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OSBA Policy Update - ADA Notice

1 message

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To: Andrea Stevenson <andrea_stevenson@parkrose.k12.or.us>

Wed, Jun 6, 2018 at 3:05 PM

Dear Andrea:

You are receiving this E-mail because you are listed as the contact for the Policy Update subscription.

The June *Policy Update* will be released next week, and the OSBA model policies and administrative regulations will have a new look. The Americans with Disabilities Act (ADA) states "district services, programs and activities will be accessible and usable by qualified individuals with disabilities...", this includes websites. The Policy Department has formatted the model policies and administrative regulations to improve usability. You will notice the two major differences include no tables and a single left margin.

For those districts, ESDs, public charter schools and community colleges that OSBA hosts online, we will be updating the Policy Online hosted sites this summer, improving support for mobile devices, adding ADA compliance and including HTML versions of existing policies alongside their current PDF versions. This will greatly enhance the usability for all.

If you have questions, please contact me.

Leslie Fisher

Oregon School Boards Association | 1-800-578-6722 | www.osba.org



Policy Update

Vol. XLI No. 3 sch

June 2018

COMPLAINTS AGAINST BOARD MEMBERS

We continue to receive questions regarding complaints against board members. Oregon Revised Statute 192.660(2)(b) allows executive session to review complaints filed against “a public officer, employee, staff member or individual agent.” Based on this language, it is unclear whether “public officer” includes a locally-elected school board member. Communications with the Oregon Government Ethics Commission (OGEC) indicate that they do not believe that a board member is considered a public officer under this statute. Consequently, we recommend that boards generally use open session to review complaints against board members. Depending on the specific facts of a particular situation, there may be another statutory provision to use executive session. If you have questions regarding a specific complaint, we recommend that you contact the OGEC or your district’s legal counsel.

Summer Board

Conference

July 20-22, 2018

Bend

Annual Convention

OGEC recommended changes

OSBA Model Sample Policy

Code: GBC
Adopted: 9/13/76

Staff Ethics

I. Conflict of Interest Prohibited Use of Official Position or Financial Gain

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

This prohibition does not apply to any part of an official compensation package as approved by the Board, honorarium allowed by Oregon Revised Statute (ORS) 244.042, 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 district employee.

The employee may receive district or school logo apparel as part of the employee's official compensation package.

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

This means that:

1. Employees, relatives or members of the district employee's household will not use their 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 district 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 district employee may serve as a Board or budget committee member in the district H 14 district or charter school substitute bus driver in a district with an average daily membership of 50 or less may serve as a Board member;

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 district 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 **district** employee has a potential or actual conflict of interest, the **district** 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 district employee is met with a conflict of interest.**

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

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

In order to avoid ~~both potential and actual conflicts of interests~~ **violation of nepotism provisions and district policy**, district employees must abide by the following **rules** when an employee's relative or member of the household **of the district employee** is seeking and/or holds a position with the district:

1. A district 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. A district 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 district employee. In accordance with Oregon law, however, the district may refuse to hire individuals, or may transfer current employees, in situations where an appointment would place one family member in a position of exercising supervisory, appointment or grievance adjustment authority over another member of the same family. **Employees who are members of the same family may not be assigned to work in the same building except by the superintendent's approval.**

In the *conflict of interest* context:

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

"Relative" means: the spouse¹, parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the employee; or the parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law

¹ The term spouse includes domestic partner.

of the spouse of the employee. Relative also includes any individual for whom the employee has a legal support obligation, whose employment provides benefits² to the employee, or who receives any benefit from the employee's public employment.

II. Gifts

District 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 district 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 district employee from, but not limited to, another district employee, a student or parent of a student or a vendor within the \$50 gift limit. Except for exclusions in ORS 244.040(2), an item received by an employee from the district is prohibited.

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

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

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

Determining the Source of Gifts

Employees, the employee's relatives or members of the employee's household should not accept gifts in any amount without obtaining information from the gift giver as to who is the source of the gift. It is the employee's personal responsibility to ensure that no single source provides gifts exceeding an aggregate value of \$50 in a calendar year, if the source has a legislative or administrative interest in any matter subject to the decision or vote of the district employee. If the giver does not have a legislative or administrative interest, the ethics rules on gifts \$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

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

³ Ibid. p. 23

⁴ Ibid. p. 23

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 district 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 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.

~~3-~~ Upon request by the employee, the source will give notice of the value of the merchandise, goods, or services received.

~~4-~~ 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 solicit or accept any gifts of entertainment over \$50 in value from any single source in a calendar year that has a legislative or administrative interest in any matter subject to the decision of the employee unless:

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

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

Exceptions

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

1. Gifts from “relatives” and “members of the household” to the employee are permitted in an unlimited amount; they are not considered gifts under the ethics rules;
2. Informational or program material, publications, or subscriptions related to the recipient’s performance of official duties;
3. Food, lodging, and travel generally count toward the \$50 aggregate amount per year from a single source with a legislative or administrative interest, with the following exceptions:
 - a. *Organized Planned Events.* Employees are permitted to accept payment for travel conducted in the employee’s official capacity, for certain limited purposes:
 - a. (H) 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) ~~(a)~~ The employee is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the district; AND

(a) ~~(i)~~ The giver is a unit of a:

(i) ~~1)~~ Federal, state, or local government;

(ii) ~~2)~~ An Oregon or federally recognized Native American Tribe; OR

(iii) ~~3)~~ Nonprofit corporation.

(2) ~~(b)~~ The employee is representing the district:

(a) ~~(i)~~ On an officially sanctioned trade-promotion or fact-finding mission; OR

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

~~(2)~~ The purpose of ~~this 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 district.

“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 ~~gift 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 district employment;

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

Honoraria

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

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

END OF POLICY

Legal Reference(s):

ORS 244.010 - 244.400
ORS 332.016

ORS 659A.309

OAR 199-005-0001 - 199-020-0020
OAR 584-020-0040

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

OGEC recommended

OSBA Model Sample Policy

Code: GBC-AR
Revised/Reviewed:

Staff Ethics

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

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

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

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

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

5. Employees may accept free passes to district extracurricular events if they are attending these events in their official capacity (i.e., chaperoning, ticket sales or managing concession sales). In order to promote employee participation in extracurricular activities, the district may include free passes in employees' official compensation packages or employees may be reimbursed by the district for the cost of admission.
6. The employee's district position is not to be used to take official action that could have a financial impact on a private business with which, the employee, a relative or member of the employee's household are associated. For example, if the employee's brother owns a pest-control business which is seeking a contract with the district, **and the employee is part of the decision-making process**, the employee must declare an actual conflict of interest in writing, describing the nature of the employee's conflict, and provide this to the employee's supervisor.
7. Confidential information gained as a district employee is not to be used to obtain a financial benefit for the employee, a relative or member of the employee's household or a business with which any are associated. For example, the employee should not use the information that a student in his/her class is falling behind in math to provide the parents a referral to the employee's² sister's tutoring business.
8. District employees who mentor student teachers may not receive direct payments from sponsoring colleges or universities. The payment may be provided by the college or university to the district, which can then distribute the compensation to the teachers as an element of their official compensation package.
9. District employees must follow Oregon Government Ethics Commission guidelines for outside employment if the employee acts as a chaperone for student group trips on personal time and the district employee accepts compensation in the form of travel expenses from a private business or organization. Specifically, district employees must conduct all activities related to the trip on personal time and cannot use the classroom or school environment to plan the off-campus trip. Employees may use district facilities for this purpose only if they comply with the district's public use of facilities policy. It is not an ethics violation **for the employee** to accept reasonable expenses for accompanying students on an education trip.

~~These restrictions do not apply if the teacher is chaperoning students on a fact-finding mission that is officially sanctioned by the Board. The definition of a "fact-finding mission" is, in part, any activity related to a cultural or educational purpose. See OAR 199-005-0020(3)(a). The district employee must be directly and immediately associated with the event or location being visited. If a district employee only acts as a chaperone and does not provide instruction or guidance for the students in language usage or cultural events, the trip may not meet the requirements of ORS 244.020 (7)(b)(H)(i). Further, the employee can only accept the reimbursement of reasonable travel expenses from the private company, not any further compensation.~~

~~These restrictions do not apply if the district compensates the district employee for chaperoning the trip.~~

updates from HB 4150
adds required info

OSBA Model Sample Policy

Code: GBN/JBA

Adopted: 10/23/95

Sexual Harassment

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, 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 employee-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 control-jurisdiction of the district; or where the employee-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-staff member's ability to perform his/her 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 or 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, employee-staff members or third parties who has knowledge of conduct in violation of this policy or feels

he/she is they are a victim of sexual harassment must immediately report his/her their concerns to the principal, compliance officer or superintendent, who has overall responsibility for all investigations. As 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, or the staff member or the third party who initiated the complaint shall be notified of the findings of the investigation and, if appropriate, that remedial action has been taken 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 shall may not adversely affect the educational assignments or study educational environment of a student complainant, or 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. Employees 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 and 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 grade 6 through 12 schools. Such posting Posted signs shall be by a sign of at least 8-1/2 inches by 11 inches in size.

¹ [Posting in "in grade 6 through 12 schools" is the minimum requirement per ORS 342.700.]

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

END OF POLICY

Legal Reference(s):

ORS 243.706
ORS 342.700
ORS 342.704
ORS 342.708
ORS 342.850

ORS 342.865
ORS 659.850
ORS 659A.006
ORS 659A.029
ORS 659A.030

OAR 581-021-0038
OAR 584-020-0040
OAR 584-020-0041

HB 4150 (2018)

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).

see GBN

OSBA Model Sample Policy

Code: GBN/JBA-AR
Revised/Reviewed: **Adopted 3/13/00**

Sexual Harassment Complaint Procedure

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 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. He/She/The official will arrange such meetings as may be necessary to discuss the issue with all concerned parties within five working days after receipt of the information or complaint. All findings of the investigation, including the response of the alleged harasser, shall be reduced to writing. The district official(s) conducting the investigation shall notify the complainant in writing when that the investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law. The parties will have an opportunity to submit evidence and a list of witnesses.

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, he/she/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, following such meetings.

Step 4 If a complainant is not satisfied with the decision at step 3, he/she/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 attempt to resolve/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 request to place the complaint on the Board agenda at the next regularly scheduled or special Board meeting/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 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 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.

~~Complaints against the principal may be filed with the superintendent. In the event the superintendent is the subject of the investigation, reports, when required, shall be made by the [Board chair].~~

[Name of District]
[Address] | [Phone]

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: _____

[Name of District]
[Address] | [Phone]



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: _____



Updated to match language in ORS 659A.285

OSBA Model Sample Policy

Code: GCBDC/GDBDC

Adopted: 10/27/08

Domestic Violence, Harassment, Sexual Assault or Stalking Leave

~~(For employers who employ six or more employees)~~ ✓

Definitions

1. "Covered employer" means an employer who employs six or more individuals in the state of Oregon for each working day through each of 20 or more calendar workweeks in the year in which the eligible employee takes leave to address domestic violence, harassment, sexual assault or stalking, or in the year immediately preceding the year in which an eligible employee takes leave for domestic violence, harassment, sexual assault or stalking.
2. "Eligible employee" means an employee who is a victim of domestic violence, harassment, sexual assault or stalking or is the parent or guardian of a minor child or dependent who is a victim of domestic violence, harassment, sexual assault or stalking.
3. "Protective order" means an order authorized by Oregon Revised Statute (ORS) 30.866, 107.095(1)(c), 107.700 - 107.735, 124.005 - 124.040 or 163.730 - 163.750 or any other order that restrains an individual from contact with an eligible employee or the employee's minor child or dependent.
4. "Victim of domestic violence" means an individual who has been a victim of abuse as defined by ORS 107.705; or any other individual designated as a victim of domestic violence by rule adopted under ORS 659A.805.
5. "Victim of harassment" means an individual against whom harassment has been committed as described in ORS 166.805~~065~~ and any other individual designated as a victim of harassment by rule adopted under ORS 659A.805.
6. "Victim of sexual assault" means an individual against whom a sexual offense has been committed as described in ORS 163.467 or 163.525; or any other individual designated as a victim of sexual assault by rule adopted under ORS 659A.805.
7. "Victim of stalking" means an individual against whom stalking has been committed as described in ORS 163.732; or an individual designated as a victim of stalking by rule adopted under ORS 695A.805; or an individual who has obtained a court's stalking protective order or a temporary court's stalking protective order under ORS 30.866.
8. "Victim services provider" means a prosecutor-based victim assistance program or a nonprofit program offering safety planning, counseling, support or advocacy related to domestic violence, harassment, sexual assault or stalking.

A district (covered employer) shall allow an (eligible) employee to take reasonable leave for any of the following reasons:

1. To seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or the employee's minor child or dependent, including preparing for and participating in protective order proceedings or other civil or criminal legal proceedings related to domestic violence, harassment, sexual assault or stalking;
2. To seek medical treatment for or to recover from injuries caused by domestic violence or sexual assault to or harassment or stalking of the eligible employee or the employee's minor child or dependent;
3. To obtain or assist a minor child or dependent in obtaining counseling from a licensed mental health professional related to an experience of domestic violence, harassment, sexual assault or stalking;
4. To obtain services from victims services providers for the eligible employee or the employee's minor child or dependent;
5. To relocate or take steps to secure an existing home to ensure health and safety of the eligible employee or the employee's minor child/dependent.

The district may limit the amount of leave, if the employee's leave creates an undue hardship on the district.

The district shall not deny leave to an employee or discharge, threaten to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regards to promotion, compensation or other terms, conditions or privileges of employment as a result of taking such leave.

1. The employee shall give the district reasonable advanced notice of ~~their~~ the employee's intent to take leave unless giving advance notice is not feasible.

The district may require the employee to provide certification that:

1. The employee or minor child/dependent is a victim of domestic violence, harassment, sexual assault or stalking; and
2. The leave is taken for one of the identified purposes in this policy.

Sufficient certification includes:

1. A copy of a report from law enforcement indicating the employee or child/dependent was a victim of domestic violence, harassment, sexual assault or stalking.
2. A copy of a protective order or other evidence from a court, administrative agency or attorney that the employee appeared in or was preparing for a civil, criminal or administrative proceeding related to domestic violence, harassment, sexual assault or stalking.

3. Documentation from an attorney, law enforcement officer, health care professional, licensed mental professional or counselor, member of the clergy or a victims services provider that the employee, employee's child or dependent was undergoing counseling, obtaining services or relocating as a result of domestic violence, harassment, sexual assault or stalking.

All records and information kept by the district regarding the employee's leave, including the request or obtaining of leave is confidential and may not be released without the express permission of the employee unless otherwise required by law. This information will be kept in a file separate from the employee's personnel file.

The employee may use any all paid accrued ~~vacation~~ leave or may use any other paid leave that is offered by the district in lieu of vacation leave, including personal, sick and vacation leave. The employee may choose the order in which paid accrued leave is to be used when more than one type of paid leave is available.

END OF POLICY

Legal Reference(s):

OR ~~192.502355~~(38)

OR 659A.270 - 659A.290

see policy

OSBA Model Sample Policy

Code: GCBDC/GDBDC-AR
Revised/Reviewed:

~~Eligible Employee Request for Domestic Violence, Harassment, Sexual Assault or Stalking Leave~~ (For employers who employ six or more employees)

PLEASE PRINT

Where the need for the leave may be anticipated, a written request for leave under Oregon Revised Statute (ORS) 659A.270 - 659A.285 shall be made at least 30 days prior to the date the requested leave is to begin. In emergency situations, oral or written notice as soon as practical is allowed.

Name of Eligible Employee _____ Effective Date of the Leave _____

Department _____ Title _____

Status: Full-time Part-time Temporary Hire Date _____ Length of Service _____

The requested leave is for:

- Myself
- My minor child or dependent

The leave is for:

- To seek legal or law enforcement assistance or remedies to ensure the health and safety of the eligible employee or the eligible employee's minor child or dependent.
- To seek medical treatment for or to recover from injuries caused by domestic violence, harassment, sexual assault or stalking for the eligible employee or the eligible employee's minor child or dependent.
- To obtain or assist the eligible employee's minor child or dependent in obtaining counseling from a licensed mental health professional related to an experience of domestic violence, harassment, sexual assault or stalking.
- To obtain services from a victim services provider for the eligible employee or the eligible employee's minor child or dependent.
- To relocate or take steps to secure an existing home to ensure the health and safety of the eligible employee or the eligible employee's minor child or dependent.

The following has been provided by the employee to certify the leave:

- A copy of a ~~policy report~~ from law enforcement indicating that the eligible employee or the eligible employee's minor child or dependent was a victim or alleged victim of domestic violence, harassment, sexual assault or stalking.

CHR4/28/166/21/18 | RS

~~Eligible Employee Request for Domestic Violence, Harassment,
Sexual Assault or Stalking Leave~~ – GCBDC/GDBDC-AR

- A copy of a protective order or any other order that restrains an individual from contact with an eligible employee or the employee's minor child or dependent, evidence from a court, administrative agency or attorney that the eligible employee appeared in or is preparing for a civil or criminal proceeding related to domestic violence, harassment, sexual assault or stalking or other order authorized by ORS 30.866, 107.095(1)(c), 107.700 - 107.735, 124.005 - 124.040 or 163.730 - 163.750.
- Documentation from an attorney, law enforcement officer, health care professional, licensed mental health professional or counselor, member of the clergy or victim services provider with or from whom the eligible employee or the eligible employee's minor child or dependent is receiving services.

I understand that ~~[I may use accrued paid leave, including personal and sick leave or accrued vacation leave for the OFLA leave period.] [the district requires me to use any accrued sick leave, vacation, personal leave days or other paid time established by Board policy(ies) and/or collective bargaining agreement in the order specified by the district, and before taking leave without pay, for the OFLA leave period.]~~ I am required to use any accrued paid leave, including personal and sick leave or accrued vacation leave before taking OFLA leave without pay. I may select the order in which the paid leave is used for the OFLA leave period.]

If my request for a leave is approved, it is my understanding that without an authorized extension when the need for an extension could be anticipated, I must report to duty on the first workday following the date my leave is scheduled to end. I understand that failure to do so will constitute unequivocal notice of my intent not to return to work and the district may terminate my employment. I understand if I am unable to return to work following the period of authorized leave I will notify my employer as soon as practical and provide any required information which will allow my employer to determine my eligibility for an extension of leave.

I authorize the district to deduct from my paychecks any employee contributions for health insurance premiums, life insurance or long-term disability insurance which remain unpaid after my leave, consistent with state law.

