

## September 16, 2020 Policy Review

The following policies were reviewed by the policy committee on September 2, 2020. Committee members Superintendent Grzeskowiak, Director Mann-Heintz, Director King, community member Pam Hickson and SHS student Haylee Cole met to review and make language selections on the attached policies. The policies are for the board to consider at the September 16, 2020 board meeting.

### COMMUNICABLE DISEASES

#### Summary

Recent events in our communities prompted revisions to rules prescribed by the Oregon Health Authority (OHA) affecting school attendance by staff and students to protect public health. As a result, OHA added COVID-19 to the restrictable disease list and established criteria for returning staff and students to school, in addition to other revisions made to existing rules including changes in definitions and other parts of previous rules. Please continue to follow guidance as it is reported by OHA and the Oregon Department of Education in connection with these recommended changes.

#### Legal Reference

OAR 333-019-1000

#### Collective Bargaining Impact

None

#### Local District Responsibility

The recommended staff policy (GBEB) and administrative regulation are highly recommended per OAR 581-022-2220; full replacement considered by the board and readopted; the accompanying administrative regulation (AR) may be reviewed by the board and therefore submitted as an information item. The student policy (JHCC) and AR are required per OAR 581-022-2220; revisions to policy and the AR should be considered by the board and readopted. Members should consult language in current board policy BFC - Adoption and Revision of Policies.

#### Policy Implications

GBEB – Communicable Diseases - Staff, Highly Recommended

GBEB-AR – Communicable Diseases - Staff, Highly Recommended ---- REVIEW

JHCC – Communicable Diseases - Students, Required

JHCC-AR – Communicable Diseases - Students, Required --- ADOPT

### SEXUAL HARASSMENT: OREGON AND TITLE IX

#### Summary

The updates issued for policy and administrative regulations for sexual harassment result from release of revised Federal regulations for Title IX protections, and the release of updates to Oregon Administrative Rules revised to reflect new Oregon statute adopted in the 2019 Legislative session amending Oregon's sexual harassment definition and its policy and procedures requirements. Members will need to consider the urgency of adoption of these new recommended revisions to update procedures for complaints and investigations of sexual harassment reports or complaints for the coming school year. In compliance with these new recommended policy and administrative regulations, members need to consider which definition of sexual harassment a reported incident or complaint may align with and follow recommended procedure, and whether the reported incident or complaint may need to be investigated and processed under both State and Federal law established procedures.

As stated previously, all recommended revisions are effective for the coming school year, and specifically, the revised Title IX regulations become effective August 14, 2020. Members should consider language in current board policy BFC - Adoption and Revision of Policies.

Please reach out for support in navigating these new policies and procedures and your efforts in maintaining a safe educational and work environment for staff and students and for third parties.

### **Legal Reference**

See new recommended policy for updated legal references

### **Collective Bargaining Impact**

Consider any bargaining impact.

### **Local District Responsibility**

The timeline for new policy and procedures identified above should be considered urgent and after consulting current policy BFC, consider adopting recommended policy GBN/JBA (JBA/GBN) changes and adoption of new GBN/JBA-AR(2) (JBA/GBN-AR(2)) noted below; GBN/JBA-AR(1) (JBA/GBN-AR(1)) may be reviewed by the board (does not require adoption). In connection with adopting new policy and administrative regulations, rescind current of same.

### **Policy Implications**

GBN/JBA and JBA/GBN – Sexual Harassment, Required

GBN/JBA-AR(1) and JBA/GBN-AR(1) – Sexual Harassment Complaint Procedure, Required

GBN/JBA-AR(2) and JBA/GBN-AR(2) – Federal Law (Title IX) Sexual Harassment Complaint Procedure, Required

## **EDUCATIONAL EQUITY**

**Summary – This summary is from OSBA/June 2016. This was an optional policy at the time and not presented to the board. An additional document, *Education Investment Board: Equity Lens*, is included in the policy packet.**

In response to members and OSBA partner requests, a sample policy that addresses the issue of educational equity – broader than the required Board policy AC - Nondiscrimination and required Board policy JB - Equal Educational Opportunity – has been developed by OSBA.

This new optional board policy has been reviewed by educational specialists from the Oregon Department of Education's Equity Unit and the Oregon Leadership Network (OLN) Steering Committee.

### **Legal Reference**

None

### **Collective Bargaining Impact**

None

### **Local District Responsibility**

If the Board believes it's in the best interest of the district, it may want to adopt this new sample policy.

### **Policy Implications**

JBB - Educational Equity (Optional)

# Siuslaw School District 97J

Code: GBEB  
Adopted: 4/11/18

*This policy went into effect in August 2020. The committee recommends adoption on a 1<sup>st</sup> reading.*

## Communicable Diseases – Staff

The district 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).

