

# Southern Oregon ESD

Code: GAB  
Adopted:

## Job Descriptions

Job descriptions serve to:

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

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

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

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

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

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

Job descriptions will be reviewed as needed. Initial or revised job descriptions will be approved by the superintendent.

END OF POLICY

**Legal Reference(s):**

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

[OAR 581-024-0245](#)

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

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

Title II of the Genetic Information Nondiscrimination Act of 2008.

Section 503 of the Rehabilitation Act of 1973.

Americans with Disabilities Act Amendments Act of 2008.

# Southern Oregon ESD

Code: GBA  
Adopted: 6/18/14  
Orig. Code: 3400; 4400; 3401; 4401; 3402;  
4402; 3404; 4404

## Equal Employment Opportunity

The District shall recruit, screen, and select qualified personnel. The selection of personnel shall be based on competency, suitability, proper license or training, and the needs of the District.

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

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

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

### END OF POLICY

#### Legal Reference(s):

[ORS 174.100](#)  
[ORS 243.317 – 243.323](#)  
[ORS 326.051](#)  
[ORS 334.125\(5\)](#)  
[ORS 342.934](#)  
[ORS 408.225](#)

[ORS 408.230](#)  
[ORS 408.235](#)  
[ORS 659.805](#)  
[ORS 659.850](#)  
[ORS 659A.003](#)  
[ORS 659A.006](#)

[ORS 659A.009](#)  
[ORS 659A.029](#)  
[ORS 659A.030](#)  
[ORS 659A.040 - 659A.052](#)  
[ORS 659A.082](#)  
[ORS 659A.109](#)

<sup>1</sup> Race also includes physical characteristics that are historically associated with race, including but not limited to natural hair, hair texture, hair type and protective hairstyles as defined by ORS 659A.001 (as amended by House Bill 2935 (2021)).

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

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

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

[ORS 659A.112](#)  
[ORS 659A.147](#)  
[ORS 659A.233](#)  
[ORS 659A.236](#)  
[ORS 659A.309](#)  
[ORS 659A.321](#)  
[ORS 659A.409](#)

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

[OAR 839-006-0450](#)  
[OAR 839-006-0455](#)  
[OAR 839-006-0460](#)  
[OAR 839-006-0465](#)  
House Bill 2935 (2021)  
House Bill 3041 (2021)

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. et. seq. (2018).

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

Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6107 (2018).

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

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

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683, 1701, 1703-1705, 1720 (2018); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2020).

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2018); 29 C.F.R. Part 1630 (2019); 28 C.F.R. Part 35 (2019).

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

Americans with Disabilities Act Amendments Act of 2008, 42 U.S.C. §§ 12101-12133 (2018).

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

Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. § 2000ff-1 (2018).

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

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

House Bill 2935 (2021)

House Bill 3041 (2021)

# Southern Oregon ESD

Code: GBA-AR

Revised/Reviewed:

## Veterans' Preference

Oregon's Veterans' Preference Law requires the ESD to grant a preference to qualified and eligible veterans and disabled veterans at each stage in the hiring and promotion process. To be **qualified** for veterans' preference, a veteran or disabled veteran must meet the minimum and any other special qualifications required for the position sought. To be **eligible** for veterans' preference a veteran<sup>1</sup> or disabled veteran must provide certification they are a veteran or disabled veteran as defined by Oregon law<sup>2</sup>.

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

A veteran may submit a written request to the ESD for an explanation of the reasons why they were not selected for the position. The ESD shall provide the reasons for not selecting the candidate when requested.

## Recruitment Procedures

All job postings or announcements will include a concise list of minimum and any special qualifications required for the position. Job postings will include a statement that the ESD's policy is to provide veterans and disabled veterans with preference as required by law and the job posting will require applicants to provide certification<sup>3</sup> of eligibility for preference, in addition to other requested materials.

