. The taking, disseminating, transferring, or sharing of obscene, pornographic, or otherwise illegal images or photographs, whether by electronic data transfer or otherwise (commonly called texting, sexting, emailing etc.) may constitute a crime under state and/or federal law. Any person taking, disseminating, transferring, or sharing obscene, pornographic, or otherwise illegal images or photographs, will be reported to law enforcement and/or other appropriate state or federal agencies.

Licensed staff are subject at all times to the Standards ~~for~~ Competent and Ethical Performance of Oregon Educators ~~for Teachers. (See Board Policy GCAA)~~

The superintendent shall ensure that this policy is available to all employees.

END OF POLICY

Legal Reference(s):

[ORS 167.057](#)
[ORS 163.432](#)
[ORS 163.433](#)
[ORS 163.684](#)
[ORS 163.686](#)
[ORS 163.687](#)

[ORS 163.688](#)
[ORS 163.689](#)
[ORS 163.693](#)
[ORS 163.700](#)
[ORS 326.011](#)
[ORS 326.051](#)

[ORS 332.072](#)
[ORS 334.125](#)
[ORS 336.840](#)

[[OAR 584-020](#)-0000 to -0035]

Copyrights, Title 17, as amended, United States Code; 19 CFR Part 133 (2014).

Melzer v. Bd. Of Educ., City of New York, 336 F.3d 185 (2d Cir. 2003).

Ross v. Springfield Sch. Dist., No. FDA 80-1, aff’d, 56 Or. App. 197, rev’d and remanded, 294 Or. 357 (1982), order on remand (1983), aff’d, 71 Or. App. 111 (1984), rev’d and remanded, 300 Or. 507 (1986), order on second remand (1987), revised order on second remand (1988).

Columbia Gorge ESD

Code: GCB
Adopted: 11/16/11
Orig. Code: GCB

Contracts - Licensed Staff

(policy not necessary)

The Board shall make contracts with all licensed ESD employees that specify the position, salary, number of contracted days the period of employment and the number of salary payments. The contracts will be filed with the personnel clerk in the office of the superintendent who will provide each employee with a copy of the contract.

Contracts which apply to licensed individuals employed by the ESD shall not be valid unless the individual files his/her license in accordance with Board policy GCA, License Requirements.

Licensed ESD employees and administrators whose position is funded by outside moneys, fully or partially, may be employed by the Board subject to those funds being available. "Outside moneys" means moneys other than local property taxes or state replacement moneys, interest and/or other such type revenue. Local district contracts, state grants and contracts and federal grants, etc., shall be deemed as outside moneys,

Such licensed ESD employee and administrator contracts shall be issued subject to this limitation.

The Board authorizes the superintendent to enter into temporary employment contracts for the period from the first date of employment through the next regularly scheduled Board meeting.

Non-Renewal of Contract

The Board retains sole discretion as to renewal of contracts with employees who have not attained the status of contract teacher.

END OF POLICY

Legal Reference(s):

[ORS 334.125\(5\)](#)
[ORS 342.513 to 342.553](#)
[ORS 342.895](#)

[OAR 581-024-0245](#)

Columbia Gorge ESD

Code: GCB-AR
Adopted: 11/16/11
Orig. Code: GCB-AR

Contracts - Licensed Staff

Contract Procedures

1. There are two kinds of contracts ~~written~~ and a rider:
 - a. Base contract (base salary only);
 - b. Supplemental contract (extracurricular, extended days, responsibility factor, etc.);
 - c. "Rider" (any change in base salary, upward or downward).
2. A base contract will be written if the following are ~~on file in~~ verified by the ESD office (see Board policy GCA - License Requirements):
 - a. Valid Oregon license issued by the Teachers Standards and Practices Commission or other appropriate issuing agency;
 - b. Credentials and references;
 - c. Official transcripts from all colleges attended;
 - d. Other appropriate forms.