An employee ~~who knows that he or she has or has exposed to any restrictable disease,~~ may not attend work ~~unless authorized by Oregon law~~ while in a communicable stage of a restrictable disease or: ~~When an administrator has reason to suspect that any the employee has or has been exposed to any restrictable disease and for which exclusion is required, the administrator shall send the employee home~~ 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 comply with all other measures adopted by the district and with all rules adopted by Oregon Health Authority, Public Health Division and 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.

~~Employees who have the responsibility to work with or to provide services to persons other than students, shall provide the services to all such persons as required by law.~~

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

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

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

END OF POLICY

### Legal Reference(s):

~~ORS 431.150 to 431.157~~  
~~ORS 433.001 to 433.526~~

~~OAR 333-018~~  
~~OAR 333-019-0010~~  
~~OAR 333-019-0014~~

~~OAR 437-002-0360~~  
~~OAR 437-002-0377~~  
~~OAR 581-022-2220~~

~~OREGON DEPARTMENT OF EDUCATION and OREGON HEALTH AUTHORITY, *Communicable Disease Guidance* (2017).~~

~~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).~~

**Legal Reference(s):**

- |                                       |                                  |                                  |
|---------------------------------------|----------------------------------|----------------------------------|
| <a href="#">ORS 332.107</a>           | <a href="#">OAR 333-018</a>      | <a href="#">OAR 437-002-0360</a> |
| <a href="#">ORS 431.150 - 431.157</a> | <a href="#">OAR 333-019-0010</a> | <a href="#">OAR 437-002-0377</a> |
| <a href="#">ORS 433.001 - 433.526</a> | <a href="#">OAR 333-019-0014</a> | <a href="#">OAR 581-022-2220</a> |
|                                       | <a href="#">OAR 333-019-1000</a> |                                  |

~~OREGON DEPARTMENT OF EDUCATION and OREGON HEALTH AUTHORITY, *Communicable 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).~~

**Cross Reference(s):**

EBC/EBCA - Emergency Procedures and Disaster Plans

JHCC - Communicable/Infectious Diseases – Students HR7/31/20 | LF Communicable Diseases – Staff – GBEB 2-2

# Siuslaw School District 97J

Code: GBEB-AR  
Revised/Reviewed: 4/11/18

## 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-19<sup>1</sup>, chickenpox, diphtheria, hepatitis A, hepatitis E, measles, mumps, pertussis, rubella, Salmonella enterica serotype Typhi infection, scabies, ~~staphylococcal skin infections, streptococcal infections,~~ Shiga-toxigenic Escherichia coli (STEC) infection, shigellosis and infectious tuberculosis ~~disease~~, 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 Board policy<sup>2</sup> or~~ by the local public health administrator after determining that it ~~presents a significant public health risk in the school setting~~ poses a danger to the public’s health.
2. “Susceptible” ~~means being at risk of contracting a restrictable disease by virtue of being in one or more categories described in law~~ for an employee means lacking evidence of immunity to the disease.
3. “Reportable diseases” means a ~~human reportable disease, infection, microorganism or condition as specified in OAR Chapter 333, Division 18~~ 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 district will not attend or work at a district school or facility while in a communicable stage of a restrictable disease, including a communicable stage of COVID-19<sup>3</sup>, 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. ~~When a~~ An administrator shall exclude an employee if the administrator has reason to suspect that an employee ~~has or~~ has been exposed to ~~any restrictable disease that requires exclusion, the administrator shall send the employee home~~ measles, mumps, rubella, diphtheria, pertussis, hepatitis A, or hepatitis B, unless the local health officer determines that exclusion is not necessary to protect

<sup>1</sup> Added per OAR 333-019-1000(2).

<sup>2</sup> ~~“OAR 333-019-0010(7) Nothing in these rules prohibits a school or children’s facility from adopting more stringent exclusion standards under ORS 433.284.”~~

<sup>3</sup> “Communicable stage of COVID-19” means having a positive presumptive or confirmed test of COVID-19.

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.

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 will exclude a susceptible employee that has been exposed to a restrictable disease that is also a reportable disease unless the local health officer determines that exclusion is not necessary to protect the public's health, or the local health officer states the disease is no longer communicable to others or that adequate precautions have been taken to minimize the risk of transmission. The administrator may request the local health officer to make a determination as allowed by law.~~
- ~~6.5.~~ 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.
- ~~7.6.~~ More stringent exclusion standards for employees from school or work may be adopted by the local health department ~~or by the district through policy adopted by the Board.~~
- ~~8.7.~~ The district's emergency plan shall address the district'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 district 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 district 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. District 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<sup>4</sup>.
4. An administrator shall determine other persons ~~with a legitimate educational interest~~ who may be informed of ~~the communicable nature of an individual student's disease, or~~ an employee's

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<sup>4</sup> Refer to *Communicable Disease Guidance* published by the Oregon Health Authority and the Oregon Department of Education.

communicable disease, or that of a student's when a legitimate educational interest exists of for health and safety reason, ~~within guidelines allowed by~~ in accordance with law.