## Selection Procedures<sup>4</sup>

Step 1: Before the review of any applications the Human Resources Department-will establish an evaluation scoring guide based on the minimum and any special qualifications listed in the job posting.

Step 2: The Human Resources Department will review the application materials using the above evaluation scoring guide to determine which applicants meet the minimum and any special

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<sup>1</sup> See Oregon Revised Statute (ORS) 408.235 (as amended by Senate Bill 184, 2021).

<sup>2</sup> Oregon Revised Statute (ORS) 408.225 and OAR 839-006-0040 for definition of veteran and disabled veteran.

<sup>3</sup> See Verification of Veteran's Preference (OAR) 839-006-0465. An applicant claiming veteran's or disabled veteran's preference will submit a copy of their Certificate of Release or Discharge from Active Duty (DD Form 215 or 215). A disabled veteran may also submit a copy of their veteran's disability preference letter from the U.S. Department of Veterans Affairs, unless the information is included in the DD Form 214/215.

<sup>4</sup> OSBA recommends use of a scored system. If the ESD chooses not to use a scored system the law requires that the ESD give special consideration in the ESD's hiring decision to veterans and disabled veterans and the ESD will need to be able to demonstrate the method used for providing special consideration." ORS 408.230(2)(c).

qualifications listed in the job posting. In assessing the applicant materials of a veteran or disabled veteran the Human Resources Department shall evaluate whether the skill experience obtained in the military are transferable to the posted position. In this step the ESD **does not** apply a veterans' preference. Any applicants that do not meet the minimum and any special qualifications shall be removed from the applicant pool.

- Step 3: Based on Step 2, the Human Resources Department determines who will be interviewed. All qualified and eligible veterans or disabled veterans shall be given an opportunity to interview.
- Step 4: Interview questions and scoring sheets will be developed and each scoring sheet must be completed after each interview by the interviewers.
- Step 5: Following completion of the interviews, the Human Resources Department shall complete the selection matrix and score the applicants based on the scoring sheets completed during interviews. Veterans' preference shall be applied by adding 5 percentage points to an eligible veteran and 10 percentage points to an eligible disabled veteran.<sup>5</sup>
- Step 6: The Human Resources Department makes the offer to the applicant with the highest final score. The ESD is not obligated to hire or promote a qualified and eligible veteran or disabled veteran.

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

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

### **Filing a Complaint**

A veteran or disabled veteran is encouraged to contact the Human Resources Department if they have any concerns or questions concerning the application of or the process used for veterans' preference.

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

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

# **Southern Oregon ESD**

Code: GBC  
Adopted:

## **Staff Ethics**

### **I. Prohibited Use of Official Position for Financial Gain**

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

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

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

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

This means that:

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

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

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

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

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

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

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

“Relative” means: the spouse<sup>1</sup>, parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the employee; or the parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the spouse of the employee. Relative also includes any individual for whom the employee has a legal support obligation, whose employment provides benefits<sup>2</sup> to the employee, or who receives any benefit from the employee’s public employment.

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<sup>1</sup> The term spouse includes domestic partner.

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

## II. Gifts

ESD employees must comply with the following rules involving gifts:

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

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

“Relative” means: the spouse<sup>3</sup>, parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the employee; or the parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the spouse of the employee. Relative also includes any individual for whom the employee has a legal support obligation, whose employment provides benefits<sup>4</sup> to the employee, or who receives any benefit from the employee’s public employment.

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

### Determining the Source of Gifts

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

### Determining Legislative and Administrative Interest

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

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

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<sup>3</sup> Ibid. p. 2

<sup>4</sup> Ibid. p. 3

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

## **Determining the Value of Gifts**

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

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

1. In calculating the per person cost at receptions or meals the payor of the employee's admission or meal will include all costs other than any amount donated to a charity.

For example, a person with a legislative or administrative interest buys a table for a charitable dinner at \$100 per person. If the cost of the meal was \$25 and the amount donated to charity was \$75, the benefit conferred on the employee is \$25. This example requires that the employee does not claim the charitable contribution on personal tax returns.

