

Corbett School District 39

Code: GA
Adopted: 5/21/98
Orig. Code: GA

Personnel Policy Goals

(OSBA has removed this policy from its samples.)

The Board recognizes that a dynamic, competent and efficient staff dedicated to education is necessary to maintain a constantly improving educational program. The Board is interested in its personnel as individuals and it recognizes its responsibility for promoting general welfare of the staff.

The Board's specific personnel goals are:

- To recruit, select and employ the best qualified personnel to staff the school system;
- To provide staff compensation and benefits programs sufficient to attract and retain qualified employees and within the district's ability to fund;
- To provide an in-service training program for all employees to improve their performance;
- To conduct an effective employee evaluation program that will contribute to the continuous improvement of staff performance as well as meet or exceed the law;
- To assign personnel as to ensure they are used as effectively as possible;
- To develop and maintain the morale necessary to obtain maximum staff performance and satisfaction.

END OF POLICY

Legal Reference(s):

[ORS 332.505](#)
[ORS 342.850](#)

[OAR 581-022-1720](#)

Corbett School District 39

Code: GAA
Adopted: 9/16/15
Orig. Code: GA

Personnel: Definitions

“Licensed employees” are those holding a position that requires a license issued by the state Teacher Standards and Practices Commission (TSPC).

1. A “teacher” is an employee who holds a teacher’s license or is registered to teach by TSPC.
2. A “contract teacher” is any teacher who has been regularly employed by a district for a probationary period of not more than three successive school years and who has been retained for the next succeeding school year.
3. A “probationary teacher” is one who is not a contract teacher and who is employed for at least 135 consecutive days in any school year as a teacher in the district. At least 30 consecutive days of employment in the district in a successive year shall be sufficient to keep the service intact, and the teacher shall not lose credit for previous probationary years served.
4. A “temporary teacher” is any teacher employed to fill a position designated as temporary or experimental or to fill a vacancy that occurs after the opening of school because of unanticipated enrollment or the death, disability, retirement, resignation, contract nonextension or dismissal of a contract or probationary teacher.
5. A “substitute teacher” is any teacher employed to take the place of a probationary or contract teacher who is temporarily absent. A substitute teacher is employed on a day-to-day basis, without contract, and does the work of the regularly assigned teacher during the latter’s absence from duty.
6. An “intern teacher” is a regularly enrolled candidate of an approved educator preparation provider, who teaches under the supervision of the staff of the provider and of the employing district, in order to acquire practical experience in teaching.
7. An “administrator” is an employee who holds a valid Oregon administrative license or registration and who works in a position requiring an administrative license. An administrator includes but is not limited to, all superintendents, assistant superintendents, principals and academic program directors in public schools or education service districts, who have direct responsibility for supervision or evaluation of licensed teachers and who are compensated for their services with public funds.
8. A “specialist” is an employee who has a teaching license or a letter of authorization from the Oregon Department of Education and who is employed half-time or more.

“Classified personnel” are those employees in positions for which no teaching or administrative licenses are required by law.

1. “Regular classified employees” are those employed in positions established by the Board requiring ~~12~~20 or more hours per week for at least 90 days.
2. “Part-time regular classified employees” are those employed in positions established by the Board requiring less than ~~12~~20 hours per week for at least a 90 school days.
3. “Temporary/Substitute classified employees” are those employed on an as-needed basis. The Board shall determine if these employees are eligible for benefits.

“Supervisory employees” are those individuals having authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or responsibly to direct them, or to adjust their grievances or effectively to recommend such action if the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment.

“Confidential employees” are designated in accordance with Oregon law (ORS 243.650(6)). Such employees will be excluded from any bargaining unit. Salaries and benefits for confidential employees will be established by the Board.

“Administrative employee” means an employee of the district who possesses authority to formulate and carry out administrative and/or program decisions, or who represents administration’s interest by taking or effectively recommending discretionary actions that control or implement district policy, and who has discretion in the performance of these administrative and/or program responsibilities beyond the routine discharge of duties. An administrative employee need not act in a supervisory capacity in relation to other employees.

END OF POLICY

Legal Reference(s):

[ORS 243.650\(6\), \(23\)](#)
[ORS 332.505](#)
[ORS 332.554\(3\)](#)
[ORS 342.120](#)
[ORS 342.125](#)

[ORS 342.420](#)
[ORS 342.610](#)
[ORS 342.815](#)
[ORS 342.835](#)
[ORS 342.840](#)

[ORS 342.845](#)
[OAR 584-020-0005](#)

Job York v. Portland Sch. Dist., No. FDA 83-7 (August 1983).

Corbett School District 39

Code: GAB
Adopted: 5/21/98
Orig. Code: GAB

Position Descriptions (Version 1)

Position descriptions serve: (1) to describe all essential functions that the individual who holds the position must be able to perform unaided or with the assistance of a reasonable accommodation; (2) to describe attendance standards; (3) to help applicants determine their qualifications needed to fill a position; (4) to help district administrators determine which candidates to recommend for appointment; and (5) to form the basis for the evaluation of the employee's performance of position responsibilities.

Position descriptions will be developed under the supervision of the superintendent for each position in the district. Each position description shall be dated. As position descriptions are reviewed and/or revised new dates will be affixed.

Position descriptions will be coded and retained in a document titled *Position Descriptions for the Corbett School District*. The document will be available for inspection by any district employee or patron. Each employee shall receive a copy of his/her position description. Each employee shall affix his/her signature and date after having read the position description.

Position descriptions will be updated as job responsibilities or duties change. Revised position descriptions will be approved by the superintendent.

END OF POLICY

Legal Reference(s):

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

[OAR 581-022-2405](#)

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

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

Title II of the Genetic Information Nondiscrimination Act of 2008.

Section 503 of the Rehabilitation Act of 1973.

Americans with Disabilities Act Amendments Act of 2008.

Corbett School District 39

Code: GAB
Adopted:

Job Descriptions (Version 2)

Job descriptions serve to:

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

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

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

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

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

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

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

END OF POLICY

Legal Reference(s):

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

[OAR 581-022-2405](#)

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

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

Title II of the Genetic Information Nondiscrimination Act of 2008.

Section 503 of the Rehabilitation Act of 1973.

Americans with Disabilities Act Amendments Act of 2008.

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Corbett School District 39

Code: GB
Adopted: 5/21/98
Orig. Code: GB

General Personnel Policies

The quality of the professional and support staff is of primary importance in achieving the educational objectives of the district. In filling any licensed or classified position, therefore, the district will seek out and appoint the best-qualified person available for the position.

~~The employment of candidates to fill licensed positions will be approved by the Board upon the recommendation of the superintendent. The superintendent will employ all temporary employees, substitutes and part-time personnel as needed.~~

Notice of all regular job openings will be made available to current staff members. Vacant positions may also be advertised through professional and institutional placement agencies, appropriate employment agencies, or general and specialized media.

Applications or inquiries concerning job openings will be directed to and received by the superintendent on standard district application forms. The selection process will be coordinated and supervised by the superintendent, with the involvement of other appropriate administrators and supervisors.

Each candidate selected for a position with the district must possess or demonstrate eligibility for any license or permit required to fill the position. In addition, the individual must be insurable by the district's insurance carrier for any position requiring liability insurance coverage or bonding.

In accordance with Oregon law, the district may require any candidate, as a condition of employment, to hold a current, recognized first-aid card. A current employee required to hold a card will obtain it within 90 days from the date on which the district gives notification.

~~Personnel selected for employment will be notified in writing of their selection following Board approval. This n~~Notification of employment will specify the assignment, the job classification, the salary or hourly rate, the length of the work week and the length of the assignment. Unsuccessful applicants who were interviewed will be notified.

Initial assignments of staff will be made by the superintendent or designee.

The superintendent will establish regulations guidelines governing the recruitment, selection and employment of personnel in accordance with this policy.

END OF POLICY

Legal Reference(s):

[ORS 342.664](#)
[ORS 408.225](#)

[ORS 408.230](#)
[ORS 408.235](#)

[ORS 653.305 to -653.326](#)
[ORS 659A.309](#)

[OAR 581-022-2405](#)
[OAR 839-006-0435](#)

[OAR 839-006-0440](#)
[OAR 839-006-0450](#)
[OAR 839-006-0455](#)

[OAR 839-006-0460](#)
[OAR 839-006-0465](#)

Corbett School District 39

Code: GBA
Adopted: 12/21/16
Orig. Code: GBA

Equal Employment Opportunity

Equal employment opportunity and treatment shall be practiced by the district regardless of race, color, religion, sex, sexual orientation¹, national origin, marital status, pregnancy, childbirth or a related medical condition², age, veterans' status³, service in uniformed service, familial status, genetic information, and individual's juvenile record that has been expunged, and disability⁴ if the employee, with or without reasonable accommodation, is able to perform the essential functions of the position.

The superintendent will appoint an employee to serve as the officer in charge of compliance with the Americans with Disabilities Act of 1990, the Americans with Disabilities Act Amendments Act of 2008 (ADA), and Section 504 of the Rehabilitation Act of 1973. The superintendent will also designate a Title IX coordinator to comply with the requirements of Title IX of the Education Amendments of 1972. The Title IX coordinator will investigate complaints communicated to the district alleging noncompliance with Title IX. The name, address and telephone number of the Title IX coordinator will be provided to all students and employees.

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

END OF POLICY

Legal Reference(s):

[ORS 174.100](#)
[ORS 326.051](#)
[ORS 332.505](#)
[ORS 342.934](#)
[ORS 408.225](#)
[ORS 408.230](#)
[ORS 408.235](#)
[ORS 652.210 - 652.220](#)

[ORS 659.850](#)
[ORS 659.870](#)
[ORS 659A.003](#)
[ORS 659A.006](#)
[ORS 659A.009](#)
[ORS 659A.029](#)
[ORS 659A.030](#)
[ORS 659A.040](#)

[ORS 659A.082](#)
[ORS 659A.109](#)
[ORS 659A.112](#)
[ORS 659A.233](#)
[ORS 659A.236](#)
[ORS 659A.309](#)
[ORS 659A.321](#)
[ORS 659A.409](#)

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

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

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

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

[ORS 659A.820](#)

[OAR 581-021-0045](#)

[OAR 581-022-2405](#)

[OAR 839-003-0000](#)

[OAR 839-006-0435](#)

[OAR 839-006-0440](#)

[OAR 839-006-0450](#)

[OAR 839-006-0455](#)

[OAR 839-006-0460](#)

[OAR 839-006-0465](#)

House Bill 2341 (2019)

Senate Bill 479 (2019)

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

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

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

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

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

Rehabilitation Act of 1973, 29 U.S.C. §§ 791, 794 (2012); 34 C.F.R. Part 104 (2019).

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

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

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

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

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

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

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

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

Corbett School District 39

Code: GBA-AR
Revised/Reviewed: 10/19/16
Orig. Code: GBA-AR

Veterans' Preference

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

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

A veteran may submit a written request for an written explanation of the reasons why they were not selected for the position.² Upon written request, the district shall provide, in writing, the reasons for not selecting the candidate when requested.

Recruitment Procedures

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

Selection Procedures

- Step 1: Before the review of any applications the human resource director will establish an evaluation scoring guide based on the minimum and any special qualifications listed in the job posting.
- Step 2: The human resource director will review the application materials using the above evaluation scoring guide to determine which applicants meet the minimum and any special qualifications listed in the job posting. In assessing the applicant materials of a veteran or disabled veteran the human resource director shall evaluate whether the skill experience obtained in the military are transferable to the posted position. In this step the district **does not** apply a veterans'

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

² Oregon Revised Statute (ORS) 408.230(5)

³Verification of Veteran's Preference

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

preference. Any applicants that do not meet the minimum and any special qualifications shall be removed from the applicant pool.

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

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

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

Filing a Complaint

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

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

Corbett School District 39

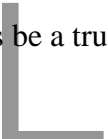
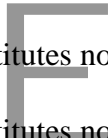
Code: GBAA
Adopted: 5/21/98
Orig. Code: GBAA



Fair Labor Standards Act

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

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



END OF POLICY

Legal Reference(s):

[ORS 279.340](#)
[ORS 653.261](#)

[OAR 839-020-0005](#)



Fair Labor Standards Act of 1938, as amended, 29 U.S.C. Sections 206 and 207.
Garcia v. San Antonio Metropolitan Transit Authority, et al., 469 U.S. 528 (1985).
41 Op Atty Gen 409 (1981).



Corbett School District 39

Code: GBB
Adopted: 5/21/98
Orig. Code: GBB

D

Staff Involvement in Decision Making

There shall be a staff advisory council consisting of at least two representatives from grades 7-12 and at least two K-6 representatives. They shall meet for the following purposes:

1. To give input on issues, concerns and programs;
2. To generally advise the superintendent regarding school operations.

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END OF POLICY

Legal Reference(s):

[ORS 329.704](#)

[OAR 581-022-1720](#)

Anderson v. Central Point School District No. 6, 554 F. Supp. 600 (D. Oregon 1982); aff'd in part, 746 F. 2d 505 (9th Cir. 1984).

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

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Corbett School District 39

Code: GBC
Adopted: 12/17/98
Orig. Code: GBC

Staff Ethics (Version 1)

(see current version)

District employees will not engage in, or have a financial interest in, any activity that raises a reasonable question of conflict of interest with their duties and responsibilities as staff members. This means that:

1. Employees will not solicit for financial remuneration from students, parents and other 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.

No administrator or supervisor will exercise direct, supervisory authority over a person who is a member of his/her family. Persons regularly employed by the district prior to the inception of such relationship will not be terminated but may be transferred to another building or placed under different supervision, if necessary, to eliminate potential conflict.

More than one member of an individual 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.

Family, as used in this policy and as defined by law means the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent or stepchild of the individual

No district employee may serve as a Board or budget committee member in the district.

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.

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.

Corbett School District 39

Code:
Adopted:

GBC

Staff Ethics (Version 2)

I. Prohibited Use of Official Position or Financial Gain

No district employee will attempt to use their district position to obtain financial gain or avoidance of financial detriment for themselves, relatives, members of household or for any business with which the employee, a household 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, 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 regarding the use of their official position in regard to their duties and responsibilities as 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 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.;
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 a 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 violation of nepotism provisions and district policy, district employees must abide by the following 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.}

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

¹ The term spouse includes domestic partner.

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

II. Gifts

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 \$50 limit does not apply and the employee need not keep track of it, although they are advised to do so anyway in case of a later dispute.

Determining Legislative and Administrative Interest

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

A “decision” means an act that commits the 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

³ Ibid. p. 2

⁴ Ibid. p. 3

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

Determining the Value of Gifts

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

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

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

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

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

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

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

Value of Unsolicited Tokens or Awards: Resale Value

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

Entertainment

Employees may not 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.

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

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

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

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

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

Corbett School District 39

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

Staff Religious Dress

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

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

The superintendent will develop administrative regulations to implement this policy.

END OF POLICY

Legal Reference(s):

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

[ORS 332.107](#)
[ORS 339.351](#)

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

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

Corbett School District 39

Code: GBCA-AR
Revised/Reviewed: 9/21/11
Orig. Code: GBCA-AR

Staff Religious Dress

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

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

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

Corbett School District 39

Code: GBCBA
Adopted: 5/21/98
Orig. Code: GBCBA

Alcohol/Controlled Substance Use

The following conduct is strictly prohibited and will subject an employee to immediate discipline, up to and including termination:

1. The buying, selling, transportation, possession, provision or use of intoxicants, including alcohol, or any controlled substances as defined by law while on district property, during work hours (including meal periods), while assigned to extra duty or special projects, including those held after or in addition to regular school hours and while driving between work sites during the work day in either a district-supplied vehicle or a vehicle supplied by the employee;
2. Reporting for work under the influence of alcohol, intoxicants or any controlled substance. An individual is considered to be “under the influence of alcohol, intoxicants and/or a controlled substance” when, in the district’s determination, ~~based upon testing conducted by and interpreted by trained medical personnel,~~ the controlled substance, alcohol or intoxicant is at a level that it may impair the individual’s ability to safely and/or efficiently perform assigned work OR prevent the employee from presenting a positive role model to students.

~~If the district has reasonable grounds to believe that an employee is under the influence of intoxicants, including alcohol or any controlled substance, the district may require the employee submit to immediate testing by trained medical personnel. Refusal to submit immediately to such tests may result in disciplinary action, up to and including dismissal. “Reasonable grounds” may include, but are not limited to, such things as slurred speech, dilated pupils, peculiar odors and unsteady balance.~~

~~The district reserves the right, with prior notice and reasonable suspicion, to conduct searches on district property of employees and/or their personal property which is on the district’s premises.~~

The district also reserves the right, with prior notice and reasonable suspicion, to conduct searches of district property, vehicles or equipment at any time. A refusal to submit to a search may result in disciplinary action, up to and including dismissal.

The administration will develop appropriate ~~regulations,~~ procedures, consent forms and such notifications as are needed for an orderly implementation of this policy.

END OF POLICY

Legal Reference(s):

[ORS Chapter 475](#)
[ORS 657.176](#)
[ORS 659.840](#)
[ORS 659A.300](#)

[OAR 581-053-0220\(3\)\(h\)](#)
[OAR 581-053-0230\(9\)\(t\)](#)
[OAR 581-053-0330\(1\)\(n\),\(o\)](#)
[OAR 581-053-0420\(3\)\(c\)](#)
[OAR 581-053-0430\(13\),\(14\)](#)

[OAR 581-053-0531\(12\),\(13\)](#)
[OAR 581-053-0615\(2\)\(c\)\(D\)\(ii\)](#)
[OAR 581-053-0620\(1\)\(s\)](#)
[OAR 584-020-0040](#)
[OAR 839-006-0200 to -0265](#)

Controlled Substances Act, 21 U.S.C. § 812; Schedules of Controlled Substances, 21 C.F.R. §§ 1308.11-1308.15 (2016).
Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2016); 28 C.F.R. Part 35 (2016).
Americans with Disabilities Act Amendments Act of 2008.

Corbett School District 39

Code: GBD
Adopted: 5/21/98
Orig. Code: GBD

Board-Staff Communications

The Board desires to maintain open channels of communication between itself and the staff. The basic line of communication ~~will~~ be through the ~~district~~ superintendent. The superintendent will develop and recommend to the Board processes for communications between the Board and district employees.

~~All~~ Communications or reports to the Board or any Board committee from ~~any~~ staff members ~~or members~~ ~~should~~ ~~will~~ be submitted through the superintendent. This procedure will not be construed as denying the right of any employee to address the Board about issues which are neither part of an active administrative procedure, nor disruptive to the operation of the district. This procedure should not be construed as denying the right of any employee to appeal to the Board from administrative decisions provided that the superintendent is notified of the forthcoming appeal and the appeal has been processed in accordance with applicable provisions of collective bargaining agreements and the Board's policies on complaints.

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

END OF POLICY

Legal Reference(s):

[OAR 581-022-2405](#)

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

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

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

Corbett School District 39

Code: GBDA
Adopted: 4/17/19
Orig. Code(s): GBDA

Mother Friendly Workplace *

The district recognizes that a normal and important role for mothers is to have the option and ability to express milk or breast-feed in the workplace. When possible, Employees must give reasonable notice of the intent to express milk or breast-feed to their direct supervisor. Unless otherwise agreed upon by the district and the employee, the district shall provide the employee a 30-minute rest period to express milk or breast-feed during each 4-hour work period, or the major part of a 4-hour work period, to be taken by the employee approximately in the middle of the work period. The district shall provide the employee a reasonable rest period to express milk, or breast-feed, each time the employee has a need to express milk or breast feed. If feasible, the employee will take the rest period at the same time as the rest periods or meal periods provided by the district.

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

The following locations have been identified in each facility for milk expression or breast-feeding:

1. District office: private bathroom.
2. Corbett Elementary School and CAPS classrooms with windows covered and door locked.
3. Corbet middle school classrooms with the windows covered and door locked.
4. Corbett High School classrooms with the windows covered and door locked.
5. Bus barn office: **The family restroom.**
6. Maintenance office: **The family restroom.**

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

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

END OF POLICY

Legal Reference(s):

[ORS 243.650](#)
[ORS 653.077](#)

[ORS 653.256](#)
[OAR 839-020-0051](#)

Corbett School District 39

Code: GBE
Adopted: 3/11/15
Orig. Code: GBE

Staff Health and Safety

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

The superintendent will develop a district plan for dealing with hazardous chemicals in the workplace. This plan will include proper labeling, storage and disposal of all such materials.

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

In meeting the requirements of the law, employees will be trained to recognize and respond appropriately to the presence of hazardous chemicals. All personnel who may be exposed to hazardous materials during the performance of their duties or in an emergency will be so informed and trained to appropriately deal with these materials.

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

END OF POLICY

Legal Reference(s):

[ORS 243.650](#)
[ORS 329.095](#)
[ORS 453.001 to -453.275](#)

[OAR 437-001-0760](#)
[OAR 437-002-0020 to -0075](#)

[OAR 437-002-0140](#)
[OAR 437-002-0144](#)
[OAR 437-002-0145](#)
[OAR 437-002-0180 to -0182](#)
[OAR 437-002-0360](#)
[OAR 437-002-0368](#)

[OAR 437-002-0377](#)
[OAR 437-002-0390](#)
[OAR 437-002-0391](#)
[OAR 581-022-2225](#)

Corbett School District 39

Code: GBE-AR
Revised/Reviewed: 1/27/99
Orig. Code: GBE-AR

Staff Health and Safety - Safety Rules

(recommend any safety rules be a part of the district's safety plan rather than in AR.)

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

1. All injuries shall be reported immediately to the person in charge or other responsible representative of the district;
2. It is the duty of all employees to make full use of safeguards provided for their protection. It shall be the employee's responsibility to abide by and perform the following requirements:
 - a. An employee shall not operate a machine unless guard or method of guarding is in good condition, working order, in place and operative;
 - b. An employee shall stop the machine or moving parts and properly tag-out or lock-out the starting control before oiling, adjusting or repairing, except when such machine is provided with means of oiling or adjusting that will prevent possibility of hazardous contact with moving parts;
 - c. An employee shall not remove guards or render methods of guarding inoperative except for the purpose of adjustment, oiling, repair or setting up a new job;
 - d. Employees shall report to their supervisor any guard or method of guarding that is not properly adjusted or not accomplishing its intended function;
 - e. Employees shall not use their hands or any portion of their bodies to reach between moving parts or to remove jams, hang-ups, etc. (Use hook, stick, tong, jig or other accessory.);
 - f. Employees shall not work under objects being supported that could accidentally fall (such as loads supported by jacks, the raised body of a dump truck, etc.) until such objects are properly blocked or shored;
 - g. Employees shall not use defective tools or equipment. No tool or piece of equipment should be used for any purpose for which it is not suited and none should be abused by straining beyond its safe working load.
3. Employees shall not remove, deface or destroy any warning, danger sign or barricade or interfere with any other form of accident prevention device or practice provided which they are using or which is being used by any other worker;
4. Employees must not work underneath or over others thereby exposing them to a hazard without first notifying the other employee(s) or seeing that proper safeguards or precautions have been taken;
5. Employees shall not work in unprotected, exposed or hazardous areas under floor openings;
6. Long or unwieldy articles shall not be carried or moved unless adequate means of guarding or guiding are provided to prevent injury;
7. Hazardous conditions or practices observed at any time shall be reported as soon as practicable to the person in charge or some other responsible representative of the employer;

8. Employees observed working in a manner which might cause immediate injury to either themselves or other workers shall be warned of the danger;
9. Before leaving a job, workers shall correct, or arrange to give warning of, any condition which might result in injury to others unfamiliar with existing conditions;
10. Good housekeeping methods shall be observed in all operations. Materials shall be so handled and stored as to minimize falling, tripping or collision hazards;
11. Working and storage areas and passageways shall be kept free of unnecessary obstructions. No loose object shall be placed in any area where its presence will necessitate employees crowding between such objects as moving machinery, steam pipes or other objects with which contact would be dangerous;
12. Any materials which might cause an employee to slip or fall shall be removed from floors and other treading surfaces immediately or suitable means or methods shall be used to control the hazardous condition;
13. All sharp, pointed or otherwise hazardous projections in work areas shall be removed or rendered harmless.

Corbett School District 39

Code: GBEA
Adopted: 5/21/98
Orig. Code: GBEA

D

Workers' Compensation Insurance

(Version 1)

(OSBA has removed this policy and has new policy with this code)

All employees, including students as required by Oregon law, are covered by the district Workers' Compensation Insurance. Any injury or illness to an employee while on duty must be reported at once to the immediate supervisor who will submit a written report to the superintendent's office within 24 hours. The employee will be advised to notify the medical service provider that the injury or illness is covered by Workers' Compensation laws. The accident or illness must qualify as an industrial accident or illness under state law and district regulations.

Any employee who is injured while on duty or becomes ill as a result of performing his/her responsibilities may receive compensation and expenses as prescribed by state law and regulations.

END OF POLICY

Legal Reference(s):

[ORS 243.650](#)

[ORS 656.033](#)

[ORS 657.170](#)

[OAR 437-001-0760](#)

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Corbett School District 39

Code: GBEA
Adopted:

Workplace Harassment * (Version 2)

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

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

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

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

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

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

The district may not require or coerce a district employee to enter into a nondisclosure² or nondisparagement³ agreement.

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

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

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

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

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

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

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

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

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

END OF POLICY

Legal Reference(s):

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

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

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

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2012).
Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2012).
Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2018); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2019).
Bartsch v. Elkton School District, FDA-13-011 (March 27, 2014).

Corbett School District 39

Code: GBEA-AR
Revised/Reviewed:

Workplace Harassment Reporting and Procedure

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

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

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

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

Investigation Procedure

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

The investigator shall:

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

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

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

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

Step 2

If a complainant is not satisfied with the decision at step 1, the complainant may submit a written appeal to the {superintendent} {or designee}. Such appeal must be filed within {10}15 working days after receipt of the step 1 decision. The {superintendent} {or designee} shall review the investigators report and findings. The {superintendent} {or designee} will arrange such meetings with the complainant and other affected parties as deemed necessary by the {superintendent} {or designee} to discuss the appeal. The {superintendent} {or designee} shall provide a written decision to the complainant within {10}15 working days after receipt of the appeal.

{Step 3

If a complainant is not satisfied with the decision at Step 2, the complainant may submit a written appeal to the Board. Such appeal must be filed within {10}15 working days after receipt of the Step 2 decision. The Board will review the findings and conclusion of the {superintendent} {or designee} in a public meeting to determine what action is appropriate. Appropriate action may include, but is not limited to, holding a hearing, requesting additional information, and adopting the {superintendent's} {or designee's} decision as the district's final decision.

If the Board conducts a hearing, the complainant shall be given an opportunity to present the appeal at a Board meeting. The Board may hold the hearing in executive session if the subject matter qualifies under Oregon law. The parties involved may be asked to attend such hearing for the purposes of making further explanations and clarifying the issues. The Board shall decide, within {20}35 days, in open session what action, if any, is warranted. The Board shall provide a written decision to the complainant within {10}15 working days following completion of the hearing.

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

Reports involving the superintendent should be referred to the Board chair on behalf of the Board. The Board chair will cause the information¹ required to be issued to the complainant as described in this administrative regulation. The Board chair shall present the complaint to the Board at a Board meeting. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. The Board may hold the hearing in executive session if the subject matter qualifies under Oregon law. The Board shall decide, within {30}35 days, in open session what action if any is warranted. The Board chair shall notify the

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

complainant in writing within ~~10~~14 days that the investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law.

Follow-up Procedures

The ~~{position title}~~superintendent or designee will follow up with the district employee of the alleged harassment once every three months for the calendar year following the date on which the ~~{position title}~~superintendent or designee received a report of harassment, to determine whether the alleged harassment has stopped or if the employee has experienced retaliation. The ~~{position title}~~superintendent or designee will document the record of this follow-up. The ~~{position title}~~superintendent or designee will continue follow-up in this manner until and unless the employee directs the ~~{position title}~~superintendent or designee in writing to stop.

Other Reporting Options and Filing Information

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

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

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

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

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

~~[Name of District]~~ **Corbett School District**
~~[Address]~~ ~~[Phone]~~ **35800 E Historic Columbia River Hwy**
Corbett, OR 97019
503-261-4226

P

WORKPLACE HARASSMENT REPORTING OR COMPLAINT FORM

Name of person making report/complainant: _____

Position of person making report/complainant: _____

Date of complaint: _____

Name of alleged harasser: _____

Date and place of incident or incidents: _____

Description of alleged misconduct: _____

Name of witnesses (if any): _____

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

Any other information: _____

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

Signature: _____ Date: _____

~~[Name of District]~~ **Corbett School District**
35800 E Historic Columbia River Hwy
Corbett, OR 97019
503-261-4226

P

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: _____

E

D

Corbett School District 39

Code: GBEAA
Adopted: 5/21/98
Orig. Code: GBEAA

Staff Protection

(see bullying and sexual harassments policies)

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

1. Reporting the Assault:
 - a. The employee will report the assault or see that the assault is reported to his/her supervisor as soon as possible after the event;
 - b. The supervisor will assist in:
 - (1) Seeing that appropriate medical attention is given and/or arranged for;
 - (2) Seeing that the assault is reported and/or filed with the appropriate police agency;
 - (3) Reporting the incident to the superintendent's office so insurance procedures can be initiated;
 - c. The incident will be reported to the district's attorney by the superintendent or a designee.
2. Attorney Accessibility. The district will arrange a conference with the district's attorney at district expense. The attorney will provide the employee with information and/or direction in regard to:
 - a. Filing the complaint with the proper authority;
 - b. Criminal trial procedure;
 - c. The availability of civil remedies.
3. Days Missed as a Result of Assault. Days absent from duty, whether for injury, doctor's or health practitioner's direction, hospitalization, attorney consultation or court proceeding directly relating to the assault, will not be charged against any leave days, but the absence(s) must be consistent with worker's compensation guidelines.

Limitations:

- a. The doctor or health practitioner must release the employee for return to work;
- b. Upon the doctor's or health practitioner's release, the employee must return to work. If the employee chooses to be absent after the doctor's or health practitioner's release and if the absence is or is claimed to be a result of the assault, the absence(s) will be subtracted from the employee's accumulated sick leave;
- c. The district reserves the right to consult with the attending doctor or health practitioner before and/or after the release of the employee.

END OF POLICY

Legal Reference(s):

[ORS 332.107](#)
[ORS 656.240](#)

Corbett School District 39

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

Communicable Disease – Staff *

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

~~An employee who knows that he or she has or has been exposed to any restrictable disease, may not attend work unless authorized by Oregon law while in a communicable stage of a restrictable disease or. When an administrator has reason to suspect that any the employee has or has been exposed to any restrictable disease and for which exclusion is required, the administrator shall send the employee home in accordance with law and per administrative regulation GBEB-AR – Communicable Diseases - Staff.~~ If the disease is a reportable disease, the administrator will report the occurrence to the local health department.

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

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

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

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

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

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

END OF POLICY

Legal Reference(s):

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

[OAR 333-018](#)
[OAR 333-019-0010](#)
[OAR 333-019-0014](#)

[OAR 437-002-0360](#)
[OAR 437-002-0377](#)
[OAR 581-022-2220](#)

OREGON DEPARTMENT OF EDUCATION and OREGON HEALTH AUTHORITY, *Communicable Disease Guidance* (2017).
Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (2012); Family Educational Rights and Privacy, 34 C.F.R. Part 99 (2017).

Corbett School District 39

Code: GBEB-AR
Adopted: 1/17/18
Orig. Code: GBEB-AR

Communicable Diseases – Staff *

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

1. “Restrictable diseases” are defined by rule and include but are not limited to COVID-19¹, chickenpox, diphtheria, hepatitis A, hepatitis E, measles, mumps, pertussis, rubella, Salmonella enterica serotype Typhi infection, scabies, Shiga-toxigenic Escherichia coli (STEC) infection, shigellosis and infectious tuberculosis disease, and may include a communicable stage of hepatitis B infection if, in the opinion of the local health officer, the person poses an unusually high risk to others (e.g., a child that exhibits uncontrollable biting or spitting). Restrictable disease also includes any other communicable disease identified in an order issued by the Oregon Health Authority or the local public health officer as posing a danger to the public’s health. A disease is considered to be a restrictable disease if it is listed in Oregon Administrative Rule (OAR) 333-019-0010, or it has been designated to be a restrictable disease by Board policy² or by the public local health administrator after determining that it presents a significant public health risk in the school setting poses a danger to public’s health.
2. “Susceptible” means being at risk of contracting a restrictable disease by virtue of being in one or more categories described in law.
3. “Reportable diseases” means a human reportable disease, infection, microorganism or condition as specified in OAR Chapter 333, Division 18.

Restrictable Diseases

1. An employee of the district will not attend or work at a district school or facility while in a communicable stage of a restrictable disease, including a communicable state of COVID-19³, unless authorized to do so under Oregon law. When and administrator has reason to suspect that an employee has a restrictable disease, the administrator shall send the employee home.
2. When an administrator shall exclude an employee if the administrator has reason to suspect that an employee has or has been exposed to any restrictable disease that requires exclusion, the administrator shall send the employee home measles, mumps, rubella, diphtheria, pertussis, hepatitis A, or hepatitis B, unless the local health officer determines that exclusion is not necessary to protect the public’s health. The administrator may request the local health officer to make a determination as

¹ Added per OAR 333-019-1000(2).

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

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

allowed by law. If the disease is reportable, the administrator will report the occurrence to the local health department.

3. An administrator shall exclude an employee if the administrator has been notified by a local public health administrator or local public health officer that the employee has had a substantial exposure to an individual with COVID-19 and exclusion is deemed necessary by same.
4. An employee will be excluded in such instances until such time as the employee presents a certificate from a physician, a physician assistant licensed under Oregon Revised Statute (ORS) 677.505-677.525, a nurse practitioner licensed under ORS 678.375-678.390, local health department nurse or school nurse stating that the employee does not have or is not a carrier of any restrictable disease.
- ~~5. An administrator will exclude a susceptible employee that has been exposed to a restrictable disease that is also a reportable disease unless the local health officer determines that exclusion is not necessary to protect the public's health, or the local health officer states the disease is no longer communicable to others or that adequate precautions have been taken to minimize the risk of transmission. The administrator may request the local health officer to make a determination as allowed by law.~~
- 6.5. An administrator may allow attendance of an employee restricted for chickenpox, scabies, staphylococcal skin infections, streptococcal infections, diarrhea or vomiting if the restriction has been removed by a school nurse or health care provider.
- ~~7.6. More stringent exclusion standards for employees from school or work may be adopted by the local health department or by the district through policy adopted by the Board.~~
- 8.7. The district's emergency plan shall address the district's plan with respect to a declared public health emergency at the local or state level.

Reportable Diseases Notification

1. All employees shall comply with all reporting measures adopted by the district and with all rules set forth by Oregon Health Authority, Public Health Division and the local health department.
2. An administrator may seek confirmation and assistance from the local health officer to determine the appropriate district response when the administrator is notified that an employee or a student has been exposed to a restrictable disease that is also a reportable disease.
3. ~~[[District staff with impaired immune responses, that are of childbearing age or some other medically fragile condition, should consult with a medical provider for additional guidance⁴.]]~~
4. An administrator shall determine other persons with a legitimate educational interest who may be informed of the communicable nature of an individual student's disease, or an employee's

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

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

Equipment and Training

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

Corbett School District 39

Code: GBEBA
Adopted: 4/17/19
Orig. Code(s): GBEBA

Staff - HIV, AIDS and HBV

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

The district recognizes a staff member has no obligation under any circumstance to report a condition to the district, and the staff member has a right to continue working. If the staff member reports a condition to the district, strict adherence to written guidelines outlined by the staff member shall be followed. These guidelines shall identify who may have the information, who will give the information, how the information will be given, and where and when the information will be given. All such information will be held in confidence in accordance with Oregon law.

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

END OF POLICY

Legal Reference(s):

[ORS 243.650](#)

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

[ORS 433.008](#)

[ORS 433.045](#)

[ORS 433.260](#)

[OAR 333-017-0000](#)

[OAR 333-018-0000](#)

[OAR 333-018-0005](#)

[OAR 581-022-2220](#)

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

Corbett School District 39

Code: GBEBAA/JHCCBA/EBBAB
Adopted: 2/21/07
Orig. Code: GBEBAA/JHCCBA/EBBAB

HBV/Bloodborne Pathogens

(See policy EBBAA)

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

Consequently, the Board directs adherence to standard precautions. Standard precautions require that staff and students approach infection control as if all direct contact with human blood and body fluids is known to be infectious for HIV, HBV and/or other bloodborne pathogens¹.