### **Equipment and Training**

1. The administrator or designee shall, on a case-by-case basis, determine what equipment, supplies and/or protocols are necessary in a particular classroom or other setting in order to prevent disease transmission.
2. The administrator or designee shall consult with the district's school nurse or other appropriate health officials to provide special training in the methods of protection from disease transmission.
3. All district 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).

# Siuslaw School District 97J

*This policy went into effect in August 2020. The committee recommends adoption on a 1<sup>st</sup> reading.*

Code: JHCC  
Adopted: 6/25/98  
Revised/Readopted: 4/09/14; 4/11/18

## Communicable Diseases – Students

The district shall provide reasonable protection against the risk of exposure to communicable disease for students. 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). Services will be provided to students as required by law.

A student will not attend school while in a communicable stage of a restrictable disease or ~~W~~ when an administrator has reason to suspect that any susceptible student has or has been exposed to any ~~restrictable~~ disease for which the student is required to be excluded in accordance with law, ~~the administrator involved shall exclude the student from school~~ and per administrative regulation JHCC-AR – Communicable Diseases – Students. ~~and if~~ the disease is a reportable disease, the administrator will report the occurrence to the local health department. The administrator will also take whatever reasonable steps it considers necessary to organize and operate its programs in a way which both furthers the education and protects the health of students and others.

~~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 district may, for the protection of both the student who has a restrictable disease and the exposed student, provide an educational program in an alternative setting.

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

The district shall protect the confidentiality of each student’s health condition and record to the extent possible and consistent with federal and state 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 superintendent will develop administrative regulations necessary to implement this policy.

END OF POLICY

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### Legal Reference(s):

[ORS 431.150 - 431.157](#)  
[ORS 433.001 - 433.526](#)

[OAR 333-019-0010](#)  
[OAR 333-019-0014](#)  
[OAR 333-019-1000](#)  
[OAR 437-002-0360](#)

[OAR 437-002-0377](#)  
[OAR 581-022-2220](#)

[OAR 333-018](#)

[Date]: [Initials]

Communicable Diseases – Students – JHCC



OREGON DEPARTMENT OF EDUCATION and OREGON HEALTH AUTHORITY, *Communicable 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).

**Cross Reference(s):**

EBC/EBCA - Emergency Procedures and Disaster Plans

# Siuslaw School District 97J

Code: JHCC-AR  
Adopted: 4/11/18

## Communicable Diseases – Student

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-19<sup>1</sup>, chickenpox, diphtheria, hepatitis A, hepatitis E, measles, mumps, pertussis, rubella, Salmonella enterica serotype Typhi infection, scabies, ~~staphylococcal skin infections, streptococcal infections,~~ Shiga-toxigenic Escherichia coli (STEC) infection, shigellosis and tuberculosis disease, 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 Board policy<sup>2</sup> or~~ by the local health administrator, after determining that it ~~presents a significant public health risk in the school setting~~ poses a danger to the public’s health.
2. ~~{Level1}~~ “Susceptible” ~~means being at risk of contracting a restrictable disease by virtue of being in one or more categories described in law~~ for a child means lacking documentation of immunization required under OAR 333-050-0050.
3. “Reportable diseases” means a ~~human reportable disease, infection, microorganism or condition as specified in OAR Chapter 333, Division 18~~ 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. A student of the district will not attend a district school or facility while in a communicable stage of a restrictable disease, including a communicable stage of COVID-19<sup>3</sup>, unless authorized to do so under Oregon law. When an administrator has reason to suspect any child has a restrictable disease, the administrator shall send the student home.
2. An administrator ~~that~~ shall exclude a susceptible child from school if the administrator has reason to suspect that ~~a the~~ student ~~has or~~ has been exposed to ~~any restrictable disease for which the student is required to be excluded, shall exclude that student from school and send him/her home~~ measles, mumps, rubella, diphtheria, pertussis, hepatitis A, or hepatitis B, unless the local health officer

<sup>1</sup> Added per OAR 333-019-1000(2).

<sup>2</sup> ~~“OAR 333-019-0010(7) Nothing in these rules prohibits a school or children’s facility from adopting more stringent exclusion standards under ORS 433.284.”~~

<sup>3</sup> “Communicable stage of COVID-19” means having a positive presumptive or confirmed test of COVID-19.

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.