2. For receptions and meals with multiple attendees, but with no price established to attend, the source of the employee's meal or reception will use reasonable methods to determine the per person value or benefit conferred. The following examples are deemed reasonable methods of calculating value or benefit conferred:
  - a. The source divides the amount spent on food, beverage and other costs (other than charitable contributions) by the number of persons whom the payor reasonably expects to attend the reception or dinner;
  - b. The source divides the amount spent on food, beverage and other costs (other than charitable contributions) by the number of persons who actually attend the reception or dinner; or
  - c. The source calculates the actual amount spent on the employee.

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

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

## **Value of Unsolicited Tokens or Awards: Resale Value**

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

## **Entertainment**

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

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

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

## **Exceptions**

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

1. Gifts from relatives and members of the household to the employee are permitted in an unlimited amount; they are not considered gifts under the ethics rules;
2. Informational or program material, publications, or subscriptions related to the recipient’s performance of official duties;
3. Food, lodging, and travel generally count toward the \$50 aggregate amount per year from a single source with a legislative or administrative interest, with the following exceptions.

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

- a. Reasonable expenses (i.e., food, lodging, travel, fees) for attendance at a convention, fact-finding mission or trip, or other meeting do not count toward the \$50 aggregate amount IF:
  - (1) The employee is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the ESD; AND
    - (a) The giver is a unit of a:
      - (i) Federal, state, or local government;
      - (ii) An Oregon or federally recognized Native American Tribe; OR
      - (iii) Nonprofit corporation.
  - (2) The employee is representing the ESD:
    - (a) On an officially sanctioned trade-promotion or fact-finding mission; OR

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

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

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

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

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

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

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

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

## **Honoraria**

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

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

END OF POLICY

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### **Legal Reference(s):**

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

[ORS 659A.309](#)

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

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

# **Southern Oregon ESD**

Code: GBCA  
Adopted:

## **Staff Dress and Grooming**

The Board believes that staff members set an example in dress and grooming for students and standards of professionalism for the ESD. A staff member who understands this precept and adheres to it enlarges the importance of their task, presents an image of professionalism and encourages respect for authority. These factors act in a positive manner towards the maintenance of discipline.

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

All staff when on duty shall:

1. Be physically clean, neat and well groomed;
2. Dress in a manner consistent with their assigned duties;
3. Dress in a manner that communicates to students a pride in personal appearance;
4. Be groomed in such a way that does not disrupt the educational process nor cause a health or safety hazard;
5. Be allowed to wear religious attire in accordance with the employee's sincerely-held beliefs, while maintaining religious neutrality and refraining from endorsing religion in the educational environment.

Staff are subject to disciplinary action up to and including dismissal for violating the terms of this policy.

The superintendent may develop guidelines to implement this policy.

**END OF POLICY**

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**Legal Reference(s):**

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

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

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

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

# **Southern Oregon ESD**

Code: GBD  
Adopted:

## **Board-Staff Communications**

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

Communications or reports to the Board or Board committee from any staff member or members should be submitted through the superintendent.

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

END OF POLICY

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**Legal Reference(s):**

[OAR 581-024](#)-0245

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

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

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

# **Southern Oregon ESD**

Code: **GBDA**  
Adopted:

## **Expression of Milk in the Workplace \***

When possible, an employee must give reasonable notice of the intent to express milk to their supervisor. The ESD shall provide the employee a reasonable rest period to express milk each time the employee has a need to express milk. If feasible, the employee will take the rest period at the same time as the rest periods or meal periods provided by the ESD.

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

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

This policy is published in the employee handbook.