In order to reduce the risk to staff/students by minimizing or eliminating staff exposure incidents to bloodborne pathogens, the Board directs the superintendent to develop and implement an Exposure Control Plan. The plan shall be reviewed and updated at least annually and when necessary to reflect new or modified tasks and procedures which affect occupational exposure and to reflect new or revised employee positions with occupational exposure. The review and update shall also:

1. Reflect changes in technology that eliminate or reduce exposure to bloodborne pathogens;
2. Annually, document consideration and implementation of appropriate commercially available and effective safer medical devices designed to eliminate or minimize occupational exposure.

The plan shall include training followed by an offer of immunization with Hepatitis B vaccine and vaccination series for all staff who are required to provide first aid to students and/or for all staff who have occupational exposure as determined by the district. Training shall be provided at the time of initial assignment to tasks where occupational exposure may take place and at least annually thereafter. Personal protective equipment appropriate to job tasks shall be provided by the district. A postexposure evaluation and follow-up shall be made available to any employee sustaining an occupational exposure.

The district recognizes that, as required by OAR 437-002-1030, employees who use medical sharps in the performance of their duties (e.g., administering injectable medicines to students, such as epinephrine and glucagon) must, at least annually, be provided with the opportunity to identify, evaluate and select engineering and work practice controls (e.g., sharps disposal containers, self-sheathing needles, safer medical devices, such as sharps with engineered sharps injury protections and needleless systems). The district will implement such work practice controls, as appropriate.

Documentation, including a sharps injury log, will be maintained as required by OAR 437-002-1035 and 437-002-1030 (3).

¹Bloodborne pathogens - pathogenic microorganisms that are present in human blood and can cause disease in humans. These include, but are not limited to, Hepatitis B virus (HBV) and Human Immunodeficiency Virus (HIV).

END OF POLICY

Legal Reference(s):

- [OAR 437-002-0360](#)
- [OAR 437-002-0377](#)
- [OAR 437-002-1030](#)
- [OAR 437-002-1035](#)

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Corbett School District 39

Code: GBEBD/JHCCD
Adopted: 5/21/98
Orig. Code: GBEBD/JHCCD

Staff/Students - Rumor Control - HIV, AIDS, HBV and HCV**

(OSBA has removed this policy from its samples.)

The district shall use a two-pronged approach for rumor control related to HIV, AIDS and HBV¹ before a rumor begins and during an “active” rumor.

In preparation for rumor control, the district shall annually notify staff, students, parents, media and the general public through such means as handbooks and district newsletters of confidentiality and individual rights requirements placed upon school districts. The requirements are outlined in Oregon Revised Statutes and Oregon Administrative Rules. Individual rights include the right a staff member or a student may have to continue working or attending school.

The district shall emphasize that if a staff member or the student (parent) chooses not to divulge an HIV, AIDS, HBV or HCV condition, the district will have no information except to reiterate the requirements in the law regarding confidentiality and individual rights. This will be stated routinely and in cases of an “active” rumor.

If the staff member or student (parent) wishes to divulge information and continues working or attending school, the district shall meet with the infected party or representative to develop a written procedure. This procedure will minimally outline what information will be given, who will give the information, when and where the information will be given, how the information will be given and who will receive the information. The procedures will be signed for approval by the infected party or representative.

The district shall appoint a district spokesperson who shall be responsible for responding to staff, students, parents, media and the general public.

END OF POLICY

Legal Reference(s):

[ORS 433.008](#)
[ORS 433.045](#)
[OAR 333-012-0270](#)

[OAR 333-018-0000](#)
[OAR 333-018-0005 \(1\)\(a\)](#)
[OAR 333-018-0030](#)

[OAR 581-015-0005](#)

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

Corbett School District 39

Code: GBEBE/JHCCE/KBCAA
Adopted: 12/17/98
Orig. Code: GBEBE/JHCCE/KBCAA

News/Media - HIV, AIDS, HBV or HCV**

(OSBA has removed this policy from its samples)

The district shall appoint a district spokesman who shall respond to media inquiries regarding rumored or identified HIV, AIDS or HBV¹ cases.

The spokesman shall stress:

- School districts are not informed of a person infected with HIV, AIDS or HBV unless the infected person or his/her parent releases the information;
- School districts, if informed, may not release the information unless the infected person or parent gives permission for such release;
- School districts may not prevent a staff member from working if he/she is able to perform his/her job responsibilities. Students have a right to continue to attend school.

The district shall ask the local health department or other health authorities to assist the district spokesman in responding to media inquiries.

END OF POLICY

Legal Reference(s):

[ORS 326.565](#)
[ORS 326.575](#)
[ORS 332.061](#)
[ORS 336.187](#)
[ORS 342.850 \(7\)](#)

[ORS 433.008](#)
[ORS 433.045](#)
[OAR 333-012-0270](#)
[OAR 333-018-0000](#)

[OAR 333-018-0005](#)
[OAR 333-018-0030](#)
[OAR 581-015-0005](#)
[OAR 581-022-1440](#)

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

Corbett School District 39

Code: GBEC
Adopted: 5/21/98
Orig. Code: GBEC



Drug-Free Workplace *

(Version 1)

(See current version)

No employee engaged in work in connection with a direct federal grant or contract of \$25,000 or more shall unlawfully manufacture, distribute, dispense, possess or use on or in the workplace any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana or any other controlled substance or alcohol, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation at 21 CFR 1300.11 through 1300.15.

“Workplace” is defined to mean the site for the performance of work done in connection with a federal grant or contract. That includes any school building or any school premises; any school-owned vehicle or any other school-approved vehicle used to transport students to and from school or school activities; off school property during any school-sponsored or school-approved activity, event or function, such as a field trip or athletic event, where students are under the jurisdiction of the school district where work on a federal grant is performed.

**Each employee who is engaged in work related to a direct federal grant or contract of \$25,000 or more, shall notify his/her supervisor of his/her conviction of any criminal drug statute based on conduct occurring in the workplace, as defined above, no later than 5 days after such conviction.

**Each employee who is engaged in work related to a direct federal grant or contract of \$25,000 or more, shall abide by the terms of this district policy establishing a drug-free workplace.

**An employee who violates the terms of this policy shall satisfactorily participate in a drug abuse assistance or rehabilitation program approved by the Board. If the employee fails to satisfactorily participate in such program, employment may be suspended, his/her contract non-renewed or be dismissed, at the discretion of the Board.

Sanctions against employees, including non-renewal, suspension and termination, shall be in accordance with prescribed district administrative regulations and procedures.

END OF POLICY

Legal Reference(s):

[ORS 243.650](#)
[ORS 336.222](#)
[ORS 342.721](#)
[ORS 342.723](#)

[ORS 342.726](#)
[ORS Chapter 475](#)
[ORS 657.176](#)
[ORS 659A.127](#)

[OAR 581-022-2045](#)
[OAR 581-022-2210](#)
[OAR 584-020-0040\(5\)\(e\)](#)

Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 8101-8106 (2012); General Principles Relating to Suspension and Debarment Actions, 34 C.F.R. §§ 84.100-84.670 (2016).

Controlled Substances Act, 21 U.S.C. § 812; Schedules of Controlled Substances, 21 C.F.R. §§ 1308.11-1308.15 (2016).

Safe and Drug-Free Schools and Communities Act, 20 U.S.C. §§ 7101-7117 (2012).

Corbett School District 39

Code: GBEC
Adopted:

Drug-Free Workplace * (Version 2)

The district shall provide a drug-free workplace.

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

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

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

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

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

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

Definitions

1. "Controlled substance" shall include any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana or other drug as classified under the federal Controlled Substances Act, as modified under Oregon Revised Statute (ORS) 475.035.
2. "Alcohol" shall include any form of alcohol for consumption, including beer, wine, wine coolers or liquor.
3. "Conviction" means a finding of guilt (including a plea of no contest) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or state criminal drug statutes.
4. "Criminal drug statute" means a Federal or State criminal statute involving the manufacture, distribution, dispensation, possession or use of any controlled substance[or alcohol].

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

5. “Drug-free workplace” means a site for the performance of work at which employees are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance[or alcohol].

Sanctions and Remedies²

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

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

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

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

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

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

Employee Assistance Program

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

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

² Ibid. p. 1

Establishment of Drug-Free Awareness Program

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

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

Notification by Employee of Conviction³

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

Notification by the District of an Employee Conviction

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

END OF POLICY

Legal Reference(s):

[ORS 243.650](#)
[ORS 336.222](#)
[ORS 342.721](#)
[ORS 342.723](#)

[ORS 342.726](#)
[ORS Chapter 475](#)
[ORS 657.176](#)
[ORS 659A.127](#)

[OAR 581-022-2045](#)
[OAR 581-022-2210](#)
[OAR 584-020-0040\(5\)\(e\)](#)

Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 8101-8106 (2012); General Principles Relating to Suspension and Debarment Actions, 34 C.F.R. §§ 84.100-84.670 (2016).

Controlled Substances Act, 21 U.S.C. § 812; Schedules of Controlled Substances, 21 C.F.R. §§ 1308.11-1308.15 (2016).

Safe and Drug-Free Schools and Communities Act, 20 U.S.C. §§ 7101-7117 (2012).

³ Ibid. p. 1

Corbett School District 39

Code: GBED
Adopted: 3/15/17
Orig. Code: GBED



Medical Examinations/Drug Testing *

Medical Examinations

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

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

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

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

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

Drug Testing

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

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

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

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

END OF POLICY

Legal Reference(s):

[ORS 332.107](#)

[ORS 657.176](#)

[ORS 659A.133](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2016); 28 C.F.R. Part 35 (2016).
Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. §§ 31301-31317; 49 C.F.R. Parts 40, 382, 391-395 (2016).
Lanier v. City of Woodburn, 518 F3d. 1147 (9th Cir. 2008).
Americans with Disabilities Act Amendments Act of 2008.

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Corbett School District 39

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

Drug and Alcohol Testing and Record Query- Transportation Personnel *

The district is committed to the establishment of a drug use and alcohol misuse prevention program that meets all applicable requirements of the Omnibus Transportation Employee Testing Act of 1991 (OTETA). The district or its transportation provider shall have an in-house drug and alcohol testing program or be a member of a consortium that provides testing that meets the federal regulations, and shall annually certify this information to the Oregon Department of Education (ODE). The district or its transportation provider shall comply with the reporting and pre-employment and annual query requirements of the Federal Motor Carrier Safety Administration (FMCSA).

Accordingly, all employees subject to commercial driver license (CDL) requirements shall be prohibited from:

1. The use of drugs, unless a written prescription from a licensed doctor or osteopath is provided, including a statement advising that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle;
2. The use of alcohol including:
 - a. While on duty;
 - b. Eight hours before driving, in accordance with Oregon Administrative Rules;
 - c. Eight hours following an accident;
 - d. Consumption resulting in prohibited levels of alcohol in the system.

"Drugs" as used in this policy refer to controlled substances covered by the OTETA, including marijuana, cocaine, opiates, amphetamines and phencyclidine (PCP).

All covered individuals offered employment with the district and district employees transferring to positions subject to the OTETA shall be required to submit to pre-employment drug testing and a pre-employment query with FMCSA. Additionally, covered employees will be subject to reasonable suspicion, random and post-accident alcohol and drug testing. Return-to-duty and follow-up testing may also be required. The district will also require pre-employment alcohol testing in accordance with the following provisions:

1. All candidates for employment or transfer with the district and subject to the OTETA requirements will be tested;
2. All tests will be conducted using the alcohol testing procedures of 49 C.F.R. Part 40;
3. Such tests must be conducted prior to the new or transferred employee's performance of safety-sensitive functions.

Pre-employment alcohol and drug testing costs will be paid for by the district. All drug and alcohol testing of employees, including reasonable suspicion, random, post-accident, return-to-duty and follow-up testing costs, as applicable, will be paid for by the district. A fee associated with a pre-employment query requested by the district from FMCSA will be paid by the district[and reimbursement sought from the individual]. The district will comply with collective bargaining agreement provisions.

All offers of employment or transfer to covered positions with the district will be made contingent upon testing result and information obtained from a query with FMCSAs. An individual who tests positive for drugs or tests with a breath alcohol content level of 0.02 or higher will not be hired or transferred¹. The offer of employment or transfer will be immediately withdrawn.

An offer of employment or transfer will also be immediately withdrawn from any individual who refuses alcohol and drug testing and/or refuses to give consent for a query with FMCSA.

Covered employees who, under the district's reasonable suspicion, random, post-accident, return-to-duty or follow-up testing program, test positive for drugs or test with a breath alcohol content level of 0.02 or higher, will be subject to immediate disciplinary action up to and including dismissal in accordance with Board policy. Employees who refuse to comply with testing requirements will also be regarded as testing positive for drugs or testing with a breath alcohol content level of 0.02 or higher. Notification of available resources for evaluation and treatment will be made as required by law. Additionally, employees may be subject to CDL prohibitions and penalties under the OTETA and applicable Federal Motor Carrier Safety Administration (FMCSA) regulations. Covered employees who refuse consent for a query with FMCSA when required will be removed from safety-sensitive functions.

The district may, in its continuing effort to enhance safety, request a waiver of the OTETA prohibitions against standing down an employee before the medical review officer (MRO) has completed the verification process as provided by 49 C.F.R. § 40.21(c). "Stand-down" means the practice of temporarily removing an employee from safety-sensitive functions based solely on a report from a laboratory to the MRO of a confirmed positive test for drugs, an adulterated test or a substituted test before the MRO has completed verification of the test results. The written waiver request will be directed to the appropriate Federal Motor Carrier Safety Administrator.

In accordance with the provisions of 49 C.F.R. § 40.21(c)(2), and in its ongoing effort to protect the interests of employees in fairness and confidentiality, the district will ensure:

1. The district's policy and administrative regulation are distributed to all covered employees;
2. No information about the confirmed positive, adulterated or substituted test results, or the reason for the employee's temporary removal from performing safety-sensitive functions, becomes available, directly or indirectly to others in the district or subsequently to another employer, other than the employee, the MRO and the designated district official;

¹ The district may elect to allow an individual who tests positive for drugs or tests with a breath alcohol content level of 0.02 or higher to reapply for district employment or transfer to a covered position at a later date. At that time, the individual will again be tested for the presence of drugs and alcohol, if required by the district. A district employee considered for transfer to an OTETA-covered position who tests positive for drugs or tests with a breath alcohol content level of 0.02 or higher will be subject to all district policies and regulations including the district's Drug-Free Workplace policy.

3. All covered employees in a particular district job category are treated the same way with respect to “stand-down”;
4. A covered employee will be subject to “stand-down” only with respect to the actual performance of safety-sensitive duties;
5. No adverse action affecting the employee’s pay and benefits will be taken pending the completion of the MRO’s verification process. This includes continuing to pay the employee during the period of the stand-down in the same way the district would have paid him/her-them had he/she-they not been stood down;
6. The verification process will commence no later than the time an employee is temporarily removed from the performance of safety-sensitive functions and that the period of “stand down” for any employee will not exceed five days, unless the district is informed in writing by the MRO that a longer period is needed to complete the verification process; and
7. In the event that the MRO verifies the test negative or cancels it:
 - a. The district will return the employee immediately to the performance of safety-sensitive duties;
 - b. The employee suffers no adverse personnel or financial consequences as a result; and
 - c. No individually identifiable record that the employee had a confirmed laboratory positive, adulterated or substituted test result is maintained. (The district will maintain a record of the test only as a negative or cancelled test.)

The district will not “stand down” employees in the absence of a waiver, or inconsistent with the terms of the waiver.

The district will establish a voluntary self-identification program consistent with the OTETA requirements. Accordingly, an employee who admits to alcohol misuse or drug use will not be subject to certain referral, evaluation and treatment requirements, provided:

1. The admission is in accordance with the provisions of this policy;
2. The driver does not self-identify in order to avoid testing as required by the OTETA;
3. The driver makes the admission prior to performing a safety-sensitive function (i.e., prior to reporting for duty);
4. The driver does not perform a safety-sensitive function until the district is satisfied that the employee has been evaluated and has successfully completed education or treatment in accordance with the district’s self-identification program guidelines.

Adverse action on the part of the district against any employee making a voluntary admission of alcohol misuse or drug use consistent with the provisions of this policy is prohibited. The district is committed to providing sufficient opportunity for the employee to seek evaluation, education or treatment to establish control over his/her-their drug or alcohol problem.

Following successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert (i.e., employee assistance professional, substance abuse professional or qualified drug and alcohol counselor) the employee will be permitted to return to duty. The district will ensure that prior to the employee participating in a safety-sensitive function, he/she the employee shall be required to undergo a return-to-duty testing with a result indicating a breath alcohol content level of less than 0.02 and/or a verified negative test result for drug use, as appropriate. The district may incorporate employee monitoring and include non-OTETA follow-up testing as part of its return-to-duty procedures under the district's self-identification program.

END OF POLICY

Legal Reference(s):

[ORS 657.176](#)
[ORS 825.415](#)
[ORS 825.418](#)

[OAR 581-053-0220\(3\)\(h\)](#)
[OAR 581-053-0230\(9\)\(t\)](#)
[OAR 581-053-0420\(4\)\(b\)\(B\)\(ii\)](#)
[OAR 581-053-0430\(13\),\(14\)](#)

[OAR 581-053-0531\(12\),\(13\)](#)
[OAR 581-053-0615\(2\)\(c\)\(D\)\(ii\)](#)
[OAR 581-053-0620\(1\)\(d\)](#)

Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. §§ 31301-31317 (2012); 49 C.F.R. Parts 40, 382, 391-395 (2019).

Corbett School District 39

Code: GBEDA-AR
Adopted: 3/14/18
Orig. Code: GBEDA-AR

Drug and Alcohol Testing and Record Query - Transportation Personnel *

The following procedures shall govern the district's drug use and alcohol misuse prevention program:

1. Program Coordinator

The transportation supervisor will be designated as the district's drug use and alcohol misuse prevention program coordinator. The transportation supervisor will coordinate the district's responsibilities and compliance efforts with the applicable provisions of the Omnibus Transportation Employee Testing Act of 1991 (OTETA). The transportation supervisor will:

- a. Ensure that all covered employees receive written materials explaining the district's drug use and alcohol misuse prevention program requirements including:
 - (1) The district policy and administrative regulations;
 - (2) A contact person knowledgeable about the materials, policy, administrative regulations and the OTETA;
 - (3) Categories of employees covered;
 - (4) Information about the safety-sensitive functions and what period of the workday the employee is required to be in compliance. Safety-sensitive functions shall include such responsibilities as all on-duty time waiting to be dispatched, driving time, assisting or supervising loading or unloading, repairing, obtaining assistance or remaining in attendance upon a disabled vehicle. All time spent providing drug and alcohol samples, including travel time to and from the collection or testing site as needed to comply with random, reasonable suspicion, postaccident, return-to-duty or follow-up testing, will also be considered as on-duty time;
 - (5) Specific information concerning prohibited conduct;
 - (6) Circumstances under which employees will be tested;
 - (7) Procedures used in the testing process;
 - (8) The requirement that covered employees submit to drug and alcohol testing, administered in accordance with 49 C.F.R. Part 382;
 - (9) Explanation of what constitutes a refusal to submit to a drug and/or alcohol test;
 - (10) Consequences of violations (e.g., discipline up to and including dismissal as may be required by the district and removal from safety-sensitive functions as required by the OTETA) and notification of resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol and the use of drugs including the names, addresses and telephone numbers of substance abuse professionals (SAP) and counseling and treatment programs. Such information will include the consequences for covered employees found to have a breath alcohol concentration rate of 0.02 or greater, but less than 0.04, and for those employees found to have a breath alcohol content level greater than 0.04. Minimally, no driver tested and found to have a breath alcohol concentration rate of 0.02 or greater but less than 0.04 shall be permitted to perform or

continue to perform safety-sensitive functions until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test;

- (11) Information on the effects of drug use and alcohol misuse on an individual's health, work and personal life; signs and symptoms of an alcohol or drug problem (driver's or coworker's); and available methods of intervening when such problems are suspected, including confrontation, referral to an employee assistance program as available and/or referral to the administration-; and
 - (12) Requirement of the district to collect, maintain and report the following information to the Federal Motor Carrier Safety Administration (FMCSA) Drug and Alcohol Clearinghouse¹:
 - (a) A verified positive, adulterated, or substituted drug test result;
 - (b) An alcohol confirmation test with a concentration of 0.04 or higher;
 - (c) A refusal to submit to any test required by subpart C of 49 C.F.R. Part 382;
 - (d) An employer's report of actual knowledge (as defined at 49 C.F.R. § 382.107) of a violation of regulations, including:
 - (i) On duty alcohol use;
 - (ii) Pre-duty alcohol use;
 - (iii) Alcohol use following an accident;
 - (iv) Controlled substance use.
 - (e) A SAP's report of the successful completion of the return-to-duty process;
 - (f) A negative return-to-duty test; and
 - (g) An employer's report of completion of follow-up testing.
- b. Ensure that employees sign statements certifying that they have received the materials;
 - c. Ensure that administrators or their designee, designated to determine reasonable suspicion, receive at least 60 minutes of drug abuse training and an additional 60 minutes of alcohol misuse training. Training will include the physical, behavioral, speech and performance indicators of probable drug use and alcohol misuse;
 - d. Ensure district compliance with applicable provisions of the OTETA's requirements regarding the district's management information system, retention and confidentiality of records;
 - e. Ensure selection of a site with appropriately trained personnel for the collection of specimens for drug testing;
 - f. Ensure selection of a site with a certified breath alcohol technician and evidential breath testing devices for alcohol testing;
 - g. Ensure selection of a laboratory certified by the ~~Department of Health and Human Services (DHHS)~~ Oregon Health Authority, Public Health Division (OHA) to conduct drug specimen analysis;
 - h. Ensure selection of a qualified medical or osteopathic doctor to serve as a medical review officer (MRO) to verify laboratory drug test results;
 - i. Ensure selection of qualified personnel to provide education and training to employees and supervisors in accordance with employee assistance program requirements as specified in the OTETA;

¹ <https://clearinghouse.fmcsa.dot.gov/>

- j. Ensure the district’s drug use and alcohol misuse prevention program is maintained in at least outline form, on file and available for inspection at the district office. The district shall maintain the following:
 - (1) Information on the effects and consequences of drug and alcohol use on personal health, safety and the work environment;
 - (2) Information on the manifestations and behavioral changes that may indicate drug and alcohol use or abuse;
 - (3) Documentation that drug training for all supervisory personnel has consisted of at least 60 minutes;
 - (4) Documentation that alcohol training for all supervisory personnel has consisted of at least 60 minutes;
 - (5) Documentation of training given to employees.
- k. Ensure the establishment of clearly defined communication procedures to include the method (e.g., mail, facsimile) and frequency (e.g., monthly, daily, weekly) as well as the authorized individuals to impart and receive information to meet the documentation and confidentiality requirements of the OTETA;
- l. Ensure employee organizations receive written notice of the availability of all pertinent drug use and alcohol misuse prevention program information;
- m. Ensure compliance with stand-down prohibitions as set forth by the OTETA. “Stand-down” means the practice of temporarily removing an employee from the performance of safety-sensitive functions, based on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test or a substituted test, before the MRO has completed verification of the test results. The district will not stand-down employees, except as provided by the Federal Motor Carrier Safety Administration (FMCSA) below:
 - (1) The district may seek a waiver of the prohibition against standing down an employee;
 - (2) Requests which include all required information will be submitted to FMCSA for approval.

2. Pre-employment and Annual Queries from, and Required Reporting to FMCSA

The district is required to conduct a pre-employment query with FMCSA on drivers who are subject to controlled substance and alcohol testing regulation, and is required to report information obtained through its controlled substance and alcohol testing program to FMCSA. All offers of employment for positions identified by the district, as required by the OTETA, will be contingent upon the results of a pre-employment query.

- a. The district will obtain written or electronic consent from a driver subject to controlled substances and alcohol testing to conduct a pre-employment query with FMCSA. The consent will include consent to obtain the following information:
 - (1) If the driver has a verified positive, adulterated, or substituted controlled substances test result;
 - (2) If the driver has an alcohol confirmation test with a concentration of 0.04 or higher;
 - (3) If the driver has refused to submit to a test (in violation of 49 C.F.R. § 382.211); or
 - (4) If the driver has a report submitted by another employer on actual knowledge (as defined at 49 C.F.R. § 382.107) of a violation of regulations that included:

- (a) On duty alcohol use;
- (b) Pre-duty alcohol use;
- (c) Alcohol use following an accident; or
- (d) Controlled substance use.

The district will conduct annual queries² with the FMCSA on employees subject to such queries as required by law.

b. The district will report³ to FMCSA the following personal information about a driver that is collected and maintained in connection with the district's testing program:

- (1) An alcohol confirmation test with an alcohol concentration of 0.04 or greater;
- (2) A refusal to submit to an alcohol test pursuant to conditions found in 49 C.F.R. § 40.261 or a refusal to drug test determination made in accordance with 49 C.F.R. § 40.191(a)(1)-(4), (a)(8)-(11) or (d)(1), but in the case of a refusal to test under (a)(11), the district may report only those admissions made to the specimen collector;
- (3) A SAP's report of the successful completion of the return-to-duty process;
- (4) A negative return-to-duty test; and
- (5) An employer's report of completion of follow-up testing.

The report will include, as applicable:

- (1) Reason for the test;
- (2) Driver's name, date of birth, and CDL number and State of issuance;
- (3) Employer name, address, and USDOT number;
- (4) Date of the test;
- (5) Date the result was reported; and
- (6) Test result. The test result must be one of the following:
 - (a) Negative (only required for return-to-duty tests administered in accordance with law);
 - (b) Positive; or
 - (c) Refusal to take a test.
- (7) An employer's report of a driver's refusal to submit⁴ to alcohol or drug testing must include the following information:
 - (a) Documentation, including, but not limited to, electronic mail or other contemporaneous record of the time and date the driver was notified to appear at a testing site; and the time, date and testing site location at which the employee was directed to appear, or an affidavit providing evidence of such notification;
 - (b) Documentation, including, but not limited to, electronic mail or other correspondence, or an affidavit, indicating the date the employee was terminated or resigned (if applicable); and

² Written consent from the driver is required. This may be a limited query when allowed. If the limited query indicates that the FMCSA contains information on the driver, the district will conduct a full query within 24 hours and must not allow driver to perform safety-sensitive functions.

³ The district will complete such reporting to FMCSA by close of the third business day following receipt of the information.

⁴ 49 C.F.R. § 40.261(a)(1) or 40.191(a)(1)

(c) Documentation, including a certificate of service or other evidence, showing that the employer provided the employee with all documentation reported herein.

(8) An employer's report of a violation of one of the following will occur by the close of the third business day following the date on which the employer obtains actual knowledge (as defined at 49 C.F.R. § 382.107):

- (a) On duty alcohol use;
- (b) Pre-duty alcohol use;
- (c) Alcohol use following an accident;
- (d) Controlled substance use.

This report will include the following information:

- (a) Driver's name, date of birth, CDL number and State of issuance;
- (b) Employer name, address, and USDOT number, if applicable;
- (c) Date the employer obtained actual knowledge of the violation;
- (d) Witnesses to the violation, if any, including contact information;
- (e) Description of the violation;
- (f) Evidence supporting each fact alleged in the description of the violation required under paragraph above in this section, which may include, but is not limited to, affidavits, photographs, video or audio recordings, employee statements (other than admissions pursuant to §382.121), correspondence, or other documentation; and
- (g) A certificate of service or other evidence showing that the employer provided the employee with all information reported under paragraph above in this section.

If the district's program coordinator is the subject of the testing, the district will ensure compliance with applicable consent, testing, and reporting requirements pursuant to law.

3. Pre-employment Testing

The district shall conduct pre-employment testing as follows:

- a. All offers of employment for positions as identified by Board policy and as required by the OTETA will be contingent upon drug and alcohol test results;
- b. Individuals offered employment with the district and employees transferring to positions subject to the OTETA contingent on drug and alcohol testing, must provide written consent for the release of any prior employer positive drug and failed alcohol testing results, refusals to be tested, other violations of testing regulations and, with respect to any employee who violated drug and alcohol regulations, documentation of the employee's successful completion of return-to-duty requirements (including SAP evaluations and follow-up tests) within the preceding two years;
- c. The district shall obtain and review such drug and alcohol information from previous employers of the past two years no later than 14 calendar days after the driver is used for the first time. The district will provide the driver's written permission for release of information to the previous employers;
- d. The district will maintain a written, confidential record of information obtained from another employer or the good faith efforts to obtain such information, and will maintain the same for three years from the date the driver's service began.

- e. ⁵Requests received by the district for ~~Release of such information may be by telephone, letters or any other method~~ to another employer must include written consent from the subject driver. Records will be released immediately in any written form (e.g., fax, email, letter) that ensures confidentiality. The district will maintain a written, ~~confidential record of each past employer contacted~~ record and summary of information released, the date, and to whom the information was released;
- f. The district ~~will not~~ must ask use a driver, ~~with a~~ and will not use such driver, if they have a positive drug test or a failed alcohol test while employed with a previous employer or who refused to test while under employment with a previous employer in the past two years unless the driver is in compliance with the SAP's treatment program and the OTETA's return-to-duty test requirements;
- g. Prior to being directed by the district to a collection site for drug and alcohol testing, the applicant will be notified that the urine sample collected shall be tested for the presence of drugs and the breath or saliva sample shall be tested for the presence of alcohol;
- h. Failure to report to the collection site for testing within the time frame specified by the district shall constitute a refusal to report for testing and result in immediate withdrawal of the employment or transfer offer;
- i. Pre-employment drug and alcohol testing will be paid for by the employee;
- j. Tests must indicate negative drug test results and a breath alcohol content level below a 0.02. Individuals who fail to meet such drug and alcohol requirements may not be hired or transferred voluntarily or involuntarily to covered positions;
- k. Such testing will also be required of covered employees each time an employee returns to work after a layoff period if the employee was removed from the random testing pool. As long as the employee remains in the random testing pool, additional testing or subsequent pre-employment drug and alcohol testing will not be necessary following a layoff;
- l. The district will notify individuals offered employment with the district contingent on drug testing of the results of such testing upon request within 60 days of being notified of the disposition of the employment application;
- m. Refusal to submit to drug and alcohol testing and/or to provide signed permission for the release of past testing information as required by the district shall result in immediate termination from employment or transfer consideration;
- n. The individual may request a screening of the split specimen at ~~his/her~~ their own expense. All such requests must be received in writing by the district no later than 72 hours following notification to the applicant of the positive test results.

4. Post-accident Testing

The district shall conduct post-accident testing as follows:

- a. It is the responsibility of the employee to report for post-accident drug and alcohol testing as soon as practicable following a motor vehicle accident which occurs while the employee is performing district safety-sensitive functions in which there is a fatality or the employee receives a citation for a moving traffic violation in connection with an injury or tow-away accident:

⁵ Pertains to requests received by the district from other employers.

- (1) The employee will report to the designated collection site for post-accident drug and alcohol testing as soon as practicable following the occurrence of the accident;
 - (2) If alcohol testing has not been administered within two hours, the district ~~will~~ shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered;
 - (3) If alcohol testing is not administered within eight hours, the district ~~will~~ shall cease attempts to administer an alcohol test and ~~will prepare~~ shall state and maintain on file a record specifying why the test was not administered;
 - (4) If drug testing has not been administered within 32 hours following the accident, the district will cease attempts to administer such tests and will document why the test was not administered;
 - (5) The employee will contact the district official or designee as soon as practicable following the accident giving as much detailed information about the accident as possible (e.g., fatalities, injuries, tow-aways, traffic citation issued, etc.).
- b. The district will provide employees with necessary post-accident testing information, procedures and instructions as a part of its employee training program. Additionally, written instructions to follow in the event of an accident will be provided in district vehicles as appropriate. Instructions will include locations of drug specimen collection and alcohol testing sites and telephone number of the district drug use and alcohol misuse prevention program coordinator or other district officials to contact;
 - c. The employee shall remain readily available for testing or may be deemed by the district to have refused to submit to testing. Such refusal is treated as if the district received an alcohol test result of 0.04 or greater or received a positive drug test. Nothing in this requirement shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care;
 - d. Results of a breath or blood test for the use of alcohol or a urine test for the use of drugs conducted by on-site federal, state and/or local law enforcement officials having independent authority for the test shall be considered to meet necessary requirements provided results of the test are obtained by the district and the tests conform to all applicable federal, state and/or local requirements;
 - e. An employee who is involved in an accident involving a fatality, injury and/or tow-away as described by the OTETA is prohibited from using alcohol for eight hours after the accident or until the employee undergoes a postaccident alcohol test, whichever occurs first.

5. Random Testing

The district shall conduct random drug and alcohol testing annually as follows:

- a. Not less than 25 percent of the average number of driver positions shall be tested for drugs and not less than 10 percent shall be tested for alcohol in accordance with current minimum random testing requirements of the OTETA. Any unfilled, covered positions will be included as part of the total number of positions counted by the district for testing rate purposes.

The district will meet minimum testing rates.

- b. The testing rate may be adjusted by FMCSA based on industrywide data;
- c. The testing process shall, in fact, be random. Unless advised otherwise by their consortium, all employees will remain in the pool of drivers for each subsequent period, including vacations, holiday periods and summer recesses, whether or not they have been chosen for testing in the past;
- d. The selection of employees for random testing shall be made by a scientifically valid method. The process selected by the district will ensure that all employees shall have an equal chance of being tested each time selections are made. The district will use the following system:

Manual system:

- (1) Individual, identically sized slips of paper or cards with the names or identification numbers of the covered drivers will be used;
 - (2) Cards will be placed into a container from which the required number will be drawn;
 - (3) The individual selected by the district to do the drawing will be unbiased;
 - (4) All names in the pool will be checked prior to the drawing to assure any necessary additions or deletions are made.
- e. All such testing shall be unannounced and dates selected spread reasonably throughout the calendar year to avoid predictability and the perception that testing is “done for the year;”
 - f. Following notification of testing, selected employees shall proceed to the district-selected collection site immediately or as soon as practicable;
 - g. Each employee selected for testing shall be tested during the selection period;
 - h. Employees shall only be tested for alcohol just before the driver is scheduled to perform his/her safety-sensitive functions, during or just after performing such functions;
 - i. Employees off work due to leave of absence, vacation and layoff will be informed that they remain subject to random testing. Employees drawn for such testing will be notified and tested as soon as practicable upon return to duty but no later than the next selection cycle (e.g., monthly, quarterly, etc.).

6. Reasonable Suspicion Testing

The district shall conduct reasonable suspicion drug and alcohol testing as follows:

- a. The district will test covered employees when there is reasonable suspicion to believe that the employee has engaged in drug use or alcohol misuse;
- b. Reasonable suspicion will be based on specific contemporaneous, articulable observations made by a trained supervisor as designated by the district, concerning appearance, behavior, speech or body odors indicative of employee use of drugs or the misuse of alcohol. Observations of drug use may include indications of chronic and withdrawal effects of drugs and noticeable degradation of job performance that may be associated with the use of drugs;
- c. Hearsay or secondhand information is not sufficient to require an employee to submit to testing;
- d. Alcohol testing may be authorized only if observations resulting in reasonable suspicion are made during, just preceding or just after the period of the workday that the employee is required to be in compliance with this policy, administrative regulations and applicable OTETA provisions;

- e. A written record shall be made of the observations leading to a reasonable suspicion drug test and signed by the administrator or his/her designee authorized to make such observations within 24 hours of the observed behavior or before the results of the drug test are released, whichever is earlier;
- f. The district will ensure that the employee under reasonable suspicion is transported to the designated collection or testing site.

7. Referrals, Evaluation and Treatment

The district shall provide information related to referrals, evaluation and treatment as follows:

- a. The district shall advise covered employees, who violate the drug and alcohol prohibitions, of referral services available for evaluating and resolving problems associated with the use of drugs and the misuse of alcohol. Such information will include the names, addresses and telephone numbers of SAPs and counseling and treatment programs;
- b. An employee who engages in such prohibited conduct shall be evaluated by a SAP;
- c. The SAP will determine what assistance if any the employee needs in resolving problems associated with drug use and alcohol misuse;
- d. This requirement applies only to current employees and not to job applicants who refuse testing or who test positive for drugs;
- e. This requirement shall not be interpreted to require the district to provide or pay for any rehabilitation costs or to hold a job open for an employee with or without salary;
- f. SAPs, as referred to in these administrative regulations, means:
 - (1) Licensed physicians with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders;
 - (2) Licensed or certified psychologists, social workers or employee assistance professionals with like knowledge; and
 - (3) Alcohol and drug abuse counselors certified by the ~~National Association of Alcoholism and Drug Abuse Counselors (NAADAC)~~ Association for Addiction Professionals. This does not include state-certified counselors.