The above are the responsibility of the employee and/or their supervisor. If the policies of the district and state are not followed, no contract may be written nor paycheck issued.

3. All contracts that are signed by the employee will be submitted to the superintendent for approval. Contracts, if approved, will be registered with the superintendent, by the person authorized to do so. The original will be retained in the personnel office. Copies will go to the employee .
4. All new personnel will also be contracted under the conditions outlined in number 3 above.
5. Contracts will be written and sent to the employee to be signed prior to being submitted to the superintendent.
6. In the event that school begins prior to all steps being taken, as listed, the employee may begin teaching, but NO CHECK WILL BE ISSUED UNTIL ALL ITEMS HAVE BEEN COMPLETED.

Contract Timeline

1. The contracts will be issued following salary negotiations being finalized by the Board.
2. Contracts are due back within 10 days of being issued, unless an extension of time is requested by the staff member in advance. If not returned by that time, the contract shall be presumed to be rejected.
3. Contracts will be issued to returning licensed personnel upon verified data on file at the time of the contract being issued. (Previous year's placement plus one year as per salary schedule).

4. A rider will be added to the contract upon receipt of official transcripts and/or a license to support advanced placement, but no later than October 1. (Notification of such advanced placement must be given by March 1.)

Transcripts

All licensed staff must have an official transcript of their college training on file in the ESD office prior to a contract being issued or the contract may be issued contingent upon receipt and certification of degrees, hours taken, etc.

References

All licensed employees shall have credentials and written and oral references on file prior to being offered a contract.

Verification of Employment

All licensed employees shall have written verification of employment in other school districts prior to being offered a contract.

Contract Calendar and Procedures - New Staff (and Existing Staff as Applicable)

	Date Completed
1. Application made to director or superintendent.	_____
2. Credentials sent to director or superintendent.	_____
3. Interview with director or superintendent.	_____
4. Licensed individual is selected as a finalist and offered position by director contingent upon approval of superintendent and Board.	_____
5. Appropriate forms are completed as accurately as possible and turned in to the superintendent.	_____
6. Contingency contract is offered to candidate – contract and salary contingent upon: (no salary will be stipulated)	_____
a. Official transcripts to support placement received	_____
b. License turned in to personnel clerk in superintendent's office and registered	_____
c. Special license turned in to personnel clerk in superintendent's office (if applicable)	_____
d. Prior experience verified	_____
e. Sick days are verified	_____
f. Written and oral references on file	_____
7. Contingency contract is signed by the individual and returned to the personnel clerk in the superintendent's office. Salary will be established and added to the contract and appropriate forms, revised as needed and completed.	_____
8. Superintendent signs contract and appropriate forms.	_____
9. Board approves employment and contract and Board chairman signs contract based on appropriate form.	_____
10. Contract registered.	_____
11. Copy of contract sent to superintendent licensed employee and payroll office and filed with the personnel clerk in the superintendent's office.	_____
12. Pay check(s) are made out in accordance with contract and policy.	_____

This procedure must be followed in order and in no case may a subsequent step be taken unless the previous step has been completed, except where emergency or special circumstances warrant it.

Columbia Gorge ESD

Code: GCBAAGDBAA
Adopted: 6/20/12
Orig. Code: GCBAAGDBAA

Salary Schedule/Salary Placement - Regular Staff

NO ACTION TO BE TAKEN AT THE MARCH MEETING- CURRENTLY UNDER REVIEW

Salary/Wage schedules for employees shall be determined by the Board through negotiations in accordance with statutory requirements. Employees will be paid in 12 equal monthly installments or actual hours worked, whichever is indicated on the appropriate form. The payments shall be based upon a work month from the 11th day of one month to the 10th day of the next month.

Employees may be granted full experience credit for past teaching or partial experience credit for employment with another employer as determined by the superintendent. This provision applies only to newly hired staff.