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

**END OF POLICY**

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**Legal Reference(s):**

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

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

[OAR 839-020-0051](#)

# **Southern Oregon ESD**

Code: GBE  
Adopted:

## **Staff Health and Safety \***

The Board directs the superintendent to take appropriate means to provide for the health and safety of all employees while engaged in the performance of their duties. The input of staff will be encouraged in the development of district health and safety plans.

The superintendent or designee will develop districtwide training activities to deal with the use of hazardous chemicals. Training will include the identification, use, storage and disposal techniques needed to assure safety of staff and students.

In meeting the requirements of the law, employees will be trained to recognize and respond appropriately to the presence of hazardous chemicals.

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

END OF POLICY

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### **Legal Reference(s):**

<a href="#">ORS 243.650</a>	<a href="#">OAR 437-002-0140</a>	<a href="#">OAR 437-002-0377</a>
<a href="#">ORS 329.095</a>	<a href="#">OAR 437-002-0144</a>	<a href="#">OAR 437-002-0390</a>
<a href="#">ORS 453.001 to -453.275</a>	<a href="#">OAR 437-002-0145</a>	<a href="#">OAR 437-002-0391</a>
	<a href="#">OAR 437-002-0180 to -0182</a>	<a href="#">OAR 581-022-2225</a>
<a href="#">OAR 437-001-0760</a>	<a href="#">OAR 437-002-0360</a>	
<a href="#">OAR 437-002-0020 to -0075</a>	<a href="#">OAR 437-002-0368</a>	

# **Southern Oregon ESD Board**

Code: GBEA  
Adopted:

## **Workplace Harassment \***

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

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

“Workplace harassment” means conduct that constitutes discrimination prohibited by Oregon Revised Statute (ORS) 659A.030 (discrimination in employment based on race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age, or expunged juvenile record), including conduct that constitutes sexual assault<sup>1</sup> or that constitutes conduct prohibited by ORS 659A.082 (discrimination against person in uniformed service) or 659A.112 (discrimination in employment based on disability).

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

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

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

The ESD may not require or coerce an ESD employee to enter into a nondisclosure<sup>2</sup> or nondisparagement<sup>3</sup> agreement.

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

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

<sup>3</sup> A “nondisparagement” agreement or provision prevents either party from making disparaging statements about the other party.

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

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

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

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

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

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

## END OF POLICY

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### Legal Reference(s):

[ORS 174.100](#)  
[ORS 243.317 - 243.323](#)  
[ORS 659A.001](#)  
[ORS 659A.003](#)  
[ORS 659A.006](#)

[ORS 659A.029](#)  
[ORS 659A.030](#)  
[ORS 659A.082](#)  
[ORS 659A.112](#)  
[ORS 659A.370](#)

[ORS 659A.820](#)  
[ORS 659A.875](#)  
[ORS 659A.885](#)  
[OAR 584-020-0040](#)  
[OAR 584-020-0041](#)

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

# **Southern Oregon ESD**

Code: GBEA-AR

Revised/Reviewed:

## **Workplace Harassment Reporting and Procedure**

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

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

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

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

### **Investigation Procedure**

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

The investigator shall:

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

Step 1      Promptly initiate an investigation. The investigator will arrange such meetings as may be necessary to discuss the issue with all concerned parties within 10 working days after receipt of the report. The parties will have an opportunity to submit evidence and a list of witnesses. All findings of the investigation, including the response of the alleged harasser, shall be reduced to writing. The investigator shall notify the complainant in writing that the

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

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

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

Reports involving the superintendent should be referred to the Board chair on behalf of the Board. The Board chair will cause the information<sup>1</sup> required to be issued to the complainant as described in this administrative regulation. The Board chair shall present the complaint to the Board at a Board meeting. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. The Board may hold the hearing in executive session if the subject matter qualifies under Oregon law. The Board shall decide, within 30 days, in open session what action if any is warranted. The Board chair shall notify the complainant in writing within 10 days that the investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law.