3. An administrator shall exclude a student if the administrator has been notified by a local public health administrator or local public health officer that the student has had a substantial exposure to an individual with COVID-19 and exclusion is deemed necessary by same.
4. ~~The~~ A student will be excluded in such instances until such time as the student or the parent or guardian of the student 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 student does not have or is not a carrier of any restrictable diseases.
- ~~5. An administrator will exclude a susceptible student that has been exposed to a restrictable disease that is also a reportable disease unless the local health officer determines that exclusion is not necessary to protect the public's health, or the local health officer states the disease is no longer communicable to others or that adequate precautions have been taken to minimize the risk of transmission. The administrator may request the local health officer to make a determination as allowed by law.~~
- ~~6.5.~~ The district may, for the protection of both the student who has a restrictable disease and the exposed student, provide an educational program in an alternative setting. A student may remain in an alternative educational setting until such time as a certificate from a physician, physician assistant, nurse practitioner, local health department nurse or school nurse states that the student does not have or is not a carrier of any restrictable disease, or until such time as a local ~~public health officer~~ administrator states that the disease is no longer communicable to others or that adequate precautions have been taken to minimize the risk of transmission. A restrictable disease exclusion for chickenpox, scabies, staphylococcal skin infections, streptococcal infections, diarrhea or vomiting may also be removed by a school nurse or health care provider.
- ~~7.6.~~ More stringent exclusion standards for students from school may be adopted by the local health department ~~or by the district through Board adopted policy.~~
- ~~8. A disease is considered to be a restrictable disease if it is listed in OAR 333-019-0010, or it has been designated to be a restrictable disease through Board policy or by the local health administrator, after determining that it presents a significant public health risk in the school setting.~~
- ~~9.7.~~ The district's emergency preparedness plan shall address the district'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 district and with all rules set forth by the 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 district response when the administrator is notified that a student or an employee has been exposed to a restrictable disease that is also a reportable disease.

[Date] [Initials]

Communicable Diseases – Student – JHCC-AR

3. An administrator shall determine other persons ~~with a legitimate educational interest~~ who may be informed of ~~the communicable nature of an individual~~ a student's communicable disease, ~~or an employee's communicable disease,~~ when a legitimate educational interest exists or for health and safety reasons, ~~within guidelines allowed by~~ in accordance with law.

### **Education**

1. The administrator or designee shall seek information from the district's school nurse or other appropriate health officials regarding the health needs/hazards of all students and the impact on the educational needs of a student diagnosed with a restrictable disease or exposed to a restrictable disease.
2. The administrator or designee shall, utilizing information obtained above, determine an educational program for such a student and implement the program in an appropriate (i.e., regular or alternative) setting.
3. The administrator or designee shall review the appropriateness of the educational program and the educational setting of each individual student ~~diagnosed with a restrictable disease.~~

### **Equipment and Training**

1. The administrator or designee shall, on a case-by-case basis, determine what equipment, supplies and/or protocols are necessary in a particular classroom or other setting in order to prevent disease transmission.
2. The administrator or designee shall consult with the district's school nurse or other appropriate health officials to provide special training in the methods of protection from disease transmission.
3. All district 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).~~

# Siuslaw School District 97J

Code: GBN/JBA  
Adopted: 10/11/06  
Revised/Readopted: 2/12/14; 11/19/14; 11/14/18  
Orig. Code: GBN

## Sexual Harassment

(See new version)

The Board is committed to the elimination of sexual harassment in district schools and activities. Sexual harassment is strictly prohibited and shall not be tolerated. This includes sexual harassment of students or staff members, or third parties who are on or immediately adjacent to school grounds, at any district-sponsored activity, on any district-provided transportation or at any official district bus stop, by other students, staff members, Board members or third parties. “Third parties” include, but are not limited to, school volunteers, parents, school visitors, service contractors or others engaged in district business, such as employees of businesses or organizations participating in cooperative work programs with the district and others not directly subject to district control at interdistrict and intradistrict athletic competitions or other school events. “District” includes district facilities, district premises and nondistrict property if the student or staff member is at any district sponsored, district-approved or district-related activity or function, such as field trips or athletic events, where students are under the jurisdiction of the district or where the staff member is engaged in district business. The prohibition also includes off duty conduct which is incompatible with district job responsibilities.

Sexual harassment of students, staff members or third parties shall include, but is not limited to, unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal or physical conduct of a sexual nature when:

1. The conduct or communication has the purpose or effect of demanding sexual favors in exchange for benefits;
2. Submission to or rejection of the conduct or communication is used as the basis for educational decisions affecting a student or employment or assignment of staff members;
3. The conduct or communication is so severe, persistent or pervasive that it has the purpose or effect of unreasonably interfering with a student’s educational performance or with an employee’s staff member’s ability to perform his/her their job responsibilities; or creates an intimidating, offensive or hostile educational or working environment. Relevant factors to be considered will include, but not be limited to, did the individual view the environment as hostile; was it reasonable to view the environment as hostile; the nature of the conduct; how often the conduct occurred and how long it continued; age and sex of the complainant; whether the alleged harasser was in a position of power over the student or staff member subjected to the harassment; number of individuals involved; age of the alleged harasser; where the harassment occurred; and other incidents of sexual harassment at the school involving the same or other students, staff members or third parties.