8. Return-to-Duty Testing

Employees, if they continue employment and before they return to duty, shall comply with the following:

- a. When an employee has previously tested greater than or equal to 0.04 for alcohol, the employee must retest (return-to-duty test) with an alcohol concentration of less than 0.02;
- b. When an employee has previously tested positive for drug use, the employee must retest (return-to-duty test) with a verified negative test result.

9. Follow-up Testing

Employees, if they continue employment, shall comply with the following:

- a. Follow-up testing will be conducted whenever a SAP determines that an employee is in need of resolving problems associated with drug use and/or alcohol misuse;

- b. Follow-up alcohol testing will be conducted only when the employee is performing safety-sensitive functions, just before or just after the driver has performed safety-sensitive functions;
- c. Follow-up drug and alcohol testing will be unannounced⁶;
- d. The number and frequency of such tests shall be determined by the SAP. Minimally, there shall be:
 - (1) At least 6 unannounced tests in the first 12 months following the driver's return to duty;
 - (2) Testing shall not exceed 60 months from the date of the employee's return to duty. The SAP, however, may terminate the follow-up testing at any time after the first six tests if he/she the SAP determines the testing is no longer needed.

10. Drug and Alcohol Testing Procedures

The district, in cooperation with contracted collection and testing facilities, shall maintain drug and alcohol testing procedures as follows:

- a. Drugs
 - (1) The applicant or employee reports to the district-designated collection site and provides positive identification (e.g., photo ID);
 - (2) A urine sample for drug testing is provided. A "split specimen" (two urine specimen bottles) is prepared from the urine sample;
 - (3) Following completion of a chain-of-custody form, both specimen bottles are forwarded to the DHHSOHA certified laboratory for analysis. The split specimen is stored at the laboratory for later testing as may be necessary. Initial testing is performed only on one specimen bottle;
 - (4) Testing results are reported to the district-selected MRO by mail or electronic transmission. Results may not be given over the phone;
 - (5) The MRO will verify both negative and positive testing results;
 - (6) The MRO will report the verified negative testing results to the district;
 - (7) The MRO will report verified positive testing results to the applicant or employee, discuss the type of illegal substance found and determine whether there is any valid medical reason for the positive testing results;
 - (8) A verified valid medical reason for a positive test result will be reported as a negative test result to the district;
 - (9) If no legitimate medical reason exists for positive drug testing, the MRO will report a confirmed positive test result and identity of the substance(s) to the district;
 - (10) The employee or applicant may request within 72 hours of a positive test notice that the split specimen (second bottle) be screened. Such screening costs will be paid for by the employee;
 - (11) Unlike the original specimen analyzed for specific levels of controlled substances, the split specimen is analyzed only for the presence of drugs;
 - (12) The MRO will report results of the second screening to the employee and the district;
 - (13) The MRO will meet all the OTETA requirements including review of chain-of-custody control form, administrative processing of negative test results, verification of positive

⁶ A follow-up test shall not also serve as a random test, and vice versa.

testing results, report to the FMCSA and maintenance of confidentiality requirements as may be applicable;

- (14) Detailed drug testing procedures may be obtained by contacting the district's drug use and alcohol misuse prevention coordinator or designee.

b. Alcohol

- (1) The employee reports to the district-designated testing site and provides positive identification;
- (2) Under the alcohol testing rule, an alcohol test result will be considered failing even if over-the-counter or legally prescribed medication is involved;
- (3) All alcohol screening tests will be conducted by:

A qualified breath alcohol technician using evidential breath testing devices.

Testing may be conducted at an DHHS/OHA certified laboratory or other location including mobile facilities equipped for such testing as may meet the requirements of the OTETA;

- (4) District supervisors should generally not be used as a breath alcohol or screening test technician for covered employees. Under certain circumstances, a properly trained district supervisor may conduct such testing in the absence of another technician;
- (5) The employee submits to breath or saliva testing;
- (6) If the result of the testing indicates an alcohol concentration rate of 0.02 or greater, a confirmation breath test is administered after at least 15 minutes, but no longer than 30 minutes, after the initial testing. All confirmation tests will be conducted using evidential breath testing devices;
- (7) The technician will report any invalid tests, confirmed failing and passing results to the district;
- (8) Employee refusal to sign forms as required (i.e., Step 2 on the Alcohol Testing Form) shall be considered as refusal to be tested;
- (9) The breath alcohol or screening test technician will meet all OTETA requirements including such testing procedures, Alcohol Testing Form and confidentiality requirements as may be required;
- (10) Detailed alcohol testing procedures may be obtained by contacting the district's drug use and alcohol misuse prevention program coordinator or designee.

11. Positive Test Result

When the MRO determines a positive test result is valid, the MRO will report the finding to the Oregon Department of Transportation (ODOT) and the Oregon Department of Education. The person who is the subject of the test results will be notified by ODOT that the person has a right to a hearing to determine whether the test results reported will be placed in the employee's employment driving record.

12. Record Keeping/Record Reporting

The district shall maintain records of its drug use and alcohol misuse prevention program as follows:

a. Records related to the collection process:

- (1) Documents relating to the random selection process;
- (2) Documents generated in connection with decisions to administer reasonable suspicion drug or alcohol testing;
- (3) Documents generated in connection with decisions on postaccident testing;
- (4) Documents verifying the existence of an explanation of the inability of an employee to provide adequate breath or to provide a urine specimen for testing;
- (5) An annual calendar year report summarizing results of the district's drug use and alcohol misuse prevention program will be prepared and maintained when requested by FMCSA as part of an inspection, investigation, special study or for statistical purposes.

~~If alcohol testing is provided directly by the district, include the following additional record-keeping requirements.~~

- (6) Collection logbooks, if used;
- (7) ~~[[⁷]] Calibration documentation for evidential breath testing devices;~~
- (8) ~~Documentation of breath alcohol or screening test technician training while the individual performs the functions which require the training.~~

b. Records related to each query:

- (1) Documents related to consent of any query;
- (2) Documents related to information received for a pre-employment or annual query;
- (3) Documents related to meeting reporting requirements.

c. Records related to pre-employment verification with a driver's previous employer;

d. Records related to a driver's test results, including:

- (1) The district's copy of the alcohol testing form, including the test results;
- (2) The district's copy of the controlled substance test custody and control form;
- (3) Documents sent by the MRO to the district;
- (4) Documents related to the refusal of any employee to submit to drug and/or alcohol testing;
- (5) Documents presented by a driver to dispute the results of a drug and/or alcohol test administered in connection with the requirements of the OTETA.

e. Records related to evaluations as follows:

- (1) Records pertaining to a determination by a SAP concerning his/her evaluation of a covered employees' ~~who tested positive for drugs, or failed an alcohol test or refused to test~~ need for assistance;
- (2) Records concerning a driver's compliance with recommendations of the SAP.

⁷ If alcohol testing is provided directly by the district, include the additional record-keeping requirements.

- f. Records related to education and training as follows:
- (1) Materials on drug use awareness and alcohol misuse including a copy of the district's policy and administrative regulations on drug use and alcohol misuse and related information;
 - (2) Driver's signed receipt of education materials;
 - (3) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for drug and/or alcohol testing based on reasonable suspicion;
 - (4) Certification that any training conducted in compliance with the OTETA meets all pertinent requirements for such training.
- g. Records related to alcohol and drug testing as follows:
- (1) Agreements with collection site facilities, laboratories, MROs and consortia (includes breath alcohol technicians, screening test technicians and third party providers), as applicable;
 - (2) Names and positions of officials and their role in the district's drug and alcohol testing program(s);
 - (3) Semiannual laboratory statistical summaries of urinalysis as required by the OTETA and as reported by the laboratory. The district will document laboratory failures to provide statistical summaries and any district follow-up efforts to obtain such reports.
- h. Records will be retained by the district as follows:
- (1) Five Years:
 - (a) Records of employee alcohol-testing results with results indicating an alcohol concentration of 0.02 or greater;
 - (b) Records of verified positive drug testing results;
 - (c) Documentation of refusals to take required drug and/or alcohol tests;
 - ~~(d) Drug testing custody and control forms;~~
 - ~~(e)~~(d) Employee evaluation and referrals;
 - ~~(f)~~(e) Testing program records including violations;
 - ~~(g)~~(f) A copy of each annual calendar year report summary;
 - ~~(h)~~(g) Equipment calibration documentation as applicable when required (See 4-12. a. ~~(6), (7) and (8)~~).
 - (2) Three Years:
 - (a) Records related to each query and all information received in response to each query. Documentation of a consent will be retained for three years from the date of the last query.
 - (b) Pre-employment records obtained, or good faith efforts to obtain, from a previous employer about a driver.
 - (3) Two Years:

Records related to the drug and alcohol collection process (except calibration of evidential breath testing devices).

(4) One Year:

Records of negative and cancelled drug-testing results and alcohol test results with a concentration of less than 0.02.

(5) Indefinite Period:

Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors and drivers shall be maintained by the district while the individual performs the functions which require training and for two years after ceasing to perform those functions.

i. Records will be maintained in a secure location with controlled access to ensure confidentiality requirements are met as follows:

- (1) Drug use and alcohol misuse prevention program records will be maintained at the district office. Records relating to individual employee drug and/or alcohol testing, evaluation and treatment will be maintained separately from the employee's personnel file;
- (2) Employees are entitled upon written request to obtain copies;
- (3) The district may disclose information in connection with employee benefit proceedings, Department of Transportation agency action against an employee or National Transportation Safety Board safety investigations;
- (4) The district shall disclose such information⁸ to subsequent employers upon written request from the employee (in accordance with 49 C.F.R. § 382.413(a)(1))⁹;
- (5) The district will provide access to any drug and alcohol collection and/or testing facility records maintained by the district as described by the OTETA (i.e., those federal agencies, state and local officials who have regulatory authority over the district's covered employees).

⁸ Information that must be disclosed to subsequent employers, upon receipt of proper authorization form/release signed by the employer's ex-driver: (a) Failed alcohol tests (breath alcohol content of 0.04 or greater); (b) Verified positive drug test; (c) Refusals to test.

⁹ Information that must be disclosed to subsequent employers, upon receipt of proper authorization form/release signed by the employer's ex-driver: (a) Failed alcohol tests (breath alcohol content of 0.04 or greater); (b) Verified positive drug test; (c) Refusals to test.

Corbett School District 39

Code: GBG
Adopted: 5/21/98
Orig. Code: GBG

Staff Participation in Political or Community Activities

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

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

On all controversial issues employees must designate that the viewpoints they represent on the issues are personal viewpoints and are not to be interpreted as the official point of view of the school district.

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

END OF POLICY

Legal Reference(s):

[ORS Chapter 244](#)

[ORS 260.432](#)

OR. CONST., art. XV, § 8.

Corbett School District 39

Code: GBH/JECAC
Adopted: 4/17/19
Orig. Code: GBH/JECAC

Staff/Student/Parent Relations**

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

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

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

In the case of joint custody, the district will adhere to all conditions specified and ordered by the court.

The district will use reasonable methods to identify and authenticate the identity of both parents.

END OF POLICY

Legal Reference(s):

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

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

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

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

Corbett School District 39

Code: GBHA
Adopted: 5/21/98
Orig. Code: GBHA

Parental/Family Relationship**

(OSBA has removed this policy from its samples)

In determining whether a person is acting in a parental relationship to a student, the district shall examine the facts and circumstances of each case.

Reasonable requests for relevant information from students or persons appearing to be in a supervisory role of a student may be made.

Characteristics that describe a parental relationship would include:

1. Whether the person has physical custody and control of the student;
2. Whether the person supplies the student with food, clothing, shelter or other incidental necessities;
3. Whether the person provides the student with care, education and discipline;
4. Whether the person may authorize ordinary medical, dental, psychiatric, psychological, hygienic or other remedial care and treatment for the student and, in an emergency where the student's safety appears to urgently require it, whether the person may authorize surgery or other extraordinary care.

END OF POLICY

Legal Reference(s):

[ORS 329.145](#)
[ORS 339.133](#)
[ORS 419B.373](#)

Corbett School District 39

Code: GBI
Adopted: 5/21/98
Orig. Code: GBI

Gifts and Solicitations

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

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

No staff member may solicit funds in the name of the school or district through the use of, including but not limited to, internet-based or crowd-funding types of fund raising, without the approval of the [principal] [superintendent].

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

All employees are prohibited from accepting things of material value from companies or organizations doing business with the school district. Material value is defined as \$10050 from a single source in a single year.

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

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

END OF POLICY

Legal Reference(s):

¹ “Gift” means something of economic value given to a public official or the public official’s relative or household member without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or the relatives or household members of public officials on the same terms and conditions; and something of economic value given to a public official or the public official’s relative for valuable consideration less than that required from others who are not public officials. See ORS Chapter 244 for gift definition exceptions.

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

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

Corbett School District 39

Code: GBI-AR
Revised/Reviewed:

Internet-Based, Crowd Funding Solicitation

All district or school internet-based, crowd funding or other similar types of monetary solicitation shall be in compliance with all district fund-raising policies, requiring preapproval from the [principals] [superintendent].

The [principals] [superintendent] shall monitor the internet-based and/or crowd-funding site to ensure that no student information is disclosed improperly and no images are used without permission.

The [principals] [superintendent] shall insure that the internet-based and/or crowd-funding site is legitimate, and that the terms of the site are being followed.

All technology requests for funding shall follow appropriate policies and use guidelines.

All district or school funding will be on the district's system.

All technology purchases or request for purchase will be approved by the [director of technology].

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

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

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

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Corbett School District 39

Code: GBK/KGC
Adopted: 4/17/19
Orig. Code(s): GBK/KGC

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

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

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

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

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

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

This policy shall be enforced at all times

END OF POLICY

Legal Reference(s):

[ORS 332.107](#)
[ORS 336.227](#)
[ORS 339.883](#)
[ORS 431A.175](#)

[ORS 433.835 to -433.990](#)
[OAR 581-021-0110](#)
[OAR 581-053-0230\(9\)\(s\)](#)

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

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

Corbett School District 39

Code: GBL
Adopted: 1/18/06
Orig. Code: GBL

Personnel Records

(Updated with May 2020 Policy Update)

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

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

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

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

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

9. ~~The disciplinary records[†] of a district employee convicted of a crime listed in ORS 342.143 are not exempt from disclosure under ORS 192.501 or 192.502 and may be released to any person upon request. Prior to the release of disciplinary records 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.~~ Records created pursuant to ORS 339.388(8)(c) are confidential and are not public records as defined in ORE 192.311. The district may use the record as a basis for providing the information required to be disclosed about an employee under ORS 339.378(1).
10. Upon request from a law enforcement agency, the Oregon Department of Human Services, or the Teachers Standards and Practices Commission, or the Oregon Department of Education, a district shall provide the records of investigations of suspected child abuse by a district employee in conducting an investigation related to suspected abuse or suspected sexual conduct, to the extent allowable by state and federal law, including laws protecting a person from self-incrimination.

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

Release of personnel records to parties other than those authorized to inspect them will be only upon receipt of a court order listed above, will be in-line with the Board policy KBA – Public Records. [The district will attempt to notify the employee of the request and that the district believes it is legally required to disclose certain records.]

END OF POLICY

Legal Reference(s):

[ORS 339.370 – 339.374](#)
[ORS 339.388\(7\)-\(9\)](#)

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

[ORS 652.750](#)
[OAR 581-022-2405](#)

OSEA v. Lake County Sch. District, 93 Or. App. 481 (1988).
 Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2016); 28 C.F.R. Part 35 (2016).
 Americans with Disabilities Act Amendments Act of 2008.

[†]Disciplinary records is defined as records related to a personnel discipline action or materials or documents supporting that action.

Corbett School District 39

Code: GBLA
Adopted: 1/18/06
Orig. Code: GBLA

Disclosure of Information

(Version 1)

(see updated version)

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

1. Disclosure of information is upon request of the prospective employer; or
2. Disclosure of information is upon request of the former employee;
3. The information is related to job performance;
4. The action is presumed to be in good faith.
5. The disciplinary records¹ of a district employee who has been convicted of a crime listed in ORS 342.143 are not exempt from disclosure under ORS 192.501 or ORS 192.502 and may be released to any person upon request. Prior to the disclosure of a disciplinary record an education provider shall remove any personally identifiable information from the record that would disclose the identity of a child, a crime victim or a school employee who is not the subject of the disciplinary record.
6. The disclosure is the result of a request from a law enforcement agency, the Department of Human services or the Teachers Standards and Practices Commission regarding the records of investigations of suspected child abuse by a district employee.

Presumption of good faith is rebutted by showing the information disclosed was:

1. Knowingly false;
2. Deliberately misleading;
3. Rendered with malicious purpose;
4. Violated civil rights.

END OF POLICY

Legal Reference(s):

[ORS 30.178](#)
[ORS 339.370 to -339.374](#)

[ORS 339.378](#)
[ORS 339.388\(7\),\(8\),\(9\)](#)

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

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

¹ Disciplinary records is defined as records related to a personnel discipline action or materials or documents supporting that action.

Corbett School District 39

Code: GBLA
Adopted:
Orig. Code(s):

Disclosure of Information

(Version 2)

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

1. The disclosure of information regarding the former employee's job performance is upon request of the prospective employer or the former employee. This disclosure is presumed to be in good faith. Presumption of good faith is rebutted by showing the information disclosed was:
 - a. Knowingly false;
 - b. Deliberately misleading;
 - c. Rendered with malicious purpose; or
 - d. Violated civil right of the former employee protected under Oregon Revised Statute (ORS) 659 or ORS 659A.
2. Records created pursuant to ORS 339.388(8)(c) are confidential and are not public records as defined in ORS 192.311. The district may use the record as a basis for providing the information required to be disclosed about an employee under ORS 339.378(1);
3. The disclosure is a result of a request from law enforcement, Oregon Department of Human Services, Teacher Standards and Practices Commission, or the Oregon Department of Education in conducting an investigation related to suspected abuse or suspected sexual conduct to the extent allowable by state and federal law, including laws protecting a person from self-incrimination;
4. No later than 20 days after receiving a request under ORS 339.374(1)(b), the district, if it has or has had an employment relationship with the applicant shall disclose the information requested.

END OF POLICY

Legal Reference(s):

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

[ORS 339.378](#)
[ORS 339.388](#)

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

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

Corbett School District 39

Code: GBM
Adopted: 10/21/15
Orig. Code: GBM

Staff Complaints *

~~It is an unlawful employment practice for an employer to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment for the reason that the employee has in good faith reported information in a manner as to disclose employer violations of any federal or state law, rule or regulation, mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health and safety.~~

The superintendent or designee will develop a complaint procedure which will be available for all employees who contend they have been subject to ~~is evidence of, and wishes to report a violation, misinterpretation or inappropriate application of district personnel policies and/or administrative regulations; a mismanagement, gross waster of funds or abuse of authority, or believe there is evidence that the district created a substantial and specific danger to public health and safety by its action.~~ The complaint procedure will provide an orderly process for the consideration and resolution of problems in the application or interpretation of district personnel policies.

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

Reasonable efforts will be made to resolve complaints informally.

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

END OF POLICY

Legal Reference(s):

[ORS 332.107](#)

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

[OAR 581-022-2405](#)

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

Corbett School District 39

Code: GBM-AR
Revised/Reviewed: 8/26/99
Orig. Code: GBM-AR

Staff Complaints

The purpose of this procedure is to afford every employee, subject to the limits specified in Board policy GBM₅ - Staff Complaints the means to seek formal discussion of problems arising out of an alleged violation, interpretation or inappropriate application of Board policies and procedures. Problems regarding Board policies are subject to this procedure through Step 4. Administrative rules, regulations and procedures are subject to this procedure only through Step 3. The employee must be present at all proceedings and may be represented by a person of his/her choice at any proceedings. The employee must start the procedure at the appropriate level. All days in the procedure refer to working days of the district. Failure to proceed to the next step within the time limits specified will automatically be construed as acceptance of the decision at the previous step.

Step 1: The employee will submit a letter to his/her/their immediate supervisor indicating the nature of the problem and requesting a conference. The letter must be sent within 20 days of the occurrence or perception of the problem. A conference will be held between the employee and his/her/their immediate supervisor within three days of receipt of the request. Written results of the conference will be sent to the employee within three days of the conference.

Step 2: If the results are unacceptable to the employee, he/she/they may make a written request, within three days of the receipt of the results, for a conference with the appropriate administrator. A conference will be held between the employee, the immediate supervisor and the appropriate administrator within three days of receipt of the request. Written results of this meeting will be sent to the employee and the immediate supervisor within three days of the conference.

For matters outside the jurisdiction of the immediate supervisor, the employee may start the proceedings at Step 2.

Step 3: If the results are unacceptable to the employee, he/she/they may make a written request, within three days of receipt of the results, for a conference with the superintendent. A conference will be held between the employee, the immediate supervisor, the administrator and the superintendent or designee within three days of the request. At this time, the parties may present their cases. Written results of this conference will be sent to the employee, the immediate supervisor and the administrator within three days of the conference.

Step 4: If the results are unacceptable to the employee, he/she/they may make a written request, within three days of receipt of the results, for a conference with the Board. The written request shall be submitted to the superintendent. A conference will be held between all parties involved and the Board within 40 days of receipt of the request. The Board will send its written decision to the employee within 40 days of the conference.

Corbett School District 39

Code: GBMA
Adopted:

Whistleblower *

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

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

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

The district will use the complaint process in [¹administrative regulation KL-AR - Public Complaints Procedure] to address any alleged violations of this policy.

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

END OF POLICY

Legal Reference(s):

¹ If the district created and has a GBM-AR - Staff Complaints, it may want to consider inserting that language here.

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

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Corbett School District 39

Code: GBN/JBA
Adopted: 8/15/18
Orig. Code: GBN/JBA

Sexual Harassment

(Version 1)

(see version updated in May)

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

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

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

Examples of sexual harassment may include, but not be limited to, physical touching or graffiti of a sexual nature; displaying or distributing of sexually explicit drawings; pictures and written materials; sexual gestures or obscene jokes; touching oneself sexually or talking about one's sexuality in front of others; or spreading rumors about or rating other students or others as to appearance, sexual activity or performance.

All complaints about behavior that may violate this policy shall be promptly investigated. Any students, staff members or third parties who has knowledge of conduct in violation of this policy or feels they are a victim of sexual harassment must immediately report their concerns to the principal, compliance officer or superintendent, who has overall responsibility for all investigations. Students may also report concerns to a teacher, counselor or school nurse, who will promptly notify the appropriate district official.

Upon receipt of a complaint by a student, student's parents, a staff member or a third party alleging behavior that may violate this policy, the district shall provide written notice as required by Oregon Revised Statute (ORS) 342.704(4) to the complainant.

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

The initiation of a complaint in good faith about behavior that may violate this policy may not adversely affect the educational assignments or educational environment of a student complainant, any terms or conditions of employment or work environment of the staff member complainant or any terms or conditions of employment or of work or educational environment of a third-party complainant. There shall be no retaliation by the district against any person who, in good faith, reports, files a complaint or otherwise participates in an investigation or inquiry of sexual harassment.

It is the intent of the Board that appropriate corrective action will be taken by the district to stop the sexual harassment, prevent its recurrence and address negative consequences. Students in violation of this policy shall be subject to discipline up to and including expulsion and/or counseling or sexual harassment awareness training, as appropriate. The age and maturity of the student(s) involved and other relevant factors will be considered in determining appropriate action. Staff members in violation of this policy shall be subject to discipline, up to and including dismissal and/or additional sexual harassment awareness training, as appropriate. Other individuals whose behavior is found to be in violation of this policy shall be subject to appropriate sanctions as determined and imposed by the superintendent or the Board.

Additionally, the district may report individuals in violation of this policy to law enforcement officials. Licensed staff, staff registered with the Teacher Standards and Practices Commission (TSPC) and those participating in practicum programs, as specified by Oregon Administrative Rules, shall be reported to TSPC.

The superintendent shall ensure appropriate periodic sexual harassment awareness training or information is provided to all supervisors, staff members and students and that annually, the name and position of district officials responsible for accepting and managing sexual harassment complaints, business phone numbers, addresses or other necessary contact information is readily available. This policy as well as the complaint procedure will be made available upon request to all students, parents of students, staff members and third parties, posted on the district's website and published in student/parent and staff handbooks. The district's policy shall be posted on a sign in all schools. Posted signs shall be at least 8-1/2 inches by 11 inches in size.

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).

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OSBA Model Sample Policy

Code: GBN/JBA

Adopted:

Sexual Harassment

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

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

General Procedures

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

OREGON DEFINITION AND PROCEDURES

Oregon Definition

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

1. A demand or request for sexual favors in exchange for benefits;
2. Unwelcome conduct of a sexual nature that is physical, verbal, or nonverbal and that:
 - a. Interferes with a student's educational activity or program;
 - b. Interferes with a school or district staff member's ability to perform their job; or
 - c. Creates an intimidating, offensive or hostile environment.

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

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

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

3. Assault when sexual contact occurs without the student’s, staff member’s or third party’s consent because the student, staff member or third party is under the influence of drugs or alcohol, is unconscious or is pressured through physical force, coercion or explicit or implied threats.^{4}

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

Examples of sexual harassment may include, but not be limited to, ^{5}physical touching or graffiti of a sexual nature; displaying or distributing of sexually explicit drawings; pictures and written materials; sexual gestures or obscene jokes; touching oneself sexually or talking about one’s sexual behaviors in front of others; or spreading rumors about or rating other students or others as to appearance, sexual activity or performance].

Oregon Procedures

Reports and complaints of sexual harassment should be made to the following individual(s):

Name	Position	Phone	Email
_____	_____	_____	_____
[_____	_____	_____	_____]

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

Response

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

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

This includes providing resources for support measures to the student, staff member or third party who was subjected to the behavior and taking any actions necessary to remove potential future impact on the

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

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

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

student, staff member or third party, but are not retaliatory against the student, staff member or third party being harassed or the person who reported to the district official.

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

Investigation

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

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

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

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

1. [Discipline of staff and students engaging in sexual harassment;
2. Removal of third parties engaged in sexual harassment;
3. Additional supervision in activities;
4. Additional controls for district electronic systems;
5. Trainings and education for staff and students; and
6. Increased notifications regarding district procedures and resources.]

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

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

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

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

No Retaliation

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

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

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

Notice

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

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

The written notification must include⁹:

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

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

⁹ Remember confidentiality laws when providing any information.

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

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

The notice must:

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

[Oregon Department of Education (ODE) Support

The ODE will provide technical assistance and training upon request.]

FEDERAL DEFINITION AND PROCEDURES

Federal Definition

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

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

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

Federal Procedures

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

Reporting

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

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

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

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

Response

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

The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes, with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.¹⁵

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

Notice

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

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

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

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

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

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

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

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

No Retaliation

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

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

Publication

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

END OF POLICY

Legal Reference(s):

[ORS 243.706](#)
[ORS 332.107](#)
[ORS 342.700](#)
[ORS 342.704](#)
[ORS 342.708](#)

[ORS 342.850](#)
[ORS 342.865](#)
[ORS 659.850](#)
[ORS 659A.006](#)
[ORS 659A.029](#)

[ORS 659A.030](#)
[OAR 581-021-0038](#)
[OAR 584-020-0040](#)
[OAR 584-020-0041](#)

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

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

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

Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999).

Gebser v. Lago Vista Indep. Sch. Dist., 524 U.S. 274 (1998).

¹⁷ Of the United States Department of Education.

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

Corbett School District 39

Code: GBN/JBA-AR(1)
Revised/Reviewed:

Sexual Harassment Complaint Procedure (Version 2)

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

Name	Position	Phone	Email
_____	_____	_____	_____
_____	_____	_____	_____

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

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

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

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

Step 3 If a complainant is not satisfied with the decision at Step 2, the complainant may submit a written appeal to the Board. Such appeal must be filed within [10] working days after receipt of the Step 2 decision. The Board will review the decision of the superintendent [or designee]

{¹ Align with same positions identified in policy.}

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in a public meeting to determine what action is appropriate. The Board may use executive session if the subject matter qualifies under Oregon law. Appropriate action may include, but is not limited to, holding a hearing, requesting additional information, and adopting the superintendent's[or designee's] decision. All parties involved, including the school administration, may be asked to attend a hearing for the purposes of making further explanations and clarifying the issues. The Board shall provide a written decision to the complainant within [30] working days following receipt of the appeal.

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

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

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

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

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

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D
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.

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

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

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

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

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

P

SEXUAL HARASSMENT COMPLAINT FORM

Name of complainant: _____

Position of complainant: _____

Date of complaint: _____

Name of alleged harasser: _____

Date and place of incident or incidents: _____

Description of misconduct: _____

Name of witnesses (if any): _____

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

Any other information: _____

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

Signature: _____

Date: _____

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

WITNESS DISCLOSURE FORM

P

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: _____

E

D

Corbett School District 39

Code: GBN/JBA-AR(2)
Adopted:

Federal Law (Title IX) Sexual Harassment Complaint Procedure

Additional Definitions

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

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

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

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

Formal Complaint Procedures

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

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

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

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

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

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

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

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

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

Investigation

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

1. Include objective evaluation of all relevant evidence, including inculpatory and exculpatory evidence.
2. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the district and not on the parties.⁸
3. Provide an equal opportunity for the parties to present witnesses, and other inculpatory and exculpatory evidence.
4. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
5. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice.⁹ The district may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.

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

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

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

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

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

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

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

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

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

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

Determination of Responsibility

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

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

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

The standard to be used for formal complaints in determining whether a violation has occurred is the [preponderance of the evidence¹²] [clear and convincing evidence¹³] standard.

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

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

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

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

Remedies

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

The disciplinary sanctions¹⁴ may include:

1. [Discipline up to and including suspension and expulsion;
2. Removal from various activities, committees, extra-curricular, positions, etc.
3. Disqualification for awards and honors;

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

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

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

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

Other remedies may include:

1. [Educational programming];[.]

Dismissal of a Formal Complaint

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

1. Would not constitute sexual harassment, even if proved;
2. Did not occur in the district's education program or activity¹⁶; or
3. Did not occur against a person in the United States.

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

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

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

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

Consolidation of Complaints

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

Informal Resolution

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

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

¹⁶ Includes locations, events, or circumstances over which the district exercised substantial control over both the respondent the respondent and the context in which the sexual harassment occurs[, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution]. (Title 34 C.F.R. §106.44(a))

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

Appeals

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

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

When an appeal is filed, the district must:

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

Timelines

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

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

Temporary delays of the grievance process, or limited extensions of time will be allowed for good cause¹⁷ with written notice to the parties.

Records

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

Training

Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must receive training on the definition of sexual harassment, the scope of the district's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and information resolution processes. The training must also include avoiding prejudgment of the facts at issue, conflicts of interest and bias.

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

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

Materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes, must promote impartial investigations and adjudications of formal complaints of sexual harassment and must be made publicly available on the district's website.¹⁹

¹⁷ Good cause may include considerations such as the absence of a party, a party's advisor or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. (Title 34 C.F.R. § 106.45(b)(1)(v))

¹⁸ This includes creating a record for each investigation. This record must include:

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

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

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

Corbett School District 39

Code: GBN/JBA-AR
Adopted: 8/15/18
Orig. Code: GBN/JBA-AR



Sexual Harassment Complaint Procedures

(see updated version base on new Title IX rules and 2020 OR legislative changes)

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., reports, complaints, rumors, etc.) shall be presented to district officials, this includes officials such as, 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 of the student, student's parents, staff member, person or person's parents who filed the complaint;
2. Information about the internal complaint processes available through the school or district that the student, student's parents, staff member, person or person's parents may pursue, including the person designated for the school or district for receiving complainants 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 student, student's parents, staff member, person or person's parents and legally recognized exceptions to those rights for internal complaint processes and services available through the 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; and
7. Notice that students who report information about possible prohibited conduct and students who participate in an investigation under this policy may not be disciplined for violations of the district's drug and alcohol policies that occurred in connection with the reported prohibited conduct and that were discovered as a result of a prohibited conduct report or investigation unless the student gave another person alcohol or drugs without

the person's knowledge and with the intent of causing the person to become incapacitated and vulnerable to the prohibited conduct.

D 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~~ Be made available to students, students' parents, staff members and members of the public at each school office, at the district office, and on the school or district website.

Step 2 The district official receiving the information or complaint shall promptly initiate an investigation and will notify the complainant when such investigation is initiated. The official will arrange such meetings as may be necessary to discuss the issue with all concerned parties within five working days after receipt of the information or complaint. All findings of the investigation, including the response of the alleged harasser, shall be reduced to writing. The official conducting the investigation shall notify the complainant in writing that the investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law. 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, the complainant may submit a written appeal to the superintendent or designee. Such appeal must be filed within 10 working days after receipt of the step 2 decision. The superintendent or designee will arrange such meetings with the complainant and other affected parties as deemed necessary to discuss the appeal. The superintendent or designee shall provide a written decision to the complainant within 10 working days.

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

Complaints against 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 and the notice to the complainant when the investigation is initiated. The superintendent will investigate the complaint and will notify the complainant in writing that the investigation is concluded and if a violation of the policy was

found to have occurred to the extent allowable by law. If the complaint remains unresolved within 10 working days of receipt by the superintendent, the complainant may appeal to the Board in step 4.

Complaints against the superintendent may start at step 4 and should be referred to the Board chair on behalf of the Board. The Board chair will cause the notice requirements identified in step 1 to be completed and the notice to the complainant when the investigation is initiated. The Board chair shall present the complaint to the Board. The Board may use executive session if the subject matter qualifies under Oregon law. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. The Board chair shall notify the complainant in writing that the investigation is concluded and if a violation of 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.

SEXUAL HARASSMENT COMPLAINT FORM

D
Name of complainant: _____

Position of complainant: _____

Date of complaint: _____

E
Name of alleged harasser: _____

Date and place of incident or incidents: _____

Description of misconduct: _____

L

Name of witnesses (if any): _____

E

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

Any other information: _____

T

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

Signature: _____

Date: _____

F

D

WITNESS DISCLOSURE FORM

Name of Witness: _____

Position of Witness: _____

Date of Testimony/Interview: _____

Description of Instance Witnessed: _____

Any Other Information: _____

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

Signature: _____

Date: _____

T

F

Corbett School District 39

Code: GBNA
Adopted: 4/17/19
Orig. Code: GBNA

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

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

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

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

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

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

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

END OF POLICY

Legal Reference(s):

[ORS 163.190](#)
[ORS 163.197](#)
[ORS 166.065](#)
[ORS 166.155 - 166.165](#)
[ORS 174.100](#)
[ORS 332.072](#)

[ORS 332.107](#)
[ORS 339.250](#)
[ORS 659A.006](#)
[ORS 659A.029](#)
[ORS 659A.030](#)
[ORS 659A.103 - 659A.143](#)

[ORS 659A.199 - 659A.224](#)
[OAR 839-003-0000](#)
[OAR 839-005-0021](#)
[OAR 839-005-0030](#)

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2012).
Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et. Seq. (2012).
Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634 (2012); 29 C.F.R. Part 1626 (2018)
Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2018); 28 C.F.R. Part 35 (2018).

Americans with Disabilities Act Amendments Act of 2008, 42 U.S.C. §§ 12101-12133 (2012).
Bartsch v. Elkton School District, FDA-13-011 (March 27, 2014).
OREGON BUREAU OF LABOR AND INDUSTRIES, *Workplace Bullying* (visited Feb. 26, 2019),
<<https://www.oregon.gov/boli/docs/WorkplaceBullyingPoster-2018.pdf>>.