Signature of Employee: _____

Date: _____

HB 2992 if district wants to fingerprint certain volunteers
those must be stated in policy ★

OSBA Model Sample Policy

Code: GCDA/GDDA

Adopted: 4/27/95

Criminal Records Checks and Fingerprinting *

In a continuing effort to further ensure the safety and welfare of students and staff, the district shall require all newly hired full-time and part-time employees not requiring licensure to undergo a criminal records check and/or fingerprinting. Other individuals, as determined by the district, that will have direct, unsupervised contact with students shall have ~~submit to~~ criminal records checks and/or fingerprinting as required by law.

“Direct, unsupervised contact with students” means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision.

As required by state law, a criminal records check and/or fingerprinting shall be required of the following individual or individuals ~~(subject individuals and requirements are further outlined in GCDA/GDDA-AR - Criminal Records Checks and Fingerprinting):~~

1. All district contractors and/or their employees, whether employed part-time or full-time, considered by the district to have ~~direct, unsupervised access to contact with~~ students;
2. All ~~district~~ contractors and/or their employees who provide early childhood special education or early intervention services in accordance with rules established by the Oregon Department of Education, Child Care Division;
3. Any community college faculty member providing instruction at the site of an early childhood education program ~~or at a school site as part of an early childhood program, or at a grade K through 12 school site during the regular school day;~~
4. Any individual who is an employee of a public charter school and not requiring licensure; and ~~any~~
5. ~~Any~~ individual considered for volunteer service with the district who is ~~allowed~~ to have direct, unsupervised contact with students ~~and~~

~~The district shall require a nationwide criminal records check based on fingerprinting for a volunteer with direct, unsupervised contact with students in the following positions³:~~

1. ~~Head coach;~~

~~Subject individuals and requirements are further outlined in GCDA/GDDA-AR - Criminal Records Checks and Fingerprinting.~~

² ~~[If the district allows volunteer service and the volunteers have direct, unsupervised contact with students, this policy language is required, and districts are required to conduct background checks on these volunteers.]~~

³ ~~[If the district requires fingerprinting for certain volunteer positions, the district is required to list those volunteer positions in board policy. The bracketed language is only possible examples; modify to identify the needs of the district.]~~

R9/28/176/21/18 | PH

Criminal Records Checks and Fingerprinting * - GCDA/GDDA

2. [Assistant coach;]

3. [Overnight chaperone;]

4. [Volunteers transporting students, other than their own, in a private vehicle off district property for a district-sponsored activity] [;] [.]

5. [List of other positions subject to this fingerprinting, if any]

Volunteer Coach

The identity of an **subject** individual requiring fingerprinting will be provided by the district to the authorized fingerprinter for verification.

An **subject** individual shall be subject to fingerprinting only after acceptance of an offer of employment or contract.

The district [shall] [shall not] begin the employment of a subject individual or terms of a district contractor [on a probationary basis pending] [before] the return and disposition of the required criminal records checks and/or fingerprinting.

A subject individual who has been convicted of any crimes prohibiting employment or contract will be terminated and/or will not be employed or contracted. A subject individual who has failed fails to disclose the presence of convictions that would not otherwise prohibit his/her employment or contract with the district as provided by law, [may] [will not] be employed or contracted with by the district. A subject individual who knowingly made a false statement as to the conviction of any crime [may] [will not] be employed or contracted with by the district.

The district's use of criminal history must be relevant to the specific requirements of the position, services or employment.

~~4~~ The service of a volunteer with ~~allowed to have~~ direct, unsupervised access to ~~contact with~~ students [may] [will not] begin [on a probationary basis pending] [before] the return and disposition of a criminal records check.

~~3~~ The service of a volunteer in a position identified by the district as requiring a nationwide criminal records check including fingerprinting [may] [will not] begin [on a probationary basis pending] [before] the return and disposition of the nationwide criminal records check including fingerprinting.

~~4~~ An **subject** individual who knowingly made a false statement as to the conviction of any crime on district volunteer forms, as determined by the district, or has been convicted of a crime listed in ORS 342.143 [may] [will] result in immediate termination from the ability to volunteer in the district.

Fees associated with a criminal records check and/or fingerprinting may be charged.

The superintendent shall develop administrative regulations as necessary to meet the requirements of law.

Appeals

An subject individual ~~eligible~~ may appeal a determination that prevents his/her employment or eligibility to contract with the district to the Superintendent of Public Instruction as a contested case and will be so notified of such in writing by ~~the~~ ODE.

A volunteer required to submit to a fingerprint-based criminal records check may appeal a determination that prevents the ability to volunteer with the district to the Superintendent of Public Instruction as a contested case, if the results of the background check were provided by ODE or ODE's vendor and will be notified of such in writing by ODE.

END OF POLICY

Legal Reference(s):

ORS 181A.180
ORS 181A.230
ORS 326.603
ORS 326.607
ORS 332.107

ORS 336.631
ORS 342.143
ORS 342.223
OAR 414-061-0010 - 0030
OAR 581-021-0500

OAR 581-021-0502
OAR 581-022-2430
OAR 584-050-0012

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

See policy

OSBA Model Sample Policy

Code: GCDA/GDDA-AR
Revised/Reviewed:

Criminal Records Checks and Fingerprinting

Subject Individual Requirements

1. Any individual newly hired, ~~whether~~ full-time or part-time, and not requiring licensure as a teacher, administrator, personnel specialist or school nurse shall be required to undergo a nationwide criminal records check and fingerprinting.
2. Any individual applying for reinstatement of an Oregon license with the Teacher Standards and Practices Commission (TSPC) that has lapsed for more than three years shall be required to undergo a nationwide criminal records check and fingerprinting with TSPC.
3. Any individual registering with the TSPC for student teaching, practicum or internship as a teacher, administrator or personnel specialist shall be required to undergo a nationwide criminal records check and fingerprinting with TSPC.
4. Any district contractor ~~and its employees~~¹, whether part-time or full-time, ~~or an employee of a district contractor, whether part-time or full-time,~~ hired into a position having direct, unsupervised contact with students shall be required to undergo a nationwide criminal records check and fingerprinting.

The superintendent will identify district contractors who are present on district property and regularly interact with students and are subject to such requirements.

5. Any contractor or an employee of the contractor who provides early childhood special education or early intervention services shall be required to undergo a nationwide criminal records check and fingerprinting with the Oregon Department of Education (ODE), Child Care Division.
6. Any community college faculty member providing instruction at the site of an early childhood education program, at a school site as part of an early childhood program or at a grade K through 12 school site during the regular school day, shall be required to undergo a nationwide criminal records check and fingerprinting.
7. Any individual who is an employee of a public charter school not requiring licensure shall be required to undergo a nationwide criminal records check and fingerprinting.
8. ~~Any~~² Any individual authorized by the district for volunteer service into a position having ~~allowing~~ direct, unsupervised contact with students shall be required to undergo an Oregon criminal records check.

¹ A Contractor's employees may not be required to submit to fingerprinting until the contractor has been offered a contract by the district.

² [If the district allows volunteer service and the volunteers to have direct, unsupervised contact with students, this policy language is required, and districts are required to conduct criminal background checks on these volunteers. Choose the bracketed language options in 8, 9 and/or 10 of this policy that aligns with district practice. If the district allows volunteers to have direct, unsupervised contact with students the presented language is required. Align policy ICC - Volunteers with chosen language here.]

Keep →

9. ~~[Any volunteer allowed to have direct, unsupervised contact with students, in a volunteer position identified in Board policy³ by the district as requiring fingerprinting, shall be required to undergo a nationwide criminal records check and fingerprinting.]~~

10. ~~Any individual authorized by the district for volunteer service that does not~~ is not likely to have direct, unsupervised contact with students ~~[will] [will not]~~ be required to undergo an Oregon criminal records check. *may*

Exceptions

A newly hired employee is not subject to fingerprinting if the district has ~~on-file evidence~~ *on file* that the newly hired employee ~~was previously and successfully completed checked through~~ an Oregon and a FBI criminal records check ~~for by~~ a previous employer that was a school district.

Evidence ~~of the prior check~~ will be either a copy of the criminal records check or a written statement of verification from a supervisor or officer of the previous employer.

Furthermore:

1. The ODE or TSPC verification of a previous check shall be acceptable only in the event the district can demonstrate records are not otherwise available. ~~and~~
2. The district shall maintain evidence that the employee has not resided outside the state during the interval between the two periods of time working in the district.

Notification

1. The district will provide ~~the following~~ notification to individuals subject to criminal records checks and/or fingerprinting ~~of the following~~:

- a. Such criminal records checks and/or fingerprinting are required by law and/or Board policy;
- b. Any action resulting from such checks that impact employment ~~or contract~~ or volunteering may be appealed as a contested case;
- c. All employment or contract offers ~~for the ability to volunteer~~ are contingent upon the results of such checks;
- d. A refusal to consent to a required criminal records check and/or fingerprinting shall result in immediate termination from employment ~~(,)]~~ or contract status ~~for the ability to volunteer in the district~~;
- e. An individual determined to have knowingly made a false statement as to the conviction of any crime on district employment applications, contracts ~~(,)]~~ or ODE forms ~~or district volunteer forms~~ (written or electronic) ~~[may] [will]~~ result in immediate termination from employment ~~(,)]~~ or contract status ~~or the ability to volunteer in the district~~;
- f. An individual determined to have been convicted of any crime that would prohibit employment or contract will be immediately terminated from employment or contract status ~~;~~ [.]
- g. ~~A volunteer candidate who knowingly made a false statement or has been convicted of any crime listed in ORS 342.143 [may] [will]~~ result in immediate termination from the ability to volunteer in the district. ~~[The district [may] [will] remove the volunteer from the position allowing direct, unsupervised contact with students.]~~

2. The district will provide ~~the written notice described above~~ through such means as employment applications, contracts or ~~volunteer~~ forms.

³ See policy GCDA/GDDA – Criminal Records Checks and Fingerprinting.

Processing and Reporting Procedures

1. Any individual subject to criminal records checks and/or fingerprinting shall complete the appropriate forms or requirements as approved by ODE (information available through the district).
2. If the ~~All individuals~~ is subject to fingerprinting per ~~pursuant to~~ state law, ~~he/she will be~~ ~~are~~ required by the district, and is responsible to report within ~~[three]~~ working days to an authorized fingerprinter for fingerprinting as directed by the district.

Fingerprints may be collected by one of the following:

- a. Employing district staff;
- b. Contracted agent of employing district; or
- c. Local or state law enforcement agency.

The individual subject to fingerprinting, shall be subject only after acceptance of an offer of employment or contract.

3. To ensure the integrity of the fingerprinting collection and prevent any compromise of the process, the district will provide the name of the individual to be fingerprinted to the authorized fingerprinter.
4. The authorized fingerprinter will obtain the necessary identification and fingerprinting and notify the ODE ~~with~~ of the results. The ODE will ~~then~~ notify the district of said results and ~~as well as the identity of any subject individual it believes has knowingly made a false statement, has knowingly made a false statement as to conviction of any crime or has a conviction of a crime prohibiting employment, or contract or volunteering.~~
5. A copy of the required form to authorize fingerprinting, and the results of such, will be kept in the employee's personnel file ~~by the district.~~

Fees

1. Fees associated with criminal records checks and/or fingerprinting for individuals applying for employment with the district and not requiring licensure, including contractors⁴ and their employees, shall be paid by the ~~[individual] [district].~~
2. ~~Fees are payable [prior to] within [three] working days of beginning employment, volunteer service or contract.~~
3. ~~An individual offered employment in the district may request that the amount of the fee be withheld from the employee's paycheck, including a periodic payroll deduction rather than a lump sum payment, in accordance with Oregon law. The district may withhold such fees only upon the request of the individual.~~
4. ~~Fees associated with required criminal records checks for volunteers shall be paid by the [individual] [district].~~
5. ~~Fees associated with a required fingerprinting for volunteers shall be paid by the [individual] [district].~~

⁴ A contractor's employees may not be required to submit to fingerprinting until the contractor has been offered a contract by the district.

Termination of Employment or Withdrawal of Employment/Contract Offer/Volunteer Status

1. Any individual required to submit to a criminal records check and/or fingerprinting in accordance with law and/or Board policy will be terminated from employment or contract status, or withdrawal of offer of employment or contract will be made by the superintendent upon:
 - a. Refusal to consent to a criminal records check and/or fingerprinting; or
 - b. Notification from the Superintendent of Public Instruction or his/her designee that the employee has a conviction of any crime prohibiting employment with the district as specified in ~~by~~ law.
2. Any individual required to submit to a criminal records check and/or fingerprinting in accordance with law ~~may~~ [will] be terminated from employment or contract status, or withdrawal of offer of employment or contract will be made by the superintendent upon notification from the Superintendent of Public Instruction or his/her designee that the employee has knowingly made a false statement as to the conviction of any crime.
3. Employment termination shall remove the individual from any district policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of Accountability for Schools for the 21st Century Law.
4. Any volunteer who will be allowed to have direct, unsupervised contact with students that refuses to submit to a required criminal records check to acquire or maintain such a volunteer status in the district in accordance with law and/or Board policy will be denied the such ability to volunteer in the district.
5. If the district has completed a required criminal records check and the district has been notified by the Superintendent of Public Instruction that the an individual knowingly made a false statement on an ODE form as to or has a conviction of any crime that may otherwise prevent a volunteer status in the district, listed in ORS 342.143 the individual [will] [may] be denied the ability to volunteer.
6. Any volunteer who knowingly makes a false statement, as determined by the district, on a district volunteer application form [may] be denied the ability to volunteer in the district.

Appeals

An individual may appeal a determination that prevents his/her employment or eligibility to contract with the district, to the Superintendent of Public Instruction as a contested case and will be so notified of such in writing by the ODE.

A volunteer required to submit to a fingerprint-based criminal records check may appeal a determination that prevents the ability to volunteer with the district to the Superintendent of Public Instruction as a contested case, if the results of the background check were provided by ODE or ODE's vendor and will be notified of such in writing by ODE.

MODIFIED DIPLOMA

Summary

Senate Bill (SB) 1522 corrected language contained in SB 20 (2017) that prevented districts from accessing State School Fund dollars for students who received a modified diploma and wanted to continue receiving transition services until age 21. SB 1522 updates the statutes to ensure that students who have received a modified diploma can continue receiving transition services through age 21, and allows districts to continue receiving State School Funds to provide those services.

The bill also contains provisions allowing modified diploma recipients in Youth Corrections Educational Programs to be eligible for transition services and modified diploma recipients to be eligible for the Expanded Options Program. SB 1522 affects students who received a modified diploma before, on or after the passage of SB 1522. Change is on page 1 in #4.

Legal Reference

None

Collective Bargaining Impact

None

Local District Responsibility

It's recommended the district review and adopt the required changes. The administrative regulations (AR) related to special education are required to be adopted by the board; the changes to the AR for expanded options may be submitted to the board for review.

Policy Implications

- ✓ IGBA – Students with Disabilities - Child Identification Procedures**, Required
- ✓ IGBAG-AR – Special Education – Procedural Safeguards**, Required
- ✓ IGBAH – Special Education – Evaluation Procedures**, Required
- ✓ IGBAJ – Special Education – Free Appropriate Public Education (FAPE)**, Required
- ✓ IGBAJ-AR – Special Education – Free Appropriate Public Education (FAPE)**, Required
- ✓ IGBHE – Expanded Options Program**, Highly Recommended
- ✓ IGBHE-AR(1) – Annual Expanded Options Program Notification, Highly Recommended
- ✓ IKF – Graduation Requirements** (Version 1 or 2), Required
- ✓ JECA – Admission of Resident Students**, Highly Recommended

OSBA Model Sample Policy

Code: IGBA
Adopted: 2001

Students with Disabilities - Child Identification Procedures

The district implements an ongoing system to locate, identify and evaluate all children birth to age 21 residing within its jurisdiction who have disabilities and need early intervention, early childhood special education (EI/ECSE) or special education services. For preschool children the district is responsible for the evaluation(s) used to determine eligibility; the designated referral and evaluation agency [insert name] is responsible for determining the eligibility of children for EI/ECSE services in accordance with Oregon Administrative Rule (OAR) 581-015-2100. The district identifies all children with disabilities, regardless of the severity of their disabilities, including those who are:

1. Highly mobile, such as migrant and homeless children;
2. Wards of the state;
3. Indian preschool children living on reservations;
4. Suspected of having a disability even though they are advancing from grade to grade;
5. Home schooled;
6. Resident and nonresident students, including residents of other states, attending a private school (religious or secular) located within the boundaries of the district;
7. Attending a public charter school located in the district;
8. Below the age of compulsory school attendance who are not enrolled in a public or private school program; or and
9. Above the age of compulsory school attendance who have not graduated from high school with a regular or modified high school diploma and have not completed the school year in which they reach their 21st birthday.

The district determines residency in accordance with Oregon Revised Statutes (ORS) Chapter 339 and, for the purposes of public charter school students with disabilities, in accordance with ORS Chapter 338 and ORS Chapter 339. The district enrolls all students who are five by on or before September 1 of the current school year. Students with disabilities are eligible to enroll in the district through the school year in which they reach the age of 21 if they have not graduated with a regular or modified high school diploma.

The district shall annually submit data to the Oregon Department of Education (ODE) regarding the number of resident students with disabilities who have been identified, located and evaluated and are receiving special education and related services. The district conducts an annual count of the total number of private school children attending private schools located within the boundaries of the district, and a

count of all children with disabilities attending private schools located within the boundaries of the district, in accordance with OAR 581-015-2465. The district reports any additional data to ODE as required by the ODE to meet the requirements of federal or state law and the applicable reporting dates.

END OF POLICY

Legal Reference(s):

<u>ORS 332.075</u>	<u>ORS 343.517</u>	<u>OAR 581-015-2190</u>
<u>ORS 338.165</u>	<u>ORS 343.533</u>	<u>OAR 581-015-2195</u>
<u>ORS 339.115 - 339.137</u>		<u>OAR 581-015-2315</u>
<u>ORS 343.151</u>	<u>OAR 581-015-2040</u>	<u>OAR 581-015-2480</u>
<u>ORS 343.157</u>	<u>OAR 581-015-2045</u>	<u>OAR 581-021-0029</u>
<u>ORS 343.193</u>	<u>OAR 581-015-2080</u>	<u>OAR 581-022-2315</u>
<u>ORS 343.221</u>	<u>OAR 581-015-2085</u>	

Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1412(a)(3) (2012).
Early Intervention Program for Infants and Toddlers with Disabilities, 34 C.F.R. Part 303 (2017).
Assistance to States for the Education of Children with Disabilities, 34 C.F.R. § 300.111 (2017).