Examples of sexual harassment may include, but not be limited to: physical touching or graffiti of a sexual nature, displaying or distributing of sexually explicit drawings, pictures and written materials, sexual gestures or obscene jokes, touching oneself sexually or talking about one’s sexuality in front of others or spreading rumors about or rating 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 students, staff members or third parties who have knowledge of conduct in violation of this policy or feel they are a victim of sexual harassment must immediately report their concerns to the principal, compliance officer or superintendent. The superintendent shall have overall responsibility for all investigations. Students may also report concerns to a teacher, counselor or school nurse, who will promptly notify the appropriate district 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 district shall provide written notice as required by Oregon Revised Statute (ORS) 342.704(4) to the complainant.

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

The initiation of a complaint in good faith about behavior that may violate this policy may not adversely affect the educational assignments or educational environment of a student complainant, any terms or conditions of employment or work environment of the staff member complainant or any terms or conditions of employment or of work or educational environment of a third-party complainant. There shall be no retaliation by the district 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 district 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 district 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 district officials responsible for accepting and managing sexual harassment complaints, business phone numbers, addresses, or other necessary contact information is readily available. This policy as well as the complaint procedure will be made available upon request to all students, parents of students, staff members and third parties, posted on the district's website and published in student/parent and staff handbooks. The district's policy shall be posted on a sign in all schools. Posted signs shall be at least 8 1/2 inches by 11 inches.

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

END OF POLICY

**D**  
Legal Reference(s):

ORS 243.706

ORS 342.700

ORS 342.704

ORS 342.708

ORS 342.850

ORS 342.865

ORS 659.850

ORS 659A.006

ORS 659A.029

ORS 659A.030

OAR 581-021-0038

OAR 584-020-0040

OAR 584-020-0041

HB 4150 (2018)

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~~Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2012).~~  
~~Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2012).~~  
~~Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2012); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2017).~~  
~~Bartsch v. Elkton School District, FDA 13-011 (March 27, 2014).~~

**Legal Reference(s):**

[ORS 243.706](#)  
[ORS 332.107](#)  
[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](#)

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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).

**Cross Reference(s):**

GBNA - Hazing/Harassment/Intimidation/Bullying/Menacing – Staff  
JBA/GBN - Sexual Harassment  
JFCF - Harassment/Intimidation/Bullying/Cyberbullying/  
Teen Dating Violence – Student

# OSBA Model Sample Policy

Code: GBN/JBA

Adopted:

## Sexual Harassment

The district is committed to eliminating sexual harassment. Sexual harassment will not be tolerated in the district. 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 district processes complaints<sup>{1}</sup> 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 district, the district 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 Chapter 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 district may also need to use other complaint procedures when the alleged conduct could meet the definitions for other complaint procedures<sup>{2}</sup>.

### OREGON DEFINITION AND PROCEDURES

#### Oregon Definition

Sexual harassment of students, staff members or third parties<sup>3</sup> 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:
  - a. Interferes with a student's educational activity or program;
  - b. Interferes with a school or district staff member's ability to perform their job; or
  - c. Creates an intimidating, offensive or hostile environment.

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<sup>{1}</sup> Some districts 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.

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

<sup>3</sup> "Third party" means a person who is not a student or a school or district staff member and who is: 1) on or immediately adjacent to school grounds or district property; 2) At a school-sponsored activity or program; or 3) Off school grounds or district property if a student or a school or district staff member acts toward the person in a manner that creates a hostile environment for the person while on school or district property, or at a school- or district-sponsored activity.

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.<sup>{4}</sup>

Sexual harassment does not include conduct that is necessary because of a job duty of a school or district 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, <sup>{5}</sup>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(s):

Name	Position	Phone	Email
Lisa Utz	Special Programs Director	541-997-5456	lutz@siuslaw.k12.or.us
[delete line]			

This/~~These~~ individual(s) is/~~are~~ 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.]<sup>{6}</sup> See GBN/JBA-AR(1) - Sexual Harassment Complaint Procedure.

**Response**

Any staff member who becomes aware of behavior that may violate this policy shall **immediately** report to a district official. The district 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;
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

<sup>{4}</sup> 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 district would like to include the full statutory definition, it can do so. }

<sup>{5}</sup> 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 district has discretion in what is included in this list. If listing behaviors not reflected in OSBA recommendations, please have the list reviewed by the district’s legal counsel. }

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

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 district official.

Any student or staff member who feels they are a victim of sexual harassment are encouraged to **immediately** report their concerns to district 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 district official.

## Investigation

All reports and complaints about behavior that may violate this policy shall be investigated. The district 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 district 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.]{<sup>7</sup>}

The district 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 district electronic systems;
5. Trainings and education for staff and students; and
6. Increased notifications regarding district procedures and resources.]