Corbett School District 39

Code: GBNA-AR
Revised/Reviewed: 4/17/19
Orig. Code(s): GBNA-AR

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

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

Definitions

1. “Third parties” include, but are not limited to, coaches, school volunteers, parents, school visitors, service contractors, or others engaged in 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.
2. “District” includes district facilities, district premises, and nondistrict property if the employee is at any district-sponsored, district-approved, or district-related activity or function, such as field trips, athletic events or where the employee is engaged in district business.
3. “Hazing” includes, but is not limited to, any act that recklessly or intentionally endangers the mental health, physical health or safety of a staff member for the purpose of initiation or as a condition or precondition of attaining membership in, or affiliation with, any district-sponsored work activity, work group or work assignment, or other such activities intended to degrade or humiliate regardless of the person’s willingness to participate.
4. “Harassment” is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), sexual orientation¹, national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful when 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.
5. “Intimidation” includes, but is not limited to, any threat or act intended to tamper, substantially damage or interfere with another’s property, cause substantial inconvenience, subject another to offensive physical contact or inflict serious physical injury on the perception of the other’s race, color, religion, national origin, disability, or sexual orientation.
6. “Bullying” is a pattern of repeated mistreatment that harms, intimidates, undermines, offends, degrades, or humiliates an employee.
7. “Cyberbullying” means the use of any electronic device to convey a message in any form (e.g., text, image, audio, or video) that intimidates, harasses, or otherwise harms, insults, or humiliates another in a deliberate, repeated or hostile and unwanted manner under a person’s true or false identity. In addition, any communication of this form which substantially disrupts or prevents a safe and positive

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

working environment may also be considered cyberbullying. Staff will refrain from using personal electronic devices or district equipment to harass or stalk another person or people.

8. “Menacing” includes, but is not limited to, any act intended to place a district employee, student, or third party in fear of imminent serious physical injury.

Reporting Procedures

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

Any employee or third party who has knowledge of conduct in violation of Board policy JFCF - Hazing, Harassment, Intimidation, Bullying, Menacing, Cyberbullying, Teen Dating Violence, or Domestic Violence – Student shall immediately report concerns to the designated district official.

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

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

- Step 1 Any reports or information on acts of hazing, harassment, intimidation, bullying, menacing, or cyberbullying (e.g., complaints, rumors) shall be presented to the principal or superintendent. Reports against the principal shall be filed with the superintendent. Information may be presented anonymously. Reports against the superintendent shall be filed with the Board chair. All such information will be reduced to writing and will include the specific nature of the offense and corresponding dates.
- Step 2 The district official receiving the report shall promptly investigate. Parents will be notified of the nature of any report involving their student. The district official will arrange such meetings as may be necessary with all concerned parties within five working days after receipt of the information or report. The parties will have an opportunity to submit evidence and a list of witnesses. All findings related to the report will be reduced to writing. The district official(s) conducting the investigation shall notify the person making the report within 10 working days of receipt of the information or report, and parents as appropriate, when the investigation is concluded and a decision regarding disciplinary action, as warranted, is determined.
- Step 3 If the person making the report is not satisfied with the decision at Step 2, they may submit a written appeal to the superintendent or designee. Such appeal must be filed within 10 working days after receipt of the Step 2 decision. The superintendent or designee will arrange such meetings with the person making the report and other affected parties as deemed necessary to discuss the appeal. The superintendent or designee shall provide a written decision to the appeal within 10 working days.
- Step 4 If the person making the report is not satisfied with the decision at Step 3, a written appeal may be filed with the Board. Such appeal must be filed within 10 working days after receipt of the Step 3 decision. The Board shall, within 20 working days, conduct a hearing at which time the person making the report shall be given an opportunity to present the information or report. The Board shall provide a written decision to the person making the report within 10 working days following completion of the hearing.

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

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

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

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

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

Documentation related to the incident may be maintained as a part of the employee's personnel file.

Corbett School District 39

Code: GBNAA/JHFF
Adopted:

Reporting Requirements for Suspected Sexual Conduct with Students *

Sexual conduct by district employees, contractors¹, agents², and volunteers³ is not tolerated. All district employees, contractors, agents, and volunteers are subject to this policy.

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

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

Any district employee [⁴], ~~contractor, agent or volunteer~~ who has reasonable cause to believe that a student has been subjected to sexual conduct by another district employee, contractor, agent or volunteer, or that another district employee, contractor, agent or volunteer has engaged in sexual conduct with a student shall immediately report such suspected sexual conduct to the [⁵]designated licensed administrator or the alternate designated licensed administrator for their school building. If the superintendent is the alleged perpetrator the report shall be submitted to the [~~licensed administrator position title~~] **Special Services Director** who shall report the suspected sexual conduct to the Board chair.

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

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

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

~~[⁴ The following language in brackets, i.e., [~~contractor, agent or volunteer~~], is optional language for the district to consider including. If the language is kept, the district must make these groups aware of the policy and its administrative regulation and their responsibilities under both. This may also be included in contracts with agents and contractors and include reference to this policy.]~~

[⁵ Senate Bill 155 (2019) requires the district to designate a licensed administrator to receive reports of suspected sexual conduct, and designate an alternate licensed administrator for each school building.]

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

When the designated licensed administrator receives a report of suspected sexual conduct by a district employee, contractor, agent or volunteer, the administrator will follow procedures established by the district and set forth in the district's administrative regulation JHFF/GBNAA-AR - Suspected Sexual Conduct Report Procedures and Form. All such reports will be reported to the Oregon Department of Education (ODE) or Teacher Standards and Practices Commission (TSPC) as appropriate, for investigation. The agency receiving a report will complete an investigation regardless of any changes in the relationship or duties of the person who is the alleged perpetrator.

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

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

The district will post in each school building the names and contact information of the employees^[6] Special Services Director designated for the school building to receive reports of suspected sexual conduct and the procedures the designee will follow upon receipt of the report.

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

A district employee, contractor or agent will not assist another district employee, contractor or agent in obtaining a new job if the individual knows, or has reasonable cause to believe the district employee, contractor or agent engaged in sexual conduct. Nothing in this policy prevents the district from disclosing information required by law or providing the routine transmission of administrative and personnel files pursuant to law.

The initiation of a report in good faith about suspected sexual conduct may not adversely affect any terms or conditions of employment or the work environment of the person who initiated the report or who may have been subject to sexual conduct. If a student initiates a report of suspected sexual conduct by a district employee, contractor, agent or volunteer in good faith, the student will not be disciplined by the district or any district employee, contractor, agent or volunteer.

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

1. A description of conduct that may constitute sexual conduct;

^[6] Senate Bill 155 (2019) requires the district to designate a licensed administrator and an alternate licensed administrator for each school building.

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

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

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

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

END OF POLICY

Legal Reference(s):

[ORS 332.107](#)

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

Senate Bill 155 (2019)

[ORS 339.370 - 339.400](#)

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

Corbett School District 39

Code: GBNAA/JHFF-AR
Revised/Reviewed:

Suspected Sexual Conduct Report Procedures and Form *

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

The district posts in each school building the names and contact information of the employees [²] in each school building designated to receive reports of suspected sexual conduct and the procedures the designee will follow upon receipt of the report.

If the superintendent is the alleged perpetrator the report shall be submitted to the [licensed administrator position title] who shall refer the report to the Board chair.

When the designee receives a report of suspected sexual conduct by a district employee, and there is reasonable cause to support the report, the district shall place the district employee on paid administrative leave³ and take necessary actions to ensure the student's safety. The employee shall remain on leave until TSPC or ODE determines that the report is substantiated and the district takes appropriate employment action against the employee, or cannot be substantiated or is not a report of sexual conduct and the district determines either: 1) an employment policy was violated and the district will take appropriate employment action against the employee; or 2) an employment policy has not been violated and an employment action against the employee is not required. The district will investigate all reports of suspected sexual conduct by persons who are licensed by the TSPC, unless otherwise requested by TSPC, and all reports of suspected sexual conduct by persons who are not licensed by TSPC, unless otherwise requested by ODE.

When the designee receives a report of suspected sexual conduct by a contractor [⁴], an agent or a volunteer, the district {may}{shall} prohibit the contractor, agent or volunteer from providing services to the district. If the district determines there is reasonable cause to support a report of suspected sexual conduct, the district shall prohibit the contractor, agent or volunteer from providing services. {The district may reinstate the contractor, agent or volunteer, and such reinstatement may not occur until such time as a report of suspected sexual conduct has been investigated and a determination has been made by TSPC or ODE that the report is unsubstantiated.}

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

² Senate Bill 155 (2019) requires the district to designate a licensed administrator and an alternate licensed administrator for each school building.]

³ The district employee cannot be required to use any accrued leave during the imposed paid administrative leave.

⁴ ~~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.~~

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

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

{An “investigation” means a detailed inquiry into the factual allegations of a report of suspected sexual conduct that is based on interviews with the person who initiated the report, the person who may have been subjected to sexual conduct, witnesses and the person who is the subject of the report, and results in a finding that the report is a substantiated report, cannot be substantiated, or is not a report of sexual conduct. If the subject of the report is a district employee represented by a contract or a collective bargaining agreement, the investigation must meet any negotiated standards of such employment contract or agreement.}

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

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

If, following the investigation, the district decides to take an employment action, the district will inform the district employee of the employment action to be taken and provide information about the appropriate appeal process. {The employee may appeal the employment action taken through the appeal process provided by the applicable collective bargaining agreement.} ~~{The employee may appeal the employment action taken through an appeal process administered by a neutral third party.}~~

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

Training

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

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

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

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

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

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

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Corbett School District

SUSPECTED SEXUAL CONDUCT REPORT FORM

P

Name of person making report: _____

Position of person making report: _____

R

Name of person suspected of sexual conduct: _____

Date and place of incident or incidents: _____

Description of suspected sexual conduct: _____

O

P

Name of witnesses (if any): _____

O

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

Any other information: _____

S

E

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

Signature: _____

Date: _____

D

Corbett School District

WITNESS DISCLOSURE FORM

P

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: _____

E

D

Corbett School District 39

Code: GC
Adopted: 5/21/98
Orig. Code: GC

Licensed Staff Positions

The superintendent shall establish licensed staff positions necessary to carry out the instructional goals of the district.

Positions so established may include leadership positions which carry other than classroom teaching responsibility.

END OF POLICY

Legal Reference(s):

[ORS 332.505](#)

[OAR 581-021-0045](#)

Job York v. Portland Sch. Dist., No. FDA 83-7 (August 1983).

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

Title II of the Genetic Information Nondiscrimination Act of 2008.

Section 503 of the Rehabilitation Act of 1973.

Corbett School District 39

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

License Requirements

The Board, in adhering to Oregon Revised Statutes (ORS), shall require all applicants selected for employment for positions that require licensing, to hold a valid Oregon license issued by the Teacher Standards and Practices Commission (TSPC) as a condition of employment. The district must be able to verify the current license of applicants offered employment before the Board will consider approving their employment.

If an applicant’s teaching license application with the TSPC is pending, the applicant may teach for 90 calendar days after the date of submission of the application, if the applicant has:

1. Submitted an application in the manner and form required by the TSPC, including payment of all required fees;
2. Completed a background clearance conducted by the TSPC that includes having:
 - a. Furnished fingerprints, if required;
 - b. Provided satisfactory responses to character questions in the form and manner required by the TSPC; and
 - c. Completed a criminal records check pursuant to state law and a background check through the interstate clearinghouse for revoked or suspended licenses, and is eligible for a teaching license.
3. Not been employed by the district under this 90 calendar day provision during the previous 12 months with a pending application for the same license.

The district will complete a review of the applicant’s employment history and verify through TSPC if there is an ongoing investigation or a substantiated report that may constitute sexual conduct as required by law prior to beginning employment.

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

The verification of licensure includes all license endorsements. It shall be each licensed staff member’s responsibility to keep all endorsements current and to submit them to the superintendent’s office.

END OF POLICY

Legal Reference(s):

[ORS 339.374](#)
[ORS 342.120 - 342.203](#)

[OAR 584-050-0035](#)
[OAR 584-200-0020](#)

Senate Bill 155 (2019)
Senate Bill 216 (2019)

Corbett School District 39

Code: GCAA
Adopted: 5/21/98
Orig. Code: GCAA

Standards for Competent and Ethical Performance of Oregon Educators

Application of Rules

1. Oregon Administrative Rules were adopted by the Teacher Standards and Practices Commission in accordance with Oregon Revised Statutes (ORS).
2. Oregon Administrative Rules (OAR) may be used as criteria by the Teacher Standards and Practices Commission in matters pertaining to the revocation or suspension of licenses issued by the commission under Oregon Revised Statutes or the discipline of any license holder or any person who has held a license at any time within five years prior to issuance of the notice of charges under Oregon Revised Statutes.
3. The commission determines whether an educator's performance is ethical or competent in light of all the facts and circumstances surrounding the educator's performance as a whole.
4. The commission will promptly investigate complaints:
 - a. The commission may at its discretion defer action to charge an educator against whom a complaint has been filed under Oregon Revised Statutes when the investigation report indicates that disciplinary action against the educator is pending at the local district level or when criminal charges are pending or are likely to be filed against the educator. In considering whether to defer action to charge an educator, the commission shall consider all relevant circumstances including the nature and seriousness of the allegations and whether the educator is currently employed as a teacher or school administrator;
 - b. The executive secretary shall regularly inform the commission of the status of any complaints on which the commission has deferred action.

Definitions

The following definitions apply to Oregon Administrative Rules unless otherwise indicated by context:

1. Administrator - Any person-educator who holds a valid Oregon administrative license or registration and who works in a position requiring an administrative license;
2. Competent - Discharging required duties as set forth in these rules;
3. Educator - Any licensed or registered person who is authorized to be engaged in the instructional program including teaching, counseling, school psychology, administering and supervising;
4. Ethical - Conforming to the professional standards of conduct set forth in these rules;
5. Sexual contact - any conduct with a student that includes, but is not limited to:

- a. The intentional touching of the breast or sexual or other intimate parts of a student;
- b. Causing, encouraging or permitting a student to touch the breast or sexual or other intimate parts of the educator; or
- c. Sexual advances and verbal or physical conduct of a sexual nature and directed toward a student;
- d. Verbal or physical conduct of a sexual nature when directed toward a student or when such conduct has the effect of unreasonably interfering with a student's educational performance or creates an intimidating, hostile or offensive educational environment; or
- e. Verbal or physical conduct which has the effect of unreasonably interfering with a student's educational performance or creates an intimidating, hostile or offensive educational environment.

- 6. Sexual harassment: Any unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:
 - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 - c. Such unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment;

7. Teacher: Any person who holds a teacher's license as provided in Oregon Revised Statutes ORS 342.125.

8. "Student": any individual enrolled in the state's public or private schools from preschool through high school graduation or any individual under the age of 18.

The Competent Educator

The teacher or administrator demonstrates a commitment to:

- 1. Recognize the worth and dignity of all persons and respect for each individual;
- 2. Encourage scholarship;
- 3. Promote democratic and inclusive citizenship;
- 4. Raise educational standards;
- 5. Use professional judgment;
- 6. Promote equitable learning opportunities.

Curriculum and Instruction

The competent educator measures success by the progress of each student toward realization of personal potential as a worthy and effective citizen. The competent educator stimulates the spirit of inquiry, the acquisition of knowledge and understanding and the thoughtful formulation of goals as they are appropriate for each individual.

The competent teacher demonstrates:

1. Use of state and district adopted curriculum and goals;
2. Skill in setting instructional goals and objectives expressed as learning outcomes;
3. Use of current subject matter appropriate to the individual needs of students;
4. Use of students' growth and development patterns to adjust instruction to individual needs consistent with number of students and amount of time available;
5. Skill in the selection and use of teaching techniques conducive to student learning.

The competent administrator demonstrates:

1. Skill in assisting individual staff members to become more competent teachers by complying with state law, rules and lawful and reasonable district policy and contracts;
2. Knowledge of curriculum and instruction appropriate to assignment;
3. Skill in implementing instructional programs through adequate communication with staff;
4. Skill in identifying and initiating any needed change which helps each student toward realization of personal learning potential.

Supervision and Evaluation

The competent educator is a student of human behavior and uses this knowledge to provide a climate that is conducive to learning and that respects the rights of all persons without discrimination. The competent educator assumes responsibility for the activities planned and conducted through the district's program and assists colleagues to do the same. The competent educator gathers relevant information and uses it in the planning and evaluation of instructional activities.

The competent teacher demonstrates:

1. Multiple ways to assess the academic progress of individual students;
2. Skill in the use application of assessment data to assist individual student growth;
3. Procedures for evaluating curriculum and instructional goals and practices;
4. Skill in the supervision of students; and
5. Skills in differentiating instruction.

The competent administrator demonstrates:

1. Skill in the use of assessment data to provide effective instructional programs;
2. Skill in the implementation of the district's student evaluation program;

3. Skill in providing equal opportunity for all students and staff; and
4. Skill in the use of employee and leadership techniques appropriate to the assignment and according to well-established standards which insure due process for the staff being evaluated for which the administrator is responsible for evaluating.

Management Skills

The competent educator is a person who understands students and is able to relate to them in constructive and culturally competent ways. The competent educator establishes and maintains good rapport. The competent educator maintains and uses records as required and as needed to assist the growth of students.

The competent teacher demonstrates skills in:

1. Establishing and maintaining classroom management that is conducive to learning;
2. Using and maintaining district property, equipment and materials appropriately;
3. Using and maintaining student records as required by federal and state law and district policies and procedures;
4. Using district and school business and financial procedures; and
5. Using district lawful and reasonable rules and regulations.

The competent administrator demonstrates:

1. Leadership Skills in managing the school, its students, staff and programs as required by lawful and reasonable district policies, rules and regulations, state and federal laws and regulations and other programs as assigned and assures that staff is informed of these requirements; and
2. Skills in planning and staff utilization.

Human Relations and Communications

The competent educator works effectively with others—students, staff, parents and patrons. The competent educator is aware of the ways the community identifies with the school, as well as community needs and ways the school program is designed to meet these needs. The competent educator can communicate with knowledge, clarity and judgment about educational matters, the school and the needs of students.

The competent teacher demonstrates:

1. Willingness to be flexible in cooperatively working with others; and
2. Skill in communicating with students, staff, parents and other patrons.

The competent administrator demonstrates:

1. Skill in helping students, staff, parents and other patrons to learn about the school, the district and its program;
2. Skills in communicating district and school goals to staff and the public;
3. Willingness to be flexible in cooperatively working with others; and
4. Skill in reconciling conflict.

The Ethical Educator

The ethical educator is a person who accepts the requirements of membership in the teaching profession and acts at all times in ethical ways. In so doing the ethical educator considers the needs of the students, the district and the profession.

The ethical educator, in fulfilling obligations to the student, will:

1. Keep the confidence entrusted in the profession as it relates to confidential information concerning a student and the student's family;
2. Refrain from exploiting professional relationships with any student for personal gain or in support of persons or issues; and
3. Maintain an appropriate professional student-teacher relationship by:
 - a. Not demonstrating or expressing professionally inappropriate interest in a student's personal life;
 - b. Not accepting or giving or exchanging romantic or overly personal gifts or notes with a student;
 - c. Reporting to the educator's supervisor if the educator has reason to believe a student is, or may be, becoming romantically attached to the educator; and
 - d. Honoring appropriate adult boundaries with students in conduct and conversations at all times.

The ethical educator, in fulfilling obligations to the district, will:

1. Apply for, accept, offer or assign a position of responsibility only on the basis of profession qualifications and will adhere to the conditions of a contract or the terms of the appointment;
2. Conduct professional business, including grievances, through established lawful and reasonable procedures;
3. Strive for continued improvement and professional growth;
4. Accept no gratuities or gifts of significance that could influence judgment in the exercise of professional duties; and
5. Not use the district's or school's name, property or resources for non-educational benefit without approval of the educator's supervisor or the appointing authority.

The ethical educator, in fulfilling obligations to the profession, will:

1. Maintain the dignity of the profession by respecting and obeying the law, exemplifying personal integrity and honesty;
2. Extend equal treatment to all members of the profession in the exercise of their professional rights and responsibilities; and
3. Respond to requests for evaluation of colleagues and to keep such information confidential as appropriate.

END OF POLICY

Legal Reference(s):

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

Corbett School District 39

Code:
Adopted:

GCAB

Personal Electronic Devices and Social Media - Staff**

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

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

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

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

Staff members, while on duty and off duty, will utilize social media websites, public websites and blogs, judiciously by not posting confidential information about students, staff or district business.¹ Staff may not post images of district facilities, staff, students, volunteers or parents without written authorization from persons with authority to grant such a release. Staff members, while on duty and off duty, will treat fellow employees, students and the public with respect while posting on social media websites, etc., in order to prevent substantial disruption in school.

Communication with students using personal electronic devices will be appropriate and professional. Communication with students using personal electronic devices regarding nonschool-related matters is prohibited during work hours and strongly discouraged at all other times. If communicating with students electronically regarding school-related matters, staff [should] [will] [shall] use district e-mail using mailing lists and/or other internet messaging to a group of students rather than individual students. Texting a student during work hours is [discouraged] [prohibited]. Texting a student while off duty is strongly discouraged.

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

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

Staff are subject to disciplinary action up to and including dismissal for using a personal electronic device in any manner that is illegal or violates the terms of this policy. Staff actions on social media websites, public websites and blogs, while on or off duty, which disrupt the school environment, are subject to disciplinary action up to and including dismissal. [A “disruption”² for purposes of this policy includes, but is not limited to, one or more parent threatens to remove their children from a particular class or particular school, actual withdrawal of a student or students from a particular class or particular school and/or a threatened or actual negative impact on the learning environment.]

The taking, disseminating, transferring or sharing of obscene, pornographic or otherwise illegal images or photographs, whether by electronic data transfer or otherwise (commonly called texting, sexting, emailing, etc.) may constitute a crime under state and/or federal law. Any person taking, disseminating, transferring or sharing obscene, pornographic or otherwise illegal images or photographs, will be reported to law enforcement and/or other appropriate state or federal agencies.

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

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

END OF POLICY

Legal Reference(s):

[ORS 163.432](#)
[ORS 163.433](#)
[ORS 163.684](#)
[ORS 163.686](#)
[ORS 163.687](#)
[ORS 163.688](#)
[ORS 163.689](#)

[ORS 163.693](#)
[ORS 163.700](#)
[ORS 167.057](#)
[ORS 326.011](#)
[ORS 326.051](#)
[ORS 332.072](#)
[ORS 332.107](#)

[ORS 336.840](#)
[ORS 339.372](#)

[[OAR 584-020-0000](#) – 020-0035]

Senate Bill 155 (2019)

18 U.S.C. § 1466A (2018).
18 U.S.C. § 1470 (2018).
20 U.S.C. § 7131 (2018).
20 U.S.C. § 7906 (2018).

Copyrights, Title 17, as amended, United States Code (2018); 19 C.F.R. Part 133 (2019).

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

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

² Ibid. p. 1

Corbett School District 39

Code: GCBA/GCBB
Adopted: 6/20/01
Orig. Code: GCBA/GCBB

Licensed Salary Schedule/Supplementary Pay Plans

(OSBA does not have this policy, CBA item generally)

All salaries will be in accord with the salary schedule developed during labor negotiations and published as part of the licensed agreement.

Credit for completed course work is to be recorded with transcripts added to personnel file for verification to pay at the appropriate rate on the salary schedule.

A teacher must be on the payroll for 135 days or more in order to be eligible for the step increase in salary provided in the following year's schedule.

Teaching Experience

Teaching experience gained in other school districts or professional settings shall be evaluated at the time a teacher is initially employed in the district. The superintendent shall allow credit for such experience on a year for year basis in relation to its value for the assignment the teacher will have in the district.

Extra Pay for Extended Contracts

Extra pay for days in addition to the school year will be compensated at the per diem rate for the previous school year. All fringes will also be paid at the per diem rate.

Special Contracts

The district may contract with licensed personnel on a project basis instead of the per diem rate. These contracts will specify the task to be done, the amount to be paid and a completion date and not specify the number of hours or days for the task.

END OF POLICY

Legal Reference(s):

[ORS 332.505](#)

Corbett School District 39

Code: GCBC/GDBC
Adopted: 5/21/98
Orig. Code: GCBC/GDBC



Continuation Coverage Health Benefits

(If you are a self-insured district, this policy is highly recommended.)

(Health insurer addresses this)

The Board may, at its discretion, pay insurance premiums for district employees. Such insurance will be provided in compliance with the current collective bargaining contract.

When insurance premiums are paid at district expense, the carrier will be selected by the Board. Selection will be made annually with consideration given to service, cost and the program provided.

All licensed personnel contracted for half-time or more hours per day will be eligible for coverage under district-provided insurance programs.

School district employees will cease to be eligible for district-paid insurance programs the last day of the calendar month in which eligible employment is terminated.

Employees eligible at the close of the school year who have been rehired by the district for eligible employment the following school year will be considered eligible during the interim. Employees who have resigned shall lose their eligibility effective at the time of the resignation.

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

Coverage under this policy will be identical to that provided to other employees in like employment positions. Premiums for continuation coverage will normally be paid by the employee. Payment may be no more than 102% of the actual cost of coverage for the first 18 months. For certain employees eligible for coverage from 18 months up to 29 months, payment may be no more than 150% of the actual cost of the coverage. The Board will designate the deadline for payment reaching the business office.

Eligible employees must notify the district within the district within a sixty day period from the date of retirement, termination, reduction in hours or reduction in force that they choose to continue with the district sponsored health plan. Premiums for continuation coverage will be paid by the employee.

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

END OF POLICY

Legal Reference(s):

[ORS 332.507](#)

Consolidated Omnibus Budget Reconciliation Act of 1985, 29 U.S.C. §§ 1161-1169 (2012).

7/19/16 | PH

Associated Payroll Costs * – GCBC/GDBC

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Corbett School District 39

Code: GCBD/GDBD
Adopted: 3/15/17
Orig. Code: GCBD/GDBD



Personal Illness and Injury Leave *

(OSBA has removed this policy)

Sick leave entitlement for personal illness/injury will accrue at the rate of 10 days each year as provided by Oregon Revised Statutes. Twelve-month employees will accrue 1 day per month or 12 days each year. All other employees who work less than 12 months will receive 1 day per month.

In accordance with state law, this leave will accumulate without limit.

The district reserves the right to require proof of personal illness or injury from all employees, including a medical examination by a physician chosen and paid for by the district. Any employee refusing to submit to such an examination or to provide other evidence as required by the district, shall be subject to appropriate disciplinary action, up to and including dismissal.

All medical information will be kept confidential, in a separate file from personnel records, and released only in accordance with the requirements of the Americans with Disabilities Act or other applicable law.

Sickness or other unavoidable circumstances that prevent a teacher from teaching 20 school days immediately following exhaustion of sick leave accumulated under Oregon law will result in the teacher being placed on unpaid leave for the remainder of the school year or until the teacher's disability is removed and he/she is able to return to work. If the teacher is still unable to return to work the following August 1 the Board may terminate the teacher's employment, subject to state and federal laws regarding family illness leave.

All district-paid employee benefits, such as health and dental insurance, will cease on the last day of the month in which employment is terminated, or the staff member is placed on unpaid leave, unless the unpaid leave is in conjunction with state or federal family medical leave. The staff member will be informed of his/her rights to remain a part of the district benefit plan at personal expense.

Any worker who has sustained a compensable personal injury or illness and is disabled and is unable to perform his/her essential job function will be reemployed at such time as a physician issues a certificate stating the type of work that is appropriate for reassignment, assuming such work is both suitable and available. Such rights of reemployment are subject to seniority rights and other restrictions of the collective bargaining agreement between the employer and employee bargaining unit.

END OF POLICY

Legal Reference(s):

[ORS 332.507](#)
[ORS 342.545](#)

[ORS 342.610](#)
[ORS 659A.046](#)

Knapp v. North Bend, 304 Or. 34 (1987).
Consolidated Omnibus Budget Reconciliation Act of 1985, 29 U.S.C. §§ 1161-1169 (2012).

Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001-1461 (2012).
Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2016); 28 C.F.R. Part 35 (2016).
Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601-2654 (2012); Family and Medical Leave Act of 1993, 29 C.F.R. Part 825 (2016).
Americans with Disabilities Act Amendments Act of 2008.



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Corbett School District 39

Code: GCBDA/GDBDA
Adopted: 7/16/03
Orig. Code: GCBDA/GDBDA



Family Medical Leave *

(Version 1)

(see current version)

The district will comply with all provisions of the Family and Medical Leave Act (FMLA) of 1993, the Oregon Family Leave Act (OFLA) of 1995, other applicable provisions of Board policies and collective bargaining agreements regarding family medical leave.

In order for an employee to be eligible for the benefits under federal law, he/she must have been employed by the district for the previous 12 months and have worked at least 1250 hours during the past 12-month period.

In order to be eligible under state law, an employee must work an average of 25 hours per week and have been employed at least 180 days prior to the first day of the family medical leave of absence. For parental leave purposes, however, an employee becomes eligible upon completing at least 180 days immediately preceding the date on which the parental leave begins. There is no minimum average number of hours worked per week when determining employee eligibility for parental leave.

Federal and state leave entitlements generally run concurrently.

The superintendent will develop administrative regulations as necessary for the implementation of the provisions of both federal and state law.

END OF POLICY



Legal Reference(s):

[ORS 332.507](#)
[ORS 342.545](#)
[ORS 659A.090](#)

[ORS 659A.093](#)
[ORS 659A.096](#)
[ORS 659A.099](#)

[ORS 659A.150 to -659A.186](#)
[OAR 839-009-0200 to -0320](#)

Americans with Disabilities Act, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2017); 28 C.F.R. Part 35 (2017).
Family and Medical Leave Act, 29 U.S.C. §§ 2601-2654 (2012); 5 U.S.C. §§ 6381-6387 (2012); Family and Medical Leave Act, 29 C.F.R. Part 825 (2017).
Americans with Disabilities Act Amendments Act of 2008.
Escriba v. Foster Poultry Farms, Inc. 743 F.3d 1236 (9th Cir. 2014).



Corbett School District 39

Code:
Adopted:

GCBDA/GDBDA

Family Medical Leave * (Version 2)

When applicable, the district will comply with the provisions of the Family and Medical Leave Act (FMLA) of 1993, the Oregon Family Leave Act (OFLA) of 1995, the Military Family Leave Act as part of the National Defense Authorization Acts of 2008 and for Fiscal Year 2010 (which expanded certain leave to military families and veterans for specific circumstances), the Oregon Military Family Leave Act (OMFLA) of 2009 and other applicable provisions of Board policies and collective bargaining agreements regarding family medical leave.

FMLA applies to districts with 50 or more employees within 75 miles of the employee's worksite, based on employment during each working day during any of the 20 or more work weeks in the calendar year in which the leave is to be taken, or in the calendar year preceding the year in which the leave is to be taken. The 50 employee test does not apply to educational institutions for determining employee eligibility.

OFLA and OMFLA applies to districts that employ 25 or more part-time or full-time employees in Oregon, based on employment during each working day during any of the 20 or more work weeks in the calendar year in which the leave is to be taken, or in the calendar year immediately preceding the year in which the leave is to be taken.

In order for an employee to be eligible for the benefits under FMLA, he/she must have been employed by the district for at least 12 months and have worked at least 1,250 hours during the past 12-month period.

In order for an employee to be eligible for the benefits under OFLA, he/she must work an average of 25 hours per week and have been employed at least 180 calendar days prior to the first day of the family medical leave of absence. For parental leave purposes, an employee becomes eligible upon completing at least 180 calendar days immediately preceding the date on which the parental leave begins. There is no minimum average number of hours worked per week when determining employee eligibility for parental leave.

OMFLA applies to employees who work an average of at least 20 hours per week; there is no minimum number of days worked when determining an employee's eligibility for OMFLA.

Federal and state leave entitlements generally run concurrently.

The superintendent [or designee] will develop administrative regulations as necessary for the implementation of the provisions of both federal and state law.

END OF POLICY

Legal Reference(s):

[ORS 332.507](#)

[ORS 342.545](#)

[ORS 659A.090](#)

R4/13/17 | RS

Family Medical Leave * – GCBDA/GDBDA

[ORS 659A.093](#)
[ORS 659A.096](#)

[ORS 659A.099](#)
[ORS 659A.150 to -659A.186](#)

[OAR 839-009-0200 to -0320](#)

Americans with Disabilities Act, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2017); 28 C.F.R. Part 35 (2017).
Family and Medical Leave Act, 29 U.S.C. §§ 2601-2654 (2012); 5 U.S.C. §§ 6381-6387 (2012); Family and Medical Leave Act, 29 C.F.R. Part 825 (2017).

Americans with Disabilities Act Amendments Act of 2008.

Escriba v. Foster Poultry Farms, Inc. 743 F.3d 1236 (9th Cir. 2014).

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Corbett School District 39

Code: GCBDA/GDBDA-AR(1)
Revised/Reviewed: 4/20/16
Orig. Code: GCBDA/GDBDA-AR(1)

Federal Family and Medical Leave/State Family Medical Leave

(see current version)

Coverage

Federal law covers public agencies, including districts. In order for school employees to be eligible, however, they must be employed at a work site with 50 or more employees within 75 miles of the employee's work site for each working day during each of the 20 or more calendar workweeks in the year in which the leave is taken or in the preceding calendar year. State law covers districts that employ 25 or more part-time or full-time employees for each working day during 20 or more calendar workweeks in the calendar year in which the leave is to be taken, or in the calendar year immediately preceding the year in which the leave is to be taken.

Eligibility

Federal law applies to employees who have worked for the district for at least 12 months and for at least 1250 hours during the year preceding the start of the leave. State law generally applies to employees who work an average of 25 hours or more per week for the district during the 180 days or more immediately prior to the first day of the start of the requested leave. Oregon Military Family Leave Act (OMFLA) applies to employees who work an average of at least 20 hours per week. For parental leave purposes, an employee becomes eligible upon completing at least 180 days immediately preceding the date on which the parental leave begins. There is no minimum average number of hours worked per week when determining employee eligibility for parental leave.

In determining that an employee has been employed for the preceding 180 calendar days, the employer must count the number of days an employee is maintained on the payroll, including all time paid or unpaid. If an employee continues to be employed by a successor in interest to the original employer, the number of days worked are counted as continuous employment by a single employer.

In determining 25 hours average workweek, the employer must count the actual hours worked using guidelines set out pursuant to the Fair Labor Standards Act.

Definitions

“Child,¹” for the purpose of taking parental leave under state law, means a biological, adopted, foster child or stepchild of the employee or a child with whom the employee is or was in a relationship of “in loco parentis.” A legal or biological relationship is not required. The child must be under 18 years of age, or may be 18 years of age or older if incapable of self-care due to mental or physical disability.

¹ For FMLA, the age of the son or daughter at the onset of a disability is not relevant in determining a parent's entitlement to FMLA leave.

“Contingency operation” is a military operation that:

1. Is designated by the Secretary of Defense as an operation in which members of the Armed Forces are, or may become involved in military actions, operations or hostilities against an enemy of the United States or against an opposing military force; or
2. Results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301(a), 12302, 12304, 12305 or 12406 of Title 10 of the United States Code, chapter 15 of Title 10 of the United States Code, or any other provision of law during a war or during a national emergency declared by the President or Congress.

“Covered active duty” means:

1. In the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and
2. In the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of Title 10, United States Code.

“Covered servicemember” means:

1. A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status or is otherwise on the temporary disability retired list for a serious injury or illness; or
2. A veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy.

“Family member,” for purposes of FMLA and OFLA leave, means a(n):

1. Spouse²;
2. Child of the employee (biological, adopted, foster or step child, a legal ward, or child of the employee standing in loco parentis);
3. Custodial parent;
4. Noncustodial parent;
5. Biological parent;
6. Adoptive parent;

² “Spouse” means individuals in a marriage including “common law” marriage and same-sex marriage. For OFLA, spouse also includes same-sex individuals with a Certificate of Registered Domestic Partnership.

7. Stepparent or foster parent;
8. Individual who was in loco parentis to the employee when the employee was a child.

Additionally, when defining “family member” under OFLA, this definition includes a:

9. Grandparent;
10. Grandchild; or
11. Parents-in-law or the parents of an employee’s registered domestic partner.

For OFLA purposes, an employee’s child in any of these categories may be either a minor or an adult child at the time serious health condition leave, sick child leave or the death of a family member leave is taken.

“Next of kin” means the nearest blood relative of the eligible employee.