OSBA Model Sample Policy

Code: IGBAG-AR
Adopted: 2004

No changes other than the review date at bottom of AR

Special Education - Procedural Safeguards**

1. Procedural Safeguards

a. The district provides procedural safeguards to:

- (1) Parents, guardians (unless the guardian is a state agency) or persons in parental relationship to the student;
- (2) Surrogate parents; and
- (3) Students who have reached the age of 18, the age of majority or are considered emancipated under Oregon law and to whom rights have transferred by statute, identified as adult students (called "eligible students").

b. The district gives parents a copy of the *Procedural Safeguards Notice*, published by the Oregon Department of Education (ODE):

- (1) At least once a year;
- (2) At the first referral or parental request for evaluation to determine eligibility for special education services;
- (3) When the parent (or adult student) requests a copy; and
- (4) To the parent and the student one year before the student's 18th birthday or upon learning that the student is emancipated.

c. The *Procedural Safeguards Notice* is:

- (1) Provided written in the native language or other communication of the parents (unless it is clearly not feasible to do so) and in language clearly understandable to the public.
- (2) If the native language or other mode of communication of the parent is not a written language, the district takes steps to ensure that:
 - (a) The notice is translated orally or by other means to the parent in his/her native language or other mode of communication;
 - (b) The parent understands the content of the notice; and
 - (c) There is written evidence that the district has met these requirements.

2. Content of *Procedural Safeguards Notice*

The procedural safeguards notice includes all of the content provided in the *Procedural Safeguards Notice* published by ODE.

3. Parent or Adult Student Meeting Participation

- #### a. The district provides parents or adult students an opportunity to participate in meetings with respect to the identification, evaluation, individualized education program (IEP) and

- educational placement of the student, and the provision of a free appropriate public education (FAPE) to the student.
- b. The district provides parents or adult students written notice of any meeting sufficiently in advance to ensure an opportunity to attend. The written notice:
- (1) States the purpose, time and place of the meeting and who is invited to attend;
 - (2) Advises that parents or adult students may invite other individuals who they believe have knowledge or special expertise regarding the student;
 - (3) Advises the parents or adult student that the team may proceed with the meeting even if they are not in attendance;
 - (4) Advises the parent or adult students who to contact before the meeting to provide information if they are unable to attend; and
 - (5) Indicates if one of the meeting's purposes is to consider transition services or transition service needs. If so:
 - (a) Indicates that the student will be invited; and
 - (b) Identifies any agencies invited to send a representative.
- c. The district takes steps to ensure that one or both of the parents of a student with a disability are present at each IEP or placement meeting or are afforded the opportunity to participate, including:
- (1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
 - (2) Scheduling the meeting at a mutually agreed on time and place.
- d. If neither parent can participate, the district will use other methods to ensure participation, including, but not limited to, individual or conference phone calls or home visits.
- e. The district may conduct an evaluation planning or eligibility meeting without the parent or adult student if the district provided meeting notice to the parent or adult student sufficiently in advance to ensure an opportunity to attend.
- f. The district may conduct an IEP or placement meeting without the parent or adult student if the district is unable to convince the parents or adult students that they should participate. Attempts to convince the parent to participate will be considered sufficient if the district:
- (1) Communicates directly with the parent or adult student and arranges a mutually agreeable time and place and sends written notice to confirm the arrangement; or
 - (2) Proposes a time and place in the written notice stating that a different time and place might be requested and confirms that the notice was received.
- g. If the district proceeds with an IEP meeting without a parent or adult student, the district must have a record of its attempts to arrange a mutually agreed upon time and place such as:
- (1) Detailed records of telephone calls made or attempted and the results of those calls;
 - (2) Copies of correspondence sent to the parents and any responses received; and
 - (3) Detailed records of visits made to the parents' home or place of employment and the results of those visits.

- h. The district takes whatever action is necessary to ensure that the parent or adult student understands the proceedings at a meeting, including arranging for an interpreter for parents or adult students who are deaf or whose native language is other than English.
- i. After the transfer of rights to an adult student at the age of majority, the district provides written notice of meetings to the adult student and parent, if the parent can be reasonably located. After the transfer of rights to an adult student at the age of majority, a parent receiving notice of an IEP meeting is not entitled to attend the meeting unless invited by the adult student or the district.
- j. An IEP meeting does not include:
 - (1) Informal or unscheduled conversations involving district personnel;
 - (2) Conversations on issues such as teaching methodology, lesson plans or coordination of service provision if those issues are not addressed in the student's IEP; or
 - (3) Preparatory activities that district or public personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

4. Surrogate Parents

- a. The district protects the rights of a student with a disability, or suspected of having a disability, by appointing a surrogate parent when:
 - (1) The parent cannot be identified or located after reasonable efforts;
 - (2) The student is a ward of the state or an unaccompanied homeless youth and there is reasonable cause to believe that the student has a disability, and there is no foster parent or other person available who can act as the parent of the student; or
 - (3) The parent or adult student requests the appointment of a surrogate parent.
- b. The district secures nominations of persons to serve as surrogates. The district appoints surrogates within 30 days of a determination that the student needs a surrogate, unless a surrogate has already been appointed by juvenile court.
- c. The district will only appoint a surrogate who:
 - (1) Is not an employee of the district or ODE;
 - (2) Is not an employee of any other agency involved in the education or care of the student;
 - (3) Is free of any personal or professional interest that would interfere with representing the student's special education interests; and
 - (4) Has the necessary knowledge and skills that ensure adequate representation of the student in special education decisions. The district will provide training, as necessary, to ensure that surrogate parents have the requisite knowledge.
- d. The district provides all special education rights and procedural safeguards to appointed surrogate parents.
- e. A surrogate will not be considered an employee of the district solely on the basis that the surrogate is compensated from public funds.
- f. The duties of the surrogate parent are to:
 - (1) Protect the special education rights of the student;
 - (2) Be acquainted with the student's disability and the student's special education needs;
 - (3) Represent the student in all matters relating to the identification, evaluation, IEP and educational placement of the student; and

- (4) Represent the student in all matters relating to the provision of FAPE to the student.
- g. A parent may give written consent for a surrogate to be appointed.
 - (1) When a parent requests that a surrogate be appointed, the parent shall retain all parental rights to receive notice and all of the information provided to the surrogate. When the district appoints a surrogate at parent request, the district will continue to provide to the parent a copy of all notices and other information provided to the surrogate.
 - (2) The surrogate, alone, shall be responsible for all matters relating to the special education of the student. The district will treat the surrogate as the parent unless and until the parent revokes consent for the surrogate's appointment.
 - (3) If a parent gives written consent for a surrogate to be appointed, the parent may revoke consent at any time by providing a written request to revoke the surrogate's appointment.
- h. An adult student to whom rights have transferred at age of majority may give written consent for a surrogate to be appointed. When an adult student requests that a surrogate be appointed, the student shall retain all rights to receive notice and all of the information provided to the surrogate. The surrogate, alone, shall be responsible for all matters relating to the special education of the student. The district will treat the surrogate as the adult student unless and until the adult student revokes consent for the surrogate's appointment. If an adult student gives written consent for a surrogate to be appointed, the adult student may revoke consent at any time by providing a written request to revoke the surrogate's appointment.
- i. The district may change or terminate the appointment of a surrogate when:
 - (1) The person appointed as surrogate is no longer willing to serve;
 - (2) Rights transfer to the adult student or the student graduates with a regular or modified diploma;
 - (3) The student is no longer eligible for special education services;
 - (4) The legal guardianship of the student is transferred to a person who is able to carry out the role of the parent;
 - (5) A foster parent or other person is identified who can carry out the role of parent;
 - (6) The parent, who previously could not be identified or located, is now identified or located;
 - (7) The appointed surrogate is no longer eligible;
 - (8) The student moves to another district; or
 - (9) The student is no longer a ward of the state or unaccompanied homeless youth.
- j. The district will not appoint a surrogate solely because the parent or student to whom rights have transferred is uncooperative or unresponsive to the special education needs of the student.

5. Transfer of Rights at Age of Majority

- a. When a student with a disability reaches the age of majority, marries or is emancipated, rights previously accorded to the student's parents under the special education laws, transfer to the student. A student for whom rights have transferred is considered an "adult student" under OAR 581-015-2000(1).
- b. The district provides notice to the student and the parent that rights (accorded by statute) will transfer at the age of majority. This notice is provided at an IEP meeting and documented on the IEP:

- (1) At least one year before the student's 18th birthday;
 - (2) More than one year before the student's 18th birthday, if the student's IEP team determines that earlier notice will aid transition; or
 - (3) Upon actual knowledge that within a year the student will likely marry or become emancipated before age 18.
- c. The district provides written notice to the student and to the parent at the time of the transfer.
 - d. These requirements apply to all students, including students who are incarcerated in a state or local adult or juvenile correctional facility or jail.
 - e. After transfer of rights to the student, the district provides any written prior notices and written notices of meetings required by the special education laws to the adult student and to the parent if the parent can be reasonably located.
 - f. After rights have transferred to the student, receipt of notice of an IEP meeting does not entitle the parent to attend the meeting unless invited by the student or the district.
6. Prior Written Notice
- a. The district provides prior written notice to the parent of a student, or student, within a reasonable period of time, before the district:
 - (1) Proposes to initiate or change, the identification, evaluation or educational placement of the student, or the provision of a FAPE to the child; or
 - (2) Refuses to initiate or change the identification, evaluation or educational placement of the student, or the provision of a FAPE to the child.
 - b. The content of the prior written notice will include:
 - (1) A description of the action proposed or refused by the district;
 - (2) An explanation of why the district proposed or refused to take the action;
 - (3) A description of each evaluation procedure, test, assessment, record or report used as a basis for the proposal or refusal;
 - (4) A statement that the parents of a student with a disability have procedural safeguards and, if this notice is not an initial referral for evaluation, how a copy of the *Procedural Safeguards Notice* may be obtained;
 - (5) Sources for parents to contact to obtain assistance in understanding their procedural safeguards;
 - (6) A description of other options the IEP team considered and the reasons why those options were rejected; and
 - (7) A description of other factors that are relevant to the agency's proposal or refusal.
 - c. The prior written notice is:
 - (1) Written in language understandable to the general public; and
 - (2) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so;
 - (3) If the native language or other mode of communication of the parent is not a written language, the district shall take steps to ensure that:
 - (a) The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;

- (b) The parent understands the content of the notice; and
- (c) There is written evidence that the requirements of this rule have been met.

7. Consent¹ – Initial Evaluation

- a. The district provides notice and obtains informed written consent from the parent or adult student before conducting an initial evaluation to determine whether a student has a disability (as defined by Oregon law) and needs special education. Consent for initial evaluation is not consent for the district to provide special education and related services.
- b. The district makes reasonable efforts to obtain informed consent from a parent for an initial evaluation to determine a child’s eligibility for special education services. If a parent does not provide consent for an initial evaluation or does not respond to a request for consent for an initial evaluation, the district may, but is not required to, pursue the initial evaluation of the child through mediation or due process hearing procedures. The district does not violate its child find obligations if it declines to pursue the evaluation using these procedures.

8. Consent – Initial Provision of Special Education Services

- a. The district provides notice and obtains informed written consent from the parent or adult student before the initial provision of special education and related services to the student.
- b. The district makes reasonable efforts to obtain informed consent, but if a parent or adult student does not respond or refuses consent for initial provision of special education and related services, the district does not convene an IEP meeting, develop an IEP or seek to provide special education and related services through mediation or due process hearing procedures. The district will not be considered to be in violation of the requirement to make FAPE available to the student under these circumstances. The district stands ready to serve the student if the parent or adult student later consents.

9. Consent – Re-evaluation

- a. The district obtains informed parent consent before conducting any re-evaluation of a child with a disability, except:
 - (1) The district does not need written consent for a re-evaluation if the parent does not respond after reasonable efforts to obtain informed consent. However, the district does not conduct individual intelligence tests or tests of personality without consent.
 - (2) If a parent refuses to consent to the re-evaluation, the district may, but is not required to, pursue the re-evaluation by using mediation or due process hearing procedures.
- b. A parent or adult student may revoke consent at any time before the completion of the activity for which they have given consent. If a parent or adult student revokes consent, that revocation is not retroactive.

¹ “Consent” means that the parent or adult student: a) has been fully informed, in his/her native language or other mode of communication, of all information relevant to the activity for which consent is sought; and b) understands and agrees in writing to the carrying out of the activity for which his/her consent is sought. Consent is voluntary on the part of the parent and meeting the requirements of consent provision for OAR 581-015-2090, IDEA and Family Education Rights and Privacy Act (FERPA).

10. Consent – Other Requirements

- a. The district documents its reasonable efforts to obtain parent consent, such as phone calls, letters and meeting notes.
- b. If a parent of a student who is home schooled or enrolled by the parents in a private school does not provide consent for the initial evaluation or the re-evaluation, or if the parent does not respond to a request for consent, the district:
 - (1) Does not use mediation or due process hearing procedures to seek consent; and
 - (2) Does not consider the child as eligible for special education services.
- c. If a parent or adult student refuses consent for one service or activity, the district does not use this refusal to deny the parent or child any other service, benefit or activity, except as specified by these rules and procedures.
- d. If, at any time subsequent to the initial provision of special and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the district:
 - (1) May not continue to provide special education and related services to the child, but must provide prior written notice before ceasing the provision of special education and related services;
 - (2) May not use mediation or due process procedures to obtain an agreement or ruling that the services may be provided to the child;
 - (3) The district will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services; and
 - (4) The district is not required to convene an IEP team meeting or develop an IEP for the child for further provision of special education or related services.

11. Exceptions to Consent

- a. The district does not need written parent or adult student consent before:
 - (1) Reviewing existing data as part of an evaluation or re-evaluation;
 - (2) Administering a test or other evaluation administered to all students without consent unless, before administration of that test or evaluation, consent is required of parents of all students;
 - (3) Conducting evaluations, tests, procedures or instruments that are identified on the student's individualized education program (IEP) as a measure for determining progress; or
 - (4) Conducting a screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation.
- b. The district does not need written parent consent to conduct an initial special education evaluation of a student who is a ward of the state and not living with the parent if:
 - (1) Despite reasonable efforts to do so, the district has not been able to find the parent;
 - (2) The parent's rights have been terminated in accordance with state law; or

- (3) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.
- c. The district does not need written parental consent if an administrative law judge (ALJ) determines that the evaluation or re-evaluation is necessary to ensure that the student is provided with a free appropriate public education.

12. Independent Educational Evaluations (IEE)

- a. A parent of a student with a disability has a right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the district.
- b. If a parent requests an independent educational evaluation at public expense, the district provides information to parents about where an independent educational evaluation may be obtained, and the district criteria applicable for independent educational evaluations.
- c. If a parent requests an independent educational evaluation at public expense, the district, without unnecessary delay, either:
 - (1) Initiates a due process hearing to show that its evaluation is appropriate; or
 - (2) Ensures that an independent educational evaluation is provided at public expense unless the district demonstrates in a hearing that the evaluation obtained by the parent did not meet district criteria.
- d. The district criteria for independent educational evaluations are the same as for district evaluations including, but not limited to, location, examiner qualifications and cost.
 - (1) Criteria established by the district do not preclude the parent's access to an independent educational evaluation.
 - (2) The district provides the parents the opportunity to demonstrate the unique circumstances justifying an IEE that does not meet the district's criteria.
 - (3) A parent may be limited to one independent educational evaluation at public expense each time the district conducts an evaluation with which the parent disagrees.
- e. If a parent requests an independent educational evaluation, the district may ask why the parent disagrees with the public evaluation. The parent may, but is not required to provide an explanation. The district may not:
 - (1) Unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the public evaluation;
 - (2) Except for the criteria listed above in c., impose conditions or timelines related to obtaining an IEE at public expense.
- f. The district considers an independent educational evaluation submitted by the parent, in any decision made with respect to the provision of a free appropriate public education to the student, if the submitted independent evaluation meets district criteria.

13. Dispute Resolution – Mediation

- a. The district or parent may request mediation from ODE for any special education matter, including before the filing of a complaint or due process hearing request.

b. The district acknowledges that:

- (1) Mediation must be voluntary on the part of the parties, must be conducted by a qualified and impartial mediator who is trained in effective mediation techniques and may not be used to deny or delay a parent's right to a due process hearing or filing a complaint.
- (2) Each mediation session must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.
- (3) An agreement reached by the parties to the dispute in the mediation process must be set forth in a legally binding written mediation agreement that:
 - (a) States the terms of the agreement;
 - (b) States that all discussions that occurred during the mediation process remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and
 - (c) Is signed by the parent and a representative of the district who has the authority to bind the district to the mediation agreement.
- (4) Mediation communication is not confidential if it relates to child or elder abuse and is made to a person who is required to report abuse, or threats of physical harm, or professional conduct affecting licensure.
- (5) The mediation agreement is enforceable in any state court of competent jurisdiction or in a district court of the United States.

14. Dispute Resolution – Complaint Investigation

- a. Any organization or person may file a signed, written complaint with the State Superintendent of Public Instruction alleging that a district or education service district (ESD) is violating or has violated the Individuals with Disabilities Education Act (IDEA) or associated regulations within one year before the date of the complaint. Upon receiving a parent complaint, the ODE forwards the complaint to the district or ESD along with a request for a district response to the allegations in the complaint.
- b. Upon receiving a request for response from ODE, the district responds to the allegations and furnishes any requested information or documents within 10 business days.
- c. The district sends a copy of the response to the complainant. If ODE decides to conduct an on-site investigation, district personnel participate in interviews and provide additional documents as needed.
- d. The district and the complainant may attempt to resolve a disagreement that led to a complaint through mediation. If they decide against mediation, or if mediation fails to produce an agreement, ODE will pursue the complaint investigation.
- e. If ODE substantiates some or all of the allegations in a complaint, it will order corrective action. The district satisfies its corrective action obligations in a timely manner.
- f. If the district disagrees with the findings and conclusions in a complaint final order, it may seek reconsideration by ODE or judicial review in county circuit court.

15. Due Process Hearing Requests

- a. The district acknowledges that parents may request a due process hearing if they disagree with a district proposal or refusal relating to the identification, evaluation, educational placement or provision of a free appropriate education to a student who may have a disability and be eligible for special education.

- b. The district may request a due process hearing regarding the identification, evaluation, educational placement or provision of a free appropriate education to a student who may have a disability and be eligible for special education.
- c. When requesting a due process hearing, the district or the attorney representing the district provides notice to the parent and to ODE.
- d. The party, including the district, that did not file the hearing request must, within 10 days of receiving the request for a hearing, send to the other party a response that specifically addresses the issues raised in the hearing request.
- e. If the parent had not yet received prior written notice of the district's proposal or refusal, the district, within 10 days of receiving the hearing request for a due process hearing, sends to the parent a response that includes:
 - (1) An explanation of why the district proposed or refused to take the action raised in the hearing request;
 - (2) A description of other options that the district considered and the reasons why those options were rejected;
 - (3) A description of each evaluation procedure, assessment, record or report the district used as the basis for the proposed or refused action; and
 - (4) A description of the factors relevant to the district's proposal or refusal.