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

1. [Removing that third party's ability to contract or volunteer with the district, or be present on district property;

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{<sup>7</sup> OSBA strongly recommends that the Board receive input from district 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. }

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

### **No Retaliation**

Retaliation against persons who initiate complaint 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 district 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 district'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 person<sup>8</sup> who may have been affected by this policy files a complaint or otherwise reports behavior that may violate the policy, the district shall provide written notification to the following:

1. Each reporting person;
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 include<sup>9</sup>:

1. Name and contact information for all person designated by the district to receive complaints;
2. The rights of the person that the notification is going to;

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

<sup>9</sup> Remember confidentiality laws when providing any information.

3. Information about the internal complaint processes available through the school or district that the [student, student's parents, staff member, person or person's parent][person] who filed the complaint may pursue, including the person designated for the school or district for receiving complaints and any timelines.
4. Notice that civil and criminal remedies that are not provided by the school or district 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 district, 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 district;
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 district'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.

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 district office and on the website of the school or district.

### **[Oregon Department of Education (ODE) Support**

The ODE will provide technical assistance and training upon request **by the district.**]

### **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 district conditioning the provision of an aid, benefit, or service of the district 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 district's education program or activity<sup>10</sup>;
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.

This definition only applies to sex discrimination occurring against a person who is a subject of this policy in the United States. A district'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 district 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) - Federal Law (Title IX) Sexual Harassment Complaint Procedure.

### **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.

[Special Programs Director] is designated as the Title IX Coordinator [and can be contacted at [541-997-5456]. The Title IX Coordinator will coordinate the district's efforts to comply with its responsibilities related to this AR. The district prominently will display the contact information for the Title IX Coordinator on the district website and in each handbook.<sup>{11}</sup>

### **Response**

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<sup>10</sup> "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))

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

The district 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.<sup>12</sup> The district shall treat complainants and respondents equitably by providing supportive measures<sup>13</sup> to the complainant and by following a grievance procedure<sup>14</sup> 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 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.<sup>15</sup>

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.<sup>16</sup> The district 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 district 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 district 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 district 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 district will respond.

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<sup>12</sup> (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.

<sup>13</sup> (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 district's educational environment, or deter sexual harassment.<sup>13</sup> The district 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))

<sup>14</sup> 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).

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

<sup>16</sup> The district 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))



[Inquiries about the application to Title IX and its requirements may be referred to the Title IX Coordinator or the Assistant Secretary<sup>17</sup>, or both.]

**No Retaliation**

Neither the district or any person may retaliate<sup>18</sup> 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 district 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.

**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] [district] student handbook and on the [school] [district] website. This policy shall also be made available at each school office and at the district office. The district 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 district staff member, or third party] [person] upon request.

END OF POLICY

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**Legal Reference(s):**

[ORS 243.706](#)  
[ORS 332.107](#)  
[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).

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<sup>17</sup> Of the United States Department of Education.

<sup>18</sup> Retaliation includes, but is not limited to, intimidation, threats, coercion, and discrimination.

# Siuslaw School District 97J

Code: GBN/JBA-AR  
Revised/Reviewed: 10/11/06; 4/09/14; 11/14/18  
Orig. Code: GBN-AR

## Sexual Harassment Complaint Procedure

(see new AR(1))

Principals, the compliance officer and the superintendent have responsibility for 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., complaints, rumors, etc.) shall be presented to the building principal, compliance officer or superintendent. All such information shall be reduced to writing and will include the specific nature of the sexual harassment and corresponding dates.

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

1. Their rights;
2. Information about the internal complaint processes available through the school or district that the complainant may pursue;
3. Notice that civil and criminal remedies that are not provided by the school or district 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 school or district including any counseling services, nursing services or peer advising;
5. Information about the privacy rights of the complainants and legally recognized exceptions to those rights for internal complaint processes and services available through the school or district; and
6. Information about, and contact information for, state and community-based services and resources that are available to persons who have experienced sexual harassment.

This written notification must:

1. Be written in plain language that is easy to understand;
2. Use print that is of the color, size and font that allow the notification to be easily read; and
3. Include that this information is made available to students, students' parents, staff members and members of the public on the school or district website.

Step 2 The district official receiving the information or complaint shall promptly initiate an investigation. 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. 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 official 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.

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, 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 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, the 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 shall provide a written decision to the complainant within 10 working days following completion of the hearing.

Complaints against the principal 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. 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. The Board chair shall present the complaint 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. The Board chair 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. 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 2nd Ave., Room 3310, Seattle, WA 98174-1099.

Additional information regarding filing of a complaint may be obtained through the building 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 and documentation will be maintained as a confidential file and stored in the district 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 Rules (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.