Any candidate who is hired and who is subsequently determined to have misrepresented facts material to his/her qualifications for employment or material to the determination of salary shall be subject to dismissal.

Classified Staff

Classified employees who work 120 days or more per school year shall be entitled to a step increase at the beginning of the following school year. Classified employees who work two years at less than 120 days per school year shall be entitled, upon the completion of the second school year, to a full experience increment. Part-time classified employees will be reviewed on an annual basis for salary schedule step advancement.

A time sheet which reflects the actual days and hours worked shall be submitted on the last working day of the pay period.

Contract/Licensed Staff

A licensed individual employed 135 or more days in any given year, shall be entitled upon completion of that school year, to a full experience increment. Licensed employees who work two years at half-time shall be entitled, upon the completion of the second school year, to a full experience increment. Part-time licensed employees who work an equivalent of 135 full-time days shall be entitled to a full experience increment upon completion of the 135 full-time day requirement. The experience increment shall be granted at the beginning of the following school year. Part-time licensed employees will be reviewed on an annual basis for salary schedule step advancement.

Advancement on the salary schedule shall be granted to those licensed employees who have submitted a request for advancement by September 15, and shall be based upon graduate level professional preparation hours earned prior to September 1 of the current school year. A request for advancement on the salary schedule based upon additional training or license submitted after September 15 will not be implemented until the following school year. Proof (i.e. registration cards, grade report, letter requesting transcripts) must be submitted prior to September 15 and supported by official transcripts by October 1. A licensed employee who fails to provide official transcripts of credits (grade cards and unofficial transcripts not

Salary Schedule/Salary Placement - Regular Staff – GCBAAGDBAA

acceptable) will not be advanced on the salary schedule. Professional workshops applicable to the employee's work assignment may be accepted for salary advancement credit on the licensed salary schedule in lieu of graduate professional preparation course credits. Approval of workshops for future salary advancement credit must be sought at the time the employee registers for the workshop. Ten hours of workshop credit may be approved for salary advancement credit in lieu of one graduate course credit. Professional workshop hours must be verified with a certificate of completion from the workshop.

Administrators/Confidential Staff

Salary and fringe benefits will be provided to administrators and confidential employees as determined by the Board.

END OF POLICY

Legal Reference(s):

[ORS 243.650 \(4\) \(7\)](#)

[ORS 334.125 \(5\)](#)

[OAR 581-024-0245](#)

Columbia Gorge ESD

Code: GCBCA
Adopted: 8/15/12
Orig. Code: GCBCA

Continuation Coverage Health Benefits

NO ACTION TO BE TAKEN AT THE MARCH MEETING– CURRENTLY UNDER REVIEW

In keeping with federal and state legislative, the district will extend the benefit of “continuation coverage” health insurance to all employees eligible under the law.

Coverage under this policy shall be identical to that provided to all other members of the employee’s group plan.

Eligible employees must notify the district within a 60-day period from the date of retirement, termination, reduction in hours or reduction in force that the employee chooses to continue district-sponsored health plan. Premiums for continuing coverage will be pre-paid by the employee.

Former employees covered by continuation coverage are responsible for notifying the district when such coverage is no longer needed or if the necessity of moving to an individual plan occurs.

Licensed ESD employees with 15 or more years of full-time service to the District will be eligible for district paid medical insurance for one year after their date of PERS retirement. If approved by the Board, the employee will be provided medical insurance using the step rate coverage for the employee only with a maximum payment of \$700 per month. Full-time service shall be defined as licensed employees working a minimum of 180 days during a contract year. Employees receiving this benefit may be required to provide up to 20 days of service to the District during the year following retirement.

END OF POLICY

Legal Reference(s):

[ORS 743B.343](#)

Consolidated Omnibus Budget Reconciliation Act of 1985, 42 U.S.C. §§ 300bb-1 to -300bb-8 (2012).
Tanner v. OHSU, 157 Or. App. 502 (1998).