16. Resolution Session

- a. Within 15 days of receiving a due process hearing request, the district will hold a resolution session with the parents and the relevant members of the IEP team who have specific knowledge of the facts identified in the due process hearing request.
- b. This meeting will include a representative of the district who has decision-making authority for the district.
 - (1) The district will not include an attorney unless the parent brings an attorney.
 - (2) The district will provide the parent with an opportunity for the parent to discuss the hearing request and related facts so that the district has an opportunity to resolve the dispute.
 - (3) The district and parent may agree in writing to waive the resolution meeting. If so, the 45-day hearing timeline will begin the next business day, unless the district and parent agree to try mediation in lieu of the resolution session.

17. Time Limitations and Exception

- a. A parent must request a due process hearing within two years after the date of the district act or omission that gives rise to the parent's hearing request.
- b. This timeline does not apply to a parent if the district withheld relevant information from the parent or incorrectly informed the parent that it had resolved the problem that led the parent's hearing request.

18. Hearing Costs

- a. The district reimburses ODE for costs related to conducting the hearing, including pre-hearing conferences, scheduling arrangement and other related matters.
- b. The district provides the parent with a written or, at the option of the parent, an electronic verbatim recording of the hearing, within a reasonable time of the close of the hearing
- c. The district does not use IDEA funds to pay attorney's fees or other hearing costs.

19. Discipline and Placement in Interim Alternative Setting

See Board policy JGDA - Discipline of Students with Disabilities.

OSBA Model Sample Policy

Code: IGBAH
Adopted: 2001

Special Education - Evaluation Procedures**

Consistent with its child find and parent consent obligations, the district responds promptly to requests initiated by a parent or public agency for an initial evaluation to determine if a child is a child with a disability.

A full and individual evaluation of a student's educational needs that meets the criteria established in the Oregon Administrative Rules will be conducted before determining eligibility and before the initial provision of special education and related services to a student with a disability. The district implements an ongoing system to locate, identify and evaluate all children birth to 21 residing within its jurisdiction who have disabilities and need early intervention, early childhood special education or special education services.

The district identifies all children with disabilities, regardless of the severity of their disabilities, including children who are:

1. Highly mobile, such as migrant and homeless children;
2. Wards of the state;
3. Indian preschool children living on reservations;
4. Suspected of having a disability even though they are advancing from grade to grade;
5. Home schooled;
6. Resident and nonresident students, including residents of other states, attending private school (religious or secular) located within the boundaries of the district;
7. Attending a public charter school located in the district;
8. Below the age of compulsory school attendance who are not enrolled in a public or private school program; or and
9. Above the age of compulsory school attendance who have not graduated from high school with a regular or modified high school diploma and have not completed the school year in which they reach their 21st birthday.

The district is responsible for evaluating and determining eligibility for special education services for school-age children. The district is responsible for evaluating children who may be eligible for early intervention/early childhood special education (EI/ECSE) services. The district's designated referral and evaluation agency is responsible for determining eligibility.

Before conducting any evaluation or re-evaluation, the district:

1. Plans the evaluation with a group that includes the parent(s);
2. Provides prior written notice to the parent(s) that describes any proposed evaluation procedures the agency proposes to conduct as a result of the evaluation planning process; and
3. Obtains informed written consent for evaluation.

The district conducts a comprehensive evaluation or re-evaluation before:

1. Determining that a child has a disability;
2. Determining that a child continues to have a disability;
3. Changing the child's eligibility;
4. Providing special education and related services;
5. Terminating the child's eligibility for special education, unless the termination is due to graduation from high school with a regular or modified diploma or exceeding the age of eligibility for a free appropriate public education.

Upon completion of the evaluation, the district provides the parent or eligible child a copy of the evaluation report at no cost. The evaluation report describes and explains the results of the evaluation. Upon completion of the eligibility determination, the district provides the parent or eligible child documentation of eligibility determination at no cost.

The district ensures that assessments and other evaluation materials, including those tailored to assess specific areas of education need, used to assess a child are:

1. Selected and administered so as not to be racially or culturally discriminatory;
2. Provided and administered in the child's native language or other mode of communication and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally unless it is clearly not feasible to do so;
3. Used for purposes for which assessments or measures are valid and reliable;
4. Administered by trained and knowledgeable personnel; and
5. Administered in accordance with any instructions provided by the producer of such assessments.

Materials and procedures used to assess a child with limited English proficiency are selected and administered to ensure that they measure the extent to which the child has a disability and needs special education, rather than measuring the child's English language skills.

A student must meet the eligibility criteria established in the Oregon Administrative Rules.

The district conducts re-evaluations:

1. When the educational or related services needs, including improved academic achievement and functional performance of the children warrant a re-evaluation;
2. When the child's parents or teacher requests a re-evaluation; and
3. At least every three years, unless that parent and the district agree that a re-evaluation is unnecessary.

The district does not conduct re-evaluation more than once a year, unless the parent and district agree otherwise.

If a parent has previously revoked consent for special education and related services and subsequently requests special education and related services, the district will conduct an initial evaluation of the student to determine eligibility for special education.

END OF POLICY

Legal Reference(s):

ORS 343.155
ORS 343.157

ORS 343.164
OAR 581-015-2000

OAR 581-015-2095
OAR 581-015-2105 - 2190

Assistance to States for the Education of Children with Disabilities, 34 C.F.R. §§ 300.300, 300.530-300.534, 300.540-300.543, 300.7 (2017).

OSBA Model Sample Policy

Code: IGBAJ
Adopted: 2001

Special Education - Free Appropriate Public Education (FAPE)**

1. The district admits all resident school-age children with disabilities and makes special education and related services available at no cost to those:
 - a. Who have reached five years of age but have not yet reached 21 years of age on or before September 1 of the current school year, even if they ~~have not failed or have not been retained in a course or grade or~~ are advancing from grade to grade;
 - b. Who have not graduated with a regular ~~or modified~~ high school diploma;
 - c. Who have been suspended or expelled in accordance with special education discipline provisions; or
 - d. Who reach age 21 before the end of the school year. These students remain eligible until the end of the school year in which they reach 21.
2. The district determines residency in accordance with Oregon law.
3. The district takes steps to ensure that its children with disabilities have available to them the variety of educational programs and services available to nondisabled children in the area served by the district and provides a continuum of services to meet the individual special education needs of all resident children with disabilities, and children with disabilities who are enrolled in public charter schools located in the district.
4. The district may, but is not required to, provide special education and related services to a student who has graduated with a regular ~~or modified~~ diploma.
5. State law prohibits the district from recommending to parents, or requiring a child to obtain, a prescription for medication to affect or alter thought processes, mood or behavior as a condition of attending school, receiving an evaluation to determine eligibility for early childhood special education or special education, or receiving special education services.
6. If the individualized education program (IEP) team determines that placement in a public or private residential program is necessary to provide FAPE, the program, including nonmedical care and room and board, must be at no cost to the parents of the child.
7. If a parent revokes consent for a student receiving special education and related services, the district will not be considered to be in violation of the requirement to make FAPE available to the student because of the failure to provide the student with further special education and related services.

END OF POLICY

Legal Reference(s):

ORS 338.165
ORS 339.115
ORS 343.085
ORS 343.224

OAR 581-015-2020
OAR 581-015-2035
OAR 581-015-2040 - 2065
OAR 581-015-2050
OAR 581-015-2075

OAR 581-015-2530
OAR 581-015-2600
OAR 581-015-2605
OAR 581-021-0029

Assistance to States for the Education of Children with Disabilities, 34 C.F.R. §§ 300.17, 300.101-110, 300.113, 300.300 (2017).

OSBA Model Sample Policy

Code: IGBAJ-AR
Adopted: 2004

Special Education - Free Appropriate Public Education (FAPE)**

1. FAPE and Age Ranges

The district provides special education and related services to all resident school-age students with disabilities, including students enrolled in public charter schools located in the district, as provided below:

- a. "School-age children" are children who have reached 5 years of age but have not yet reached 21 years of age on or before September 1 of the current school year.
- b. The district will admit an otherwise eligible student who has not yet reached 21 years of age on or before September 1 of the current school year.
- c. An otherwise eligible person whose 21st birthday occurs during the school year will continue to be eligible for FAPE for the remainder of the school year.
- d. The district provides FAPE to students with disabilities who have been suspended or expelled from school in accordance with the special education discipline rules.

2. Nonacademic Services

- a. The district provides equal opportunity for students with disabilities for participation in nonacademic and extracurricular services and activities.
- b. Nonacademic and extracurricular services and activities may include meals, recess periods, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the district, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the district and assistance in making outside employment available.
- c. The district ensures that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of each individual child.

3. Graduation

- a. A student graduating with a regular high school ~~or modified~~ diploma is no longer entitled to FAPE.
- b. The district provides prior written notice in a reasonable time before a student with a disability, graduates with a regular high school ~~or modified~~ diploma.
- c. The district is not required to conduct a reevaluation before terminating eligibility due to graduation with a regular high school ~~or modified~~ diploma.
- d. Graduation with an alternative document:
 - (1) The district may award an alternative document meeting the criteria of the State Board of Education alternative document to a student with a disability.
 - (2) Graduation with an alternative document does not terminate eligibility, require an evaluation or require prior written notice.

- e. The district may, but is not required to, provide special education and related services to a student who has graduated with a regular ~~or modified~~ diploma.

4. Incarcerated Youth

- a. The district has a plan, approved by the local Board, to provide or cause to be provided, appropriate education for children placed in a local or regional correctional facility located in the district.
- b. The district provides FAPE for students with disabilities ages 18 through 21, incarcerated as adults in an adult correctional facility if, in the last educational setting before their incarceration:

- (1) Were identified as students eligible for special education; and
- (2) Had an individualized education program (IEP).

- c. The district's provisions of FAPE ~~does do~~ not include:

- (1) The requirements relating to participation of children with disabilities in statewide and district assessments.
- (2) For students whose eligibility for services will end before their release, the requirements related to transition planning and transition service do not apply. The district makes this determination based on considerations of the sentence and eligibility for early release. Requirements relating to transition planning and transition services, with respect to the students whose eligibility will end, because of their age, before they will be eligible to be released from adult correctional facilities based on consideration of their sentence and eligibility for early release.
- (3) The IEP team may modify the student's IEP or placement if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated. Least restrictive environment requirements do not apply with respect to these modifications.
- (4) The public agency responsible for the special education of students in an adult correctional facility is not required to provide notice of meetings to the parent after rights transfer to the student.

5. Residential Placement

If the IEP team determines that placement in a public or private residential program is necessary to provide FAPE to a student with a disability, the district ensures that the program, including nonmedical care and room and board, is provided at no cost to the parents of the student.

6. Physical Education

- a. The district makes physical education services, specially designed if necessary, available to every child with a disability receiving FAPE, unless the school enrolls children without disabilities and does not provide physical education to children without disabilities in the same grade.
- b. The district provides the opportunity to each child with a disability to participate in the regular physical education program available to nondisabled children unless the child needs specially designed physical education as prescribed in the child's IEP.

- c. If specially designed physical education is included in the child's IEP, the district must provide the services directly or make arrangements for those services to be provided through other public or private programs.
- d. If the child with a disability is enrolled full time in a separate facility, the district must ensure that the child receives appropriate physical education services.

7. Public Charter Schools

- a. The district serves children with disabilities attending public charter schools located in the district in the same manner and in accordance with applicable laws and rules governing the district's provision of services to children with disabilities in its other schools.
- b. The district shall, in consultation with the student's parent, guardian or person in parental relationship, provide FAPE to the student, in accordance with Oregon Administrative Rule (OAR) 581-015-2230(1), until the district implements the IEP from the previous district or develops, adopts and implements a new IEP that meets acceptable requirements. If the information received was in effect in a previous district in another state, the district will implement the IEP in accordance with OAR 581-015-2230(2).
- c. The district provides supplementary and related services onsite at a district public charter school to the same extent to which the district has a policy or practice of providing such services on the site to its other public schools.
- d. A school district in which a public charter school is located must provide Individuals with Disabilities Education Act (IDEA) funds to those public charter schools on the same basis as the school district provides those funds to other public schools in the district, including proportional distribution based on relative enrollment of children with disabilities, at the same time as funds are distributed to other public schools in the district.
- e. If a child with a disability enrolls in a public charter school, the public charter school is considered the school the child would attend if not disabled. Enrollment in any public charter school is by parent choice. Enrollment in any out-of-district public charter school does not require an interdistrict transfer agreement.

When a student enrolls in a public charter school, the district in which the public charter school is located shall:

- a. Provide written notification of the student's enrollment to the district in which the student resides;
- b. Request, in accordance with applicable confidentiality provisions in state and federal laws, the records of the student, including all information related to an individualized education program developed for the student;
- c. Provide written notification to the student's parent, guardian or person in parental relationship to provide information about:
 - (1) The district's responsibility to identify, locate and evaluate to determine a student's need for special education and related services and to provide those special education services in the public charter school; and
 - (2) The methods by which the district may be contacted to answer questions or provide information related to special education and related services.

When a student no longer is enrolled in a public charter school for any reason other than graduation, the district in which the public charter school is located shall notify:

- a. The district in which the student resided to provide notice:
 - (1) That the student no longer is enrolled in the public charter school; and
 - (2) That the district will provide the student education records including all information related to the student's IEP if the student seeks enrollment or services from the district in which the student resides.
- b. The student's parent, guardian or person in parental relationship to provide information about:
 - (1) The responsibility of the school district in which the student resides to identify, locate and evaluation students and implement services;
 - (2) The methods by which the student's resident district may be contacted to answer questions or provide information about special education and related services; and
 - (3) The responsibility of the district to provide student records, including information related to the student's IEP, if the student seeks enrollment or services from another district, including the parent's resident district.

8. Recovery of Funds for Misclassified Students

The district ensures that students identified on the special education child count under Part B of the IDEA are limited to students who:

- a. Meet eligibility requirements under OAR 581-015-2130 to -2180;
- b. Have a current IEP that is being implemented;
- c. Are receiving a FAPE;
- d. Are enrolled in the district.

9. Students with Disabilities under IDEA Enrolled in Public Benefits or Insurance

A district may use the State's Medicaid or other public benefits or insurance programs in which a child participates to provide or pay for special education and related services required under IDEA, and permitted under the public benefits or insurance programs as specified below.

With regard to services required to provide FAPE to a child with disabilities under IDEA, a district:

- a. May not require parents to sign up for or enroll in public benefits or insurance programs in order for their child with disabilities to receive FAPE under the IDEA, but may pay the cost that the parent otherwise would be required to pay; and
- b. May not use the child's benefits under a public insurance program if that use would:
 - (1) Decrease available lifetime coverage or any other insurance benefit;
 - (2) Result in the family paying for services that would otherwise be covered by the public benefits or insurance program, and that are required for the child outside of the time the child is in school;
 - (3) Increase premiums or lead to the discontinuation of insurance; or
 - (4) Risk loss of eligibility for home and community-based waiver, based on aggregate health-related expenditures; **and**

Prior to accessing a student's or parent's public benefits or insurance for the first time, and annually thereafter, the district must provide prior written notification to the student's parents and must obtain written consent¹ that:

- a. States the personally identifiable information that may be disclosed (e.g. records or information about the services that may be provided to the student);
- b. States the purpose of the disclosure (e.g. billing for services under IDEA);
- c. Names the agency to which the disclosure may be made (e.g. Medicaid);
- d. Specifies that the parent understands and agrees that the public agency may access the parent's or student's public benefits or insurance to pay for services under IDEA;
- e. Acknowledges the district may not require parents to incur an out-of-pocket expense (i.e. payment of a deductible or co-payment incurred in filing a claim for special education or related services), but may pay the cost that the parent otherwise would be required to pay; and
- f. Acknowledges the district may not use the student's benefits under a public insurance program, if that use would:
 - (1) Decrease available lifetime coverage of any other insured benefit;
 - (2) Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the student outside of the time the student is in school;
 - (3) Increase premiums or lead to the discontinuation of insurance; or
 - (4) Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

10. Accessible Materials

- a. Districts must ensure the timely provision of print instructional materials, including textbooks that comply with the National Instructional Materials Accessibility Standards (NIMAS) for students who are blind or print disabled.
- b. Districts must ensure the timely provision of instructional materials in accessible formats to children who need instructional materials in accessible formats, including those children who are not blind or print disabled.

11. Extended School Year (ESY) services as per administrative regulations, Special Education - Individualized Education Program (IEP) - IGBAF-AR.

12. Assistive technology devices or services as per administrative regulations, Special Education - Individualized Education Program (IEP) - IGBAF-AR.

¹ "Consent" means that the parent or adult student a) has been fully informed, in his/her native language or other mode of communication, of all information relevant to the activity for which consent is sought and b) understands and agrees in writing to the carrying out of the activity for which his/her consent is sought. Consent is voluntary of the part of the parent and meeting the requirements of consent provision for OAR 581-015-2090, IDEA and Family Education Rights and Privacy Act (FERPA).

OSBA Model Sample Policy

Code: IGBHE
Adopted: 2006

Expanded Options Program**

The Board is committed to providing additional options to students enrolled in grades 11 and 12 to continue or complete their education, to earn concurrent high school and college credits and to gain early entry into post-secondary education. The district's Expanded Options Program (EOP) will comply with all requirements of Oregon law (ORS 340) and give priority status to "at-risk" students.

Eligible Students

Eligible students may apply to take courses at an eligible post-secondary institution through the Expanded Options Program. A student is eligible for the EOP if he/she:

1. Is 16 years of age or older at the time of enrollment in a course under the EOP;
2. Is in grade 11 or 12 at the time of enrollment in a course under the EOP or has not yet completed the required credits to be in grade 11 or 12, but the district has allowed the student to participate in the program;
3. Has developed an educational learning plan;
4. Has not successfully completed the requirements for a high school diploma or a modified diploma. A student who has graduated from high school may not participate; and
5. Is not a foreign exchange student enrolled in a school under a cultural exchange program.

Student Notification

Prior to February 15 of each year, the district shall notify all high school students and the parent or guardian of students of the EOP for the following school year. The district will notify a transfer high school student, or a returning dropout, of the EOP if the student enrolls after the district has issued the February 15 notice. The district will notify a high school student who has officially expressed an intent to participate in the EOP, and the student's parent or guardian, of the student's eligibility status within 20 business days of the expression of intent.

It is a priority for the district to provide information about the EOP to high school students who have dropped out of school. The district shall establish a process to identify and provide those students with information about the program. The district shall send information about the program to the last-known address of the family of the student.