“Serious health condition,” under federal law means an illness, injury, impairment or physical or mental condition that involves:

1. Any period of incapacity or treatment in connection with or consequent to inpatient care (i.e. an overnight stay) in a hospital, hospice or residential medical care facility;
2. Any period of incapacity requiring absence from work, school or other regular daily activities, of more than three calendar days, that also involves continuing treatment by (or under the supervision of) a health care provider;
3. Continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable or so serious that if not treated would likely result in a period of incapacity of more than three calendar days;
4. Illness, disease or condition is terminal, requires constant care and poses an imminent danger of death; or
5. Disability due to pregnancy, childbirth or prenatal care.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

An employee is unable to perform the functions of the position when the health care provider finds that the employee is unable to work at all or is unable to perform any of the essential functions of the employee’s position within the meaning of the Americans with Disabilities Act of 1990 and Americans with Disabilities Act Amendments Act of 2008 (ADA) federal regulations. The district has the option, in requiring medical verification from a health care provider, to provide a statement of the essential functions of the employee’s position for the provider to review.

A “serious health condition” under state law means an illness, injury, impairment or physical or mental condition of an employee or family member that:

1. Requires inpatient care in a hospital, hospice or residential medical care facility such as a nursing home. When a family member resides in a long-term residential care facility, leave shall apply only to:
 - a. Transition periods spent moving the family member from one home or facility to another, including time to make arrangements for such transitions;
 - b. Transportation or other assistance required for a family member to obtain care from a physician;
 - c. Serious health conditions as described in items 2-8 below.
2. The treating health care provider judges to pose an imminent danger of death or that is terminal in a prognosis with a reasonable possibility of death in the near future;
3. Requires constant or continuing care such as home care administered by a health care professional;
4. Involves a period of incapacity. “Incapacity” is the inability to perform at least one essential job function, to attend school or to perform regular daily activities for more than three consecutive calendar days and any subsequent required treatment or recovery period relating to the same condition. This incapacity must involve:
 - a. Two or more treatments by a health care provider;
 - b. One treatment plus a regimen of continuing care.
5. Results in a period of incapacity or treatment for a chronic serious health condition that requires periodic visits for treatment by a health care provider, continues over an extended period of time and may cause episodic rather than a continuing period of incapacity such as asthma, diabetes or epilepsy;
6. Involves permanent or long-term incapacity due to a condition for which treatment may not be effective, such as Alzheimer’s disease, a severe stroke or terminal stages of a disease;
7. Involves multiple treatments for restorative surgery or for a condition such as chemotherapy for cancer, physical therapy for arthritis or dialysis for kidney disease that if not treated would likely result in incapacity of more than three days; or
8. Involves any period of disability of a female due to pregnancy or childbirth or period of absence for prenatal care.

“Serious injury or illness,” for the purpose of caring for a covered servicemember, means:

1. In the case of a member of the Armed Forces, including a member of the National Guard or Reserves, an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces, or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces, and that may render the member medically unfit to perform the duties of the member’s office, grade, rank or rating; and

2. In the case of a covered veteran, an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty, on active duty in the Armed Forces) and manifested itself before or after the member became a veteran, and is:
 - a. A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank or rating; or
 - b. A physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; or
 - c. A physical or mental condition that substantially impairs the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or
 - d. An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

Purpose of Leave

Federal and state laws allow eligible employees to take FMLA or OFLA leave for the following purposes, commonly referred to as parental leave, serious health condition leave, pregnancy disability leave, injured servicemember leave, military family leave, leave for the death of a family member or sick child leave (sick child leave and death of a family member leave are OFLA only):

1. Birth of the employee's child and for bonding with a newborn (eligibility expires 12 months after the birth);
2. Placement of a child with the employee for adoption or foster care or for bonding with a newly placed child, when the child is under 18 years of age (eligibility expires 12 months after placement), or when a child is older than 18 years of age if incapable of self-care because of mental or physical disability;
3. Care of a family member with a serious health condition;
4. Employee's own serious health condition;
5. Eligible employees may take FMLA leave for a qualifying exigency while the employee's spouse, son, daughter or parent is on covered active duty or called to covered active duty status during the deployment of the member with the Armed Forces to a foreign country." (CFR section 825.126(a)(1 and 2); Federal Register Vol. 78, No. 25, Page 8917);
6. Injured Service Member Leave allows an employee leave to care for a covered servicemember who is the employee's spouse, son, daughter, parent or next of kin who has been injured in the line of duty as a member of the Armed Forces;

7. State law allows employees to take leave for the care of a sick or injured child who requires home care but is not suffering from a serious health condition. The district is not required to grant leave for routine medical or dental appointments;
8. State law allows employees to take leave for the death of a family member³ to attend the funeral or alternative to a funeral of the family member, make arrangements necessitated by the death of the family member or grieve the death of the family member;
9. Military Family Leave allows leave for a spouse of a military personnel per each deployment of the spouse when the spouse has either been notified of an impending call to active duty, has been ordered to active duty or has been deployed or on leave from deployment (OFLA).

Length of Leave

An employee eligible for FMLA leave under federal law is entitled to a total of 12 work weeks of leave during any 12-month period for the purposes specified above. A husband and wife who are eligible and who both work for the district may only take a combined total of 12 workweeks of leave if the leave is taken to care for a parent with a serious health condition or if the leave is for the birth of a child or the placement of a child for adoption or foster care.

There will be occasions where a husband and wife employed by the same district will not have to share the 12-week allotment of leave. This situation arises where an employee is eligible for both FMLA and OFLA or just OFLA leave and the employee is taking leave to care for a newborn with a serious health condition.

An employee eligible for Military Caregiver Leave is entitled to a total of 26 work weeks of leave to care for a covered servicemember during a single 12-month period. The 12-month period begins when the Military Caregiver Leave begins.

An employee eligible for OFLA leave under state law is entitled to a total of 12 workweeks of leave during any 12-month period for the purposes specified above. The 14 days of leave provided by the OMFLA and the two weeks of leave provided for the death of a family member are part of the 12 weeks. Two or more family members who are eligible and who both work for the district may not take OFLA leave at the same time unless:

1. One employee needs to care for another employee who is a family member and who is suffering from a serious health condition;
2. One employee needs to care for a child suffering from a serious health condition while another employee, who is a family member, is also suffering from a serious health condition; or
3. Both family members are suffering from a serious health condition; or
4. The employees are taking leave for the death of a family member; or

³ Must be completed within 60 days of the date on which the eligible employee receives notice of the death of the family member.

5. The concurrent leave in such an instance is permitted by the district.

In addition to the 12 workweeks of family leave authorized above, under state law a female eligible employee may take an additional 12 workweeks of leave within any one-year period for an illness, injury or condition related to pregnancy or childbirth that disables the employee from performing her work duties. An employee who takes 12 workweeks of OFLA leave for parental leave may also take up to an additional 12 workweeks of sick child leave within the same leave year. If the employee uses less than 12 weeks of parental leave, however, no additional sick child leave is available, except for the balance of the initial 12 weeks. The employee may also use this balance for any OFLA leave purpose.

A female employee may take up to 36 weeks of OFLA leave in one leave year, but only under the following circumstances:

1. The female employee takes 12 weeks of pregnancy disability leave; followed by
2. Twelve weeks of parental leave; followed by
3. Twelve weeks of sick child leave.

A male employee may take up to 24 weeks of OFLA leave in one year, but only under the following circumstances:

1. The male employee takes 12 weeks of parental leave; followed by
2. Twelve weeks of sick child leave.

Parental leave must be taken in one uninterrupted period – unless the employer approves otherwise – and must be completed within 12 months of the birth, adoption or placement of the child. An exception must be made to allow parental leave to effectuate adoption or foster placement of the child. Such leave need not be taken in one, uninterrupted period with any additional parental leave.

The birth, adoption or foster placement of multiple children at one time entitles the employee to take only one 12-week period of parental leave.

Sick child leave need not be provided if another family member, including a noncustodial biological parent, is willing and able to care for the child.

For the purpose of intermittent leave, leave entitlement is calculated for an employee by multiplying the number of hours the employee normally works per week by 12. (For example, an employee normally employed to work 30 hours per week is entitled to 12 times 30 hours, or a total of 360 hours of leave.) If an employee's schedule varies from week to week, a weekly average of the hours worked over the 12 weeks worked prior to the beginning of the leave period shall be used for calculating the employee's normal workweek. (For example, an employee working an average of 25 hours per week is entitled to 12 times 25 hours, or a total of 300 hours of leave.) If an employee takes intermittent or reduced work schedule leave, only the actual number of hours of leave taken may be counted toward the 12 weeks of leave to which the employee is entitled.

An employee, who has previously qualified for and taken some portion of OFLA leave, may request additional OFLA leave within the same leave year. The employee must requalify as an eligible employee for each additional leave requested unless one of the following exceptions apply:

1. A female employee who has taken 12 weeks of pregnancy-disability leave need not requalify for 12 weeks in the same leave year for any other purpose;
2. An employee who has taken 12 weeks of parental leave does not need to requalify to take an additional 12-weeks in the same leave year for sick child leave; and
3. An employee granted leave for a serious health condition for the employee or a family member need not requalify if additional leave is taken in this leave year for the same reason.

For situations where time off is covered by OFLA, but not covered by FMLA leave (e.g., the employer has 25 to 49 employees; or the leave taken is for a sick child or for serious health condition of a parents-in-law or the parents of the employee's registered domestic partner, grandparent or grandchild) the employer:

1. May allow an exempt employee with accrued paid leave to take OFLA leave in blocks of less than a full day. For these purposes, an exempt employee is a salaried executive, administrative or professional employee under the federal Fair Labor Standards Act or the state minimum wage and overtime laws;
2. May not reduce the salary of an employee who does not have or has run out of accrued paid leave and takes intermittent leave in blocks of less than a full day. To do so would result in the loss of exemption under state law.

The requirements of OFLA do not apply to any employer offering eligible employees a nondiscriminatory cafeteria plan, as defined by section 125 of the Internal Revenue Code of 1986, which provides as one of its options employee leave at least as generous as the leave required by OFLA.

An employee, who has previously qualified for and taken some portion of FMLA leave, may request additional FMLA leave within the same leave year. The employee need not requalify as an eligible employee if the additional leave applied for is in the same leave year and for the same condition.

Intermittent Leave and Alternate Duty

An employer may transfer an employee on a foreseeable intermittent FMLA/OFLA leave or reduced work schedule into an alternate position with the same or different duties to accommodate the leave, provided the following exist:

1. The employee accepts the transfer position voluntarily and without coercion;
2. The transfer is temporary, lasts no longer than necessary to accommodate the leave and has equivalent pay and benefits;
3. The transfer is compliant with applicable collective bargaining agreements, as well as with state and federal law, providing all the employee protections found in FMLA regulations 29 C.F.R. Part 825;

4. Transfer to an alternate position is used only when there is no other reasonable option available that would allow the employee to use intermittent leave or reduced work schedule; and
5. The transfer is not used to discourage the employee from taking intermittent or reduced work schedule leave, or to create a hardship for the employee.

An employee transferred, as provided in 1.-5. above, to an alternate position for the purpose of a reduced work schedule, must be returned to the employee's former position.

FMLA/OFLA leave time for an employee on intermittent leave or a reduced work schedule is the difference between the number of hours the employee normally works and the number of hours the employee actually works during the intermittent leave or reduced work schedule. Holidays or days in which the district is not in operation are not counted toward intermittent or reduced work schedule FMLA/OFLA leave unless the employee was scheduled and expected to work on the holiday.

The district may transfer an employee recovering from a serious health condition to an alternate position that accommodates the serious health condition provided:

1. The employee accepts the position voluntarily and without coercion;
2. The transfer is temporary, lasts no longer than necessary and has equivalent pay and benefits;
3. The transfer is compliant with applicable collective bargaining agreements, as well as with state and federal law, providing all the employee protections found in FMLA regulations 29 C.F.R. Part 825; and
4. The transfer is not used to discourage the employee from taking FMLA/OFLA leave for a serious health condition or to create a hardship for the employee.

An employee is not on FMLA/OFLA leave if the employee has been transferred, as provided in section 1.-3. above, to an alternate position for the purpose of alternate work duties that the employee is able to perform within the limitations of the employee's own serious health condition, but not requiring a reduced workweek. An employee working in an alternate position retains the right to return to the employee's original position unless all FMLA/OFLA leave taken in that leave year plus the period of time worked in the alternate position exceed 12 weeks.

An alternate position accommodating an employee's serious health condition may result in the employee working fewer hours than the employee worked in the original position. The employee's FMLA/OFLA leave is the difference between the number of hours the employee worked in the original position and the number of hours the employee actually works in the alternate position.

Intermittent leave for school teachers is subject to special rules.

The district recognizes that state law will not always reduce the employee's FMLA 12 workweek entitlement (i.e. leave to care for a parent-in-law or sick child leave).

Special Rules for Teachers

Special rules apply if leave is requested to be taken near the end of a semester.

1. Under OFLA leave, if a teacher requests, in advance, leave for a serious health condition and the teacher will be absent more than 20 percent of the total number of working days during the period over which the leave would be taken then the employer may require the teacher to elect one of the following options:
 - a. To take family leave for one uninterrupted period of time as necessary to complete medical treatment. (School holidays and school vacation days are not counted as family leave.);
 - b. To transfer temporarily into an available alternative position which better accommodates periodic absences or recurring periods of leave.
2. Under FMLA leave, if a teacher begins leave more than five weeks before the end of the academic term because of the teacher's own serious health condition, the employer may require the teacher to remain on leave until the end of the term if:
 - a. The family leave is at least three weeks long; and
 - b. The teacher's return to work would occur within three weeks of the end of the term.
3. If a teacher begins FMLA or OFLA leave within five weeks of the end of the academic term because of parental leave, the serious health condition of a family member or to care for a covered servicemember, the employer may require the teacher to remain on family leave through the end of the term if:
 - a. The leave is more than two weeks long; and
 - b. The teacher's return would occur within the last two weeks of the term.
4. If a teacher begins FMLA or OFLA leave within three weeks of the end of the academic term because of parental leave, to care for a family member with a serious health condition or to care for a covered servicemember and the leave is greater than five working days, the employer may require the teacher to remain on family leave until the end of the term.
5. If a teacher takes FMLA/OFLA leave to the end of the school year and continues the leave at the beginning of the next school term, the leave is consecutive rather than intermittent leave.
 - a. The period between the end of the school term and the beginning of the next school term, when a teacher would not have been required to report for duty, is not counted against the teacher's FMLA or OFLA leave entitlements.
 - b. A teacher on FMLA/OFLA leave at the end of the school term must be provided with the same benefits during the period between school terms that the teacher would normally receive if no FMLA/OFLA leave were taken.
6. If a teacher is required by the employer to remain on leave to the end of the academic term, only the period of leave the teacher requested shall be charged against the teacher's FMLA/OFLA leave entitlement.

7. Nothing in FMLA/OFLA rules prohibits the employer from allowing the teacher to work as a substitute or in some other paid capacity during the weeks prior to the end of term under 3. or 4. above.
8. Full-time employees covered by OFLA rules, and who have been maintained on the payroll by a district during 180 consecutive calendar days, are thereafter deemed to have been employed by that district for an average of at least 25 hours per week during the 180 days immediately preceding the date any OFLA leave begins.

Calculating the 12-Month Period for Leave

The district will use the same method for calculating the 12-month period in which the 12 workweek FMLA and OFLA leave entitlement occurs for all employees. The district will use the 12-month period measured forward from the date the employee's leave begins.

Leaves to care for covered servicemembers has its own 12-month year beginning on the first day of leave regardless of the district's method of calculating the 12-month period for leave.

Paid/Unpaid Leave

Family leave under federal and state law is generally unpaid. The district requires the employee to use any accrued sick leave, vacation or 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 FMLA and/or OFLA leave without pay for the leave period.

The district will notify the employee that the requested leave has been designated as FMLA and/or OFLA leave and, if required by the district, that accrued paid leave shall be used during the leave period. In the event the district is aware of an OFLA or FMLA qualifying exigency, the district shall notify the employee of the intent to designate the leave as such regardless of whether a request has been made by the employee. Such notification will be given to the employee prior to the commencement of the leave or within two working days of the employee's notice of an unanticipated or emergency leave.

When the district does not have sufficient information to make a determination of whether the leave qualifies as FMLA or OFLA leave, the district will provide the required notice promptly when the information is available but no later than two working days after the district has received the information. Oral notices will be confirmed in writing no later than the following payday. If the payday is less than one week after the oral notice is given, written notice will be provided no later than the subsequent payday.

Continuation of Health Insurance Benefits

Under federal and state law, group health insurance benefits and premium payments must be continued on the same basis as coverage would have been provided and premiums paid if the employee had been continuously employed during the leave period. The district will continue to pay the district's contribution toward the employee's premiums. The employee will continue to pay the employee's share of premiums, if any. A 30-day grace period will be allowed for receipt of employee contributions. The district's obligation to maintain the employee's benefits will cease if the employee's contribution is more than 30 days late. The district will provide written notice that the premium payment is more than 30 calendar days late. Such notice will be provided within 15 calendar days before coverage is to cease.

In the event the district is required to pay or elects to pay any part of the costs of providing health, disability, life or other insurance coverage for an employee during the period of FMLA or OFLA leave that should have been paid by the employee, the district may deduct, on the employee's return to work, such amounts from the employee's pay as have been advanced.

In no event may the total deducted exceed 10 percent of the employee's gross pay each pay period.

Return to Work

After leave granted under federal and state law, an employee is generally entitled to be returned to the same position the employee held when leave commenced or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment unless otherwise excepted by law.

Fitness-for-Duty Certification

If the leave was required for the employee's own serious health condition, including intermittent leave, the district may require the employee to obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. The certification will specifically address the employee's ability to perform the essential functions of the employee's job as they relate to the health condition that was the reason for the leave. If the district is going to require a fitness-for-duty certification upon return to work, the district must notify the employee of such requirement when the leave is designated as FMLA leave. The district is responsible for any co-pay or other out-of-pocket costs incurred by the employee in providing certification. Failure to provide the fitness-for-duty certification may result in a delay or denial of reinstatement.

Application

Under federal and state law, an employee requesting FMLA and/or OFLA leave shall provide at least 30 days notice prior to the leave date if the leave is foreseeable. The notice shall be written and include the anticipated start, duration and reasons for the requested leave. The employee must make a reasonable effort to schedule treatment, including intermittent leave and reduced leave, so as not to unduly disrupt the operation of the district.

When an employee is able to give advance notice and requests leave, an employer may request additional information to determine that the leave qualifies for designation as FMLA/OFLA leave. The employer may designate the employee as provisionally on FMLA/OFLA leave until sufficient information is received to make a determination. An employee able to give advance notice of the need to take FMLA/OFLA leave must follow the employer's known, reasonable and customary procedures for requesting any kind of leave.

If advance notice is not possible, for example due to a change in circumstances or a medical emergency, an employee eligible for FMLA leave must provide notice as soon as practicable. "As soon as practicable," under federal law means the employee generally must comply with the employer's normal call-in procedures.

An employee eligible for OFLA leave is required, under state law, to provide oral or written notice within 24 hours of commencement of the leave in unanticipated or emergency leave situations. The employee may designate a family member or friend to notify the district during that period of time.

In either case, proper documentation must be submitted no later than three working days following the employee's return to work.

Failure of an employee to provide the required notice for FMLA leave may result in the district delaying the employee's leave for up to 30 days after the notice is ultimately given.

Failure of an employee to provide the required notice for leave covered by OFLA may result in the district deducting up to three weeks from the employee's unused OFLA leave in that one-year leave period. The employee may be subject to disciplinary action for not following the district's notice procedures.

Medical Certification

When an employee provides 30 or more days notice when applying for FMLA and/or OFLA leave, other than for parental leave, the employer may require the employee to provide medical documentation when appropriate to support the request for leave. The district will provide written notification to employees of this requirement within five working days of employee's request for leave. If the employee provides less than 30 days notice, the employee is required to submit such medical certification no later than 15 calendar days after receipt of the district's notification that medical certification is required.

The district may request re-certification of a condition when the minimum duration of a certification expires if the employee still needs leave. If the certification does not indicate a duration or indicates that it is ongoing, the district may request re-certification at least every six months in connection with an absence.

Under federal law, a second medical opinion may be required whenever the district has reason to doubt the validity of the initial medical opinion. The health care provider may be selected by the district. The provider shall not be employed by the district on a regular basis. Should the first and second medical certifications differ, a third opinion may be required. The district and the employee will mutually agree on the selection of the health care provider for a third medical certification. The third opinion will be final. Second and third opinions and the actual travel expenses for an employee to obtain such opinions will be paid for by the district.

Under state law, if an employee requests OFLA leave because of a serious health condition, the district may require a second opinion and designate the health care provider. The provider may not be employed by the district. Should the two opinions conflict, the district may require a third opinion and that the two providers designate the third health care provider. The third opinion will be final. Second and third opinions and the actual travel expenses for the employee to obtain such opinions will be paid for by the district.

An employer may not delay the taking of an OFLA leave in the event that medical certification is not received prior to the commencement of a leave taken subject to the timelines set forth in this regulation. The employer may designate the leave as provisionally approved subject to medical certification. The employer shall provide the employee with written notice of any requirement to provide medical certification of the need for leave and the consequences for failure to do so. The employee must be allowed a minimum of 15 days to provide medical certification.

If the employee elects or the district requires substitution of accrued sick leave, vacation or other paid leave for unpaid leave pursuant to a collective bargaining agreement or other Board policy, the district will

follow the medical documentation requirements of the applicable leave policy or contract provision whenever such requirements are more beneficial to the employee.

If an employee has taken sick child leave on all or any part of three separate days during a leave year, the employer may require medical certification on the fourth day or subsequent occurrence of sick child leave within that leave year. The employer must pay the cost of the medical certification not covered by insurance or other benefit plan. The opinion of the health care provider shall be binding. The employer may not require the employee to obtain a second opinion. The employer is not required to request medical certification for sick child leave exceeding three days and may make such requests at the employer's discretion.

Notification

Any notice required by federal and state laws explaining employee rights and responsibilities will be posted in all staff rooms and the district office. Additional information may be obtained by contacting the personnel director.

Record Keeping/Posted Notice

The district will maintain all records as required by federal and state laws including dates leave is taken by employees, identified separately from other leave; hours/days of leave; copies of general and specific notices to employees, including Board policy(ies) and regulations; premium payments of employee health benefits while on leave and records of any disputes with employees regarding granting of leave.

Medical documentation will be maintained separately from personnel files as confidential medical records.

The district will post notice of Federal Family and Medical Leave Act and Oregon Family Leave Act requirements.

Federal vs. State Law

Both federal and state law contain provisions regarding leave for family illness. Federal regulations state an employer must comply with both laws; that the federal law does not supersede any provision of state law that provides greater family leave rights than those established pursuant to federal law and that state and federal leave entitlements run concurrently. State law requires that federal and state leave run concurrently when possible. For example, due to differences in regulations, an employee who takes leave after 180 days of employment but before one year, is still eligible to take a full 12 workweeks of federal leave after meeting the one-year work requirement. After the first work year, leave will run concurrently.

EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness*; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness*.

***The FMLA definition of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition".**

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least 12 months, have 1,250 hours of service over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to

pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures. Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA; and
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulations 29 C.F.R. § 825.300(a) may require additional disclosures.

For additional information:

1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627
WWW.WAGEHOUR.DOL.GOV

Corbett School District 39

Code: GCBDA/GDBDA-AR(1)
Revised/Reviewed:

Federal Family and Medical Leave/State Family Medical Leave * (Version 2)

Coverage

The federal Family and Medical Leave Act (FMLA) applies to districts with 50 or more employees within 75 miles of the employee's work site, based on employment during each working day during any of the 20 or more workweeks in the calendar year in which the leave is to be taken, or in the calendar year preceding the year in which the leave is to be taken. The 50 employee test does not apply to educational institutions for determining employee eligibility.

The Oregon Family Leave Act (OFLA) and the Oregon Military Family Leave Act (OMFLA) applies to districts that employ 25 or more part-time or full-time employees in Oregon, based on employment during each working day during any of the 20 or more workweeks in the calendar year in which the leave is to be taken, or in the calendar year immediately preceding the year in which the leave is to be taken.

Employee Eligibility

FMLA applies to employees who have worked for the district for at least 12 months (not necessarily consecutive) and worked for at least 1,250 hours during the 12-month period immediately preceding the start of the leave.

An employee who has previously qualified for and has taken some portion of FMLA leave may request additional FMLA leave within the same leave year. In such instances, the employee need not requalify as an eligible employee, if the additional leave applied for is in the same leave year and for the same condition.

OFLA applies to employees who work an average of 25 hours or more per week during the 180 calendar days or more immediately prior to the first day of the start of the requested leave.¹ For parental leave purposes, an employee becomes eligible upon completing at least 180 days immediately preceding the date on which the parental leave begins. There is no minimum average number of hours worked per week when determining employee eligibility for parental leave.

An employee who has previously qualified for and has taken some portion of OFLA leave, may request additional OFLA leave within the same leave year. In such instances, the employee must requalify as an eligible employee for each additional leave requested unless one of the following exceptions apply:

¹ The requirements of OFLA do not apply to any employer offering eligible employees a nondiscriminatory cafeteria plan, as defined by section 125 of the Internal Revenue Code of 1986, which provides as one of its options employee leave at least as generous as the leave required by OFLA.

1. A female employee who has taken 12 weeks of pregnancy disability leave need not requalify leave in the same leave year for any other purpose;
2. An employee who has taken 12 weeks of parental leave need not requalify to take an additional 12 weeks in the same leave year for sick child leave; and
3. An employee granted leave for a serious health condition for the employee or a family member need not requalify if additional leave is taken in this leave year for the same reason.

OMFLA applies to employees who work an average of at least 20 hours per week. There is no minimum number of days worked when determining employee eligibility for OMFLA.

In determining if an employee has been employed for the preceding 180 calendar days, when applicable, the employer must consider days, e.g., paid or unpaid, an employee is maintained on payroll for any part of a work week. Full-time public school teachers who have been maintained on payroll by a district for 180 consecutive calendar days are thereafter deemed to have been employed for an average of at least 25 hours per week during the 180 days immediately preceding the start date of the OFLA leave. This provision is eligible for rebuttal if for example, the employee was on a nonpaid sabbatical.

In determining average workweek, the employer must count the actual hours worked using the Fair Labor Standards Act (FLSA) guidelines.

Qualifying Reason

Eligible employees may access FMLA leave for the following reasons:

1. Serious health condition of the employee or the employee's covered family member:
 - a. Inpatient care;
 - b. Continuing treatment;
 - c. Chronic conditions;
 - d. Permanent, long-term or terminal conditions;
 - e. Multiple treatments;
 - f. Pregnancy and prenatal care.
2. Parental leave² (separate from eligible leave as a result of a child's serious health condition):
 - a. Bonding with and the care for the employee's newborn (within 12 months following birth);
 - b. Bonding with and the care for a newly adopted or newly placed foster child under the age of 18 (within 12 months of placement);
 - c. Care for a newly adopted or newly placed foster child over 18 years of age who is incapable of self-care because of a physical or mental impairment (within 12 months of placement);
 - d. Time to effectuate the legal process required for placement of a foster child or the adoption of a child.

² Parental leave must be taken in one continuous block of time within 12 months of the triggering event.

3. Military Caregiver Leave: leave for the care for spouse, son, daughter or next-of-kin who is a covered servicemember/veteran with a serious injury or illness;
4. Qualifying Exigency Leave: leave arising out of the foreign deployment of the employee's spouse, son, daughter or parent.

Eligible employees may access OFLA for the following reasons:

1. Serious health condition of the employee or the employee's covered family member:
 - a. Inpatient care;
 - b. Continuing treatment;
 - c. Chronic conditions;
 - d. Permanent, long-term or terminal conditions;
 - e. Multiple treatments;
 - f. Pregnancy and prenatal care.
2. Parental leave (separate from eligible leave as a result of the child's serious health condition):
 - a. Bonding with and the care for the employee's newborn (within 12 months following birth);
 - b. Bonding with and the care for a newly adopted or newly placed foster child under the age of 18 (within 12 months of placement);
 - c. Care for a newly adopted or newly placed foster child over 18 years of age who is incapable of self-care because of a physical or mental impairment (within 12 months of placement);
 - d. Time to effectuate the legal process required for placement of a foster child or the adoption of a child.
3. Sick Child Leave: leave for non-serious health conditions of the employee's child.
4. Bereavement Leave: leave related to the death of a covered family member.³
5. Eligible employees may access OMFLA for the purpose of spending time with a spouse or same-gender domestic partner who is in the military and has been notified of an impending call or order to active duty, or who has been deployed during a period of military conflict.
6. The eligibility of an employee who takes multiple leaves for different qualified reasons during the same district designated leave period may be reconfirmed at the start of each qualified leave requested.

³ Bereavement leave under OFLA must be completed within 60 days of when the employee received notice of the death.

Definitions

1. Family member:

- a. For the purposes of FMLA, “family member” means:
 - (1) Spouse⁴;
 - (2) Parent;
 - (3) Child; or
 - (4) Persons who are “in loco parentis”.
- b. For the purposes of OFLA, “family member” means:
 - (1) Spouse;
 - (2) Registered, same-gender domestic partner;
 - (3) Parent;
 - (4) Parent-in-law;
 - (5) Parent of employee’s registered, same-gender domestic partner;
 - (6) Child;
 - (7) Child of employee’s registered, same-gender domestic partner;
 - (8) Grandchild;
 - (9) Grandparent; or
 - (10) Persons who are “in loco parentis”.

2. Child:

- a. For the purposes of FMLA, “child” means a biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing “in loco parentis”, who is either under the age of 18, or who is 18 years of age or older and who is incapable of self-care because of a physical or mental impairment.
- b. For the purposes of Military Caregiver Leave and Qualifying Exigency Leave under FMLA, “child” means the employee’s son or daughter on covered active duty regardless of that child’s age.
- c. For the purposes of OFLA, “child” means a biological, adopted, foster child or stepchild of the employee, the child of the employee’s same-gender domestic partner, or a child with whom the employee is or was in a relationship of “in loco parentis”.
- d. For the purposes of parental and sick child leave under OFLA, the child must be under the age of 18 or an adult dependent child substantially limited by a physical or mental impairment.

3. In loco parentis:

- a. For the purposes of FMLA, “in loco parentis” means persons with day-to-day responsibility to care for and financially support a child, or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

⁴ “Spouse” means individuals in a marriage, including “common law” marriage and same-sex marriage. For OFLA, spouse also includes same-sex individuals with a Certificate of Registered Domestic Partnership.

- b. For the purposes of OFLA, “in loco parentis” means person in the place of the parent having financial or day-to-day responsibility for the care of a child. A legal or biological relationship is not required.

4. Next of kin:

For the purposes of FMLA and Military Caregiver Leave under FMLA, “next of kin” means the nearest blood relative other than the servicemember’s spouse, parent, son or daughter in the following order of priority (unless otherwise designated in writing by the servicemember):

- a. Blood relatives who have been granted legal custody of the servicemember by court decree or statutory provisions;
- b. Brothers or sisters;
- c. Grandparents;
- d. Aunts and uncles; and
- e. First cousins.

5. Covered servicemembers:

For the purposes of Military Caregiver Leave under FMLA, “covered servicemember” means a current member of the Armed Forces, including a member of the National Guard or Reserves, who is receiving medical treatment, recuperation or therapy, or is in outpatient status, or is on the temporary disability retire list for a serious injury or illness.

6. Covered veteran:

For the purposes of Military Caregiver Leave under FMLA, “covered veteran” means a veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness provided he or she was:

- a. A member of the Armed Forces (including a member of the National Guard or Reserves);
- b. Discharged or released under conditions other than dishonorable; and
- c. Discharged within the five-year period before the eligible employee first takes FMLA, Military Caregiver Leave.

Leave Period

For the purposes of calculating an employee’s leave period, the district will use ~~the calendar year~~ ~~any fixed 12-month “leave year”~~ ~~the 12-month period measured forward from the date the employee’s leave begins~~ ~~a “rolling” 12-month period measured backward from the date the employee uses any family and medical leave~~. The same method for calculating the 12-month period for FMLA and OFLA leave entitlement shall be used for all employees. However, in all instances, the leave period for the purposes of OMFLA and Military Caregiver Leave under FMLA shall be dependent on the start of any such leave regardless of the district’s designated 12-month leave period described above.

Leave Duration

For the purposes of FMLA, an eligible employee is generally entitled to a total of 12 weeks of qualified leave during the district's designated leave period⁵. Spouses who work for the district may be limited to a combined 12 weeks of FMLA leave during the district's designated leave period when the purpose of the leave is for the birth of a child or to care for a child after birth, placement of an adopted or foster child or the care for an adopted or foster child after placement, or to care for the employee's parent's serious medical condition. Except in specific and unique instances, all qualified leave under FMLA counts toward an employee's leave entitlement within the district's designated leave period.

For the purposes of OFLA, an eligible employee is generally entitled to a total of 12 weeks of qualified leave during the district's designated leave period. However, a woman is entitled to an additional, full 12 weeks of parental leave during the district's designated leave period following the birth of a child regardless of how much OFLA qualified leave she has taken prior to the birth of such child during the district's designated leave period. Likewise, an employee who uses the full 12 weeks of parental leave during the district designated leave period, will be entitled to an additional 12 weeks of sick child leave under OFLA during the district's designated leave period for the purpose of caring for a child(ren) with a non-serious health condition requiring home care.⁶ Unlike FMLA, OFLA does not combine the leave entitlement for spouses working for the district. However, under OFLA, family members who work for the district may be restricted from taking concurrent OFLA qualified leave.⁷

For the purposes of OMFLA, an eligible employee is entitled to 14 days of leave per call or order to active duty or notification of a leave from deployment. When an employee also meets the eligibility requirements of OFLA, the duration of the OMFLA leave counts toward that employee's leave entitlement during the district's designated leave period.

Except as otherwise noted above, qualified leave under FMLA and OFLA for an eligible employee will run concurrently during the district's designated leave period.

For the purpose of tracking the number of leave hours an eligible employee is entitled and/or has used during each week of the employee's leave, leave entitlement is calculated by multiplying the number of hours the eligible employee normally works per week by 12⁸. If an employee's schedule varies from week-

⁵ An eligible employee taking Military Caregiver Leave under FMLA is entitled to up to 26 weeks of leave in the 12-month period beginning with the first day of such leave and regardless of any FMLA leave taken previously during the district's leave period. However, once the 12-month period begins for the purposes of Military Caregiver Leave under FMLA, any subsequent FMLA qualified leave, regardless of reason for such leave, will count toward the employee's 26-week entitlement under Military Caregiver Leave under FMLA.

⁶ Sick child leave under OFLA need not be provided if another family member, including a noncustodial biological parent, is willing and able to care for the child.

⁷ Exceptions to the ability to require family members from taking OFLA qualified leave at different times are when 1) employee is caring for the other employee who has a serious medical condition; 2) one employee is caring for a child with a serious medical condition when the other employee is suffering a serious medical condition; 3) each family member is suffering a serious medical condition; 4) each family member wants to take Bereavement Leave under OFLA; and 5) the employer allows the family members to take concurrent leave.

⁸ For example, an employee normally employed to work 30 hours per week is entitled to 12 times 30 hours, or a total of 360 hours of leave.

to-week, a weekly average of the hours worked over the 12 weeks worked prior to the beginning of the leave period shall be used for calculating the employee's normal workweek⁹. If an employee takes intermittent or reduced work schedule leave, only the actual number of hours of leave taken may be counted toward the 12 weeks of leave to which the employee is entitled.

Intermittent Leave

With the exception of parental leave which must be taken in one continuous block of time, an eligible employee is permitted under FMLA and OFLA to take intermittent leave for any qualifying reason.

Intermittent leave is taken in multiple blocks of time (i.e., hours, days, weeks, etc.) rather than in one continuous block of time and/or requires a modified or reduced work schedule.

When an employee is eligible for OFLA leave, but not FMLA leave, the employer:

1. May allow an exempt employee, as defined by state and federal law, with accrued paid time off to take OFLA leave in blocks of less than a full day; but
2. May not reduce the salary of an employee who is taking intermittent leave when they do not have accrued paid leave available. To do so would result in the loss of exemption under state law.

An employee's FMLA and/or OFLA intermittent leave time is determined by calculating the difference between the employee's normal work schedule and the number of hours the employee actually works during the leave period. The result of such calculation is credited against the eligible employee's leave entitlement.

Holidays or days in which the district is not in operation, are not counted against the eligible employee's intermittent OFLA leave period unless the employee was scheduled and expected to work on any such day.