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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 \_\_\_\_\_

Date report was received: _____ Form completed by: _____
Signature of administrator or designee: _____

**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 \_\_\_\_\_

T

Date report was received: _____	Form completed by: _____
Signature of administrator or designee: _____	

**Harassment Complaint Form**

**D**  
Complainant \_\_\_\_\_ School \_\_\_\_\_ Date of incident \_\_\_\_\_

Complainant Address \_\_\_\_\_ City, State, Zip \_\_\_\_\_ Phone \_\_\_\_\_

Email (optional) **E** \_\_\_\_\_

Specific complaint: (Please provide detailed information including names, dates, places, activities)

**L**

**E**

**T**

Signature \_\_\_\_\_ Date \_\_\_\_\_

Date report was received: _____ Form completed by: _____
Signature of administrator or designee: _____

# OSBA Model Sample Administrative Regulation

Code: GBN/JBA-AR(1)

Revised/Reviewed:

## Sexual Harassment Complaint Procedure

{<sup>1</sup>} Reports and complaints of sexual harassment should be made to the following individual(s):

Name	Position	Phone	Email
Lisa Utz	Special Programs Director	541-997-5456	lutz@siuslaw.k12.or.us

\_\_\_\_\_ delete line

The district 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 district 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

{<sup>1</sup> Align with same positions identified in policy.}



is not 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 final<sup>2</sup>.

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 may start at Step 2 and may be filed with the superintendent [or designee's]. The superintendent [or designee's] 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's], 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.

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.

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

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 district 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.

**SIUSLAW SCHOOL DISTRICT 97J**

2111 Oak Street ♦ Florence, Oregon 97439 ♦ (541) 997-2651 ♦ Fax (541) 997-4160

School District Website: <http://www.siuslaw.k12.or.us>

**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: \_\_\_\_\_

Date report was received: \_\_\_\_\_ Form completed by: \_\_\_\_\_

Signature of administrator or designee: \_\_\_\_\_

**SIUSLAW SCHOOL DISTRICT 97J**

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**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: \_\_\_\_\_

Date report was received: \_\_\_\_\_ Form completed by: \_\_\_\_\_

Signature of administrator or designee: \_\_\_\_\_

# OSBA Model Sample Administrative Regulation

Code: GBN/JBA-AR(2)

Adopted:

## Federal Law (Title IX) Sexual Harassment Complaint Procedure

### Additional Definitions

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

“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 respondent<sup>2</sup> and requesting that the district investigate the allegation of sexual harassment.<sup>3</sup>

“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 district’s educational environment, or deter sexual harassment.<sup>4</sup> The district 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 district will provide the parties<sup>5</sup> written notice of the following:

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

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<sup>1</sup> This standard is not met when the only official with knowledge is the respondent.

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

<sup>3</sup> A complainant must be participating in or attempting to participate in the education program or activity of the district with which the formal complaint is filed.

<sup>4</sup> 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.

<sup>5</sup> Parties include the complainant and the respondent, if known.

2. Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details<sup>6</sup> 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 district's code of conduct<sup>{7}</sup> 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 district'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 district and not on the parties.<sup>8</sup>
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 others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice.<sup>9</sup> The district 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.

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<sup>6</sup> 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.

<sup>{7}</sup> The district is encouraged to review Board policy JFC and codes of conduct found in handbooks for applicable language. }

<sup>8</sup> The district 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 district obtains the party's (or eligible student's parent's) voluntary, written consent to do so.

<sup>9</sup> 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.

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.<sup>10</sup> Prior to completion of the investigative report, the district 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 district 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 questions<sup>11</sup> 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 district 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 district decides to investigate allegations about the complainant or respondent that are not included in the notice previously provided, the district must provide notice of the additional allegations to the parties whose identities are known.

At no point in the process will the district, or anyone participating on behalf of the district, 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.

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<sup>10</sup> This includes the evidence upon which the district 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 district 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.

<sup>11</sup> 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.

The standard to be used for formal complaints in determining whether a violation has occurred is the [preponderance of the evidence<sup>12</sup>] [clear and convincing evidence<sup>13</sup>]-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 district’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 district imposes on the respondent; and
  - c. Whether remedies designed to restore or preserve equal access to the district’s education program or activity will be provided by the district to the complainant; and
6. The district’s procedures and permissible bases for the complainant and respondent to appeal.

The district 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.

## Remedies

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

The disciplinary sanctions<sup>14</sup> 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;

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<sup>12</sup> 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.

<sup>13</sup> A clear and convincing evidence standard of evidence is understood to mean concluding that a fact is highly probable to be true. U.S. Department of Education, Title IX Regulations commentary, p. 1268, FN 1409.

<sup>14</sup> Districts should review any other disciplinary procedures and requirements prior to imposing any discipline, and should contact legal counsel with questions.



4. Discipline up to and including termination, in accordance with laws, agreements, contracts, handbooks, etc.]<sup>15</sup>

Other remedies may include:

1. [Educational programming];[.]

### **Dismissal of a Formal Complaint**

The district 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;
2. Did not occur in the district’s education program or activity<sup>16</sup>; or
3. Did not occur against a person in the United States.