## **Follow-up Procedures**

The Chief Human Resource Officer will follow up with the ESD employee of the alleged harassment once every three months for the calendar year following the date on which the Chief Human Resource Officer received a report of harassment, to determine whether the alleged harassment has stopped or if the employee has experienced retaliation. The Chief Human Resource Officer will document the record of this follow-up. The Chief Human Resource Officer will continue follow-up in this manner until and unless the employee directs the Chief Human Resource Officer in writing to stop.

## **Other Reporting Options and Filing Information**

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

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<sup>1</sup> Provide information about legal resources and counseling and support services, which may include ESD-provided assistance services available to the ESD employee, and a copy the ESD's Board policy GBEA-Workplace Harassment and this administrative regulation to the ESD employee.

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

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

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

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

**Southern Oregon ESD  
101 N Grape St., Medford, OR 97501  
541-776-8590**

**WORKPLACE HARASSMENT REPORTING OR COMPLAINT FORM**

Name of person making report/complainant: \_\_\_\_\_

Position of person making report/complainant: \_\_\_\_\_

Date of complaint: \_\_\_\_\_

Name of alleged harasser: \_\_\_\_\_

Date and place of incident or incidents: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Description of alleged misconduct: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name of witnesses (if any): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Any other information: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Southern Oregon ESD  
101 N Grape St., Medford, OR 97501  
541-776-8590**

**WITNESS DISCLOSURE FORM**

Name of Witness: \_\_\_\_\_

Position of Witness: \_\_\_\_\_

Date of Testimony/Interview: \_\_\_\_\_

Description of Instance Witnessed: \_\_\_\_\_

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Any Other Information: \_\_\_\_\_

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

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

# Southern Oregon ESD

Code: GBEB  
Adopted: 4/16/03  
Orig. Code: 3950;4950

## Communicable Disease – in Schools

The ESD shall provide reasonable protection against the risk of exposure to communicable disease for students and 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 for Schools* published by the Oregon Department of Education (ODE) and the Oregon Health Authority (OHA).

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

An employee or student may not attend work or school, respectively, while in a communicable stage of a restrictable disease or when an administrator has reason to suspect the employee [or student] has or has been exposed to any disease for which exclusion is required in accordance with law. The ESD may provide an educational program in an alternative setting. Services will be provided to students as required by law.

The ESD shall protect the confidentiality of an employee's and 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 may inform employees with a legitimate educational interest.

The ESD will include, as part of its general emergency plans, a description of the actions to be taken by the ESD staff in buildings and by the ESD in response to medical emergencies.

### END OF POLICY

#### Legal Reference(s):

[ORS 334.125](#)  
[ORS 431.150 - 431.157](#)  
[ORS 433.001 - 433.004](#)  
[ORS 433.010](#)

[ORS 433.110](#)  
[ORS 433.235 - 433.284](#)  
[OAR 333-018](#)

[OAR 333-019-0010](#)  
[OAR 333-019-0014](#)  
[OAR 581-024-0275](#)  
[OAR 581-024-0280](#)

OREGON DEPARTMENT OF EDUCATION AND OREGON HEALTH AUTHORITY, *Community Disease Guidance for Schools*. 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 (2023). Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §§ 1320d to -1320d-8 (2018); 45 C.F.R. Parts 160, 164 (2023).

# **Southern Oregon ESD**

Code: GBEB-AR

Revised/Reviewed:

## **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, *Shiga-toxigenic Escherichia coli* (STEC) infection, shigellosis and infectious tuberculosis, and may include a communicable stage of hepatitis B infection if, in the opinion of the local health officer, the person poses an unusually high risk to others (e.g., a child that exhibits uncontrollable biting or spitting). Restrictable disease also includes any other communicable disease identified in an order issued by the Oregon Health Authority or the local public health officer as posing a danger to the public’s health. A disease is considered to be a restrictable disease if it is listed in Oregon Administrative Rule (OAR) 333-019-0010, or it has been designated to be a restrictable disease by the local public health administrator after determining that it poses a danger to the public’s health.
2. “Susceptible” for an employee means lacking evidence of immunity to the disease.
3. “Reportable diseases” means a disease or condition, the reporting of which enables a public health authority to take action to protect or to benefit the public health.