The notice must include the following:

1. Financial arrangements for tuition, textbooks, equipment and materials;
2. Available transportation services;

3. The effect of enrolling in the EOP on the student's ability to complete high school graduation requirements;
4. The consequences of failing or not completing a post-secondary course;
5. Notification that participation in the EOP is contingent on acceptance by an eligible post-secondary institution;
6. District timelines affecting student eligibility and duplicate course determinations;
7. Exclusion of duplicate courses as determined by the district;
8. The process for a student to appeal the district's duplicate course determination to the Superintendent of Public Instruction or the Superintendent's designee under ORS 340.030;
9. Exclusion of post-secondary courses in which a student is enrolled if the student is also enrolled full time in the resident high school.

Enrollment Process

Prior to May 15 of each year, a student who is interested in participating in the EOP shall notify the district of his/her intent to enroll in eligible post-secondary courses during the following school year. A high school transfer student or returning dropout has 20 business days from the date of enrollment to indicate interest.

The district shall review with the student and the student's parent or guardian the student's current status toward meeting all state and district graduation requirements and the applicability of the proposed eligible post-secondary course to the remaining graduation requirements.

A student who intends to participate in the EOP shall develop an educational learning plan in cooperation with an advisory support team. An advisory support team may include the student, the student's parent or guardian and a teacher or a counselor. The educational learning plan may include:

1. The student's short-term and long-term learning goals and proposed activities; and
2. The relationship of the eligible post-secondary courses proposed under the EOP and the student's learning goals.

A student who enrolls in the EOP may not enroll in eligible post-secondary courses for more than the equivalent of two academic years. A student who first enrolls in the EOP in grade 12 may not enroll in eligible post-secondary courses for more than the equivalent of one academic year. If a student first enrolls in an eligible post-secondary course in the middle of the school year, the time of participation shall be reduced proportionately. If a student is enrolled in a year-round program and begins each grade in the summer session, summer sessions are not counted against the time of participation.

Duplicate Courses

The district will establish a process to determine duplicate course designations. The district will notify an eligible student and the student's parent or guardian, of any course the student wishes to take that the district determines is a duplicate course, within 20 business days after the student has submitted a list of intended courses.

A student may appeal a duplicate course determination to the Board based on evidence of the scope of the course. The Board will issue a decision on the appeal within 30 business days of receipt of the appeal. If the appeal is denied by the Board, the student may appeal the district's determination to the Superintendent of Public Instruction or designee under ORS 340.030.

Expanded Options Program Annual Credit Hour Cap

The number of quarter credit hours that may be awarded by a high school under the EOP is limited to an amount equal to the number of students in grades 9 through 12 enrolled in the high school multiplied by a factor of 0.33. For example, the cap for a high school with 450 students in grades 9 through 12 would be 148.5 ($450 \times 0.33 = 148.5$). (The caps must be established separately for each high school.)

At the district's discretion, the district may choose to exceed both the individual high school level cap and the aggregate district level cap. If the district has more eligible students than are allowed under the credit hour cap the district shall establish a process for selecting eligible students for participation in the program. The process will give priority for participation to students who are "at risk." An "at-risk student" means: (1) a student who qualifies for a free or reduced price lunch program; or (2) an at-risk student as defined by rules adopted by the State Board of Education if it has adopted rules to define an at-risk student.

If the district has not exceeded the credit hour cap, the district shall ensure that all eligible at-risk students are allowed to participate in the EOP and may allow eligible students who are not at-risk to participate in the program.

Post-Secondary Institution Credit

Prior to beginning an eligible post-secondary course, the district shall notify the student of the number and type of credits that the student will be granted upon successful completion of the course. If there is a dispute between the district and the student regarding the number or type of credits that the district will or has granted to a student for a particular course, the student may appeal the district's decision to the Board.

Credits granted to a student shall be counted toward high school graduation requirements and subject area requirements of the state and the district. Evidence of successful completion of each course and credits granted shall be included in the student's education record. A student shall provide the district with a copy of the student's grade in each course taken for credit under the EOP. The student's education record shall indicate that the credits were earned at an eligible post-secondary institution.

Financial Agreement

The district shall negotiate in good faith a financial agreement with the eligible post-secondary institution for the payment of actual instructional costs associated with the student's enrollment, including tuition, textbooks, equipment and materials.

Waiver

A district may request a waiver from the Superintendent of Public Instruction if:

1. Compliance would adversely impact the finances of the district; or
2. Accel Programs are offered by the district (i.e., Dual Credit, Sponsored-Based Dual Credit, Assessment-Based Dual Credit, Articulated Career Technical Education (CTE) courses, two-plus-two programs, Advanced Placement (AP), International Baccalaureate Programs or other locally developed program that offers Accelerated College Credit to their respective high school student).

Student Reimbursement

Students are not eligible for any state student financial aid for college coursework, but students may apply to the district for reimbursement for any textbooks, fees, equipment or materials purchased by the student that are required for an eligible post-secondary course. All textbooks, fees, equipment and materials provided to a student and paid for by the district are the property of the district.

Transportation Services

The district may provide transportation services to eligible students who attend post-secondary institutions within the education service district boundaries of which the district is a component district.

Special Education Services

The district of an eligible student participating in the EOP shall be responsible for providing any required special education and related services to the student. If a post-secondary institution intends to provide special education and related services to an EOP participant, the institution shall enter into a written contract with the district of the student. The contract shall include the following at a minimum:

1. Allowance for the student to remain in the program during the pendency of any special education due process hearing unless the parent or guardian and district agree otherwise;
2. Immediate notification to the district if the institution suspects that a student participating in the program may have a disability and requires special education or related services;
3. Immediate notification to the district if the student engaged in conduct that may lead to suspension or expulsion; and
4. Immediate notification to the district of any complaint made by the parent or guardian of the student regarding the student's participation in the program at the institution.

District Alternative Programs

The EOP does not affect any program, agreement or plan that existed on January 1, 2006 between the district and a post-secondary institution, which has been continued or renewed.

Any new program, agreement or plan that is developed after January 1, 2006 may be initiated at the discretion of the district and the post-secondary institution.

END OF POLICY

Legal Reference(s):

ORS 329.485

ORS 336.615 - 336.665

ORS 332.072

ORS Chapter 340

Every Student Succeeds Act of 2015, 20 U.S.C. §§ 1111-1605; §§ 3111-3203 (2012).

McKinney-Vento Homeless Assistance Act, Subtitle VII-B, reauthorized by Title IX-A of the Every Student Succeeds Act, 42 U.S.C. §§ 11431-11435 (2012).

OSBA Model Sample Policy

Code: IGBHE-AR(1)
Revised/Reviewed:

Annual Expanded Options Program Notification

[District Name]
[Street]
[City], Oregon [Zip]
Phone: [Number]

Date: _____

Student/Parent(s) or Guardian(s): _____

Address: _____

Dear _____,
(Student/Parent(s))

This notice is required by law to notify you of potential opportunities under the Expanded Options Program (EOP) for your student. Your student may qualify as an eligible student to participate in the EOP for the following school year if your student meets the criteria below.

Your student may be permitted to participate if he/she is an eligible student applying to an eligible post-secondary institution for an eligible post-secondary course. An "eligible student" means a student enrolled in a public school and who:

1. Is 16 years of age or older at the time of enrollment in a course under the EOP;
2. Is in grade 11 or 12 at the time of enrollment in a course under the EOP or has not yet completed the required credits to be in grade 11 or 12, but the district has allowed the student to participate in the program;
3. Has developed an educational learning plan as described in Board policy IGBHE - Expanded Options Program;
4. Has not successfully completed the requirements for a high school diploma or a modified diploma; and
5. Is not a foreign exchange student enrolled in a school under a cultural exchange program.

An "eligible post-secondary institution" means:

1. A community college;
2. A public university listed in ORS 352.002; and
3. The Oregon Health and Science University.

An “eligible post-secondary course” means any nonsectarian course or program offered through an eligible post-secondary institution if the course or program may lead to high school completion, a certificate, professional certification, associate degree or baccalaureate degree. It includes academic courses, career and technical education courses and distance education courses. It does not include a duplicate course, which is defined as “a course with a scope that is identical to the scope of another course”.

Purpose

The purpose of this program is to:

1. Allow eligible students who participate in the EOP to enroll full-time or part-time in an eligible post-secondary institution; and
2. Provide public funding to the eligible post-secondary institutions for educational services to eligible students to offset the cost of tuition, fees, textbooks, equipment and materials for students who participate in the EOP.

Graduation and Course Credit

Participating in the EOP will not adversely affect your student’s ability to graduate because credit received from successfully completing an eligible post-secondary course may be applied toward high school graduation requirements. If, however, your student does not receive a passing grade in the eligible post-secondary course, your student may not receive credit toward high school graduation.

Selection

An eligible student may apply for the EOP, but an eligible student who applies may not be accepted because of space limitations. Enrollment in the EOP may be limited because of caps on total credit hours that will be awarded by the high school. Unless notified otherwise, the total number of credits awarded under the EOP by each high school equals one-third of its enrollment in grades 9 through 12. (For example, if high school enrollment in grades 9 through 12 is 1,000 students, the high school may award no more than 330 credit hours for all students in the EOP.) If qualified applications to the EOP exceed space limitations, the district will establish a process that gives priority to “at-risk students”.

Enrollment and Participation

To be eligible, participation in the EOP depends on your student’s acceptance by an eligible post-secondary institution to take an eligible post-secondary course. Your student will not be eligible for state financial aid. Your student will have all costs paid for by the district in the same manner as if your student was attending the public high school. The district will pay for textbooks, fees, equipment or materials and any other cost associated with enrollment. You will be responsible for providing transportation to the eligible post-secondary institution. The district and the eligible post-secondary institution may be able to arrange transportation services, although this service may not always be available, depending on circumstances. If your student receives special education services, the district will continue to provide special education services under an individualized education program (IEP).

Your student is expected to comply with the same behavior and attendance standards as if the student was attending the public high school. Failure to successfully complete an eligible post-secondary course or

make satisfactory progress in the course may result in no credit received toward graduation, removal from the EOP, disciplinary action or referral to law enforcement.

Your student may participate in the EOP for no more than two years. After two years, your student is no longer eligible. If your student is in grade 12 when he or she first enrolls, he/she may participate no more than the equivalent of one academic year in the EOP. If your student is enrolled in high school full-time and he/she is taking a post-secondary course, he/she will not be awarded credit for that course under the EOP. If a student first enrolls in an eligible post-secondary course in the middle of the school year, the time of participation shall be reduced proportionately. If a student is enrolled in a year-round program and begins each grade in the summer session, summer sessions are not counted against the time of participation.

If your student intends to enroll in a course that is already offered by the district, *i.e.*, a duplicate course, your student will not be eligible to participate in the EOP. You will be notified within 20 business days after the student has submitted the list of intended courses if a specific course is denied and is considered a duplicate course. A “duplicate course” is one with a scope that is identical to the scope of another course. Your child should consider district-provided, educational alternative programs that offer post-secondary level courses.

If you disagree with the district’s assessment that a course is a duplicate course as determined by the district, you may appeal the decision under the procedures outlined below.

Contested Decisions/Appeal

If you disagree with the district’s determination that a course is a duplicate course, you may appeal to the Board. Your appeal must be in writing and contain at a minimum the following information: (1) name of student; (2) name of post-secondary course; (3) detailed description of post-secondary course; (4) name of duplicate course offered by high school; (5) detailed description of duplicate course offered by high school; and (6) reasons why you believe course is not a duplicate. You must initiate your appeal within five days of receiving notification that the post-secondary course is a duplicate.

The Board will issue a written decision on the appeal within 30 business days of receipt of the appeal.

If dissatisfied with the Board’s decision, you may appeal the decision to the Superintendent of Public Instruction or designee under Oregon Revised Statute (ORS) 340.030.

Student Notification to District

If you have questions, please call the district office. Please respond to this notice before May 15 if your student intends to enroll in an eligible post-secondary course during the following school year. If your student decides to enroll in an eligible post-secondary course, we will schedule a meeting with your advisory support team to develop an educational learning plan that addresses your student’s short-term and long-term academic and career goals. Thank you for your cooperation.

Sincerely,

[Superintendent or designee] [Principal]

see GCDA/GOPA

OSBA Model Sample Policy

Code: IICC
Adopted: 2/06

Volunteers *

Community patrons who voluntarily contribute their time and talents to the improvement and enrichment of the public schools' instructional and other programs are valuable assets. The Board encourages constructive participation of groups and individuals in the school to perform appropriate tasks during and after school hours under the direction and supervision of professional personnel.

¹ Any person authorized by the district for volunteer service into a position that will have ~~allows~~ direct, unsupervised contact with students shall be required to undergo an Oregon criminal records check. ~~Any~~ Any volunteer allowed to have direct, unsupervised contact with students, in a position identified by the district as requiring fingerprinting, shall be required to undergo a nationwide criminal records check and fingerprinting. (See Board policy GCDA/GDDA – Criminal Records Checks and Fingerprinting and its accompanying administrative regulation.) ~~Any~~ Any person authorized by the district for volunteer service that will not likely have direct, unsupervised contact with students [will] [will not] be required to undergo an Oregon criminal records check. ~~Any~~ May

² Any volunteer who knowingly makes a false statement, as determined by the district, on a district volunteer application form [will] [may] be denied the ability to volunteer in the district. ~~Any~~

³ Nonexempt employees² may be permitted to volunteer to perform services for the district provided the volunteer activities do not involve the same or similar type of services³ as the employee's regularly assigned duties. In the event a nonexempt employee volunteers to perform services for the district that are the same or similar as the employee's regularly assigned duties, the Board recognizes that under the Fair Labor Standards Act (FLSA), overtime or compensatory time must be provided.⁴

The administration is responsible for the recruitment, use, coordination and training of volunteers. These assignments will be carried out as directed or delegated by the superintendent. Every effort should be made to use volunteer resources in a manner which will ensure maximum contribution to the welfare and educational growth of students.

END OF POLICY

¹ The district must make a determination on whether volunteers positions will or will not have ~~be allowed~~ direct, unsupervised contact with students, and also decide if any of these volunteer positions will be identified by the district to require a nationwide criminal records check through fingerprinting. If the district allows volunteers direct, unsupervised contact with students, this language is required. Choose the appropriate bracketed options and align with bracketed language selections made in GCDA/GDDA and GCDA/GDDA-AR. ~~Any~~

² There are three types of FLSA exemptions: those for executive, administrative and professional employees. Generally, employees who are exempt under the executive, administrative or professional exceptions must primarily perform executive, administrative or professional duties at least 50 percent of the employee's time. ~~Any~~

³ Instructional assistant duties are generally viewed to be the same type of service, supervising and instructing students, as coaching. ~~Any~~

⁴ Districts should review with legal counsel the use of non-exempt employees in extracurricular activity positions such as coaching, and as advisers for cheerleading advisors and other district-sponsored activities with legal counsel for FLSA district impact. ~~Any~~

Legal Reference(s):

ORS Chapter 243
ORS 326.607
ORS 332.107

OAR 839-020-0005
HB 2992 (2017)

OAR 581-021-0502

Fair Labor Standards Act of 1938, 29 U.S.C. §§ 206-207 (2012).



OSBA Model Sample Policy

Code: IKF

Adopted: 6/28/10

Graduation Requirements**

(This version does not require an administrative regulation.)

(Version 1)

The Board will establish graduation requirements for the awarding of a high school diploma, a modified diploma, an extended diploma and an alternative certificate which meet or exceed state requirements. A student may satisfy graduation requirements in less than four years. The district will award a diploma to a student fulfilling graduation requirements in less than four years if consent is given by the student's parent or guardian or by the student if he/she is 18 years of age or older or emancipated.

If the district requires diploma requirements beyond the state requirements, the district shall grant a waiver for those requirements to any student who, at any time from grade 9 to 12, was:

1. A foster child¹;
2. Homeless;
3. A runaway;
4. A child in a military family covered by the Interstate Compact on Educational Opportunity for Military Children;
5. A child of a migrant worker; or
6. Enrolled in the Youth Corrections Education Program or the Juvenile Detention Education Program.

For any student identified above, the district shall accept any credits earned by the student in another district or public charter school, applying those credits toward the state requirements for a diploma if the credits satisfied those requirements in that district or public charter school².

Diploma

A high school diploma will be awarded to students in grades 9 through 12 who complete a minimum of 24 credits which include at least:

1. Three credits of mathematics (shall include one unit at the Algebra I level and two units that are at a level higher than Algebra I);
2. Four credits of English Language Arts (shall include the equivalent of one unit in written composition);

¹ As defined in ORS 30.297.

² For a diploma awarded on or after January 1, 2018.

3. Three credits of science;
4. Three credits of social sciences (including history, civics, geography and economics (including personal finance));
5. One credit in health education;
6. One credit in physical education; and
7. Three credits in career and technical education, the arts or world language (units shall be earned in any one or a combination).

The district shall offer students credit options provided the method for obtaining such credits is described in the student's personal education plan and the credit is earned by meeting requirements described in Oregon Administrative Rule (OAR) 581-022-2025.

To receive a diploma or a modified diploma, in addition to credit requirements, as outlined in OAR 581-022-2000 and OAR 581-022-2010, respectively, a student must:

1. Demonstrate proficiency in the Essential Skills of Reading, Writing and Apply Mathematics;
2. Develop an education plan and build an education profile;
3. Demonstrate extended application through a collection of evidence;
4. Participate in career-related learning experiences.

Essential Skills

The district ~~[will]~~ ~~[will not]~~ allow English Language Learner (ELL) students to demonstrate proficiency in the Essential Skill of Apply Mathematics in a variety of settings, in the student's language of origin for those ELL students who by the end of high school:

1. Are on track to meet all other graduation requirements; and
2. Are unable to demonstrate proficiency in the Essential Skills in English.

The district ~~[will]~~ ~~[will not]~~ allow ELL students to demonstrate proficiency in Essential Skills other than Apply Mathematics in a variety of settings, in the student's language of origin for those ELL students who by the end of high school:

1. Are on track to meet all other graduation requirements;
2. Are unable to demonstrate proficiency in the Essential Skills in English;
3. Have been enrolled in a U.S. school for five years or less; and

4. Have demonstrated sufficient English language skills using the English Language Proficiency Assessment for the 21st Century (ELPA21)³.

⁴The district will develop procedures to provide assessment options as described in the *Essential Skills and Local Performance Assessment Manual*, in the ELL student's language of origin for those ELL students who meet the criteria above, and will develop procedures to ensure that locally scored assessment options administered in an ELL student's language of origin are scored by a qualified rater.

Essential Skills Appeal

The district will ~~establish an appeal process~~ follow Board policy KL - Public Complaints in the event of an appeal for the denial of a diploma based on the Essential Skills graduation requirement. The district will retain student work samples and student performance data to ensure that sufficient evidence is available in the event of an appeal.