Alternate Work Assignment

The district may transfer an employee recovering from a serious health condition to an alternate position which accommodates the serious health condition provided:

1. The employee accepts the position voluntarily and without coercion;
2. The transfer is temporary, lasts no longer than necessary and has equivalent pay and benefits;
3. The transfer is compliant with any applicable collective bargaining agreement;
4. The transfer is compliant with state and federal law, including but not limited to the protections provided for in FMLA and/or OFLA; and

⁹ For example, an employee working an average of 25 hours per week is entitled to 12 times 25 hours, or a total of 300 hours of leave.

5. The transfer is not used to discourage the employee from taking FMLA and/or OFLA leave for a serious health condition or to create a hardship for the employee.

The district may transfer an eligible employee who is on a foreseeable intermittent FMLA and/or OFLA leave to another position with the same or different duties to accommodate the leave, provided:

1. The employee accepts the transfer position voluntarily and without coercion;
2. The transfer is temporary, lasts no longer than necessary and has equivalent pay and benefits;
3. The transfer is compliant with any applicable collective bargaining agreements;
4. The transfer is compliant with state and federal law, including but not limited to the protections provided for in FMLA and/or OFLA;
5. The transfer to an alternate position is used only when there is no other reasonable option available that would allow the employee to use intermittent leave or reduced work schedule; and
6. The transfer is not used to discourage the employee from taking intermittent or reduced work schedule leave, or to create a hardship for the employee.

If an eligible employee is transferred to an alternative position, and as a result the employee works fewer hours than the employee was working in the original position, the employee's FMLA and/or OFLA leave time is determined by calculating the difference between the employee's normal work schedule and the number of hours the employee actually works during the leave period. The result of such calculation is credited against the eligible employee's leave entitlement.

When an employee is transferred to alternate position as described above but such transfer does not result in a reduced schedule, time worked in any such alternate position shall not be considered for the purpose of FMLA and/or OFLA leave. An employee working in an alternate position retains the right to return to the employee's original position unless all FMLA and/or OFLA leave taken in that leave year plus the period of time worked in the alternate position exceeds 12 weeks.

Special Rules for School Employees

For the purposes of FMLA, "school employee" means those whose principal function is to teach and instruct students in a class, a small group or an individual settlement. Athletic coaches, driving instructors and special education assistants, such as interpreters for the hearing impaired, are included in this definition. This definition does not apply to teacher assistants or aides, counselors, psychologist, curriculum specialists, cafeteria workers, maintenance workers or bus drivers.

For the purposes of OFLA, "school employee" means employees employed principally as instructors in public kindergartens, elementary schools, secondary schools or education service districts.

FMLA and/or OFLA leave that is taken for a period that ends with the school year and begins with the next semester is considered consecutive rather than intermittent. In any such situation, the eligible school employee will receive any benefits during the break period that employees would normally receive if they had been working at the end of the school year.

1. Foreseeable Intermittent Leave Exceeding 20 Percent of Working Days

When the qualified leave is foreseeable, will encompass more than 20 percent of the eligible school employee's regular work schedule during the leave period, and the purpose of such leave is to care for a family member with a serious medical condition, for a servicemember with a serious medical condition or because of the employee's own serious medical condition, the district may require the eligible school employee to:

- a. Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
- b. Temporarily transfer the eligible school employee to an alternate position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than the employee's original position.

2. Limitation on Leave Near the End of the School Year

When an eligible school employee requests leave near the end of the school year, the district may require the following:

- a. When the qualified leave begins more than five weeks before the end of the school year:
 - (1) For the purposes of FMLA leave, the eligible school employee may be required to continue taking leave until the end of the school year provided:
 - (a) The leave will last at least three weeks; and
 - (b) The employee would return to work during the three-week period before the end of the term.
 - (2) For the purposes of OFLA leave, if the reason for the leave is because of the eligible school employee's own serious health condition, the eligible school employee may be required to remain in leave until the end of the school year, provided:
 - (a) The leave will last at least three weeks; and
 - (b) The employee's return to work would occur within three weeks of the end of the school year.
- b. For the purposes of FMLA and/or OFLA leave, when the qualified leave begins within five weeks of the end of the school year and the purpose of such leave is parental leave, for the serious health condition of a family member or for the serious health condition of a servicemember, the eligible school employee may be required to remain on leave until the end of the school year provided:
 - (1) The leave will last more than two weeks; and
 - (2) The employee would return to work during the two-week period before the end of the school year.
- c. For the purposes of FMLA and/or OFLA leave, when the qualified leave begins within three weeks of the end of the school year and the purpose of such leave is parental leave, for the serious health condition of a family member or for the serious health condition of a

servicemember, the eligible school employee may be required to remain on leave until the end of the school year provided the length of the leave will last more than five working days.

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If the district requires an eligible school employee to remain on leave until the end of the school year as described above, additional leave required by the employer until the end of the school year shall not count against the eligible school employee's leave entitlement.

Paid/Unpaid Leave

FMLA and OFLA do not require the district to pay an eligible employee who is on a qualified leave. Subject to any related provisions in any applicable collective bargaining agreement, ¹⁰ ~~[an employee may elect to use any available accrued paid leave including personal and sick leave, or available accrued vacation leave during the leave period.] [the district requires the eligible employee to use any available accrued sick leave, vacation or personal leave days (or other available paid time established by Board policy(ies) and/or collective bargaining agreement) in the order specified by the district and before taking FMLA and/or OFLA leave without pay during the leave period.] [the district requires the eligible employee to use any available accrued paid leave, including personal and sick leave or available accrued vacation leave before taking FMLA and/or OFLA leave without pay during the leave period. The employee may select the order in which the available paid leave is used.]~~

The district will notify the eligible employee that the requested leave has been designated as FMLA and/or OFLA leave and, if required by the district, that available accrued paid leave shall be used during the leave period. In the event the district is aware of an OFLA or FMLA qualifying exigency, the district shall notify the eligible employee of its intent to designate the leave as such regardless of whether a request has been made by the eligible employee. Such notification will be given to the eligible employee prior to the commencement of the leave or within two working days of the employee's notice of an unanticipated or emergency leave, whichever is sooner.

When the district does not have sufficient information to make a determination of whether the leave qualifies as FMLA or OFLA leave, the district will provide the required notice promptly when the information is available but no later than two working days after the district has received the information. Oral notices will be confirmed in writing no later than the following payday. If the payday is less than one week after the oral notice is given, written notice will be provided no later than the subsequent payday.

Eligible employees who request OMFLA leave shall not be required to use any available accrued paid time off during the OMFLA leave period.

Benefits and Insurance

When an eligible employee returns to work following a FMLA or OFLA qualified leave, the employee must be reinstated to the same position the employee held when the leave commenced, or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment.

During an OFLA qualified leave an eligible employee does not accrue seniority or other benefits that would have accrued while the employee was working. The eligible employee is also subject to layoff to

¹⁰ ~~[The district must choose one of the following from the three available bracketed options to complete this paragraph, and delete the other two.]~~

the same extent similarly situated employees not taking OFLA leave are subject unless the terms of an applicable collective bargaining agreement, other agreement or the district's policies provide otherwise.

For the purposes of FMLA and OFLA, the district will continue to pay the employer portion of the eligible employee's group health insurance contribution (if applicable) during the qualified leave period. The eligible employee is required to pay the employee portion of any such group health insurance contribution as a condition of continued coverage.

For the purposes of FMLA qualified leave, the district's obligation to maintain the employee's group health insurance coverage will cease if the employee's contribution is remitted more than 30 calendar days late. The district will provide written notice that the premium payment is more than 30 calendar days late. Such notice will be provided within 15 calendar days before coverage is to cease.

For the purposes of OMFLA, the eligible employee is entitled to a continuation of benefits.

Fitness-for-Duty Certification

Prior to the reinstatement of an employee following a leave which was the result of the employee's own serious health condition, the district may require the employee to obtain and present a Fitness-for-Duty Certification. The certification will specifically address the employee's ability to perform the essential functions of the employee's job as they relate to the health condition that was the reason for the leave. If the district is going to require a fitness-for-duty certification upon return to work, the district must notify the employee of such requirement when the leave is designated as FMLA and/or OFLA leave. Failure to provide the certification may result in a delay or denial of reinstatement.

For the purposes of FMLA qualified leave, any costs associated with obtaining the fitness-for-duty certification shall be borne by the employee.

For the purposes of OFLA qualified leave, any out-of-pocket costs associated with obtaining the fitness-for-duty certification shall be borne by the district.

If the leave is qualified under both FMLA and OFLA, any out-of-pocket costs associated with obtaining the fitness-for-duty certification shall be borne by the district.

Application

Under federal and state law, an eligible employee requesting FMLA and/or OFLA leave shall provide at least 30 days' notice prior to the leave date if the leave is foreseeable. The notice shall be written and include the anticipated start date, duration and reasons for the requested leave. When appropriate, the eligible employee must make a reasonable effort to schedule treatment, including intermittent leave and reduced leave, so as not to unduly disrupt the operation of the district.

The district may request additional information to determine that the requested leave qualifies as FMLA and/or OFLA leave. The district may designate the employee as provisionally on FMLA and/or OFLA leave until sufficient information is received to properly make a determination. An eligible employee able to give advance notice of the need to take FMLA and/or OFLA leave must follow the employer's known, reasonable and customary procedures for requesting any kind of leave.

For the purposes of FMLA, if advance notice is not possible, an employee eligible for FMLA leave must provide notice as soon as practicable. “As soon as practicable,” for the purpose of FMLA leave, means the employee must comply with the employer’s normal call-in procedures except in limited and under unique circumstances. Failure of an employee to provide the required notice for FMLA leave may result in the district delaying the employee’s leave up to 30 days after the notice is ultimately given.

For the purposes of OFLA, an eligible employee is required to provide oral or written notice within 24 hours of commencement of the leave in unanticipated or emergency leave situations. The employee may designate a family member or friend to notify the district during that period of time. Failure of an employee to provide the required notice for leave covered by OFLA may result in the district deducting up to three weeks from the employee’s unused OFLA leave in that one-year leave period. The employee may be subject to disciplinary action for not following the district’s notice procedures.

When an employee fails to give advance notice for both the FMLA and OFLA above, the district must choose the remedy that is most advantageous to the employee.

In all cases, proper documentation must be submitted no later than three working days following the employee’s return to work.

Medical Certification

The district ~~may~~~~shall~~ require an eligible employee to provide medical documentation, when appropriate, to support the stated reason for such leave. The district will provide written notification to an employee of this requirement within five working days of the employee’s request for leave. If the employee provides less than 30 days’ notice, the employee is required to submit such medical certification no later than 15 calendar days after receipt of the district’s notification that medical certification is required.

The district may request re-certification of a condition when the minimum duration of a certification expires if continued leave is requested. If the certification does not indicate a duration or indicates that it is ongoing, the district may request re-certification at least every six months in connection with an absence.

Under federal law, a second medical opinion may be required whenever the district has reason to doubt the validity of the initial medical opinion. The health care provider may be selected by the district. The provider shall not be employed by the district on a regular basis. Should the first and second medical certifications differ, a third opinion may be required. The district and the employee will mutually agree on the selection of the health care provider for a third medical certification. The third opinion will be final. Second and third opinions and the actual travel expenses for an employee to obtain such opinions will be paid for by the district.

Second and Third Opinions

1. For the purposes of FMLA, the district may designate a second health care provider, but that person cannot be utilized by the district on a regular basis except in rural areas where health care is extremely limited. If the opinions of the employee’s and the district’s designated health care provider(s) differ, the district may require a third opinion at the district’s expense. The third health care provider must be designated or approved jointly by the employee and the district. This third opinion shall be final and binding.

2. For the purposes of OFLA, and except for leave related to sick child leave under OFLA, the district may require the employee to obtain a second opinion from a health care provider designated by the district. If the first and second verifications conflict, the employer may require the two health care providers to jointly designate a third health care provider for the purpose of providing a verification. This third verification shall be final and binding.

Notification

Any notice required by federal and state laws explaining employee rights and responsibilities will be posted in all staff rooms and the district office. Additional information may be obtained by contacting the ~~superintendent~~ personnel director.

Record Keeping/Posted Notice

The district will maintain all records as required by federal and state laws including dates leave is taken by employees, identified separately from other leave; hours/days of leave; copies of general and specific notices to employees, including Board policy(ies) and regulations; premium payments of employee health benefits while on leave and records of any disputes with employees regarding granting of leave.

Medical documentation will be maintained separately from personnel files as confidential medical records.

The district will post notice of FMLA and OFLA leave requirements.

Federal vs. State Law

Both federal and state law contain provisions regarding leave for family illness. Federal regulations state an employer must comply with both laws; that the federal law does not supersede any provision of state law that provides greater family leave rights than those established pursuant to federal law; and that OFLA and FMLA leave entitlements run concurrently. State law requires that FMLA and OFLA leave entitlements run concurrently when possible.

For example, due to differences in regulations, an eligible employee who takes OFLA leave after 180 days of employment, but before he/she is eligible for FMLA leave, is still eligible to take a full 12 workweeks of FMLA leave after meeting FMLA's eligibility requirements. Thereafter, any eligible leave period will run concurrently, when appropriate.

EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness*; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness*.

***The FMLA definition of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition".**

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least 12 months, have 1,250 hours of service over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a

chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days' notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA; and
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer. FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulations 29 C.F.R. § 825.300(a) may require additional disclosures.

For additional information:

1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627

WWW.WAGEHOUR.DOL.GOV

U.S. Department of Labor | Wage and Hour Division

Corbett School District 39

Code: GCBDA/GDBDA-AR(2)
Revised/Reviewed: 4/20/16
Orig. Code: GCBDA/GDBDA-AR(2)

Request for Family and Medical Leave

Employee Request for Family and Medical Leave (FMLA)
and/or Oregon Family Leave (OFLA)

PLEASE PRINT

Where the need for the leave may be anticipated, written request for family and medical leave must be made, if practical, at least 30 days prior to the date the requested leave is to begin. Failure to request leave in a timely manner could result in either the leave being postponed or the amount of leave available reduced up to three weeks.

Name _____ Effective Date of the Leave _____

Department _____ Title _____

Status: Full-time Part-time Temporary

Hire Date _____ Length of Service _____

Have you taken a family leave in the past 12 months? Yes No

If yes, how many work days? _____ Reason for leave _____

I request family or medical leave for one or more of the following reasons:¹

1. Because of the birth of my child and to care for him or her. (District: Use GCBDA/GDBDA-AR(3)(A) Certification Form)
Expected date of birth _____ Actual date of birth _____
Leave to start _____ Expected return date _____
2. Because of the placement of a child with me for adoption or foster care. (District: Use GCBDA/GDBDA-AR(3)(A) Certification Form)
Age of child _____ Date of placement _____
Leave to start _____ Expected return date _____
3. To care for a family member¹ with a serious health condition. (District: Use GCBDA/GDBDA-AR(3)(B) Certification Form)
Leave to start _____ Expected return date _____

¹A physician's certification may be required to support a request for family and medical leave. In addition, a fitness-for-duty certification may be required before reinstatement following the leave.

¹"Family member," for purposes of FMLA and OFLA leave, means the spouse, custodial parent, noncustodial parent, adoptive parent, stepparent or foster parent, biological parent, child of the employee (biological, adopted, foster or step child, a legal ward or child of the employee standing in loco parentis) or a person with whom the employee is or was in a relationship of "in loco parentis." Additionally, when defining "family member" under OFLA (but not FMLA leave), the definition includes a grandparent, grandchild, parents-in-law or the parents of the employee's registered domestic partner.

Please check one: Spouse² Child Parent Individual who was in *loco parentis* when the employee was a child Parent-in-law or the parent of the employee's registered domestic partner (OFLA leave only) Custodial parent Noncustodial parent Adoptive parent Stepparent Foster parent Grandparent (OFLA leave only) Grandchild (OFLA leave only).

Please state name and address of relation:

Name _____ Address _____

Does the condition render the family member unable to perform daily activities? _____

4. For a serious health condition which prevents me from performing my job functions. (District: Use GCBDA/ GDBDA-AR(3)(A) Certification Form)

Describe _____

Leave to start _____ Expected return date _____

Regarding 3 or 4 above, request intermittent (reduced workday hours) or reduced leave (fewer workdays each workweek) schedule or alternate duty (if applicable, subject to employer's approval). Please describe schedule of when you anticipate you will be unavailable to work: _____

5. To care for a child with a condition requiring home care which does not meet the definition of serious health condition and is not life threatening or terminal (OFLA leave only).
6. A qualifying exigency arising from an employee's spouse, son, daughter, or parent who is a covered servicemember as defined in GCBDA/GDBDA-AR(1), or leave for the spouse per each deployment of the spouse when the spouse has either been notified of an impending call to active duty, has been ordered to active duty, or has been deployed or on leave from deployment. (District: Use GCBDA/GDBDA-AR(3)(C) Certification Form)
7. To care for a spouse, son, daughter, parent, or next of kin³ who is a covered servicemember with a serious illness or injury incurred in the line of duty or active duty in the armed forces. Has leave been taken for the same servicemember and the same injury? Yes No (District: Use GCBDA/GDBDA-AR(3)(D) Certification Form) If yes, when was the leave taken and for how many work days? _____
8. For the death of a family member (OFLA only).

I understand that 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 family and medical leave period.

² "Spouse" means individuals in a marriage including "common law" marriage and same-sex marriage. For OFLA, spouse also includes same-sex individuals with a Certificate of Registered Domestic Partnership.

³ "Next of kin" means the nearest blood relative of the eligible employee.

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. (A fitness-for-duty statement may be required.)

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 and/or federal law.

I have been provided a copy of the district's family and medical leave policy and a copy of my rights and responsibilities under the Family Medical Leave Act leave request form.

Signature of Employee: _____ Date: _____

Corbett School District 39

Code: GCBDA/GDBDA-AR(3)(A)
Revised/Reviewed:

Certification of Health Care Provider Employee's Serious Health Condition

To be Completed by the District:

The Family Medical Leave Act (FMLA) provides that a district may require an employee seeking FMLA leave protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. Employees may not be asked to provide more information than allowed under the FMLA regulations. The district will maintain records and documents relating to medical certification, recertifications or medical histories of employee's family members, created for FMLA purposes, as confidential medical records in separate files from personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 C.F.R. § 1635.9, if the Genetic Information Discrimination Act applies.

District contact person: _____

Employee's job title: _____ Regular work schedule: _____

Employee's essential job functions: _____

Check if job description is attached:

Return this completed form on _____ (date) (must be at least 15 days after employee is notified of this requirement).

To be Completed by the Employee:

Complete the information below before giving this form to your family member or his/her medical provider. The return of this form is required to obtain or retain the benefit for FMLA protections. Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request.

Employee's name: _____
First Middle Last

To be Completed by Health Care Provider:

Your patient has requested leave under the FMLA. Answer fully and completely, all applicable parts below. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be the best estimate based upon your medical knowledge, experience and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown" or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave. Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), genetic services, as defined in 29 C.F.R. § 1635.3(e) or the manifestation of disease or disorder in the employee's family members, as defined in 29 C.F.R. 1635.3(b). Extra space is provided, should you need it. Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice/medical specialty: _____

Telephone: (____) _____ Fax: (____) _____

Email: _____

Medical Facts

1. The approximate date the condition commenced: _____

The probable duration of the condition: _____

Was the patient admitted for an overnight stay in a hospital, hospice or residential medical care facility?

Yes No If yes, dates of admission: _____

List the date(s) you treated the patient for the condition: _____

Was medication, other than over-the-counter medication, prescribed? Yes No

Will the patient need to have treatment visits at least twice per year due to the condition? Yes No

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g. physical therapist)?

Yes No

If yes, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? Yes No

If yes, expected delivery date: _____

3. Use the information provided by the district in the "To be Completed by the District" section to answer this question. If the district fails to provide a list of the employee's essential functions or a job description, answer these questions based upon the employee's own description of his/her job functions.

Is the employee unable to perform any of his/her job functions due to the condition? Yes No

If yes, identify the job functions the employee is unable to perform:

4. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis or any regimen of continuing treatment such as the use of specialized equipment):

Amount of Leave Needed

1. Will the employee be incapacitated for a single continuous period of time due to his/her medical condition, including any time for treatment and recovery? Yes No

If yes, estimate the beginning and ending dates for the period of incapacity: _____

2. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced schedule because of the employee's medical condition? Yes No

If yes, are the treatments or the reduced number of hours of work medically necessary? Yes No

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Estimate the part-time or reduced work schedule the employee needs, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

3. Will the condition cause episodic flare-ups periodically preventing the employee from performing his/her job functions? Yes No

Is it medically necessary for the employee to be absent from work during the flare-ups? Yes No

If yes, explain: _____

Based upon the employee's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the employee may have over the next six months (e.g. one episode every three months lasting one to two days):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per episode

Additional Information (Identify the question number with your additional answer):

Signature of health care provider

Date

Corbett School District 39

Code: _____
Revised/Reviewed: _____

GCBDA/GDBDA-AR(3)(B)

Certification of Health Care Provider Family Member's Serious Health Condition

To be Completed by the District:

The Family Medical Leave Act (FMLA) provides that a district may require an employee seeking FMLA leave protections because of a need for leave to care for a covered family member with a serious health condition to submit a medical certification issued by the health care provider of the covered family member. Employees may not be asked to provide more information than allowed under the FMLA regulations. The district will maintain records and documents relating to medical certification, recertifications or medical histories of the employee's family members, created for FMLA purposes, as confidential medical records in separate files from personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 C.F.R. § 1635.9, if the Genetic Information Nondiscrimination Act applies.

District contact person: _____

Employee's job title: _____ Regular work schedule: _____

Employee's essential job functions: _____

Check if job description is attached:

Return this completed form on _____ (date) (must be at least 15 days after employee is notified of this requirement).

To be Completed by the Employee:

Complete the information below before giving this form to your family member or his/her medical provider. The return of this form is required to obtain or retain the benefit for FMLA protections. Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request.

Employee's name: _____
First Middle Last

Relationship and name of family member for whom employee will provide care: _____
Relationship

First Middle Last

If the family member is your child, please provide his/her date of birth: _____

Describe the care you will provide to your family member and estimate the leave needed to provide such care:

Employee signature _____

_____ Date

To be Completed by Health Care Provider:

The employee listed above has requested leave under the FMLA to care for your patient. Answer fully and completely, all applicable parts below. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be the best estimate based upon your medical knowledge, experience and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the patient needs leave. Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), C.F.R. § 1635.3(b). Extra space is provided, should you need it. Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice/medical specialty: _____

Telephone: () _____ Fax: () _____

Email: _____

Medical Facts

1. The approximate date the condition commenced: _____

The probable duration of the condition: _____

Was the patient admitted for an overnight stay in a hospital, hospice or residential medical care facility?

Yes No If yes, dates of admission: _____

List the dates(s) you treated the patient for their condition: _____

Was medication, other than over-the-counter medication, prescribed? Yes No

Will the patient need to have treatment visits at least twice per year due to the condition? Yes No

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g. physical therapist)?

Yes No

If yes, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? Yes No

If yes, expected delivery date: _____

3. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis or any regimen of continuing treatment such as the use of specialized equipment):

Amount of Leave Needed

When answering these questions, keep in mind that your patient's need for care from the employee seeking leave may include assistance with basic medical, hygienic, nutritional, safety or transportation needs, or the provision of physical or psychological care:

1. Will the patient be incapacitated for a single continuous period of time, including any time for treatment and recovery? Yes No

If yes, estimate the beginning and ending dates for the period of incapacity: _____

During this time, will the patient need care? Yes No

Explain the care needed by the patient and why such care is medically necessary:

2. Will the patient require follow-up treatments, including any time for recovery? Yes No

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period: _____

Explain the care needed by the patient, and why such care is medically necessary: _____

3. Will the patient require care on an intermittent or reduced schedule basis, including any time for recovery? Yes No

Estimate the hours the patient needs care on an intermittent basis, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

Explain the care needed by the patient, and why such care is medically necessary: _____

4. Will the condition cause episodic flare-ups periodically preventing the patient from participating in normal daily activities? Yes No

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next six months (e.g. one episode every three months lasting one to two days):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per episode

Does the patient need care during these flare-ups? Yes No

Explain the care needed by the patient, and why such care is medically necessary: _____

Additional Information (Identify the question number with your additional answer):

Signature of health care provider

Date

Corbett School District 39

Code: GCBDA/GDBDA-AR(3)(C)
Revised/Reviewed:

Military Family Leave

Certification of Qualifying Exigency for Military Family Leave

Section 1: (To be completed by the district)

The Family Medical Leave Act (FMLA) and the Oregon Military Family Leave Act (OMFLA) provide that a district may require an employee seeking FMLA or OMFLA leave due to a qualifying exigency or due to notification of impending call to active duty or deployment to submit a certification. Employees may not be asked to provide more information than allowed under the FMLA or OMFLA regulations.

District Name and Address: _____

[Superintendent or designee] information: _____

Section 2: (To be completed by the employee)

Complete the information below fully and completely. The FMLA or OMFLA permits the district to require that you submit a timely, complete and sufficient certification to support a request for FMLA or OMFLA leave due to a qualifying exigency or due to notification of impending call to active duty or deployment. Several questions in this section seek a response as to the frequency or duration of the qualifying exigency. Be as specific as you can; terms such as "lifetime," "unknown" or "indeterminate" may not be sufficient to determine FMLA or OMFLA coverage. Your response is required to obtain a benefit. While you are not required to provide this information, failure to do so may result in a denial of your request for qualifying leave. The district must give you at least 15 calendar days to return this form to the district.

Employee's name: _____
First Middle Last

Name of covered military member on active duty or call to active duty in support of a contingency operation:

First Middle Last

Relationship of covered military member to you: _____

Period of covered military member's active duty: _____

A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes written documentation confirming a covered military member's active duty or call to active duty status in support of a contingency operation. Please check one of the following and attach the indicated document to support that the military member is on covered active duty or called to covered active duty status:

- A copy of the covered military member's active duty orders is attached.
- Other documentation from the military certifying that the covered military member is on active duty (or has been notified of an impending call to active duty).
- I have previously provided the district with sufficient written documentation confirming the covered military member's active duty or call to active duty status.

Part A: Qualifying Reason for Leave

1. Describe the reason you are requesting qualifying leave due to a qualifying exigency (include the specific reason you are requesting leave):

2. Describe the reason you are requesting OMFLA leave (include the specific reason below, either a) an impending call or order to active duty, or b) impending leave from deployment):

3. A complete and sufficient certification to support a request for qualifying leave due to a qualifying exigency includes any available written documentation which supports the need for leave; such documentation may include a copy of a meeting announcement for information briefings sponsored by the military a document confirming the military member's Rest and Recuperation Leave; a document confirming an appointment with a third party, such as a counselor, school official or staff at a care facility; or a copy of a bill for services for the handling of legal or financial affairs. Is available written documentation supporting this request for leave attached? Yes No None available

Part B: Amount of Leave Needed

1. The approximate date the qualifying exigency or deployment commenced or will commence is:
_____.
The probable duration of such exigency or deployment is: _____
2. Will you need to be absent from work for a single continuous period of time due to the qualifying exigency or deployment? Yes No
If yes, estimate the beginning and ending dates for the period of absence: _____
3. Will you need to be absent from work periodically to address this qualifying exigency or deployment?
 Yes No
If yes, estimate the schedule of leave, including the dates of any scheduled meetings or appointments:

4. Estimate the frequency and duration of each appointment, meeting or leave event, including any travel time (i.e. one deployment-related meeting every month lasting four hours) (FMLA only):
Frequency: _____ times per _____ week(s) _____ month(s)
Duration: _____ hours or _____ day(s) per event

Part C: Third Party Certification

If leave is requested to meet with a third party (such as to arrange for childcare, to attend counseling, to attend meetings with school or childcare providers, to make financial or legal arrangements, to act as the covered military member’s representative before a federal, state or local agency for purposes of obtaining, arranging or appealing military service benefits, or to attend any event sponsored by the military or military service organizations), a complete and sufficient certification includes the name, address and appropriate contact information of the individual or entity with whom you are meeting (i.e. either the telephone or fax number or email address of the individual or entity). This information may be used by the district to verify that the information contained on this form is accurate (FMLA only).

Name of individual: _____ Title: _____

Organization: _____

Address: _____

Telephone: () _____ Fax: () _____

Email: _____

Describe the nature of the meeting: _____

Part D: Employee Signature

I certify that the information I provided above is true and correct. (For OMFLA leave purposes, notice must be given by the employee within five business days of receiving an official notice.)

Signature of employee

Date

Corbett School District 39

Code: GCBDA/GDBDA-AR(3)(D)
Revised/Reviewed:

Military Family Leave

Certification for Serious Injury or Illness of Covered Servicemember for Military Family Leave

Notice and instructions to the district:

The Family Medical Leave Act (FMLA) provides that a district may require an employee seeking FMLA leave due to a serious injury or illness of a covered servicemember to submit a certification providing sufficient facts to support the request for leave. Employees may not be asked to provide more information than allowed under the FMLA regulations 29 C.F.R. § 825.310. The district will maintain records and documents relating to medical certification, recertifications or medical histories of employees or employees' family member, created for FMLA purposes, as confidential medical records in separate files from personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

Section 1

Part A: Employee Information

Complete the employee and covered servicemember information below before giving this form to your family member or his/her medical provider.

District Name and Address

Name of employee requesting leave to care for covered servicemember:

First

Middle

Last

Name of covered servicemember for whom employee is requesting leave to care for:

First

Middle

Last

Relationship of employee to covered servicemember requesting leave to care for:

- Spouse Parent Child Next of kin

Part B: Covered Servicemember Information

1. Is the covered servicemember a current member of the regular Armed Forces, the National Guard or Reserves, or a veteran? Yes No

If a current servicemember, please provide the covered servicemember's military branch, rank and unit currently assigned to:

If a qualifying veteran, when was the date of discharge? _____

Is the covered servicemember assigned to a military medical treatment facility as an outpatient or to a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients (such as medical hold or warrior transition unit)? Yes No

If yes, provide the name of the medical facility or unit:

2. Is the covered servicemember on the Temporary Disability Retired List (TDRL)? Yes No

Part C: Care to be Provided to the Covered Servicemember

Describe the care to be provided to the covered servicemember and an estimate of the leave needed to provide the care:

Section 2:

(For completion by a United States Department of Defense (DOD) Health Care Provider or a Health Care Provider who is either: (1) a United States Department of Veterans Affairs (VA) health care provider; (2) a DOD TRICARE network authorized private health care provider; (3) a DOD non-network TRICARE authorized private health care provider; or (4) a health care provider as defined in 29 C.F.R. § 825.125.)

If you are unable to make certain of the military-related determinations contained below in Part B, you are permitted to rely upon determinations from an authorized DOD representative (such as a DOD recovery care coordinator). Please ensure that Section 1 above has been completed before completing this section. Please be sure to sign the form on the last page.

Part A: Health Care Provider Information

Health care provider's name and business address:

Type of practice/medical specialty: _____

Please state whether you are either: (1) a DOD health care provider; (2) a VA health care provider; (3) a DOD TRICARE network authorized private health care provider; (4) a DOD non-network TRICARE authorized private care provider; or (5) a health care provider as defined in 29 C.F.R. § 825.125.

Telephone: () _____ Fax: () _____ Email: _____

Part B: Medical Status

- Covered servicemember's medical condition is classified as (check one of the appropriate boxes):
 - (VSI) Very Seriously Ill/Injured – Illness/Injury is of such a severity that life is imminently endangered. Family members are requested at the bedside immediately. (Please note this is an internal DOD casualty assistance designation used by DOD health care providers.)
 - (SI) Seriously Ill/Injured – Illness/Injury is of such severity that there is cause for immediate concern, but there is no imminent danger to life. Family members are requested at bedside. (Please note this is an internal DOD casualty assistance designation used by DOD health care providers.)

Other Ill/Injured – A serious injury or illness that may render the servicemember medically unfit to perform the duties of the member’s office, grade, rank or rating.

P None of the above. (Note to employee: If this box is checked, you may still be eligible to take leave to care for a covered family member with a “serious health condition”. If such leave is requested, you may be required to complete the form *Certification of Health Care Provider for Family Member’s Serious Health Condition.*)

2. Was the condition for which the covered servicemember is being treated incurred in the line of duty on active duty in the Armed Forces? Yes No

If no, did the condition exist before the beginning of active duty and aggravated by service in the line of duty while on active duty? Yes No

3. Appropriate date condition commenced: _____

4. Probable duration of condition and/or need for care: _____

5. Is the covered servicemember undergoing medical treatment, recuperation or therapy? Yes No
If yes, please describe medical treatment, recuperation or therapy:

Part C: Covered Servicemember’s Need for Care by Family Member

1. Will the covered servicemember need care for a single continuous period of time, including any time for treatment and recovery? Yes No

If yes, estimate the beginning and ending dates for this period of time: _____

2. Will the covered servicemember require periodic follow-up treatment appointments? Yes No

If yes, estimate the treatment schedule: _____

3. Is there a medical necessity for the servicemember to have periodic care for these follow-up treatment appointment?

Yes No

4. Is there a medical necessity for the covered servicemember to have periodic care for other than scheduled follow-up treatment appointments (e.g. episodic flare-ups of medical conditions)? Yes No

If yes, estimate the frequency and duration of the periodic care.

Signature of health care provider

Date

Corbett School District 39

Code: GCBDA/GDBDA-AR(3)
Adopted: 8/20/03
Orig. Code(s): GCBDA/GDBDA-AR(3)

Sample Letter to Employee - OFLA Letter

The following is a sample cover letter to an employee notifying the employee that the employer is treating a request for leave as a request for OFLA leave (either paid or unpaid) that will reduce the employee's OFLA leave entitlement. This letter should be mailed to the employee within two working days after the employee's request for the leave along with the OFLA notice form.

Dear Employee:

On _____ (date) you advised the district that you were requesting a leave under the Oregon Family Leave Act (OFLA). Under our policy, leaves of absence that qualify for family and medical leave under state law run concurrently with other types of leave such as sick leave, vacation leave, short-term disability leave and leave for a workers' compensation injury or illness.

We understand the purpose of your requested leave qualifies as family medical leave under state law. Accordingly, this letter is to notify you that the leave will be counted against your annual OFLA leave entitlement. Also attached is a form entitled OFLA Notice to Employee which contains other information for you regarding state family medical leave rights.

Sincerely,

[Superintendent]

Enclosure (OFLA Notice to Employee form)

Corbett School District 39

Code: GCBDA/GDBDA-AR(4)
Revised/Reviewed: 4/20/16
Orig. Code: GCBDA/GDBDA-AR(4)

FMLA/OFLA Eligibility Notice to Employee

Employee Request for Family and Medical Leave (FMLA)

Date: _____

To: _____
(Employee's name)

From: _____
(Name of appropriate employer representative)

Subject: Request for FMLA and/or OFLA Leave

On _____ (date) _____ you notified us of your need to take family/medical leave due to:

1. ___ The birth of your child, or the placement of a child with you for adoption or foster care;
2. ___ A serious health condition that makes you unable to perform the essential functions of your job;
3. ___ A serious health condition of your spouse¹, child² (including the biological, grandchild, adopted or foster child or stepchild of an employee or a child with whom the employee is or was in a relationship of "in loco parentis"), parent (biological parent of an employee or an individual who stood "in loco parentis" to an employee when the employee was a child), grandparent (OFLA leave only), parent-in-law or the parent of an employee's registered domestic partner (OFLA leave only), custodial parent, noncustodial parent, adoptive parent, foster parent for which you are needed to provide care;
4. ___ Sick child leave due to the closure of a child's school or child care provider;
5. ___ An illness or injury to your child which requires home care but is not a serious health condition (OFLA leave only);
6. ___ A qualifying exigency arising from a spouse, son, daughter, child, or parent in the Armed Forces on covered active duty, or in the National Guard or Reserves on covered active duty;
7. ___ Your spouse has been notified of an impending call to active duty, has been ordered to active duty, or has been deployed or on leave from deployment;

¹"Spouse" means individuals in a marriage including "common law" marriage and same-sex marriage. For OFLA, spouse also includes same-sex individuals with a Certificate of Registered Domestic Partnership.

²For FMLA, the age of the son or daughter at the onset of the disability is not relevant in determining a parent's entitlement to FMLA leave.

8. ___ A serious illness or injury, incurred in the line of duty, of a covered service member who is your spouse, son, daughter, child, parent or next of kin;
9. ___ For the death of a family member (OFLA only).