The district 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 district; or
3. Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon dismissal of a formal complaint, the district 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 district from continuing any investigation and taking action under a different process. The district may have an obligation to continue an investigation and process under a different process.**

### **Consolidation of Complaints**

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

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<sup>15</sup> It is important to keep supportive measures separate from disciplinary sanctions. Supportive measures must be “non-disciplinary” and “non-punitive.”

<sup>16</sup> Includes locations, events, or circumstances over which the district 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))

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 district must:

1. Notify the other party in writing;
2. Implement appeal procedures equally for both parties;
3. Ensure the decision-maker(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 district 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 cause<sup>17</sup> with written notice to the parties.

## **Records**

Records will be created and maintained in accordance with the requirements in Title 34 C.F.R. §106.45(a)(10).<sup>18</sup>

## **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 district's 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 evident, 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 district's website.<sup>19</sup>

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<sup>17</sup> 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))

<sup>18</sup> 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 district's response was not deliberately indifferent; and
- What measures were taken to restore or preserve equal access to the district'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.

<sup>19</sup> If a district does not have a website, the district must make these materials available upon request for inspection by members of the public. }

# OSBA Model Sample Policy

Code: JBB

Adopted:

## Educational Equity

The district is committed to the success of every student in each of our schools. For that success to occur, the district is committed to equity by recognizing institutional barriers and creating access and opportunities that benefit each student. “Achieving equity” means students’ identities will not predict or predetermine their success in school.

Educational equity is based on the principles of fairness and justice in allocating resources, opportunity, treatment and creating success for each student.

Educational equity promotes the real possibility of equality of educational results for each student and between diverse groups of students. Equity strategies are intentional, systemic and focused on the core of the teaching and learning process.

To achieve educational equity the district will commit to:

1. Systematically using districtwide and individual school level data, disaggregated by [race/ethnicity, national origin, language, special education, sex, socioeconomic status and mobility<sup>1</sup>] to inform district decision making.
2. Raising the achievement of all students while narrowing the gap between the lowest and the highest performing students.
3. Eliminating the predictability and disparity in all aspects of education and its administration, including but not limited to, the disproportionate representation of students by race, poverty, sex, sexual orientation<sup>2</sup> and national origin in discipline, special education and in various advanced learning.
4. Graduating all students ready to succeed in a diverse local, national and global community.

In order to achieve educational equity for each and every student:

1. The district shall provide every student with equitable access to high quality curriculum, support, facilities and other educational resources, even when this means differentiating resource allocation.

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<sup>1</sup> These are data categories that the Oregon Department of Education collects. Districts may choose to add to this list from data the district collects.

<sup>2</sup> “Sexual orientation” is defined by Oregon Revised Statute (ORS) 174.100(7) to mean an individual’s actual or perceived heterosexuality, homosexuality, bisexuality or gender identify, regardless of whether the individual’s gender identity, appearance, expression or behavior differs from that traditionally associated with the individual’s sex at birth.

2. The district shall review existing policies, programs, professional development and procedures for the promotion of educational equity, and all applicable new policies, programs and procedures will be developed ~~[using an educational equity analysis tool]~~ [with educational equity as a priority].
3. The district shall actively work toward a balanced teacher and administrator workforce to reflect the diversity of the student body. The district seeks to recruit, employ, support and retain a workforce that includes racial, sex and linguistic diversity, as well as culturally responsive administrative, instructional and support personnel.
4. The district shall provide professional development to strengthen employees' knowledge and skills for eliminating opportunity gaps and other disparities in achievement.
5. The district shall create schools with a welcoming, inclusive culture and environment that reflects and supports diversity of the student population, their families and their community.
6. The district shall include partners who have demonstrated culturally specific expertise, including but not limited to, families, government agencies, institutions of higher learning, early childhood education organizations, community-based organizations, local businesses and the community in general, in meeting our high goals for educational outcomes. The district shall seek to involve students, staff, families and community members that reflect district demographics to inform decisions regarding the narrowing of the achievement and other opportunity gaps.
7. The district shall provide multiple pathways to success in order to meet the needs of the diverse student body and shall actively encourage, support and expect high academic achievement for each student.
8. The district shall provide materials and assessments that reflect the diversity of students and staff and are geared toward the understanding and appreciation of culture, class, language, ethnicity, poverty, ability and other differences that contribute to the uniqueness of each student and staff member.

The superintendent shall [develop procedures] ~~[develop an action plan]~~ ~~[include equity practices in the district's strategic plan strategies]~~ to implement this policy. The superintendent will ~~[annually]~~ report to the Board the progress of the ~~[implementation of this policy]~~ ~~[action plan]~~ ~~[strategic plan]~~.

END OF POLICY

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**Legal Reference(s):**

[ORS 174.100\(7\)](#)  
[ORS 332.075](#)

[ORS 332.107](#)  
[ORS 342.437 to -342.449](#)