Modified Diploma

A modified diploma will be awarded only to students who have demonstrated the inability to meet the full set of academic standards adopted by the State Board of Education for a diploma while receiving reasonable modifications and accommodations. A modified diploma may only be awarded to a student who meets the eligibility criteria below:

1. Has a documented history of an inability to maintain grade level achievement due to significant learning and instructional barriers; or
2. Has a documented history of a medical condition that creates a barrier to achievement.

Having met the above eligibility criteria, a modified diploma will be awarded to students, who while in grade nine through completion of high school, complete 24 credits which shall include:

1. Three credits in English Language Arts;
2. Two credits in mathematics;
3. Two credits in science;
4. Two credits in social sciences (which may include history, civics, geography and economics (including personal finance));
5. One credit in health education;
6. One credit in physical education; and
7. One credit in career technology, the arts or a world language (units may be earned in any one or a combination).

³ This criteria does not apply to students seeking a diploma in 2017-2018.

⁴ [This paragraph is required if the district allows ELL students to demonstrate proficiency in Essential Skill of Apply Mathematics and other courses.]

In addition to credit requirements as outlined in OAR 581-022-2010, a student must:

1. Develop an education plan and build an education profile;
2. Demonstrate extended application through a collection of evidence.

A student must also demonstrate proficiency in the Essential Skills with reasonable modifications and accommodations.

Districts may make modifications to the assessment for students who seek a modified diploma when the following conditions are met:

1. For a student on an individualized education program (IEP), any modifications to work samples must be consistent with the requirements established in the IEP. Modifications are changes to the achievement level, construct or measured outcome of an assessment. This means that IEP or school teams responsible for approving modifications for a student's assessment may adjust the administration of the assessment and/or the assessment's achievement standard;
2. For a student not on an IEP, any modifications to work samples must have been provided to the student during their instruction in the content area to be assessed and in the year in which the student is being assessed, and modifications must be approved by the school team that is responsible for monitoring the student's progress toward the modified diploma.

Students not on an IEP or a Section 504 Plan may not receive a modified Smarter Balanced assessment.

A student's school team shall decide that a student should work toward a modified diploma no earlier than the end of grade six and no later than two years before the student's anticipated exit from high school. A student's school team may decide to revise a modified diploma decision.

A student's school team may decide that a student who was not previously working toward a modified diploma should work toward one when the student is less than two years from anticipated exit from high school if the documented history has changed.

Beginning in grade five when a student is taking an alternate assessment, the district shall annually provide to the parents or guardians of the student, information about the availability and requirements of a modified diploma.

Extended Diploma

An extended diploma will be awarded only to students who have demonstrated the inability to meet the full set of academic content standards adopted by the State Board of Education for a diploma while receiving modifications and accommodations. To be eligible for an extended diploma, a student must:

1. While in grade nine through completion of high school, complete 12 credits, which may not include more than six credits in a self-contained special education classroom and will include:
 - a. Two credits of mathematics;
 - b. Two credits of English;

- c. Two credits of science;
- d. Three credits of history, geography, economics or civics;
- e. One credit of health;
- f. One credit of physical education; and
- g. One credit of the arts or a world language.

2. Have a documented history of:

- a. An inability to maintain grade level achievement due to significant learning and instructional barriers; or
- b. A medical condition that creates a barrier to achievement; and
- c. Participating in an alternate assessment no later than grade six and lasting for two or more assessment cycles; or
- d. A change in the student's ability to participate in grade level activities as a result of a serious illness or injury that occurred after grade eight.

Beginning in grade five when a student is taking an alternate assessment, the district shall annually provide to the parents or guardians of the student, information about the availability and requirements of an extended diploma.

Alternative Certificates

Alternative certificates will be awarded to students who do not satisfy the requirements for a diploma, a modified diploma or an extended diploma if the students meet minimum credit requirements established by the district. Alternative certificates will be awarded based on individual student needs and achievement.

Beginning in grade five when a student is taking an alternate assessment, the district shall annually provide to the parents or guardians of the student, information about the availability and requirements of an alternative certificate.

Other District Responsibilities

The district will ensure that students have onsite access to the appropriate resources to achieve a diploma, a modified diploma, an extended diploma or an alternative certificate at each high school. The district will provide age-appropriate and developmentally appropriate literacy instruction to all students until graduation.

The district may not deny a student, who has the documented history of an inability to maintain grade level achievement due to significant learning and instructional barriers, or of a medical condition that creates a barrier to achievements, the opportunity to pursue a diploma with more stringent requirements than a modified diploma or an extended diploma for the sole reason the student has the documented history.

The district may award a modified diploma or an extended diploma to a student only upon the written consent of the student's parent or guardian. The district shall receive the written consent during the school year in which the modified diploma or the extended diploma is awarded. A student who is emancipated or has reached the age of 18 at the time the modified diploma or extended diploma is awarded may sign the consent.

A student shall have the opportunity to satisfy the requirements for a modified diploma, an extended diploma or an alternative certificate in either 4 years after starting the ninth grade, or until the student reaches the age of 21, if the student is entitled to a public education until the age of 21 under state or federal law.

A student may satisfy the requirements for a modified diploma, an extended diploma or an alternative certificate in less than four years but not less than three years. In order to satisfy the requirements for a modified diploma, an extended diploma or an alternative certificate in less than four years, the student's parent or guardian or a student who is emancipated or has reached the age of 18 must provide written consent which clearly states the parent, guardian or student is waiving the fourth year and/or years until the student reaches the age of 21. A copy of the consent will be forwarded to the district superintendent who will annually report to the Superintendent of Public Instruction the number of such consents.

A student who qualifies to receive or receives a modified diploma, an extended diploma or an alternative certificate shall have the option of participating in a high school graduation ceremony with the student's class.

A student who receives an extended diploma or an alternative certificate shall have access to individually designed instructional hours, hours of transition services and hours of other services that equals at least the total number of instructional hours that are required to be provided to students who are attending a public high school, as determined by the IEP team.

A student who ~~qualifies to~~ has received a modified diploma but has not yet been awarded the modified diploma shall continue to have access to individually designed instructional hours, hours of transition services and hours of other services that are designed to meet the unique needs of the student.⁵

The district will award to students with disabilities a document certifying successful completion of program requirements. No document issued to students with disabilities educated in full or in part in a special education program shall indicate that the document is issued by such a program. When a student who has an IEP completes high school, the district will give the student an individualized summary of performance.

Eligible students with disabilities are entitled to a free appropriate public education (FAPE) until the age of 21, even if they have earned a modified diploma, an extended diploma, an alternative certificate or completion of a General Education Development document. The continuance of services for students with disabilities for a modified diploma, extended diploma or alternative certificate is contingent on the IEP team determining the student's continued eligibility and special education services are needed.

Students and their parents will be notified of graduation and diploma requirements.

[The district will review graduation requirements biennially in conjunction with the secondary school improvement plan. Graduation requirements may be revised to address student performance.]

The district may not deny a diploma to a student who has opted out of statewide assessments if the student is able to satisfy all other requirements for the diploma. Students who opt-out will need to meet the

⁵ -A student who received a modified diploma prior to July 1, 2018 shall continue to have access to instructional hours; hours of transition services and hours of other services that are designed to meet the unique needs of the student.

Essential Skills graduation requirement using another approved assessment option. Students may opt-out of the Smarter Balanced or alternate Oregon Extended Assessment by completing the Oregon Department of Education's Opt-out Form⁶ and submitting the form to the district.

The district will issue a high school diploma, upon request and pursuant to Oregon law (ORS 332.114), to a person or a representative of a deceased person who served in the U.S. Armed Forces⁷ and was discharged or released under honorable conditions.

The district shall establish conduct and discipline consequences for student-initiated test impropriety. "Student-initiated test impropriety" means student conduct that is inconsistent with the *Test Administration Manual* or accompanying guidance; or results in a score that is invalid.

END OF POLICY

Legal Reference(s):

⁶ www.ode.state.or.us: or navigate to Teaching & Learning > Testing - Student Assessment > Smarter Balanced

⁷ The policy applies to any person who:

1. Served in the Armed Forces of the U.S. at any time during:
 - a. World War I;
 - b. World War II;
 - c. The Korean Conflict; or
 - d. The Vietnam War;
2. Served in the Armed Forces of the U.S. and was physically present in:
 - a. Operation Urgent Fury (Grenada);
 - b. Operation Just Cause (Panama);
 - c. Operation Desert Shield/Desert Storm (Persian Gulf War);
 - d. Operation Restore Hope (Somalia);
 - e. Operation Enduring Freedom (Afghanistan); or
 - f. Operation Iraqi Freedom (Iraq);
3. Served in the Armed Forces of the U.S. in an area designated as a combat zone by the President of the U.S.

ORS 329.045
ORS 329.095
ORS 329.451
ORS 329.479
ORS 332.107
ORS 332.114
ORS 339.115

ORS 339.505
ORS 343.295

OAR 581-022-1910
OAR 581-022-2000
OAR 581-022-2010
OAR 581-022-2015

OAR 581-022-2020
OAR 581-022-2025
OAR 581-022-2030
OAR 581-022-2115
OAR 581-022-2120
OAR 581-022-2505

Test Administration Manual, published by the OREGON DEPARTMENT OF EDUCATION (FEBRUARY 4, 2016~~2017-18~~).
Essential Skills and Local Performance Assessment Manual, published by the OREGON DEPARTMENT OF EDUCATION (MARCH 17, 2016~~JANUARY 22, 2018~~).

OSBA Model Sample Policy

*same as
GBN-AR*

Code: JBA/GBN-AR

Adopted: 3/13/00

Sexual Harassment Complaint Procedure

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 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 complainant 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. He/She The official will arrange such meetings as may be necessary to discuss the issue with all concerned parties within [(five)] working days after receipt of the information or complaint. All findings of the investigation, including the response of the alleged harasser, shall be reduced to writing. The district-official(s) conducting the investigation shall notify the complainant in writing when that the investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law. The parties will have an opportunity to submit evidence and a list of witnesses.

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, he/she 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, following such meetings.

Step 4 If a complainant is not satisfied with the decision at step 3, he/she 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 attempt to resolve investigate the complaint and will notify the complainant in writing when 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 request to place the complaint on the Board agenda at the next regularly scheduled or special Board meeting 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 Second Ave., Room 3310, Seattle, WA 98174-1099.

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

All documentation related to sexual harassment complaints may become part of the student's education record or employee's personnel file, as appropriate. Additionally, a copy of all sexual harassment complaints and documentation will be maintained as a confidential file and stored in the 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. ~~Complaints against the principal may be filed with the superintendent. In the event the superintendent is the subject of the investigation, reports, when required, shall be made by the [Board chair].~~

[Name of District]
[Address] | [Phone]

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: _____

[Name of District]
[Address] | [Phone]

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: _____

OSBA Model Sample Policy

Code: JECA

Adopted: 3/13/00

Admission of Resident Students**

A school-age student who lives within the district attendance area between the ages of 5 and 19 shall be allowed to attend school without paying tuition.

A student who turns 19 years of age during the school year shall continue to be eligible for a free and appropriate public education for the remainder of the school year.

The Board may admit an otherwise eligible student who is not receiving special education and who has not yet attained 21 years of age prior to the beginning of the current school year if he/she is shown to be in need of additional education in order to receive a diploma or a modified diploma. This student may attend school without paying tuition for the remainder of the school year.

The Board shall admit an otherwise eligible student who has not yet attained age 21 prior to the beginning of the current school year if the student is receiving special education services and:

1. Has not yet received a regular high school diploma ~~or a modified diploma~~; or
2. Has received a modified diploma, an extended diploma or an alternative certificate.

A student with disabilities shall be considered a resident in which the child's parent or guardian resides under criteria identified in Oregon Revised Statute (ORS) 339.134.

A student with disabilities voluntarily placed outside the home by his/her parent or guardian may continue to attend the school the student was attending prior to the placement as a district resident, when the student's parent or guardian and school staff can demonstrate it is in the student's best interest.

The Board ~~will~~ ~~will not~~ may, based on district criteria, deny regular school admission to a student who has become a resident student and who is under expulsion from another district for reasons other than a weapons policy violation.

The Board shall deny, for at least one calendar year from the date of the expulsion, regular school admission to a student who has become a resident student and who is under expulsion from another district for a weapons policy violation.

The Board ~~will~~ ~~will not~~ may, based on district criteria, provide alternative programs of instruction to a student expelled for a weapons policy violation.

END OF POLICY

Legal Reference(s):

ORS 109.056
ORS 327.006

ORS 339.115
ORS 339.133

ORS 339.134
ORS 433.267

* modified definition - there are some meds under OR law that require a prescription, but do not under Federal law

OSBA Model Sample Policy

Code: JHCD/JHCDA-AR

Adopted: 3/13/00

Medications**/*

Students may, subject to the provisions of this administrative regulation, have prescription or nonprescription medication administered by designated personnel, or may be permitted to administer prescription or nonprescription medication to themselves.

1. Definitions

- a. "Medication" means any drug, chemical compound, suspension or preparation in suitable form for use as a curative or remedial substance taken internally or externally but not injected except for premeasured doses of epinephrine, medication to treat adrenal insufficiency and glucagon to treat severe hypoglycemia. Medication includes any prescription for bronchodilators or autoinjectable epinephrine prescribed by a student's Oregon licensed health care professional for asthma or severe allergies.
- * b. "Prescription medication" means any medication that under federal or state law requires a prescription by a prescriber.
- c. "Nonprescription medication" means medication that under federal law does not require a prescription from a prescriber.
- d. "Adrenal crisis" means adrenal crisis as defined in Oregon Revised Statute (ORS) 433.800.
- e. "Adrenal insufficiency" means adrenal insufficiency as defined in ORS 433.800.
- f. "Notice of a diagnosis of adrenal insufficiency" means written notice to the district from a student or the parent or guardian of a student who has been diagnosed as adrenal insufficient with a copy of an order from the student's primary care provider that includes the student's diagnosis, description of symptoms indicating the student is in crisis, prescription for medication to treat adrenal insufficiency crisis and instructions for follow-up care after medication to treat adrenal insufficiency crisis has been administered.
- g. "Prescriber"¹ means a doctor of medicine or osteopathy, a physician assistant licensed to practice by the Board of Medical Examiners for the state of Oregon, an Oregon-licensed, advance practice registered nurse with prescriptive authority, a dentist licensed by the Board of Dentistry for the state of Oregon, an optometrist licensed by the Board of Optometry for the state of Oregon, a naturopathic physician licensed by the Board of Naturopathy for the state of Oregon or a pharmacist licensed by the Board of Pharmacy for the state of Oregon.
- h. "Qualified trainer" means a person who is familiar with the delivery of health services in a school setting and who is a registered nurse licensed by the Oregon State Board of Nursing, a doctor of medicine or osteopathy or a physician assistant licensed by the Board of Medical Examiners for the state of Oregon or a pharmacist licensed by the Board of Pharmacy for the state of Oregon.
- i. "Severe allergy" means a life-threatening hypersensitivity to a specific substance such as food, pollen, dust or insect sting.

¹ A registered nurse who is employed by a public or private school, ESD or local public health authority to provide nursing services at a public or private school may accept an order from a physician licensed to practice medicine or osteopathy in another state or territory of the U.S. if the order is related to the care or treatment of a student who has been enrolled at the school for not more than 90 days.

- j. “Asthma” means a chronic inflammatory disorder of the airways that requires ongoing medical intervention.
- k. “Designated personnel” means the school personnel designated to administer medication pursuant to district policy and procedure.

2. Designated Staff/Training

- a. The principal will designate personnel authorized to administer prescription or nonprescription medication to a student while the student is in school, at a school-sponsored activity, under the supervision of school personnel, in a before-school or after-school care program on school-owned property and in transit to or from school or a school-sponsored activity, as required by Oregon law. The principal will supervise and ensure building and activity practices and procedures are consistent with the requirements of law, rules and this administrative regulation.
- b. The principal will ensure the training required by Oregon law is provided to designated personnel. Training must be conducted by a qualified trainer. Training will be provided annually to designated personnel authorized to administer medication to students. The first year and every third year of training requires in-person instruction; during the intervening years, designated personnel may complete an online training that has been approved by the Oregon Department of Education (ODE) so long as a trainer is available within a reasonable amount of time following the training to answer questions and provide clarification.
- c. Training will provide an overview of applicable provisions of Oregon law, administrative rules, district policy and administrative regulations and include, but not be limited to, the following: safe storage, handling, monitoring medication supplies, disposing of medications, record keeping and reporting of medication administration and errors in administration, emergency medical response for life-threatening side effects, allergic reactions or adrenal insufficiency and student confidentiality. Materials as recommended and/or approved by the ODE will be used.
- d. A copy of the district’s policy and administrative regulation will be provided to all staff authorized to administer medication to students and others, as appropriate.
- e. ~~A~~ statement that the designated personnel has received the required training will be signed by the staff member and filed ~~in the district office.~~ *at each school.*

3. Administering Premeasured Doses of Epinephrine to a Student or Other Individual

A premeasured dose of epinephrine may be administered by trained, designated personnel to any student or other individual on school premises who the personnel believe, in good faith, is experiencing a severe allergic reaction, regardless of whether the student or individual has a prescription for epinephrine.

4. Administering of Medication to a Student Experiencing Symptoms of Adrenal Crisis

A student experiencing symptoms of adrenal crisis while the student is in school, at a school-sponsored activity, while under the supervision of school personnel, in a before-school or after-school care program on school-owned property and in transit to or from a school or a school-sponsored activity, may be treated by designated personnel and shall be subject to the following:

- a. Upon notice of a diagnosis of adrenal insufficiency, as defined in Oregon Administrative Rule (OAR) 581-021-0037, the building principal will designate one or more school personnel to be responsible for administering the medication to treat adrenal insufficiency;

- b. The designated personnel will successfully complete training to administer medication to treat a student who has adrenal insufficiency and is experiencing symptoms of adrenal crisis in accordance with the rules adopted by the Oregon Health Authority;
- c. The student or the student's parent or guardian must provide adequate supply of the student's prescribed medication to the district;
- d. The district will require the development of an individualized health care plan for the student that includes protocols for preventing exposures to allergens, and establishes if or when a student may self-carry prescription medication when the student has not been approved to self-administer medication;
- e. In the event that a student experiences symptoms of adrenal crisis and the designated personnel determines the medication to treat adrenal insufficiency should be administered, any available staff member will immediately call 911 and the student's parent or guardian.