### **Restrictable Diseases**

1. An employee of the ESD will not attend or work at an ESD school or facility while in a communicable stage of a restrictable disease, including a communicable stage of COVID-19<sup>2</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. An administrator shall exclude an employee if the administrator has reason to suspect that an employee has or has been exposed to measles, mumps, rubella, diphtheria, pertussis, hepatitis A, or hepatitis B, unless the local health officer determines that exclusion is not necessary to protect the public’s health. The administrator may request the local health officer to make a determination as allowed by law. If the disease is reportable, the administrator will report the occurrence to the local health department.
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.

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

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

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

### **Reportable Diseases Notification**

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

### **Equipment and Training**

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

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<sup>3</sup> Refer to *Communicable Disease Guidance* published by the Oregon Health Authority and the Oregon Department of Education.

# **Southern Oregon ESD**

Code: GBEC  
Adopted:

## **Drug-Free Workplace \***

The ESD shall provide a drug-free workplace.

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

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

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

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

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

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

### **Definitions**

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

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

## **Sanctions and Remedies<sup>2</sup>**

The ESD, upon determining that an employee has engaged in the unlawful manufacture, distribution, dispensation or possession of a controlled substance or alcohol, or upon having reasonable suspicion (under the section below), of an employee's unlawful use of a controlled substance or alcohol in the workplace, shall, pending any criminal drug statute conviction for a violation occurring in the workplace, take appropriate action which may include transfer, granting of leave with or without pay or suspension with or without pay.

Within 30 calendar days of learning of an employee's criminal drug statute conviction for a violation occurring in the workplace, the ESD shall:

1. Take appropriate action, which may include discipline up to and including termination; and/or
2. Require satisfactory participation by the employee in a drug-abuse assistance or rehabilitation program approved for such purpose by a federal, state or local health, law enforcement or other appropriate agency.

## **Basis for Reasonable Suspicion of Employee Use of Controlled Substance/Alcohol**

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

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

## **Employee Assistance Program**

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

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

## **Establishment of Drug-Free Awareness Program**

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

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<sup>2</sup> Ibid. p. 1

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

#### **Notification by Employee of Conviction<sup>3</sup>**

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

#### **Notification by the ESD of an Employee Conviction**

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

END OF POLICY

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#### **Legal Reference(s):**

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

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

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

Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 701-707 (2012); General Principles Relating to Suspension and Debarment Actions, 34 C.F.R. §§ 85.600-85.645 (2016).

Controlled Substances Act, 21 U.S.C. § 812 (2012); Schedules of Controlled Substances, 21 C.F.R. §§ 1308.1-1308.15 (2016).  
Safe and Drug-Free Schools and Communities Act, 20 U.S.C. §§ 7101-7117 (2012).

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<sup>3</sup> Ibid. p. 1

# Southern Oregon ESD

Code: GBK\KGC  
Adopted: 3/19/03  
Orig. Code: 3430; 4430; 3431; 4431; 3432; 4432

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

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

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

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

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

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

This policy shall be enforced at all times.

END OF POLICY

### Legal Reference(s):

[ORS 334.125](#)  
[ORS 336.227](#)  
[ORS 339.883](#)  
[ORS 431A.175](#)

[ORS 433.835 to -433.990](#)

[OAR 581-021-0110](#)  
[OAR 581-053-0230\(9\)\(s\)](#)

[OAR 581-053-0330\(1\)\(m\)](#)  
[OAR 581-053-0430\(12\)](#)  
[OAR 581-053-0531\(11\)](#)

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

# **Southern Oregon ESD**

Code: GBL  
Adopted:

## **Personnel Records \***

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

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

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

Except as provided below, or required by law, ESD employees'<sup>1</sup> personnel records will be available for use and inspection only by the following:

1. The individual employee. An employee may arrange with the Human Resource office to inspect the contents of their personnel file on any day the Human Resource office is open for business;
2. Others designated by the employee in writing may arrange to inspect the contents of the employee's personnel file in the same manner described above;
3. The comptroller or auditor, when such inspection is pertinent to carrying out their respective duties, or as otherwise specifically authorized by the Board. Information so obtained will be kept confidential. No files will be removed from their central location for personal inspection;
4. A Board member when specifically authorized by the Board. Information will be kept confidential. No files will be removed from their central location for personal inspection;
5. The superintendent and members of the central administrative staff designated by the superintendent;
6. ESD administrators and supervisors who currently or prospectively supervise the employee;
7. Employees of the Human Resource office;
8. Attorneys for the ESD or the ESD's designated representative on matters of ESD business;
9. Upon receiving a request from a prospective employer issued under Oregon Revised Statute (ORS) 339.374(1)(b), the ESD, pursuant to ORS 339.378(1), shall disclose the requested information if it

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<sup>1</sup> Includes former employees.

has or has had an employment relationship with a person who is the subject of the request, no later than 20 days after receiving such request. The records created pursuant to ORS 339.388(8)(c) are confidential and are not public records as defined in ORS 192.311. The ESD may use the record as a basis for providing the information required to be disclosed about an employee under ORS 339.378(1);

10. Upon request from a law enforcement agency, the Oregon Department of Human Services, the Teacher Standards and Practices Commission, or the Oregon Department of Education, in conducting an investigation related to suspected abuse or suspected sexual conduct, to the extent allowable by state and federal law, including laws protecting a person from self-incrimination;
11. Upon request from a prospective employer or a former employee, authorized ESD officials may disclose information about a former employee's job performance to a prospective employer and such disclosure is presumed to be in good faith. Presumption of good faith is rebutted by showing the information disclosed was knowingly false or deliberately misleading, was rendered with malicious purpose or violated any civil right of the former employee protected under ORS 659 or ORS 659A.

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

Release of personnel records to parties other than those listed above, will be in-line with Board policy KBA - Public Records. The ESD will attempt to notify the employee of the request and that the ESD believes it is legally required to disclose certain records.

END OF POLICY

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**Legal Reference(s):**

[ORS 30.178](#)  
[ORS 339.370 - 339.374](#)  
[ORS 339.378](#)  
[ORS 339.388](#)

[ORS 342.143](#)  
[ORS 342.850](#)  
[ORS 652.750](#)  
[ORS Chapter 659](#)

[ORS Chapter 659A](#)  
[OAR 581-024-0245](#)

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

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

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

# Southern Oregon ESD

Code: GBLA  
Adopted:

## Disclosure of Information

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

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

END OF POLICY

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**Legal Reference(s):**

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

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

[ORS Chapter 659A](#)

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

# Southern Oregon ESD

Code: GBM  
Adopted: 3/19/03  
Orig. Code: 3800; 4800; 3801; 4801;  
3802; 4802; 3803; 4803;  
3804; 4808

## Staff Complaints \*

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

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

Reasonable efforts will be made to resolve complaints informally.

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

END OF POLICY

### Legal Reference(s):

[ORS 334.125](#)

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

[OAR 581-024-0245](#)

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

# **Southern Oregon ESD**

Code: GBMA  
Adopted:

## **Whistleblower \***

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

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

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

The ESD will use the complaint process in <sup>1</sup>administrative regulation KL-AR - Public Complaints Procedure to address any alleged violations of this policy.

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

**END OF POLICY**

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If the ESD created and has a GBM-AR - Staff Complaints, it may want to consider inserting that language here.

**Legal Reference(s):**

[ORS 192.501 - 192.505](#)

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

[OAR 581-022-2405](#)

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