You notified us that you need this leave beginning on ___ (date) ___ and that you expect leave to continue until on or about ___ (date) ___. The FMLA requires that you notify the district as soon as possible if dates of scheduled leave changes or are extended, or were initially unknown.

Except as explained below, you have a right under the FMLA and/or OFLA for up to 12 workweeks of unpaid leave in a 12-month period for the reasons listed above.³ The district will use the 12-month period measured forward from the date the employee's leave begins. FMLA leave and OFLA leave generally run concurrently. In order to care for an injured service member, you are entitled to up to 26 weeks of leave in a single 12-month period to care for a qualifying service member.

Also, your health benefits under FMLA and OFLA must be maintained during any period of unpaid leave under the same conditions as if you continued to work, including you continuing to pay the same portion of the premiums you currently pay. You ~~must will~~ be reinstated to the same position, or in some cases, under state or federal law, to an equivalent job with the same pay, benefits and terms and conditions of employment on your return from leave position. ~~The district is not required to maintain benefits during OFLA unless provided otherwise by Board policy or collective bargaining agreement; however, all such benefits will be restored in full upon your return to the district.~~

If you do not return to work following FMLA and/or OFLA leave for a reason other than: (1) the continuation, recurrence or onset of a serious health condition which would entitle you to FMLA and/or OFLA; or (2) other circumstances beyond your control, you may be required to reimburse the district for health insurance premiums paid on your behalf during your FMLA/ and/or OFLA leave.

This is to inform you that (*check appropriate boxes, explain where indicated*):

1. You are eligible not eligible for leave under the FMLA, OFLA or both FMLA and OFLA.
2. The requested leave may be counted against your annual FMLA leave entitlement, OFLA leave entitlement both FMLA and OFLA leave entitlement.
3. You will will not be required to furnish a medical certification of a serious health condition. If required, you must furnish the certification by ___ (date) ___ (must be at least 15 days after you are notified of this requirement).
4. You may elect to substitute accrued paid leave for unpaid FMLA leave. We will will not require that you substitute accrued paid leave for unpaid FMLA and/or OFLA leave. If paid leave will be used the following conditions will apply: (*Explain*)
- 5a. If you normally pay a portion of the premiums for your health insurance, these payments will continue during the period of FMLA/ and/or OFLA leave. Arrangements for payment have been

³Oregon Military Family Leave Act allows for 14 days of leave per deployment.

discussed with you and it is agreed that you will make premium payments as follows: *(Set forth dates, e.g., the 10th of each month, or pay periods, etc. that specifically cover the agreement with the employee.)*

~~5b. The district is not required to maintain benefits while an employee is on OFLA leave unless otherwise provided for by Board policy and/or collective bargaining agreements; however, all benefits must be restored in full upon the employee's return to work. The district will will not maintain benefits during OFLA leave.~~

~~5c. If the district pays any part of your share of disability, life or other insurance benefits while on OFLA or FMLA leave the district may deduct up to 10 percent of your gross pay each pay period after your return to work until the amount is repaid (OFLA leave only).~~

5db. You have a minimum 30-day Other: _____ (~~or~~, indicate longer period, if applicable) grace period in which to make premium payments. If payment is not timely made, your group health insurance may be cancelled. We will notify you in writing at least 15 days before the date that your health coverage will lapse. At our option, we may also pay your share of the premiums during your FMLA/ and/or OFLA leave as provided by Board policy and/or collective bargaining agreement, and recover these payments from you upon your return to work. We will will not pay your share of health insurance premiums while you are on FMLA and/or OFLA leave.

5ec. We will will not do the same with other benefits (e.g., life insurance, disability insurance, etc.) while you are on FMLA and/or OFLA leave. If we do pay your premiums for other benefits, when you return from leave you will will not be expected to reimburse us for the payments made on your behalf.

5fd. Except as noted above, in the event you do not return to work for the district after your FMLA and/or, OFLA leave and the district has paid your share of benefit premiums, you will will not be responsible for reimbursing the district the amount paid on your behalf, with the exceptions noted in C.F.R. Section 104 (c)(2)(B) of the FMLA.

6. You will be required to present a fitness-for-duty ~~certificate~~ certification prior to being restored to employment following leave for your own serious health condition. If such certification is required but not received, your return to work may be delayed until the certification is provided. A list of essential functions for your position is attached. The fitness-for-duty certification must address your ability to perform these functions.

You will not be required to present a fitness-for-duty ~~certificate~~ certification prior to being restored to employment following leave for your own serious health condition. ~~If such certification is required but not received, your return to work may be delayed until the certification is provided.~~

7a. You are are not a "key employee" as described in C.F.R. Section 825.218 of the FMLA regulations. If you are a "key employee," ~~restoration~~ reinstatement to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to ~~us~~ the district. (FMLA leave only.)

7b. We have have not determined that ~~restoring~~ reinstating you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us. (FMLA leave only.) *(Explain (a) and/or (b) below.)*

8. While on FMLA and/or OFLA leave, you will will not be required to furnish us with periodic reports every _____ (*indicate interval of periodic reports, as appropriate for the particular leave situation*) of your status and intent to return to work. If the circumstances of your leave change and you are able to return to work earlier than the date indicated on this form, you will will not be required to notify us at least two workdays prior to the date you intend to report for work.

9. You will will not be required to furnish recertification relating to a serious health condition. (FMLA leave only.) (*Explain below, if necessary, including the interval between certifications as prescribed in C.F.R. Section 825.308 of the FMLA regulations.*)

10. You are notified that all leave taken for the purposes of the death of a family member, counts toward the total period of authorized family leave.

Corbett School District 39

Code: GCBDA/GDBDA-AR(5)
Revised/Reviewed: 8/20/03
Orig. Code: GCBDA/GDBDA-AR(5)

OFLA Medical Certification

(To be completed by health-care provider)

Certification of Health-care Provider (Oregon Family Leave Act of 1995)

1. Employee's Name _____

2. Patient's Name (if different from employee) _____

3. Does the patient's condition qualify as a serious health condition under any of the categories listed on Attachment A? Yes No

If yes, please check the applicable category: 1 2 3 4 5 6 7

4. Provide a brief statement as to how the medical facts meet the criteria of the category you checked above. _____

5. What is the common name of the medical condition (e.g., cancer, diabetes, stroke, etc.) _____

6. State the approximate date the condition commenced, _____
and the probable date employee will be able to return to work _____

7. Will it be necessary for the employee to work only intermittently or to work on a less than full schedule as a result of the condition? Yes No

If yes, give the probable duration: _____

8. If additional treatments will be required for the condition, provide an estimate of the probable number of such treatments.

If the patient will miss work intermittently, please indicate dates and intervals of treatment, length of treatment, frequency of treatment, recovery time from treatment.

If any of these treatments will be provided by another provider of health services (e.g., physical therapist), please state the nature of the treatments and the provider if known.

9. If the condition is a chronic condition, or pregnancy, state whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity: _____

10. If a regimen of continuing treatment by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment).

11. Is leave required to care for a family member with a serious health condition?
 Yes No

If the family member will need care only intermittently or on a part-time basis, please indicate the probable duration of this need.

12. If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation?
 Yes No

If yes, briefly describe assistance required _____

Health-care Provider

Date

Address

Telephone Number

To be completed by the employee needing family leave to care for a family member:

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule.

Employee Signature

Date

ATTACHMENT A

A “serious health condition” means: an illness, injury, impairment or physical or mental condition of an employee or family member that:

1. Requires inpatient care in a hospital, hospice or residential medical care facility such as a nursing home. When a family member resides in a long-term residential care facility, leave shall apply only to:
 - a. Transition periods spent moving the family member from one home or facility to another, including time to make arrangements for such transitions;
 - b. Transportation or other assistance required for a family member to obtain care from physician;
 - c. Serious health conditions as described in this regulation.
2. The treating health-care provider judges to pose an imminent danger of death, or that is terminal in prognosis with a reasonable possibility of death in the near future;
3. Requires constant or continuing care such as home care administered by a health-care professional;
4. Involves a period of incapacity. Incapacity is the inability to perform at least one essential job function, or to attend school or perform regular daily activities for more than three consecutive calendar days and any subsequent required treatment or recovery period relating to the same condition. This incapacity must involve:
 - a. Two or more treatments by a health-care provider;
 - b. One treatment plus a regimen of continuing care; or
 - c. Any period of incapacity or treatment for a chronic serious health condition that requires periodic visits for treatment by a health-care provider, continues over an extended period of time and may cause episodic rather than a continuing period of incapacity such as asthma, diabetes or epilepsy.
5. Involves permanent or long-term incapacity due to a condition for which treatment may not be effective, such as Alzheimer’s disease, a severe stroke or terminal stages of a disease;
6. Involves multiple treatments for restorative surgery or for a condition such as chemotherapy for cancer, physical therapy for arthritis or dialysis for kidney disease that if not treated would likely result in incapacity of more than three days; or
7. Involves any period of disability of a female due to pregnancy or childbirth or period of absence for prenatal care.

Corbett School District 39

Code: GCBDA/GDBDA-AR(5)
Revised/Reviewed:

Sample Designation Letter to Employee - FMLA/OFLA Leave

The following is a sample cover letter to an employee notifying the employee that the employer is treating a request for leave as a request for FMLA and/or OFLA leave (either paid or unpaid) that will reduce the employee's FMLA and/or OFLA leave entitlement. This letter, along with the Designation Notice – FMLA/OFLA form GCBDA/GDBDA-AR(6) or the FMLA/OFLA Eligibility Notice form GCBDA/ GDBDA-AR(4), should be mailed to the employee within five working days after receiving enough information to determine whether the leave qualifies under FMLA or OFLA.

Dear Employee:

On _____ (date) you advised the district that you were requesting a leave that may qualify for protected time under the Family and Medical Leave Act (FMLA) and/or the Oregon Family Leave Act (OFLA). Under our policy, a leave of absence that qualifies for family and medical leave under federal law (FMLA), may run concurrently with other types of leave such as sick leave, vacation leave, short-term disability leave, OFLA and leave for a workers' compensation injury or illness. A leave of absence that qualifies for family and medical leave under state law (OFLA) may run concurrently with other types of leave such as sick leave, vacation leave, short-term disability leave, but cannot run concurrently with a leave for a workers' compensation injury or illness (unless you refuse a light-duty assignment).

[IF APPROVED: [We have determined the purpose of your requested leave qualifies as family or medical leave under [state] [and/or federal] law. Accordingly, this letter is to notify you that the leave will be counted against your annual family and medical leave entitlement. Also attached is a form titled Designation Notice which contains other information for you regarding federal and state family medical leave rights, including an estimate of time that will count toward your protected time.]]

[IF NOT APPROVED: [We have determined the purpose of your requested leave does NOT qualify as family or medical leave under state and/or federal law. You may be entitled to other leave time, under Board policy or the collective bargaining agreement, however the protections of FMLA/OFLA will not be observed for this leave.]]

If you have any questions regarding your leave, now or at any time during your leave, please contact, [the personnel office] as soon as possible.

Sincerely,

[Superintendent]

Enclosure (FMLA and/or OFLA Designation Notice form)

Corbett School District 39

Code: GCBDA/GDBDA-AR(6)
Revised/Reviewed:

Designation Notice – FMLA/OFLA

Leave covered under the Family and Medical Leave Act (FMLA) and/or Oregon Family Leave Act (OFLA) must be designated as FMLA and/or OFLA-protected, and the district must inform the employee of the amount of leave that will be counted against the employee's FMLA and/or OFLA leave entitlement.

In order to determine whether leave is covered under the FMLA and/or OFLA, the district may request that the leave be supported by a physician's certification. If the certification is incomplete or insufficient, the district will state in writing what additional information is necessary to make the certification complete and sufficient.

Employee Name: _____ Date: _____

We have reviewed your request for leave under the FMLA and/or OFLA and any supporting documentation that you have provided. We received your most recent information on _____.

Please be advised:

- Your request is approved for FMLA. All leave taken for this reason will be designated as FMLA leave.
- Your request is approved for FMLA and OFLA. This designation of leave will run concurrently.
- Your request is approved for OFLA. All leave taken for this reason will be designated as OFLA leave.

The FMLA and/or OFLA requires that you notify us as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown. Based on the information you have provided to date, we are providing the following information about the amount of time that will be counted against your entitlement:

- Provided there is no deviation from your anticipated leave schedule, the following number of hours, days or weeks will be counted against your leave entitlement:

- Because the leave you requested will be rescheduled, it is not possible to provide the hours, days or weeks that will be counted against your FMLA and/or OFLA entitlement at this time. You have the right to request this information once in a 30-day period (if leave was taken in the 30-day period).

Please be advised (check if applicable):

- You have requested to use paid leave during your FMLA and/or OFLA leave. Any paid leave taken for this reason will count against your FMLA and/or OFLA leave entitlement.
- We are requiring you to substitute or use paid leave during your FMLA and/or OFLA leave.

- You will be required to present a fitness-for-duty certification to be reinstated to your position. If such certification is not timely received, your return to work may be delayed until certification is provided. The Fitness-for-Duty Certification form is attached, please have your medical provider complete this form prior to the termination of your leave. A list of the essential functions of your position is is not attached. If attached, the fitness-for-duty certification must address your ability to perform these functions:

- Additional information is needed to determine if your FMLA and/or OFLA leave request can be approved.

- The certification you have provided is incomplete and insufficient to determine whether the FMLA and/or OFLA applies to your leave procedures. You must provide the following information no later than _____ (date) (at least 15 calendar days), unless it is not practicable under the particular circumstances despite your diligent good faith efforts, or your leave may be denied. The information needed to make the certification complete and sufficient is¹:

- We are exercising our right to have you obtain a second or third opinion medical certification at our expense, and we will provide further details at a later time.

- Your FMLA leave request is NOT APPROVED.
- The FMLA does not apply to your leave request.
- You have exhausted your FMLA leave entitlement in the applicable 12-month period. (Note: Federal Military Family Leave is on a separate 12-month period.)
- Your OFLA leave request is NOT APPROVED.
- The OFLA does not apply to your leave request.
- You have exhausted your OFLA leave entitlement in the applicable 12-month period.

¹ If you fail to provide a complete and sufficient certification by the due date, we may (a) delay the commencement of your leave; or (b) withdraw any designation of FMLA leave, in which case your leave of absence may be unauthorized and subject to discipline, up to and including termination.

Corbett School District 39

Code: GCBDA/GDBDA-AR(7)
Revised/Reviewed:

Fitness-for-Duty Certification

[NOTE: THESE INSTRUCTIONS ARE NOT INTENDED TO BE INCLUDED WITH THE CERTIFICATION TO THE EMPLOYEE – DELETE THIS PARAGRAPH PRIOR TO REVIEW AND POSTING FOR USE. *Instructions for use of this sample form:* In order to condition an employee’s return to work for the employee’s own serious health condition on a Fitness-for-Duty Certification form, the district must have notified the employee in the Designation Notice that a fitness-for-duty certification would be required before returning to work. If the district did not require a fitness-for-duty certification in the Designation Notice, once an employee comes back, if the district has concerns (based on evidence, not speculation) about the employee’s ability to perform the job, the district can get a fitness-for-duty certification based on the Americans with Disabilities Act Amendments Act (ADAAA), rather than FMLA and OFLA. Under OFLA, the district cannot obtain a second opinion for fitness-for-duty certification, and fitness-for-duty certifications must be sought pursuant to uniformly applied policy. The district must pay any out-of-pocket expenses paid to obtain a fitness-for-duty examination. This is a sample fitness-for-duty certification.]

To: _____ Date: _____

From: _____

Subject: Fitness-for-Duty Certification

Family and medical leave for your own serious health condition ends on (date) _____. Prior to returning to work you must provide a Fitness-for-Duty Certification verifying whether you are able to return to work, if you have any job-related restrictions and the duration of any restrictions. Please take this Fitness-for-Duty Certification to your health care provider for completion. The district will use this Fitness-for-Duty Certification to determine if you are able to return to work after your leave.

Return the completed Fitness-for-Duty Certification to the district prior to the end of your Family and Medical Leave or by (date) _____.

.....
Fitness-for-Duty Certification

Health Care Provider Completes this Section

Instructions: Please complete all sections in order for the district to determine if the employee is able to return to duty. The employee’s position description or a list of essential duties (district specifies which) is attached to this form.

1. The employee is able to return to work full-time without restrictions: Yes No
 - a. If yes, list the effective date: _____.
 - b. If no, complete the following:
 - (1) The employee will be able to return to work with no limitation on (date) _____.
 - (2) I certify that from (date) _____ to (date) _____ the above named employee will be:
 - (a) Unable to perform the physical requirements of their work; or
 - (b) Is medically incapacitated: Totally Partially**

**If partially medically incapacitated, complete the following:

P

(c) Number of hours per day employee is able to work: _____.

(d) Number of days per week employee is able to work: _____.

(3) List any restrictions on the employee's work: _____

R

Printed name of health care provider

Type of practice

Signature of health care provider

Date

Health care provider: Please return the completed form to the employee/patient.

Attached: Position description/description of essential duties (district specifies which).

P

O

S

E

D

Corbett School District 39

Code: GCBDAAGDBDAA
Adopted: 11/18/2020

COVID-19 Related Leave *

When applicable, the district will comply with the provisions of the Families First Coronavirus Response Act (FFCRA) which includes the Emergency Paid Sick Leave Act (EPSLA) and the Emergency Family and Medical Leave Expansion Act (EFMLEA). The district will also comply with the Oregon Bureau of Labor and Industries' (BOLI) temporary rule BLI 4-2020 that amends Oregon Administrative Rule 839-009-0230 for the purpose of taking leave during the statewide public health emergency. This policy and its accompanying administrative regulation will be in effect until each of the above laws have expired.

Employees are eligible for EFMLEA leave if they have been employed for at least 30 days.

EPSLA applies to all employees no matter how long they have been employed or how many hours they have worked.

The district may exclude from the EPSLA and EFMLEA employees who are health care providers, including anyone employed at any post-secondary educational institution offering health care instruction.

The BOLI rule applies to districts with employees who are eligible for leave under the Oregon Family Leave Act.

The district shall post a notice of FFCRA requirements in conspicuous places at district facilities. The district may meet the notice requirement by emailing the notice to employees or posting notice on an internal or external website made available to employees.

The district is prohibited from retaliating against an employee who takes leave or takes actions to enforce the requirements of these acts.

This policy does not affect employee rights or benefits under any other law, collective bargaining agreement, or district policy. The district is not required to pay an employee for unused emergency paid sick time if an employee resigns, retires, or is terminated.

END OF POLICY

Legal Reference(s):

[ORS 332.507](#)
[ORS 342.545](#)
[ORS 659A.090](#)

[ORS 659A.093](#)
[ORS 659A.096](#)
[ORS 659A.099](#)

[ORS 659A.150 - 659A.186](#)
[OAR 839-009-0200 - 0320](#)

BOLI Temporary Administrative Order BLI 4-2020

Families First Coronavirus Response Act, Public Law No: 116-127, Mar. 18, 2020.

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

Family and Medical Leave Act, 29 U.S.C. §§ 2601-2654 (2018); 5 U.S.C. §§ 6381-6387 (2018); Family and Medical Leave Act, 29 C.F.R. Part 825 (2019).

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

Escriva v. Foster Poultry Farms, Inc. 743 F.3d 1236 (9th Cir. 2014).

Corbett School District 39

Code: GCBDAAGDBDAA-AR(1)

Revised/Reviewed: 11/18/2020

COVID-19 Related Leave *

Emergency Paid Sick Leave Act

The district shall provide paid sick time to employees who are unable to work due to the effects of coronavirus disease 2019 (COVID-19). Full-time employees are entitled to 80 hours of paid sick time, which is available immediately for use if the employee:

1. Is subject to a governmental quarantine or isolation order;
2. Has been advised by a health-care provider to self-quarantine;
3. Is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
4. Is caring for an individual who is subject to quarantine or isolation by governmental order or health care provider advisement;
5. Is caring for their son or daughter whose school or child-care provider is closed; or
6. Is experiencing a substantially similar condition related to COVID-19 as specified by the Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Secretary of Labor.

Paid sick time may be used before other paid leave that may be available to the employee. A part-time employee is entitled to such paid sick time for the average number of hours the part-time employee works during an average two-week period. Paid sick time shall not carry over from one year to the next.

The district shall pay the regular rate of pay up to \$511 per day, and \$5,110 in the aggregate, for paid sick time used by an employee who experiences symptoms of COVID-19, or is required or advised to self-quarantine due to concerns related to COVID-19.

The district shall pay two-thirds of the regular rate of pay up to \$200 per day, and \$2,000 in aggregate, for paid sick time used by an employee:

1. To care for an individual subject to quarantine or isolation by governmental order or health care provider advisement;
2. To care for their child because the child's school or child-care provider is closed due to COVID-19 related reasons; or
3. Who is experiencing a substantially similar condition related to COVID-19 as specified by the Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Secretary of Labor.

Emergency Family and Medical Leave Expansion Act

A district employee may take public health emergency leave to care for the employee's child during a COVID-19 public health emergency.

The district is not required to pay an employee for the first 10 days of such public health emergency leave. However, an employee may use accrued paid leave during such time. After the 10 days, the district must pay not less than two-thirds of an employee's regular rate of pay for the number of hours per week the employee normally works. The maximum amount of compensation for such leave is \$200 per day and \$10,000 in aggregate.

The district shall restore the employee's former position following the use of public health emergency leave unless, the district:

1. Has fewer than 25 employees;
2. Has made reasonable efforts to retain the employee's position but such position no longer exists due to economic or operating conditions caused by the public health emergency; and
3. Has made reasonable efforts to restore the employee to an equivalent position.

Corbett School District 39

Code: GCBDAAGDBDAA-AR(2)
Revised/Reviewed: 11/18/2020

COVID-19 Related Leave *

Employee's Name: _____ Date: _____

Dates for which the leave is requested: _____

Qualifying reason for leave:

- Is subject to governmental-quarantined or isolation order.
- Has been advised by health-care provider to self-quarantine.
- Is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- Is caring for an individual who is subject to a quarantine or isolation by governmental order or health care provider advisement.
- Is caring for their son or daughter whose school or child-care provider is closed.
- Is experiencing a substantially similar condition related to COVID-19 as specified by the Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Secretary of Labor.

The employee is unable to work, including telework due to: _____

Documentation supporting the qualifying reason for requesting leave: _____

For quarantine or isolation orders, provide the name of the health care provider who advised the self-quarantine:

Name of health care provider

Contact information

For emergency Family Medical Leave Act (FMLA) leave and paid sick leave taken for COVID-19 related school or child care closings, provide documentation to support the need for leave, i.e., notice posted on government, school or day care website, published in a newspaper, or an email from an official of the school, place of care, or child care provider.

Corbett School District 39

Code: GCBDB/GDBDB
Adopted: 5/21/98
Orig. Code: GCBDB/GDBDB

Early Return to Work

Efforts will be made on a case by case basis, to ~~return-reinstate~~ ill or injured employees to work. ~~Returns~~
~~The reinstatement~~ will be within the requirements of the injury, the limitations of the law and the limitations of the district.

In the event an employee is not able to perform essential job functions completely after an illness or injury, the district will determine whether reasonable accommodations are appropriate that would provide a temporary light-duty assignment, restructuring of ~~job-a position~~ to include modified work days, shift or part time work, hours of work or modifications in facilities, equipment, special aids and services. Reasonable accommodations must not result in an undue hardship on the district.

If an employee cannot be reasonably accommodated in his/her current ~~job position~~, the district will review alternative assignments. The employee, if qualified, will be offered an available vacant position with or without reasonable accommodations. If ~~recovery is ongoing, sick leave is exhausted and~~ no other assignment is possible, the district will provide temporary unpaid leave ~~if recovery is on-going and sick leave is exhausted~~ as an accommodation in accordance with state and federal law. ~~Unpaid leave will be provided in accordance with Oregon law.~~

The district will maintain current position descriptions for each job category. Physical requirements for appropriate job categories will be established.

The superintendent will develop procedures necessary to implement this policy.

END OF POLICY

Legal Reference(s):

[ORS 659A.043](#)

[ORS 659A.046](#)

[OAR 436-110-0001 to -0900](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2016); 28 C.F.R. Part 35 (2016).
Americans with Disabilities Act Amendments Act of 2008.

Corbett School District 39

Code: GCBDC/GDBDC
Adopted: 4/17/19
Orig. Code(s): GCBDC/GDBDC

Domestic Violence, Harassment, Sexual Assault, or Stalking Leave *

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 166.065 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 a victim services provider 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 or 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.

The employee shall give the district reasonable advanced notice of 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 or 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 or 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 victim 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 accrued paid leave, including personal, sick, or accrued vacation leave. The employer may choose the order in which paid accrued leave is to be used when more than one type of paid leave is available, consistent with Board policies and/or any collective bargaining agreement.

END OF POLICY

Legal Reference(s):

[ORS 192.355\(38\)](#)

[ORS 659A.270 - 659A.290](#)

Corbett School District 39

Code: GCBDC/GDBDC-AR
Revised/Reviewed: 8/15/18
Orig. Code: GCBDC/GDBDC-AR

Request for Domestic Violence, Harassment, Sexual Assault or Stalking Leave

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 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.
- 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 to 107.735, 124.005 to 120.040 or 163.730 to 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 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.

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: _____

Corbett School District 39

Code: GCBDD/GDBDD
Adopted: 8/17/16
Orig. Code: GCBDD/GDBDD

Sick Time *

“Employee” means an individual who is employed by the district and who is paid on an hourly, stipend or salary basis, and for whom withholding is required under Oregon Revised Statute (ORS) 316.162-316.221. The definition does not include volunteers or independent contractors.

Employees qualify to begin earning and accruing sick time on the first day of employment with the district.

A district employing 10 or more employees shall allow an eligible employee to access up to 40 hours of paid sick time per year. Paid sick time shall accrue at the rate of at least one hour of paid sick time for every 30 hours the employee works. Paid sick time of 40 hours shall be front-loaded but only to coaches or other nonrepresented stipend staff.

The employee may carry up to 40 hours of unused sick time from one year to the subsequent year. An employee is limited to using no more than 40 hours of sick time in a year.

Sick time shall be taken in hourly increments and may be used for the employee’s or a family member’s¹ mental or physical illness, injury or health condition, need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition or need for preventive care, or for reasons consistent with the Family Medical Leave Act (FMLA) or OFLA. Sick time may also be used in the event of a public health emergency. Licensed substitutes will be required to take sick time in four hour increments.

The use of sick time may not lead to, or result in, an adverse employment action against the employee.

The district reserves the right after five consecutive days of absence, to require proof of personal illness or injury from an employee, including a medical examination by a physician chosen and paid for by the district. An employee refusing to submit to such an examination or to provide other evidence as required by the district, shall be subject to appropriate disciplinary action, up to and including dismissal.

When the reason for sick time is consistent with FMLA/OFLA leave, the sick time and the FMLA/OFLA leave may run concurrently.

When the reason for sick time is consistent with ORS 332.507, the sick time and leave pursuant to ORS 332.507 may run concurrently.

If the reason for sick time is a foreseeable absence, the district may require the employee to provide advance notice of their intention to use sick time within 10 days of the requested sick time, or as soon as practicable. When the employee uses sick time for a foreseeable absence, the employee shall take

¹ “Family member” is defined by the Oregon Family Leave Act (OFLA).

reasonable effort to schedule the sick time in a manner that does not unduly disrupt the operations of the district (e.g., grading deadlines, inservice training, mandatory meetings).

If the reason for sick time is unforeseeable, such as an emergency, accident or sudden illness, the employee shall notify the district at least 24 hours in advance or as soon as practicable.

The district shall establish a standard process to track the eligibility for sick time of a substitute.

END OF POLICY

Legal Reference(s):

[ORS 332.507](#)

[ORS 342.545](#)

[ORS 342.610](#)

[ORS 653.601 to -653.661](#)

[ORS 659A.150 to -659A.186](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2016); 28 C.F.R. Part 35 (2016).
Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601-2654 (2012); Family and Medical Leave Act of 1993, 29 C.F.R. Part 825 (2016).

Americans with Disabilities Act Amendments Act of 2008.

Corbett School District 39

Code: GCBF
Adopted: 3/15/06
Orig. Code: GCBF

Break in Service

PERS Break in Service

The Board acknowledges that all active qualified Public Employee Retirement System (PERS) members may continue to accrue service credit and benefits under PERS unless they incur a break in service.

If a break in service has occurred, the employee may retain all PERS service time and contributions as well as contributions to their Individual Account Program (IAP) that were made prior to the break.

Following a break in service any employee who returns to service in a qualifying position will have all future service time and contributions accrued under the Oregon Public Service Retirement Plan (OPSRP).

Definitions:

1. "Break in Service": When an active or inactive PERS member in a qualifying position performs no service hours for a period of six consecutive months or longer a break of service has occurred. There are six exceptions to this rule:
 - a. Members who leave for purposes that would qualify for family medical leave. However, the member must return to work in a qualifying position within 12 months of taking the leave to avoid a break in service.
 - b. Members who leave for approved career development purposes. However, the member must return to work in a qualifying position within 12¹ months of taking the leave to avoid a break in service.
 - c. Members absent from other employment to serve as a legislator;
 - d. Members called to military duty and are later reemployed as provided under USERRA in a qualifying position regardless of the length of time the member is on official military leave. The member must be reemployed within the time limits set by USERRA after completing military service.
 - e. Members absent due to a disability and who qualify for a PERS disability benefit under ORS 238.320.
 - f. Members who leave employment based on the seasonal nature of their employment, as long as the member returns to employment within 12 months.

END OF POLICY

Legal Reference(s):

[ORS 238A.025](#)

[OAR 459-010-0010](#)
[OAR 459-075-0010\(13\)](#)

[OAR 459-070-0010](#)

¹ See OAR 459-075-0010 for employees with less than a 12 month contract.

Corbett School District 39

Code: GCC
Adopted: 5/21/98
Orig. Code: GCC

Recruitment of Licensed Staff

The superintendent will develop and maintain a recruitment program designed to attract ~~highly qualified~~ licensed personnel to the district.

It is the responsibility of the superintendent, with the assistance of other district administrators, to determine the personnel needs of the district and to locate suitable candidates to recommend for employment by the district. Those factors considered will include, but not be limited to the diverse characteristics of the district.

The search for licensed staff members may extend to a wide variety of educational institutions and geographical areas.

Any present employee may apply for any position for which he or she meets the stated requirements.

END OF POLICY

Legal Reference(s):

[ORS 326.051](#)
[ORS 332.505](#)
[ORS 342.934](#)
[ORS 659.805](#)
[ORS 659.850](#)
[ORS 659A.009](#)

[ORS 659A.029](#)
[ORS 659A.030](#)
[ORS 659A.109](#)
[ORS 659A.142](#)
[ORS 659A.145](#)
[ORS 659A.233](#)

[ORS 659A.236](#)
[ORS 659A.309](#)
[ORS 659A.409](#)
[OAR 581-021-0045](#)

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).
Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6107 (2012).
Equal Pay Act of 1963, 29 U.S.C. § 206(d) (2012).
Rehabilitation Act of 1973, 29 U.S.C. §§ 503, 791, 793-794 (2012).
Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2012).
The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (2012).
Title II of the Genetic Information Nondiscrimination Act of 2008.

Corbett School District 39

Code: GCCA
Adopted: 5/21/98
Orig. Code: GCCA

Posting of Licensed Staff Vacancies *

The district shall attempt to recruit the most suitably qualified applicants for filling any licensed positions. Announced vacancies will be posted in all buildings in an appropriate format to ensure effective communications with all individuals, including those with disabilities.

All postings will notify applicants that equal employment opportunity and treatment shall be practiced by the district. The employers' duties under the Americans with Disabilities Act, including the duty to reasonably accommodate upon request and with appropriate advance notice will be clearly stated.

A copy of the posting will be sent to association representatives. During the summer break such notices will be mailed to the president of the association. All notices will include the following information:

1. Job title;
2. Qualifications: license required;
3. Essential job functions;
4. Special requirements;
5. Terms of employment;
6. Salary range;
7. Posting dates;
8. Closing dates;
9. Other - as may be required/requested by administrator initiating the job order.

END OF POLICY

Legal Reference(s):

[ORS 332.107](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2016); 28 C.F.R. Part 35 (2016).
The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (2012).
Title II of the Genetic Information Nondiscrimination Act of 2008.
Section 503 of the Rehabilitation Act of 1973.
Americans with Disabilities Act Amendments Act of 2008.

Corbett School District 39

Code: GCDA/GDDA
Adopted: 4/17/19
Orig. Code: GCDA/GDDA

Criminal Records Checks and Fingerprinting

In a continuing effort to ensure the safety and welfare of students and staff, the district shall require all newly hired full-time and part-time employees¹ not requiring licensure under Oregon Revised Statute (ORS) 342.223 to ~~undergo~~ submit to a criminal records check and/or fingerprinting as required by law. Other individuals, as determined by the district, that will have direct, unsupervised contact with students shall submit to criminal records checks and/or fingerprinting as established by Board policy and 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~~ Pursuant to state law, a criminal records check and/or fingerprinting-based criminal records checks shall be required of the following individuals²:

- ~~All~~ All individuals employed as or by a district contractors and their employees, whether employed part-time or full-time, and considered by the district to have direct, unsupervised contact with students;
- ~~All district contractors and 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;~~
- 3.2. 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;
- 4.3. Any individual who is an employee of a public charter school and not requiring licensure under ORS 342.223; and
- 5.4. Any individual considered for volunteer service with the district who is allowed to have direct, unsupervised contact with students.

The district will provide the written notice about the requirements of fingerprinting and criminal records checks through means such as staff handbooks, employment applications, contracts, or volunteer forms.

The district shall require a nationwide fingerprint-based criminal records check based on fingerprinting for a volunteers with allowed direct, unsupervised contact with students, in the following positions:

1. Head coach;

¹ Any individual hired within the last three months. A subject individual does not include an employee hired within the last three months if the district has evidence on file that meets the definition in Oregon Administrative Rule (OAR) 581-021-0510(11)(b).

² Subject individuals and requirements are further outlined in GCDA/GDDA-AR – Criminal Records Checks and Fingerprinting.

2. Assistant coach;

The identity of a subject individual requiring fingerprinting will be provided by the district to the authorized fingerprinter for verification. The procedure for processing fingerprint collection is further outlined in GCDA/GDDA-AR – Criminal Records Checks and Fingerprinting.

A subject individual shall be subject to the collection of fingerprinting information, only after acceptance of an offer of employment or contract from the district and may be charged a fee by the district. A subject individual may request the fee be withheld from the amount otherwise due the individual.

The district shall begin the employment of a subject individual or terms of a district contractor [on a probationary basis pending the return and disposition of the required criminal records checks.

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

The service of a volunteer allowed to have direct, unsupervised contact with students may begin on a probationary basis pending the return and disposition of a criminal records check.

The service of a volunteer into a position identified by the district as requiring a nationwide fingerprint-based criminal records check including fingerprinting may begin [on a probationary basis pending the return and disposition of the nationwide-a state and national criminal records check including based on fingerprinting.

A subject individual-volunteer who knowingly made a false statement or has been a convicted conviction of a crime listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number may 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

A subject individual may appeal a determination from ODE that prevents employment or eligibility to contract with the district to the Superintendent of Public Instruction as a contested case and will be notified of such in writing by ODE under ORS 183.413 – 183.470.

A volunteer required to submit to a fingerprint based criminal records check may appeal a determination from a fingerprint-based criminal records check by ODE 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 under ORS 183.413 – 183.470.

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 – 061-0030](#)

[OAR 581-021-0510 – 021-0512](#)

[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).

Corbett School District 39

Code: GCDA/GDDA-AR
Revised/Reviewed: 4/17/19
Orig. Code(s): GCDA/GDDA-AR

Criminal Records Checks and Fingerprinting

Requirements

1. Any individual newly hired employee¹, whether full-time or part-time, and not requiring licensure under Oregon Revised Statute (ORS) 342.223, such as a teacher, administrator, personnel specialist or school nurse, shall be required to undergo submit to 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 submit to a nationwide criminal records check and fingerprinting with TSPC.
4. Any district individual hired as or by a contractor and its employees², whether part-time or full-time, hired into a position having direct, unsupervised contact with students as determined by the district shall be required to undergo submit to 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 community college faculty member providing instruction at the site of an early childhood education program, 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.
6. Any individual who is an employee of a public charter school not requiring licensure under ORS 342.223 shall be required to undergo submit to a nationwide criminal records check and fingerprinting.
7. Any individual authorized A volunteer allowed by the district for volunteer service into a position allowing that has direct, unsupervised contact with students shall be required to undergo an Oregon in-state criminal records check.
8. Any individual authorized by the district for A volunteer service that is not likely to have direct, unsupervised contact with students will when possible be required to undergo submit to an Oregon in-state criminal records check.