5. Administering Medication to a Student

- a. A request to permit designated personnel to administer medication to a student may be approved by the district and is subject to the following:
 - (1) A written request for designated personnel to administer prescription medication to a student, if because of the prescribed frequency or schedule, the medication must be given while the student is in school, at a school-sponsored activity, while under the supervision of school personnel and in transit to or from school or a school-sponsored activity, must be submitted to the school office and shall include:
 - (a) The written permission of the student's parent or guardian or the student if the student is allowed to seek medical care without parental consent pursuant to ORS 109.610, 109.640 or 109.675; and
 - (b) The written instruction from the prescriber for the administration of the medication to the student that includes:
 - (i) Name of the student;
 - (ii) Name of the medication;
 - (iii) Method of administration;
 - (iv) Dosage;
 - (v) Frequency of administration;
 - (vi) Other special instructions from the prescriber, if any; and
 - (vii) Signature of the prescriber.

The prescription label prepared by a pharmacist at the direction of the prescriber, will be considered to meet this requirement if it contains the information listed in (i)-(vi) above.

- (2) A written request for designated personnel to administer nonprescription medication to a student must be submitted to the school office and is subject to the following:
 - (a) The nonprescription medication is necessary for the student to remain in school;
 - (b) The nonprescription medication is provided in the original manufacturer's container by the parent or guardian of the student;
 - (c) The written instruction from the student's parent or guardian for the administration of the nonprescription medication includes:

- (i) Name of the student;
- (ii) Name of the medication;
- (iii) Method of administration;
- (iv) Dosage;
- (v) Frequency of administration;
- (vi) Other special instructions, if any; and
- (vii) Signature of the student's parent or guardian.

If the written instruction is not consistent with the manufacturer's guidelines for the nonprescription medication, the written instruction must also include a written order allowing the inconsistent administration signed by a prescriber.

- (d) If the nonprescription medication is not approved by the Food and Drug Administration (FDA), a written order from the student's prescriber is required and will include:

- (i) Name of the student;
- (ii) Name of the medication;
- (iii) Dosage;
- (iv) Method of administration;
- (v) Frequency of administration;
- (vi) A statement that the medication must be administered while the student is in school;
- (vii) Other special instructions, if any; and
- (viii) Signature of the prescriber.

- b. An individualized health care and allergy plan will be developed for a student with a known life-threatening allergy and will include protocols for preventing exposures to allergens and procedures for responding to life-threatening allergic reactions while the student is in school, at a school-sponsored activity, while under the supervision of school personnel, in a before-school or after-school care program on school-owned property and in transit to or from school or a school-sponsored activity, and will include a determination on if or when the student may self-carry prescription medication if the student has not been approved to self-administer medication;
- c. It is the student's parent or guardian's, or the student's if the student is allowed to seek medical care without parental consent, responsibility to ensure that an adequate amount of medication is on hand at the school for the duration of the student's need to take medication;
- d. It is the student's parent or guardian's, or the student's if the student is allowed to seek medical care without parental consent, responsibility to ensure that the school is informed in writing of any changes in medication instructions;
- e. In the event a student refuses medication, the parent or guardian will be notified immediately, except where a student is allowed to seek medical care without parental consent. No attempt will be made to administer medication to a student who refuses a medication;
- f. Any error in administration of a medication will be reported to the parent or guardian immediately, except where a student is allowed to seek medical care without parental consent, and documentation will be made on the district's Accident/Incident Report form. Errors include, but are not limited to, administering medication to the wrong student, administering the wrong medication, dose, frequency of administration or method of administration;

- g. Medication shall not be administered until the necessary permission form and written instructions have been submitted as required by the district.

6. Administration of Medication by a Student to Themselves

- a. A student, including a student in grade K through 12 with asthma or severe allergies, may be permitted to administer medication to themselves without assistance from designated personnel and is subject to the following:
 - (1) A student must demonstrate the ability, developmentally and behaviorally, to self-administer prescription medication and must have:
 - (a) A permission form from a parent or guardian, except when the student is allowed to seek medical care without parental consent pursuant to ORS 109.610, 109.640 or 109.675, and other documentation requested by the district must be submitted for self-medication of all prescription medications;
 - (b) If the student has asthma, diabetes and/or a severe allergy, a medication that is prescribed by a prescriber and a written treatment plan developed by a prescriber or other Oregon licensed health care professional for managing of the student's asthma, diabetes and/or severe allergy, and directs use by the student while the student is in school, at a school-sponsored activity, while under the supervision of school personnel, in a before-school or after-school care program on school-owned property and in transit to or from school or a school-sponsored activity. The prescriber will include acknowledgment that the student has been instructed in the correct and responsible use of the prescribed medication;
 - (c) The permission to self-administer the medication from a building administrator and a prescriber or registered nurse practicing in a school setting.
 - (2) A student must demonstrate the ability, developmentally and behaviorally, to self-administer nonprescription medication and must have:
 - (a) The written permission of the student's parent or guardian, except when the student is allowed to seek medical care without parental consent pursuant to ORS 109.610, 109.640 or 109.675;
 - (b) The student's name affixed to the manufacturer's original container; and
 - (c) The permission to self-administer medication from a building administrator.
 - (3) A student must demonstrate the ability, developmentally and behaviorally, to self-administer nonprescription medication that is not approved by the FDA and must have:
 - (a) The written permission of the student's parent or guardian, except when the student is allowed to seek medical care without parental consent pursuant to ORS 109.610, 109.640 or 109.675; and
 - (b) A written order from the student's prescriber that includes:
 - (i) Name of the student;
 - (ii) Name of the medication;
 - (iii) Dosage;
 - (iv) Method of administration;
 - (v) Frequency of administration;

- (vi) A statement that the medication must be administered while the student is in school;
 - (vii) Other special instructions, if any; and
 - (viii) Signature of the prescriber.
- b. The student may have in his/her possession only the amount of medication needed for that school day, except for manufacturer's packaging that contains multiple dosage, the student may carry one package, such as, but not limited to, autoinjectable epinephrine or bronchodilators/inhalers;
 - c. Sharing and/or borrowing of any medication with another student is strictly prohibited;
 - d. For a student who has been prescribed bronchodilators or epinephrine, the designated personnel will request that the parent or guardian provide backup medication for emergency use by that student. Backup medication, if provided, will be kept at the student's school in a location to which the student has immediate access in the event the student has an asthma and/or severe allergy emergency;
 - e. Upon written request from a parent or guardian, and with a prescriber's written statement that the lack of immediate access to a backup autoinjectable epinephrine may be life threatening to a student, and the location the school stores backup medication is not located in the student's classroom, a process shall be established to allow the backup autoinjectable epinephrine to be kept in a reasonably secure location in the student's classroom;
 - f. A student shall not administer medication to themselves until the necessary permission form and written instructions have been submitted as required by the district;
 - g. Permission for a student to administer medication to themselves may be revoked if the student violates the Board policy and/or this administrative regulation;
 - h. A student may be subject to discipline, up to and including expulsion, as appropriate;
 - i. A student permitted to administer medication to themselves may be monitored by designated personnel to monitor the student's response to the medication.
7. Handling, Monitoring and Safe Storage of Medication Supplies for Administering Medication to Students
- a. Medication administered by designated personnel to a student or self-administered by a student, must be delivered to the school in its original container, accompanied by the permission form and written instructions, as required above.
 - b. Medication in capsule or tablet form and categorized as a sedative, stimulant, anticonvulsant, narcotic analgesic or psychotropic medication will be counted by designated personnel in the presence of another district employee upon receipt, documented in the student's medication log and routinely monitored during storage and administration. Discrepancies will be reported to the principal immediately and documented in the student's medication log. For such medication not in capsule or tablet form, standard measuring and monitoring procedures will apply.
 - c. Designated personnel will follow the written instructions of the prescriber and the student or the student's parent or guardian, and training guidelines as may be recommended by the ODE for administering all forms of prescription and/or nonprescription medications.
 - d. Medication will be secured as follows:
 - (1) Nonrefrigerated medications will be stored in a locked cabinet, drawer or box ~~used solely for the storage of medication~~;

- (2) Medications requiring refrigeration will be stored in a locked box in a refrigerator [separate refrigerator used solely for the storage of medication];
 - (3) Access to medication storage keys will be limited to the principal and designated personnel.
- e. Designated personnel will be responsible for monitoring all medication supplies and for ensuring medication is secure at all times, not left unattended after administering and that the medication container is properly sealed and returned to storage.
 - f. In the event medication is running low or an inadequate dosage is on hand to administer the medication, the designated personnel will notify the student's parent or guardian or the student (in situations involving ORS 109.610, 109.640 and 109.675) immediately.

8. Emergency Response

- a. Designated personnel will notify 911 or other appropriate emergency medical response systems and administer first aid, as necessary, in the event of life-threatening side effects that result from district-administered medication or from student self-medication or allergic reactions. The parent or guardian, school nurse, and principal will be notified immediately.
- b. Minor adverse reactions that result from district-administered medication or from student self-medication will be reported to the parent or guardian immediately, except when the student is allowed to seek medical care without parental consent pursuant to ORS 109.610, 109.640 or 109.675.
- c. Any available district staff will immediately call 911 and the student's parent or guardian if the designated personnel believes the student is experiencing symptoms of adrenal crisis and plans to administer medication.

9. Disposal of Medications

- a. Medication not picked up by the student's parent or guardian, or the student when allowed pursuant to ORS 109.610, 109.640 and 109.675, at the end of the school year or within five school days of the end of the medication period, whichever is earlier, will be disposed of by designated personnel in a nonrecoverable fashion as follows:
 - (1) Medication will be removed from its original container and personal information will be destroyed;
 - (2) Solid medications will be crushed, mixed or dissolved in water, liquid medications will be mixed or dissolved in water; and
 - (3) Mixed with an undesirable substance, e.g., coffee grounds, kitty litter, flour; and
 - (4) Placed in impermeable non-descriptive containers, e.g., empty cans or sealable bags, and placed in the trash.

Prescriptions will be flushed down the toilet **only** if the accompanying patient information specifically instructs it is safe to do so.

Other medication will be disposed of in accordance with established training procedures including sharps and glass.

- b. All medication will be disposed of by designated personnel in the presence of another school employee and documented as described in Section 10, below.

10. Transcribing, Recording and Record Keeping

- a. A medication log will be maintained for each student administered medication by the district. The medication log will include, but not be limited to:
 - (1) The name of the student, name of medication, dosage, method of administration, date and time of administration, frequency of administration and the name of the person administering the medication;
 - (2) Student refusals of medication;
 - (3) Errors in administration of medication;
 - (4) Incidents of emergency and minor adverse reaction by a student to medication;
 - (5) Discrepancies in medication supply;
 - (6) Disposal of medication including date, quantity, manner in which the medication was destroyed and the signature of the staff involved.
- b. All records relating to administration of medications, including permissions and written instructions, will be maintained in a separate medical file apart from the student's education record file unless otherwise related to the student's educational placement and/or individualized education program. Records will be retained in accordance with applicable provisions of OAR 166-400-0010(17) and OAR 166-400-0060(29).
- c. Student health information will be kept confidential. Access shall be limited to those designated personnel authorized to administer medication to students, the student and his/her parent or guardian. Information may be shared with other staff with a legitimate educational interest in the student or others as may be authorized by the parent or guardian in writing or others as allowed under state and federal law.

Memo from DHS
(JHFE + KN AR'S)

June 22, 2018

Dear School District, Department of Human Services, Law Enforcement Agency and District Attorney Partners:

This joint memo is to update you on new legislation clarifying the Department of Human Services (DHS) and law enforcement agencies' (LEA) authority to conduct interviews with students at all schools when there are allegations of abuse.

Senate Bill (SB) 1540, passed in the 2018 session and effective as of April 3, 2018, makes clear that DHS and LEA have authority to conduct investigations regarding a report of child abuse on school premises. Further, it clarifies that after a DHS staff or LEA investigator produce adequate identification schools must cooperate by:

- Allowing access to the student;
- Providing a private place for the DHS staff or LEA investigator to interview the student; and
- Providing information regarding a child's relevant disabling condition(s) prior to the interview.

The bill also clarifies and reiterates that:

- LEA or DHS staff are not required to disclose any information about the investigation to the school;
- While the school may request that an administrator or staff person be present to facilitate the investigation, it is up to the discretion of the LEA investigator or DHS staff to allow their presence;
- The school shall not notify anyone regarding the investigation, including the child's parents or guardian, except for the appropriate school employee(s) necessary to enable the investigation; Information obtained by DHS or LEA in the investigation is not part of the child's school record; and
- Any records created or obtained by the district may be subject to FERPA.

In addition, the bill protects the school from liability for civil damages under state law when following the law and also clarifies that a school administrator or staff person may testify at any subsequent court proceeding relating to the investigation.

Schools have been clear that they desire a standard form to fill out when LEA investigators or DHS staff come to the school to investigate a report of child abuse. Attached is a form agreed upon by the Oregon School Board Association on behalf of its members, and representatives of DHS, law enforcement agencies and District Attorneys. Note that there is a signature line on the form; it is only for means of logging the presence of the LEA or DHS staff as would happen for any school visitor. This is on a separate form in order to maintain student privacy by not having the signature on the public sign-in sheet. The law does not require a signature for LEA or DHS to interview a child at school.

Schools are not required to use a form. However, if a school chooses to use a form, schools are encouraged to use the form as is, modifying it only to brand with District name and/or school name and logo. This will help with consistency of investigations and protocols across the state and minimize any

confusion from one district to another. A school that chooses to use a form will be responsible for providing the form to LEA investigators and DHS staff.

The passage of this law and creation of the form has been a collaborative statewide effort. We encourage you to replicate this spirit of collaboration by discussing the new law and its mandates at your next local Child Abuse Multidisciplinary Team meetings and ensuring that all appropriate staff are trained on what to do when a LEA or DHS investigation necessitates an interview of a child at a school. Ensuring this process is smooth will help reduce confusion for all system partners facilitate timely interviews and safeguard adequate and complete child abuse investigations.

Thank you for your attention to this matter, if you have any questions, please contact your representatives at the Oregon School Boards Association, the Department of Human Services, Oregon Association of Chiefs of Police, Oregon State Sheriffs' Association or the Oregon District Attorney's Association.

OSBA Model Sample Policy

Code: JHFE-AR(2) /KN-AR(2)
Revised/Reviewed:

~~Abuse of a Child Investigations Conducted on District Premises~~

The Department of Human Services (DHS) or a law enforcement agency has the authority to conduct an investigation of a report of child abuse on school premises according to Oregon Revised Statute (ORS) 419B.045. The school administrator must be notified that the investigation is to take place, unless the administrator is a subject of the investigation. The investigator is not required to reveal information about the investigation to the school as a condition of conducting the investigation.

After the investigator provides adequate identification, school staff shall allow access to the child and provide a private space for conducting the interview. The investigator shall be advised by a school administrator or a school staff member of a child's relevant disabling conditions, if any, prior to any interview with the child. The school administrator or designee may, at the investigator's discretion, be present to facilitate the investigation.

School staff may only notify DHS, the law enforcement agency or school employees that are necessary to enable the investigation. School staff may not notify any other persons, including the child's parent(s) or guardian(s).

Investigator Name (Printed)

Name of Agency

Name of Worker's/Investigator's Supervisor

Supervisor Contact Information

Investigator Position and Badge or ID Number

Student Name

School

Investigator Signature

Date

Investigator refused to sign. District staff should not deny entry based on refusal to sign.

FOR COMPLETION BY DISTRICT STAFF

- Student not available for interview
- Student refused to be interviewed
- Administrator participated in interview

Name of Administrator Notified

Name of Office Staff Involved

Name of Participating Administrator

This form should be placed in a separate secure file and not in the student's file.

SB 1540 DHS
see memo

OSBA Model Sample Policy

Code: JHFE-AR(1)

Adopted: 9/28/09

Reporting of Suspected Abuse of a Child

Reporting

Any district employees having reasonable cause to believe that any child with whom the employee comes in contact has suffered abuse, or that any person with whom the employee comes in contact has abused a child, shall orally report or cause an oral report to be immediately made by telephone or otherwise to the local office of the Oregon Department of Human Services (DHS) or to a law enforcement agency within the county where the person making the report is at the time of his/her contact. The district employee should also immediately inform his/her supervisor, principal or superintendent. If known, such report shall contain the names and addresses of the child and the parents of the child or other persons responsible for the child's care, the child's age, the nature and extent of the suspected abuse, the explanation given for the suspected abuse, any other information which the person making the report believes might be helpful in establishing the possible cause of the suspected abuse and the identity of a possible perpetrator.

A written record of the abuse report shall be made by the employee suspecting the abuse of a child. The written record may be made using the district's abuse reporting form which includes at a minimum:

1. The name and position of the person making the report;
2. The names and addresses of the child and of the parents of the child or other persons responsible for the child's care and the age of the child;
3. The name and position of any witness to the report;
4. A description of the nature and extent of the abuse, including any information which could be helpful in establishing cause of abuse and identity of the abuser;
5. A description of how the report was made (i.e., phone or other method);
6. The name of the agency and individual who took the report;
7. The date and time that the report was made; and
8. The names of persons who received a copy of the written report.

The written record of the abuse report shall not be placed in the student's educational record. A copy of the written report shall be retained by the employee making the report and a copy shall be provided to the ~~employee's supervisor [and/or superintendent] [and/or personnel director].~~

When the district receives a report of suspected abuse of a child by one of its employees, and the ~~personnel director [superintendent]~~ determines that there is reasonable cause to support the report, the district shall place the district employee on paid administrative leave until the DHS or a law enforcement agency either: 1) determines that the report is unfounded or that the report will not be pursued; or 2)

students confidential file, principal conf. file + Student Services Dept.

determines that the report is founded and the education provider takes the appropriate disciplinary action against the district employee. If the DHS or a law enforcement agency is unable to determine whether the abuse of a child occurred the district may either reinstate the employee or take disciplinary action at the district's discretion.

The written record of each reported incident of abuse of a child, action taken by the district and any findings as a result of the report shall be maintained by the district.

Definitions

1. Oregon law recognizes these types of abuse:
 - a. Physical;
 - b. Neglect;
 - c. Mental injury;
 - d. Threat of harm;
 - e. Sexual abuse and sexual exploitation.

2. "Child" means an unmarried person who is under 18 years of age.

Confidentiality of Records

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

The disciplinary records of a district employee or former district employee convicted of a crime listed in Oregon Revised Statute (ORS) 342.143 are not exempt from disclosure under ORS 192.345 or 192.355. Therefore, if a district employee or former employee is convicted of a crime listed in ORS 342.143, the district that is or was the employer of that employee when the crime was committed shall disclose the disciplinary records of the employee to any person upon request. However, prior to the disclosure of a disciplinary record the district shall remove any personally identifiable information from the record that would disclose the identity of a child, a crime victim or a district employee who is not the subject of the disciplinary record.

Failure to Comply

Any district employee who fails to report a suspected abuse of a child as provided by this policy and the prescribed Oregon law commits a violation punishable by law. A district employee who fails to comply with the confidentiality of records requirements commits a violation punishable by the prescribed law. If an employee fails to report suspected abuse of a child or fails to maintain confidentiality of records as required by this policy, the employee will be disciplined.

Cooperation with Investigator

The district staff shall make every effort in suspected abuse of a child cases to cooperate with investigating officials as follows:

1. ~~§~~ Any investigation of abuse of a child will be directed by the DHS or law enforcement officials as required by law. DHS or law enforcement officials wishing to interview a student shall present

YES
YES

Form
Per
M.M.

KEEP

KEEP

themselves at the school office and contact the school administrator, unless the school administrator is the subject of the investigation. When an administrator is notified that the DHS or law enforcement would like to interview a student at school, the administrator must request that the investigating official fill out the appropriate form (See JHFE-AR(2) – Abuse of a Child Investigations Conducted on District Premises. Failure to complete the appropriate form may result in the administrator's refusal to allow the student interview on school property. The administrator or designee should not deny the interview based on the investigator's refusal to sign the form. If the student is to be interviewed at the school, the principal or representative administrator or designee shall make a conference private space available. The principal or representative administrator or designee of the school may, at the discretion of the investigator, be present to facilitate the interview. If the investigating official does not have adequate identification the administrator shall refuse access to the student.

Law enforcement officers wishing to interview or remove a student from the premises shall present themselves at the office and contact the principal or representative administrator or designee. The officer shall sign the student out on a form to be provided by the school;

2. When the subject matter of the interview or investigation is identified to be related to suspected abuse of a child, district employees shall not notify parents;
3. The principal or representative shall advise the investigator of any conditions of disability prior to any interview with the affected child;
4. District employees are not authorized to reveal anything that transpires during an investigation in which the employee participates, nor shall the information become part of the student's education records, except that the employee may testify at any subsequent trial resulting from the investigation and may be interviewed by the respective litigants prior to any such trial.

ESSA additions

OSBA Model Sample Policy

Code: JHFF

Adopted: 4/26/10

Reporting Requirements Regarding Sexual Conduct with Students

Sexual conduct by district/school employees, contractors or agents¹ of the district will not be tolerated. All district/school employees, contractors and agents of the district are subject to this policy.

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

Any district/school employee, contractor or agent of the district or volunteer who has reasonable cause to believe that another district/school employee, contractor[,] or agent of the district or volunteer has engaged in sexual conduct with a student must immediately notify his/her immediate supervisor [the person identified by the district to receive such reports].

When the district receives a report of suspected sexual conduct by a district employee, the district may decide to place the employee on paid administrative leave or in a position that does not involve direct, unsupervised contact with students while conducting an investigation. When the district receives a report of suspected sexual conduct by a contractor² or agent of the district, the district may decide to suspend services of that contractor or place the agent in a position that does not involve direct, unsupervised contact with students while conducting an investigation. An “investigation” is a detailed inquiry into the factual allegations of a report of suspected sexual conduct that is based on interviews with the complainant, witnesses, the district employee, the contractor, the agent of the district or the student who is the subject of the report. If the subject of the report is a school/district employee represented by a contract or a collective bargaining agreement, the investigation must meet any negotiated standards of such employment contract or agreement.

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

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

² [The district is encouraged to duplicate this language in the contract. If the contract is with a company and the person assigned to do the work is the alleged perpetrator, the district shall notify the company and request another company employee be assigned to complete the work.]

in the employee's personnel file or the student's education record, and in the administrative file for the contractor or agent of the district.

If the district employee, contractor or agent of the district decides not to appeal the determination or if the determination is sustained after an appeal, a record of the substantiated report will be placed in the employee's personnel file or in the administrative file for the contractor or agent of the district. The employee, contractor or agent of the district will be notified that this information may be disclosed to a potential employer. The district will not serve as a reference for a contractor or agent of the district that has a substantiated report.

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

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

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

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

END OF POLICY

Legal Reference(s):

ORS 339.370 - 339.400

ORS 418.746 - 418.751

ORS 419B.005 - 419B.045

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

repeal of ORS 332.593 - delete language about sale of travel services

OSBA Model Sample Policy

Code: KI

Adopted: 4/15/95

Public Solicitation in District Facilities

~~Students and staff are to be protected from intrusions by announcements, posters, bulletins and communications of any kind from individuals and organizations not directly connected with the schools.~~

Fund raising and solicitation by non-school agencies or for non-school activities during school hours will not be permitted without prior approval of the superintendent and/or principal.

Demonstrations of services or materials and canvassing of students or employees for the purpose of selling products or services shall not be permitted in either the district's schools or grounds, unless authorized by the superintendent and/or principal.

No non-school-sponsored organization or individual may solicit funds or sell tickets within the district without first securing permission through the superintendent and/or principal.

Whenever possible, solicitation should occur during non-classroom time.

~~The solicitation and sale of travel services to students [is prohibited] [may be permitted with approval of the [superintendent] [Board]] on district property, at activities under the jurisdiction of the district and at interscholastic activities administered by a voluntary organization approved by the State Board of Education (i.e., Oregon School Activities Association).~~

~~This includes sale of services to students by any person or group that sells, provides, furnishes, contracts for, arranges or advertises travel services.~~

~~[Sellers of travel services must meet the following district criteria:~~

- ~~1. — Belong to an association of sellers of travel certified by the director of the Department of Consumer and Business Services;~~
- ~~2. — Provide proof of errors and omissions insurance;~~
- ~~3. — Provide proof of a client trust account or performance bond~~
- ~~4. — Submit references~~
- ~~5. — Include in all information provided to students and parents that drug, alcohol and tobacco use will be prohibited~~
- ~~6. — Include in all information provided to students and parents a statement that the activity is a non-school-sponsored event;~~
- ~~7. — Other.]~~

The administration of surveys, questionnaires and requests for information by non-school-connected organizations are ~~disallowed~~ prohibited. Exceptions may be approved by the superintendent. In the event an exception is granted for the administration or distribution of a survey created by a third party, the district will provide an opportunity for the student's parent to inspect such survey upon request, before the survey is administered or distributed by a school to a student, ~~as required by the Every Student Succeeds Act (ESSA)~~. Any district survey containing any "covered survey items"¹ ~~as defined by ESSA~~ may also be inspected by parents.

Parents may also request that their student be excused from participation in such surveys. Requests may be submitted in accordance with the provisions of Board policy KAB - Parental Rights and accompanying administrative regulation.

As required by law, the superintendent shall ensure that notification is provided to parents of students at least annually at the beginning of the school year or when enrolling students for the first time in school, of the specific or approximate dates during the school year when such surveys are scheduled or expected to be scheduled. The rights provided to parents under this policy transfer to the student when the student turns 18 years of age or is an emancipated minor under applicable state law.

The district recognizes its responsibility to protect student privacy. Personal information that may be collected as a result of such surveys will be released only with prior, written parental permission, unless as otherwise provided by ~~ESSA law~~ and/or the provisions of Board policy JOB - Personally Identifiable Information.

END OF POLICY

Legal Reference(s):

¹ "Covered survey items" ~~under the ESSA~~ include one or more of the following items: political affiliations or beliefs of the student or the student's family; mental and psychological problems of the student or the student's family; sex behavior or attitudes; illegal, anti-social, self-incriminating or demeaning behavior; critical appraisals of other individuals with whom respondents have close family relationships; legally recognized privileged or analogous relationships, such as those of lawyers, physicians and ministers; religious practices, affiliations or beliefs of the student or the student's parent; and income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such a program.

ORS 332.107

ORS 339.880

32 OR. ATTY. GEN. OP. 209 (1965)

46 OR. ATTY. GEN. OP 239 (1989)

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

Every Student Succeeds Act, 20 U.S.C. § 7928 (2012).

Family Education Rights and Privacy Act, 20 U.S.C. § 1232g (2012).

See K1

OSBA Model Sample Policy

Code: ~~K1/KJ~~
Adopted: 6/15/95

Commercial Advertising/~~Merchandise Sales~~

(Version 2)

(May permit some commercial advertising and ~~merchandise sales~~ as approved.)

The Board recognizes that district-sponsored commercial advertising and ~~merchandise sales~~ may provide an important source of revenue for its programs and activities. Such sales may be permitted as approved by the superintendent or designee and ~~as provided~~ by this policy.

“Commercial advertising” as used in this policy means, use by any person, company, business or corporation, for personal or private gain, of any district media, including, but not limited to, school newspaper, yearbook or other printed material, flyer or circular, radio, television, video or any other electronic technology or indoor or outdoor signage designed to:

1. Transmit a message offering any goods or services;
2. Cause or induce any other person to purchase any goods or services;
3. Increase demand for any goods or services.

Commercial advertising and ~~merchandise sales~~ approved by the district must be consistent with district mission, goals, Board policies and administrative regulations; promote positive values for district students through proactive educational messages that encourage student achievement and high standards of personal conduct.

The superintendent may consider for approval revenue-enhancing activities that include, but are not limited to, contracts or agreements for:

1. Exclusive advertising and/or rental, sale, lease or use of any product or service throughout the district or at specified locations or times to a person, business or corporation in exchange for goods or services (e.g., scoreboards, electronic message boards, athletic gear, exclusive right to sell beverages, bottled water, snacks, meals, etc.);
2. Products or services that require the dissemination of advertising to staff, students, parents or others or allow any person, business or corporation to obtain information from staff, students, parents or others for the purposes of market research;
3. The use of district facilities or grounds in exchange for products, services or financial considerations (e.g., cell phone towers, etc.);
4. Technology hardware, software, satellite hook-up and/or access in exchange for free or reduced prices and/or fees and/or advertising rights, or agreement to use equipment a certain number of hours of the day, month, etc.;
5. Naming rights to district property in exchange for goods, services or monetary considerations.

The solicitation and sale of travel services to students ~~[is prohibited]~~ [may be permitted with approval of the ~~[superintendent]~~ ~~[Board]]~~ on school property, at activities under the jurisdiction of the district and at interscholastic activities administered by a voluntary organization approved by the State Board of Education (i.e., Oregon School Activities Association).

This includes sale of services to students by any person or group that sells, provides, furnishes, contracts for, arranges or advertises travel services.

[Sellers of travel services must meet the following district criteria:

1. ~~Belong to an association of sellers of travel certified by the director of the Department of Consumer and Business Services;~~
2. ~~Provide proof of errors and omissions insurance;~~
3. ~~Provide proof of a client trust account or performance bond;~~
4. ~~Submit references;~~
5. ~~Include in all information provided to students and parents that drug, alcohol and tobacco use will be prohibited;~~
6. ~~Include in all information provided to students and parents a statement that the activity is a non-school-sponsored event;~~
7. ~~Other.]~~

Contracts shall include a provision allowing the district to terminate the contract if it is determined by the district to have an adverse impact on district programs, services or activities. Revenue derived shall be used for programs, services and/or activities ~~[designed to enhance student achievement, assist in the maintenance of existing district programs, services or activities and/or to provide scholarships for students who demonstrate financial need and merit]~~ [as determined by the district].

All contracts considered for approval are subject to the competitive procurement requirements of Board policies DJ - District Purchasing, DJC - Bidding Requirements and the local contract review board's public contracting rules. Competitive procurement as used in this policy includes monetary as well as in-kind contributions (i.e., scoreboards, computers, other equipment or materials).

~~The superintendent will develop administrative regulations as needed for implementation of this policy.~~

END OF POLICY

Legal Reference(s):

ORS 279B.055
ORS 279C.335

ORS 332.107
ORS 332.593

ORS 339.880

32 OR. ATTY. GEN. OP. 209 (1965)
46 OR. ATTY. GEN. OP. 239 (1989)

HR2/H/026/21/18 | MWRS

Commercial Advertising/Merchandise Sales – KI/KJ

see K1

OSBA Model Sample Policy

Code: KI/KJ-AR
Revised/Reviewed: *Adopted 6/26/00*

Commercial Advertising/~~Merchandise Sales~~

(This administrative regulation accompanies Version 2 of policy K.J.)

Commercial advertising in district schools may be permitted by the superintendent or designee subject to the following. Schools, with prior approval, may:

1. Publish advertising in any school newspaper, other school periodical, school or district publication, web page or yearbook;
2. Distribute advertising or market research as part of a district-approved curriculum on advertising, marketing or media literacy, etc.;
3. Post signs of school, district or public appreciation for financial or other support from any person, business or corporation for the educational program in any school in the district;
4. Use free educational materials with incidental advertisements;
5. Permit demonstrations of educational materials and equipment;
6. Cooperate with nonprofit community organizations in making or posting announcements or distributing program materials that supplement the school program provided that such cooperation does not interfere with the school program and is consistent with the mission, goals and policies of the district;
7. Utilize films or other educational materials and instructional aids, including newspapers and magazines in either print or electronic form furnished by private sources, when the advertising content is reasonable in the judgment of the superintendent or designee;
8. Permit participation, on a student-option basis, in essay, art, science and similar contests sponsored by outside interests when such activities parallel the curriculum and contribute to the educational program;
9. Release promotional material for nonschool athletic and cultural events through appropriate school departments;
10. Accept limited advertising on extracurricular activity schedules and programs.

Other exceptions may be approved when, in the judgment of the superintendent or designee, students of the district will benefit.

~~When schools are permitted to participate in commercial ventures as provided by Board policy and this administrative regulation, the following restrictions will apply:~~

- ~~1. There may be no obligation on the part of students or staff to sell products, make purchases or distribute information;~~
- ~~2. No student will be allowed to go door-to-door in soliciting funds or selling products;~~
- ~~3. The use of any advertising for alcohol or tobacco products in district publications or for any other purpose inconsistent with Board policies and administrative regulations is prohibited;~~
- ~~4. If a commission, rebate or other consideration results from the sale of any approved product or service, it will become the property of the district and distributed as directed by the superintendent or designee;~~
- ~~5. Contracts considered for approval are subject to the competitive procurement requirements of Board policies DJ – District Purchasing and DJC – Bidding Requirements and the district’s public contracting rules. Competitive procurement as used in this regulation includes monetary as well as in-kind contributions.~~

~~There may be no obligation on the part of students or staff to sell products, make purchases or distribute information.~~

~~The use of any advertising for alcohol or tobacco products in district publications or for any other purpose inconsistent with Board policies and administrative regulations is prohibited.~~

~~No activity which requires staff or students to assist in promoting campaigns (financial, charitable, educational or otherwise) will be permitted without the express permission of the superintendent. It is not the function of the school to be a collection agency for civic, charitable, commercial or other entity projects.~~

see DHS memo

OSBA Model Sample Policy

Code: KN-AR(1)
Revised/Revised: 3/13/00

Relations with Law Enforcement Agencies**

Request to Interview a Student or to Conduct an Investigation by Law Enforcement (Other Investigations)

1. Interviews or investigations by law enforcement officials **not** based on allegations of abuse of a child, a warrant for an arrest or search or probable cause that an illegal act or crime is occurring or has been committed on district property, may be permitted upon request and with [administrator] [or designee] approval.
2. The law enforcement official shall contact the [administrator] [or designee], properly identify himself/herself ~~provide adequate identification~~, inform the administrator of the nature of the investigation and provide the name of the student to be interviewed.
3. The [administrator] [or designee] shall verify and record the identity of the law enforcement official or other authority.
4. Requests to interview a student during school hours should be, in the opinion of the [administrator] [or designee], important and urgent to justify interrupting school activities.
5. The [administrator] [or designee] will attempt to notify the student's parent(s) prior to granting the interview. ~~[If the parent(s) does not give consent to have his/her son/daughter interviewed, then the interview should not take place.]~~
6. If the parent(s) cannot be contacted, the [administrator] [or designee] may grant permission for the questioning to proceed if the student agrees to be interviewed or in the event of compelling emergency circumstances.
7. If the [administrator] [or designee] has been unable to contact the parent(s) then the [administrator] [or designee] shall make a reasonable attempt to notify the parent(s) as soon as possible after the interview.
8. All such interviews shall be conducted in privacy, out of the view of staff, students and others.
9. An [administrator] [or designee] shall be present at all times during the interview unless the student's parent(s) is present and asks the [administrator] [or designee] not to participate or the district official is otherwise prohibited from being present by law.
10. The [administrator] [or designee] shall maintain a written record of all such interviews conducted.

Questioning of a Student Suspected of a Crime, Arrest of a Student or Taking a Student into Custody

1. When a student is a suspect in a criminal act and is to be questioned by a law enforcement official for the purpose of establishing involvement in the act, questioning will be allowed on district property only with parental consent. Normally, such questioning should occur outside school hours, off district property.
2. At no time will a student be released to an **law enforcement** officer without one of the following:
 - a. A warrant;
 - b. A court order;
 - c. Arrest;
 - d. Protective custody resulting from abuse of a child investigation;
 - e. Permission of the parent.
3. In all cases, **other than** abuse of a child cases, where a student is to be taken from the building by a law enforcement official, the [administrator] ~~or designee~~ will verify the official's identity and make a reasonable effort to notify the student's parent(s). Law enforcement officials have the primary responsibility for notifying the parent(s) in such instances. **Administrators must request law enforcement officials to complete the appropriate form provided by the district. (See KN-AR(2) - Investigations Conducted on District Premises).**

Abuse of a Child Investigations

~~4-Any investigation of abuse of a child will be directed by the Oregon Department of Human Services (DHS), or law enforcement officials as required by law. The DHS or law enforcement agency will first notify the administrator of the investigation, unless the administrator is a subject of the investigation. [The [administrator] or designee] will must request identification from the investigating official and require the investigating official to fill out the appropriate form (See JNFE-AR(2) - Abuse of a Child Investigations Conducted on District Premises). If the investigating official does not have this identification or refuses to fill out or sign the form, the administrator may complete the form but should not deny the official's request to interview the student on school property.] If the investigating official does not have adequate identification the administrator shall refuse access to the student. The administrator or designee may be present at the interview of the student at the discretion of the investigating official. When the subject matter of the interview or investigation involves abuse of a child, administrators and school employees shall not notify the parents.~~

Administrator-Initiated Requests

(Principals are admin.)
On occasion, ~~principals~~ [administrators] may need, or be required to seek law enforcement assistance. Any student violation of the district's weapons policy shall be reported to the appropriate law enforcement agency. Abuse of a child also requires immediate referral to the DHS or law enforcement officials. Additionally, ~~principals~~ [administrators] and/or designee(s) may report to law enforcement officials, other violations of law occurring on district property or at school-sponsored activities, as deemed appropriate. ~~It shall report to law enforcement officials the following violations.~~

(Districts may add additional student violations that administrators are required to report to law enforcement officials, as appropriate.)