¹ Any individual hired within the last three months. A subject individual does not include an employee hired within the last three months if the district has evidence on file that meets the definition in Oregon Administrative Rule (OAR) 581-021-0510(11)(b).

² A person hired as or by a contractor's and their employees may not be required to submit to fingerprinting until the contractor has been offered a contract by the district.

Exceptions

A newly hired employee³ is not subject to fingerprinting if the district has evidence on file that the newly hired employee was previously checked through an Oregon and a FBI successfully completed a state and national criminal records check by for a previous employer that was a school district or private school, and has not resided outside the state between the two periods of employment.

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:
 - a. Such criminal records checks and/or fingerprinting are required by law or Board policy;
 - b. Any action resulting from such checks completed by the Oregon Department of Education (ODE) that impact employment, contract or volunteering may be appealed as a contested case to ODE;
 - c. All employment or contract offers [or 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, contract status or 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 (written or electronic) may result in immediate termination from employment or contract status;
 - 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 a convicted conviction of any crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number, the district may 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 such as staff handbooks, employment applications, contracts or volunteer forms.

Processing and Reporting Procedures

1. Immediately following an offer and acceptance of employment or contract, Anyan 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) authorizing such checks and report to an authorized fingerprinter as directed by the district. The district shall send

³ Any individual hired within the last three months.

such authorization, any collection of fingerprint information, and the request to ODE pursuant to law.

~~2. All individuals subject to fingerprinting pursuant to state law are required to report to an authorized fingerprinter for fingerprinting as directed by the district.~~

3.2. 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.~~

4.3. 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.

5.4. The authorized fingerprinter will obtain the necessary identification and fingerprinting and notify ODE of the results. ODE will then review and notify the district of said results as well as the identity of any individual it believes has knowingly made a false statement as to conviction of a crime, has knowingly made a false statement as to conviction of any crime or has a conviction of a crime prohibiting employment, contract or volunteering.

6.5. A copy of the fingerprinting results will be kept 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 persons hired as or by contractors⁴ and their employees, shall be paid by the district.
2. Fees associated with required criminal records checks for volunteers shall be paid by the district.
3. ~~Fees associated with a required fingerprinting for volunteers shall be paid by the district.~~

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

1. ~~Any~~ **A subject** 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 **district** upon:
 - a. Refusal to consent to a criminal records check and/or fingerprinting; or
 - b. Notification⁵ from the Superintendent of Public Instruction ~~or designee~~ that the employee has a conviction of any **crime prohibiting employment with the district as specified by law listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number.**

⁴ A **person hired as or by a contractor²s and their employees** may not be required to submit to fingerprinting until the contractor has been offered a contract by the district.

⁵ **Prior to making a determination that results in this notification and opportunity for a hearing, the Superintendent of Public Instruction may cause an investigation pursuant to OAR 581-021-0511; involved parties shall cooperate with the investigation pursuant to law.**

2. ~~Any A subject individual required to submit to a criminal records check and/or fingerprinting in accordance with law may 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 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 A volunteer who will be allowed to have direct, unsupervised contact with students that refuses to submit, when required, to a required criminal records check or a fingerprint-based 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 such ability to volunteer in the district.~~
5. ~~If the district has been notified by the Superintendent of Public Instruction that an individual volunteer knowingly made a false statement or has a conviction of for any crime listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number, the individual 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] **[will]** be denied the ability to volunteer in the district.

Appeals

~~An subject individual may appeal a determination from ODE that prevents employment or eligibility to contract with the district to the Superintendent of Public Instruction as a contested case and will be notified of such in writing by ODE under ORS 183.413 – 183.470.~~

~~A volunteer required to submit to a fingerprint based criminal records check may appeal a determination from a fingerprint-based criminal records check by ODE 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 under ORS 183.413 – 183.470.~~

Corbett School District 39

Code: GCEA
Adopted: 5/21/98
Orig. Code: GCEA

Substitute Teachers

(OSBA has removed this policy from its samples.)

Substitute teachers will be assigned by the principal to fill a temporary vacancy caused by absence of a regular teacher. The assignment will be made from an approved list of properly licensed and otherwise qualified teachers. The selected substitute will be the best qualified for the specific task available at the time in the opinion of the principal. Substitute teachers will, in so far as possible, be made aware of school rules and regulations and will be required to follow them in a reasonable manner.

Substitute teachers will be paid an amount commensurate with the duties performed. Pay will not be less than the minimum required by law.

END OF POLICY

Legal Reference(s):

[ORS 332.507](#)
[ORS 342.420](#)
[ORS 342.610](#)

[ORS 342.815](#)

[OAR 584-020-0000 to -0045](#)

[OAR 581-005-0001](#)

Corbett School District 39

Code: GCEC
Adopted: 5/21/98
Orig. Code: GCEC

Job Sharing

(typically language is in CBA)

The district recognizes that in a constantly changing society it is beneficial to develop flexible staffing patterns and position assignments. There are numerous times when it may be in the best interest of the district to fill a position(s) through “Job Sharing” practices. Job sharing shall be defined as the sharing and occupation of a single staff position by two individuals.

The superintendent will provide for “Job Sharing” opportunities that are in compliance with bargaining unit contracts, labor laws and district policies. However, any time two employees share any job the total payroll cost to the district shall not be greater than the total payroll cost of a full time employee in the same position(s).

END OF POLICY

Legal Reference(s):

[ORS 332.107](#)

Eugene Education Association v. Eugene School District 4J, Case Nos. UP-8-87 and UP-18-87, 9 PECBR 9391 (1987); rev'd, 91 Or. App. 78 (1988); vacated and remanded, 306 Or. 659 (1988).

Corbett School District 39

Code: GCEC-AR
Revised/Reviewed: 1/27/99
Orig. Code: GCEC-AR

Partnership Teaching Agreement

The undersigned do hereby agree to the following conditions of Partnership Teaching:

1. A shared teaching assignment is requested by _____ and _____
_____ (current contract teachers) in _____
_____ (grade or subject)
at _____ (school);
2. This agreement is for the _____ school year. This agreement shall be in effect for one year, with no guarantee of continuing the partnership teaching program beyond the term of this agreement. Partnership teaching may continue, subject to annual review. When this agreement discontinues, the district will place teachers where needed;
3. The superintendent will approve the daily/weekly work schedule for the year;
4. Both teachers will have part-time status, receiving one-half of their salary, including the increment, based on their salary schedule placement;
5. Each teacher's half-time, full-year work will count one year toward contract status and one year toward length of service;
6. PERS benefits will be paid in accordance with the collective bargaining agreement;
7. Each employee will receive holiday pay and leave on a prorated basis;
8. The teachers agree that the district will pay one-half of their fringe benefits package (not to exceed the expense of one employee);
9. Each teacher shall assume responsibility for a cooperative balance of teacher hours, for the required duties of their portion of the school day, and for their scheduled hours on teacher work days. Each teacher shall also assume responsibility for maintaining student education records, inventories and room appearance;
10. Both teachers shall participate in all staff meetings, parent-teacher conferences, school-sponsored evening activities, scheduled in-service days, and out-of-classroom activities such as field trips and excursions, when such activities span both teachers' portion of the instructional day, without additional compensation;
11. Both teachers will report student progress in their areas of instructional responsibility, with a coordinated report for social aspects of grading;
12. Both teachers will plan and implement appropriate room arrangements and will cooperatively develop and maintain consistent classroom management standards;

13. Parents will be contacted by individual teachers as problems arise. A conference between both teachers and the parents will be scheduled when the problem is common to both teachers;
14. Both teachers agree to substitute for the other, whenever possible. Payment will be made at the district substitute rate;
15. Job performance responsibilities will comply with all policy and contractual stipulations;
16. Both teachers acknowledge that the work they will be required to do under this contract, such as dual appearance at meetings, conferences and the like, will not be compensated as extra work;
17. If either employee is unable to complete the partnership teaching assignment, the district retains the right to assign the remaining employee to full-time responsibilities for the duration of the agreement;
18. The district will annually announce partnership teacher application deadlines.

Specific considerations:

Teacher _____ Date _____

Teacher _____ Date _____

Principal _____ Date _____

Superintendent _____ Date _____

Association Representative _____ Date _____

F

Corbett School District 39

Code: GCI/GCIA/GDI/GDIA
Adopted: 5/21/98
Orig. Code: GCI/GCIA/GDI/GDIA

Assignments and Transfers *

Initial assignment of employees will be made by the superintendent or his/her designee. Assignment of all licensed and classified personnel employed by the district will be under the direction of the superintendent and subject to the approval of the Board.

The superintendent will follow procedures for voluntary and involuntary transfer of employees within the district as identified in the collective bargaining agreements.

These procedures will be based on filling the personnel needs of the district in the most efficient, effective manner.

END OF POLICY

Legal Reference(s):

[ORS 236.610 to -236.630](#)

[OAR 581-022-2405](#)

Corbett School District 39

Code: GCL/GDL
Adopted: 3/15/17
Orig. Code: GCL

Staff Development—Licensed *

In order to strengthen and refine professional skills of district personnel, the superintendent or his/her designee will develop a staff development program for all employees.

District site councils will be encouraged to participate in the development and implementation of the district's staff development program including provisions for the professional growth of staff.

Staff development programs, whether provided directly by the district or through district contracts with third parties, will provide appropriate reasonable accommodations to ensure such programs are available to employees with disabilities.

As part of the district continuous improvement plan, the district will establish a short- and long-term professional development plan for licensed staff in order to enhance professional performance and promote achievement of high standards for all students. The plan shall be developed in writing by district administration.

Professional development activities may include, but are not limited to, college courses, workshops, curriculum planning, research, travel, supervision of teacher trainees and other activities approved by the supervisor. District professional development offerings may be planned to help licensed employees meet the requirements of their licenses. The district will provide appropriate, reasonable accommodations to ensure such training, whether provided by the district or through district contracts with third parties, is made available for qualified employees with disabilities.

Requests for release time for attendance at meetings or conferences may be approved by the superintendent or designee as deemed appropriate by the district and with the stipulation that:

1. Requests are to be submitted sufficiently in advance to permit superintendent or designee consideration; and
2. Where release time is granted, a written report will be submitted to the administration after such meeting or conference. Where such meetings or conferences are devoted primarily or exclusively to organizational or business affairs of associations of teachers, political workshops, training sessions for consultation committees and like activities, it is not considered appropriate for the Board to expend district funds.

Meetings or conferences for which district funds are contributed — whether for fees, travel or hiring of substitutes — shall directly relate to improved student learning. Where such meetings or conferences are devoted primarily or exclusively to organizational or business affairs of associations of educators, political workshops, training sessions for consultation committees and like activities, it is not considered appropriate for the Board to expend district funds or to approve the activity.

Each individual licensed employee is solely responsible for ensuring accurate completion of the professional development required for licensure. Once a licensed employee completes licensure requirements, the employee must submit evidence to the employee’s supervisor or professional development advisor, who will verify that the licensed employee has successfully completed the professional development requirements to the superintendent or designee, on the Teacher Standards and Practices Commission (TSPC) Professional Educational Experience Report (PEER) form.

END OF POLICY

Legal Reference(s):

[ORS 329.095](#)

[ORS 329.125](#)

[ORS 329.704](#)

[ORS 342.138\(3\)](#)

[ORS 342.856](#)

[OAR 581-022-2250](#)

[OAR 581-022-2405](#)

[OAR 584-018-0205](#)

[OAR 584-255-0010 to -0030](#)

Clackamas IED Assn. v. Clackamas IED, No. C-141-77, 3 PUB. EMPL. COLL. BARG. REP. 1848 (ERB 1978).

Eugene Educ. Ass’n v. Eugene Sch. Dist. 4J, No. C-93-79, 5 PUB. EMPL. COLL. BARG. REP. 3004 (ERB 1980).

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2017); 28 C.F.R. Part 35 (2017).

Americans with Disabilities Act Amendments Act of 2008.

Corbett School District 39

Code: GCL-AR
Revised/Reviewed: 3/15/17
Orig. Code: GCL-AR

Staff Development – Licensed *

The completion of professional development requirements, as set forth in Oregon Administrative Rule (OAR) Chapter 584, Division 255 by the Teacher Standards and Practices Commission (TSPC) for licensing or license renewal, is the sole responsibility of the employee.

1. Each professional licensed staff member employed by the district shall meet the standards as stated in OAR 584-420-0030 for:
 - a. Learner and Learning
 - (1) Learner development;
 - (2) Learning differences;
 - (3) Learning environments.
 - b. Content
 - (1) Content knowledge;
 - (2) Application of content.
 - c. Instructional Practice
 - (1) Assessment;
 - (2) Planning for instruction;
 - (3) Instructional strategies.
 - d. Professional Responsibility
 - (1) Professional learning and ethical practice;
 - (2) Leadership and collaboration.
2. The continuing professional development of each licensed staff member shall conform to the following standards for professional development as stated in OAR 584-255-0020:
 - a. Learning Communities: Professional learning that increases educator effectiveness and results for all students occurs within learning communities committed to continuous improvement, collective responsibility and goal alignment;
 - b. Leadership: Professional learning that increases educator effectiveness and results for all students requires skillful leaders who: develop capacity, advocate and create support systems for professional learning;
 - c. Resources: Professional learning that increases educator effectiveness and results for all students requires prioritizing, monitoring and coordinating resources for educator learning;

- d. Data: Professional learning that increases educator effectiveness and results for all students uses a variety of sources and types of student, educator and system data to plan, assess and evaluate professional learning;
 - e. Learning Designs: Professional learning that increases educator effectiveness and results for all students integrates theories, research and models of human learning to achieve its intended outcomes;
 - f. Implementation: Professional learning that increases educator effectiveness and results for all students applies research on change and sustains support for implementation of professional learning for long term change;
 - g. Outcomes: Professional learning that increases educator effectiveness and results for all students aligns its outcomes with educator performance and student curriculum standards.
3. Each employee is responsible for acquiring the number of continuing professional development units (PDUs) to meet the requirements as stated by the TSPC.
 4. The district will attempt to offer as many professional development activities as recognized needs warrant and resources permit.
 5. Acceptable professional development activities shall be those reviewed and approved by the employee's supervisor or professional development advisor and for which evidence is submitted to verify completion.
 6. Licensed individuals transferring to the district from other districts, including those educators hired without previous district experience, shall submit any PDUs of credit earned to their supervisor or professional development advisor for review.
 7. Upon receipt of evidence from an employee, the employee's supervisor or professional development advisor shall verify completion of the required PDUs for license renewal on the TSPC-provided Professional Educational Experience Report (PEER) form, and submit the form to the superintendent or designee.
 8. The superintendent shall ensure that the required forms are submitted to the TSPC.
 9. Completed TSPC, PEER forms shall be filed in the employee's personnel file.

Corbett School District 39

Code: GCL/GDL
Adopted: 1/15/14
Orig. Code: GCL/GDL

Staff Development

In order to strengthen and refine professional skills of district personnel, the superintendent or his/her designee will develop a staff development program for all employees.

District site councils will be encouraged to participate in the development and implementation of the district's staff development program including provisions for the professional growth of staff.

Staff development programs, whether provided directly by the district or through district contracts with third parties, will provide appropriate reasonable accommodations to ensure such programs are available to employees with disabilities.

Completion of continuing professional development (CPD) requirements, as set forth in OAR Chapter 584, Division 090 by the Teacher Standards and Practices Commission (TSPC) for license renewal, are the sole responsibility of the employee. The selection of the employee's CPD adviser shall be subject to approval by the individual's supervisor.

END OF POLICY

Legal Reference(s):

[ORS 329.095](#)
[ORS 329.125](#)
[ORS 329.704](#)
[ORS 342.138](#)

[ORS 342.856](#)
[OAR 581-022-0606](#)
[OAR 581-022-2405](#)

[OAR 584-018-0205](#)
[OAR 584-255-0010 to -0030](#)

Clackamas IED Assn. v. Clackamas IED, No. C-141-77, 3 PUB. EMPL. COLL. BARG. REP. 1848 (ERB 1978).
Eugene Educ. Ass'n v. Eugene Sch. Dist. 4J, No. C-93-79, 5 PUB. EMPL. COLL. BARG. REP. 3004 (ERB 1980).
Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2017); 28 C.F.R. Part 35 (2017).
Americans with Disabilities Act Amendments Act of 2008.

Corbett School District 39

Code: GCN/GDN
Adopted: 1/17/18
Orig. Code: GCN/GDN

Evaluation of Staff *

An effective evaluation program is essential to a quality educational program. It is an important tool to determine the current level of a teacher's performance of the teaching responsibilities. It is also an important assessment of classified employees and current performance of their job assignments. Under Board policy, administrators are charged with the responsibility of evaluating the staff. An evaluation program provides a tool for supervisors who are responsible for making decisions about promotion, demotion, contract extension, contract nonextension, contract renewal or nonrenewal, dismissal and discipline.

Licensed Staff

The evaluations for licensed staff shall be based on the core teaching standards adopted by the Oregon State Board of Education. The standards shall be customized based on collaborative efforts with teachers and any exclusive representatives of the licensed staff.

Evaluation and support systems established by the district for teachers must be designed to meet or exceed the requirements defined in the Oregon Framework for Teacher and Administrator Evaluation and Support Systems, including:

1. Four performance level ratings of effectiveness;
2. Classroom-level student learning and growth goals set collaboratively between the teacher and the evaluator;
3. Consideration of multiple measures of teacher practice and responsibility which may include, but are not limited to:
 - a. Classroom-based assessments including observations, lesson plans and assignments;
 - b. Portfolios of evidence;
 - c. Supervisor reports; and
 - d. Self-reflections and assessments.
4. Consideration of evidence of student academic growth and learning based on multiple measures of student progress, including performance data of students, that is both formative and summative. Evidence may also include other indicators of student success;
5. A summative evaluation method for considering multiple measures of professional practice, professional responsibilities and student learning and growth to determine the teacher's professional growth path;
6. Customized by each district, which may include individualized weighting and application of standards.

An evaluation using the core teaching standards must attempt to:

1. Strengthen the knowledge, skills, disposition and classroom practices of teachers;
2. Refine the support, assistance and professional growth opportunities offered to a teacher, based on the individual needs of the teacher and the needs of the students, the school and the district;
3. Allow the teacher to establish a set of classroom practices and student learning objectives that are based on the individual circumstances of the teacher, including the classroom and other assignments;
4. Establish a formative growth process for each teacher that supports professional learning and collaboration with other teachers;
5. Use evaluation methods and professional development, support and other activities that are based on curricular standards and are targeted to the needs of the teacher; and
6. Address ways to help all educators strengthen their culturally responsive practices.

Evaluation and support systems established by the district must evaluate teachers on a regular cycle. The superintendent shall regularly report to the Board on implementation of the evaluation and support systems and educator effectiveness.

Each probationary teacher shall be evaluated at least annually, but with multiple observations. The purpose of the evaluation is to aid the teacher in making continuing professional growth and to determine the teacher's performance of the teaching responsibilities. Evaluations shall be based upon at least two observations and other relevant information developed by the district.

Classified Staff

All classified employees will be formally evaluated by their immediate supervisor at least twice during their first year of employment and at least once each year thereafter.

END OF POLICY

Legal Reference(s):

[ORS 243.650](#)
[ORS 332.505](#)
[ORS 342.850](#)

[ORS 342.856](#)
[OAR 581-022-2405](#)

[OAR 581-022-2410](#)
[OAR 581-022-2415](#)

Corbett School District 39

Code: GCP
Adopted: 5/21/98
Orig. Code: GCP

Termination of Licensed Staff

(OSBA has removed this policy from its samples)

Prior to March 15 each year, the superintendent will recommend, in writing to the Board, the names of all probationary teachers and probationary administrators whose contracts will and will not be renewed. The Board will take action on the recommendations prior to March 15. In cases of contract non-renewal, reasons will be given to the affected employee(s). This does not relieve the superintendent of making dismissal recommendations at any time during the school year when he/she deems it advisable.

Contract status will be offered to teachers who have been recommended and have demonstrated three consecutive years of successful teaching in the district. Administrators will receive non-probationary status after three consecutive years of successful job performance in the district and upon the superintendent's recommendation.

In compliance with Oregon Revised Statutes, the Board will take action at its first regular or special March board meeting to approve the issuance of contracts to eligible probationary and contract teachers and probationary administrators. The Board may take action to issue contracts to non-probationary administrators.

END OF POLICY

Legal Reference(s):

[ORS 332.505](#)

[ORS 342.934](#)

Corbett School District 39

Code: GCPA
Adopted: 5/21/98
Orig. Code: GCPA

Layoff - Licensed Staff

When the Board determines, through the budgeting process, that a layoff of staff is necessary, it will discuss the matter at a regular or special Board meeting and will consider such factors and alternatives it deems necessary to arrive at a decision. Layoff may take place under the following conditions:

1. The district's lack of funds to continue its educational program at its anticipated level;
2. Elimination or adjustment of classes due to an administrative decision;
3. Other reasons as determined by the Board.

Using the goals and priorities of the district, the Board shall direct the superintendent to prepare a reduction plan identifying which programs to be reduced or eliminated for Board approval. As a result of the program reductions or elimination, the superintendent shall bring a list of positions to be cut or eliminated to the Board for approval.

Nothing in this policy, however, is intended to interfere with the right of the district to discharge, remove or non-renew the contract of a probationary teacher or to not extend the contract of or dismiss a contract teacher pursuant to the provisions of the Accountability for Schools for the 21st Century Law.

END OF POLICY

Legal Reference(s):

[ORS 342.805 to -342.910](#)

[ORS 342.934](#)

Corbett School District 39

Code: GCPB/GDPB
Adopted: 12/17/98
Orig. Code: GCPB/GDPB

Resignation of Staff *

A licensed staff member who wishes to resign from ~~his or her~~ **their** position with the district must give written notice at least 60 days prior to the date he or she wishes to leave district employment. The superintendent is authorized to accept the resignation effective the day it is received and either release the teacher immediately from further teaching or administrative obligations or inform the teacher that ~~he or she~~ **they** must continue teaching for part or all of the 60-day period. The Board, at its next meeting, will ratify the action of the superintendent.

Where less than 60 days' notice is given, the Board may request the Teacher Standards and Practices Commission to suspend the teacher's or administrator's license for the remainder of the school year. Exceptions due to emergency or other extenuating circumstances may be considered by the Board.

The superintendent is authorized to accept resignations of classified employees effective the day they are received.

END OF POLICY

Legal Reference(s):

[ORS 342.545](#)
[ORS 342.553](#)

[ORS 652.140](#)

[OAR 581-022-2405](#)
[OAR 584-050-0020](#)

Pierce v. Douglas County Sch. Dist., 297 Or. 363 (1984).

Corbett School District 39

Code: GCPB/GDPB-AR
Revised/Reviewed: 1/27/99
Orig. Code: GCPB/GDPB-AR

Procedures for Resignation

It is recognized by the district that employees grow and develop as professionals and a part of that development includes new challenges and employment opportunities that cannot always be met within their employment with the district. For this reason and numerous other reasons that may be solely personal in nature, employees from time to time will resign. The purpose of the following procedure is to support those changes and to provide an orderly and timely process that includes the least disruption of the educational process for the students of the district.

Procedures

1. All resignations must be submitted in writing to the individual's immediate supervisor. The letter of resignation should be addressed to the superintendent.
2. All resignation requests must meet the guidelines of the contract governing that individual's employment.
3. If the employee cannot or will not work for the 60 calendar days or such days as may be determined by the superintendent, the superintendent will request TSPC to suspend the employee's license for the remainder of the school year.
4. The district maintains the right to report violations of statutes, policy or contracts to the appropriate licensing agencies.

Corbett School District 39

Code: GCPC/GDPC
Adopted: 5/21/98
Orig. Code: GCPC/GDPC

D

Retirement of Staff

In order to assist the district in its planning efforts, staff members who are considering retirement are encouraged to notify the district as early as possible, preferably at the beginning of the school year in which the retirement will take place.

END OF POLICY

E

Legal Reference(s):

[ORS Chapter 237](#)
[ORS Chapter 238](#)

[ORS 243.303](#)
[ORS 342.120](#)

Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, 29 U.S.C. 1161-1169.
Tax Reform Act of 1986, 29 U.S.C. Sections 1001-1461.
Oregon Constitution, Article IX, Sections 10-13.

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Corbett School District 39

Code: GCPD
Adopted: 5/21/98
Orig. Code: GCPD

Discipline and Dismissal of Licensed Staff *

The Board will use due process and comply with relevant portions of the collective bargaining agreement when disciplining and/or dismissing employees.

END OF POLICY

Legal Reference(s):

[ORS 243.672](#)
[ORS 243.706](#)
[ORS 243.756](#)

[ORS 342.835](#)
[ORS 342.865 to -342.910](#)
[ORS 342.934](#)

[ORS 652.140](#)
[OAR 584-020-0040](#)

Corbett School District 39

Code: GCQA/GDQA
Adopted: 5/21/98
Orig. Code: GCQA/GDQA

Nonschool Employment

All employees are expected to devote their time and energy to accomplishing those tasks required by the district.

Employees must avoid outside employment that interferes with the performance of their responsibilities and the maintenance of productive relationships with students, parents and other staff members. If outside employment interferes with job performance, the employee will be required to make a choice between district employment and outside employment.

END OF POLICY

Legal Reference(s):

[ORS 332.107](#)

Corbett School District 39

Code: GCQAB
Adopted: 5/21/98
Orig. Code: GCQAB

Tutoring for Pay

It is the policy of the Board that teachers are not to tutor for remuneration any students whom they have in class. No tutoring for which a teacher received a fee will be allowed in a school building or on school time and no district-owned materials or equipment may be used.

Exceptions to this policy are as follows:

1. Private lessons, such as music lessons and other enrichment activities, which are clearly beyond the scope of the regular curriculum, may be given for remuneration outside of the teacher's paid work day and away from school buildings;
2. Teachers may tutor for remuneration outside of normal school hours students eligible for home-bound services, according to procedures established by the superintendent;
3. District authorized and/or sponsored programs.

END OF POLICY

Legal Reference(s):

[ORS 244.010](#)

[ORS 332.505](#)

Corbett School District 39

Code: GCQB
Adopted: 5/21/98
Orig. Code: GCQB

Research

(needed?)

Employees are encouraged to participate in research and experimentation in the interests of the development and improvement of education. If an employee plans to engage in a research project during the work day or use district resources or students, either for study toward advanced work or for use in classroom instruction, approval must be secured from the superintendent. If such a study results in material which would be useful to other employees, it is recommended that it be made available for distribution throughout the district. For the protection of all concerned, privacy rights of students or other individuals involved in research projects must be protected.

Research which is conducted by or for a non-district employee must be approved by the superintendent or designee.

END OF POLICY

Legal Reference(s):

Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (2012); Family Educational Rights and Privacy, 34 C.F.R. Part 99 (2016).
Protection of Pupil Rights, 20 U.S.C. § 1232h (2012); Student Rights in Research, Experimental Programs and Testing, 34 C.F.R. Part 98 (2016).

Corbett School District 39

Code: GCQBA
Adopted: 5/21/98
Orig. Code: GCQBA

Copyrights and Patents

The Board asserts the district's proprietary rights to publications, instructional materials and other devices prepared by district employees during their paid work time. The Board also recognizes the importance of encouraging its professional staff to engage in professional writing, research and other creative endeavors. Publications, articles, materials, models and other items produced by district personnel for district use with district time, money and facilities as part of their job responsibilities remain the property of the district.

The district will apply for copyrights and patents when deemed appropriate by the superintendent. Employees will be expected to cooperate in the districts efforts.

In the event that an employee produces items described above partly on his or her own time and partly on district time, the district reserves the right to claim full ownership. The employee, however, may petition the district for assignment of copyright or patent rights. Employees will not attempt to copyright or patent such items without the knowledge and consent of the superintendent.

Employees who intend to make application to patent or copyright any items will furnish to the superintendent full, complete and prompt information and disclosure with respect to any such item.

If the district does not take appropriate action to seek a patent or copyright within three months after full disclosure by the employee involved, the district will be deemed to have waived and relinquished any interest in the item.

END OF POLICY

Legal Reference(s):

[ORS 332.745](#)

Copyrights, 17 U.S.C. §§ 101-1332; 19 C.F.R. Part 133 (2016).
Patents, 35 U.S.C. §§ 1-376 (2012).

Corbett School District 39

Code: GCQC
Adopted: 5/21/98
Orig. Code: GCQC

D

Exchange Teaching

The Board supports the concept of exchange teaching as a means to provide professional growth opportunities for teachers.

END OF POLICY

E

Legal Reference(s):

[ORS 332.107](#)

[ORS 342.965](#)

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Corbett School District 39

Code: GCQE
Adopted: 5/21/98
Orig. Code: GCQE

D

Student Teachers

The district may participate as a training site for student teachers and interns completing their training at Oregon colleges and universities when it is determined by the superintendent that such participation will be in the best interest of the district.

Student teachers and interns will be permitted to instruct classes for a portion or an entire school day, but should not be used as substitutes.

All arrangements for the placement of student teachers in the district will be made through direct contact between the principal's and the teacher's training program.

END OF POLICY

Legal Reference(s):

[ORS 332.505](#)

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Corbett School District 39

Code: GCQF
Adopted: 5/21/98
Orig. Code: GCQF

D

Sabbaticals

(CBA issue)

Sabbaticals will be granted to district personnel based upon provisions of the current negotiated agreement.

END OF POLICY

E

Legal Reference(s):

[ORS 332.107](#)

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Corbett School District 39

Code: GD
Adopted: 12/17/98
Orig. Code: GD

Classified Staff Positions

Classified employee means any district employee who is not required to hold a teaching or administrative license. The superintendent or designee will designate classified employee positions. The essential job functions and titles and examples of work performed are to be prescribed in a written position description for each position classification.

For purposes of classification, classified personnel are identified in one of the following classifications:

1. Office Personnel;
2. Maintenance - Custodial;
3. Cafeteria Personnel;
4. Instructional Personnel;
5. Transportation Personnel.

Probationary eEmployee

Individual serving the first three months in a position.

END OF POLICY

Legal Reference(s):

[ORS 326.051](#)
[ORS 332.505](#)
[ORS 659.805](#)
[ORS 659.850](#)
[ORS 659A.009](#)
[ORS 659A.029](#)

[ORS 659A.030](#)
[ORS 659A.142](#)
[ORS 659A.145](#)
[ORS 659A.233](#)
[ORS 659A.236](#)
[ORS 659A.309](#)

[ORS 659A.409](#)
[OAR 581-021-0045](#)
[OAR 581-022-2405](#)

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).
Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6107 (2012).
Equal Pay Act of 1963, 29 U.S.C. § 206(d) (2012).
Rehabilitation Act of 1973, 29 U.S.C. §§ 503, 791, 793-794 (2012).
Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2012).
Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2016); 28 C.F.R. Part 35 (2016).
The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (2012).
Title II of the Genetic Information Nondiscrimination Act of 2008.
Americans with Disabilities Act Amendments Act of 2008.

Corbett School District 39

Code: GDA
Adopted: 10/21/15
Orig. Code: GDA

Instructional Assistants

Instructional assistants shall be hired by the Board upon recommendation of the superintendent.

All instructional assistants must:

1. Have a high school diploma or the equivalent;
2. Be at least 18 years of age or older; and
3. Have standards of moral character as required of teachers.

In addition to the above, instructional assistants providing translation services must have demonstrated proficiency and fluency, knowledge of and ability to provide accurate translations from a language other than English into English and from English into another language.

Instructional assistants¹ who work in Title IA programs and provide instructional support must have:

1. Completed at least two years of study at an institution of higher education; or
2. Obtained an associate's or higher degree; or
3. Met a rigorous standard of quality, and can demonstrate, through a formal state or local academic assessment or para-professional certificate program, knowledge of, and the ability to assist in instructing, as appropriate, reading/language arts, writing and mathematics or reading readiness, writing readiness and mathematics readiness.

The district will require individuals newly hired as Title IA instructional assistants who have met another district's academic assessment ~~as set forth by the No Child Left Behind Act of 2001~~, to meet the district's academic assessment standards.

¹ Instructional assistants may be assigned to: (1) provide one-on-one tutoring for eligible students, if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher; (2) assist with classroom management, such as organizing instructional and other materials; (3) provide assistance in a computer laboratory; (4) conduct parental involvement activities; (5) provide support in a library or media center; (6) act as a translator; or (7) provide instructional services to students while working under the direct supervision of a teacher. instructional assistants may assume limited duties that are assigned to similar personnel who are not working in a program supported with Title IA funds, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school.

These requirements do not apply to an instructional assistant: (1) who is proficient in English and a language other than English and who provides services primarily to enhance the participation of children in Title IA programs by acting as a translator; or (2) whose duties consist solely of conducting parental involvement activities.

The general responsibilities of an instructional assistant shall be outlined in a job description. The major responsibility shall be to assist the classroom teacher, specialist or supervisor with instruction. The instructional assistants shall be under the supervision of the appropriately licensed classroom teachers, specialist or supervisor. Other supporting tasks may include, but are not limited to: clerical support, student control, personal care, translation or parent and family involvement activities and media center or computer laboratory support.

Instructional assistants shall not be used by the district or teacher as substitute teachers. The responsibility for classroom supervision remains with the teacher at all times.

END OF POLICY

Legal Reference(s):

[ORS 332.107](#)
[ORS 332.505](#)

[ORS 342.120](#)
[OAR 581-022-2400\(2\)](#)

[OAR 581-037-0005 to -0025](#)
[OAR 584-005-0005\(27\),\(41\)](#)

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (2012).
Title II of the Genetic Information Nondiscrimination Act of 2008.
Section 503 of the Rehabilitation Act of 1973.

Corbett School District 39

Code: GDBA
Adopted: 5/21/98
Orig. Code: GDBA

D

Classified Salary Schedule

The Board team/professional negotiator shall meet with representatives of the classified bargaining unit in order to discuss matters of wages, vacation and other benefits for all classified personnel.

Any matter not covered in the negotiated agreement shall be left to the best and fair judgment of the superintendent and Board.

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END OF POLICY

Legal Reference(s):

[ORS 332.505](#)

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Corbett School District 39

Code: GDBE
Adopted: 5/21/98
Orig. Code: GDBE

D

Legal Holidays

The following days are legal holidays: Labor Day, Veterans' Day, Thanksgiving Day, Christmas Day, New Year's Day, Martin Luther King Jr. Day, Memorial Day and Independence Day.

END OF POLICY

E

Legal Reference(s):

[ORS 187.010](#)

[ORS 336.010](#)

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Corbett School District 39

Code: GDC
Adopted: 5/21/98
Orig. Code: GDC

Recruitment of Classified Staff

The superintendent will develop and maintain a recruitment program designed to attract ~~highly qualified~~ classified personnel to the district.

It is the responsibility of the superintendent, with the assistance of other district administrators, to determine the personnel needs of the district and to locate suitable candidates to recommend for employment by the district.

The search for classified staff members may extend to a wide variety of educational institutions and geographical areas. It will take into consideration the diverse characteristics of the district.

Any present employee or substitute is encouraged to apply for any position for which he or she meets the stated requirements.

All persons to be given consideration for positions on the classified staff shall have such training and skills as may be required to carry out successfully the essential functions and requirements of the assignment.

~~The superintendent may be authorized by the Board to employ classified personnel to fill vacancies or new positions at his/her discretion. The superintendent shall establish procedures for recruiting, interviewing and selecting classified personnel.~~

~~All classified personnel may be employed for a 90 day period to fill an expressed need, without prior Board approval.~~

END OF POLICY

Legal Reference(s):

[ORS 326.051](#)
[ORS 332.505](#)
[ORS 659.805](#)
[ORS 659.850](#)
[ORS 659A.009](#)
[ORS 659A.029](#)

[ORS 659A.030](#)
[ORS 659A.109](#)
[ORS 659A.142](#)
[ORS 659A.145](#)
[ORS 659A.233](#)
[ORS 659A.236](#)

[ORS 659A.309](#)
[ORS 659A.409](#)
[OAR 581-021-0045](#)
[OAR 581-022-2405](#)

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).
Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6107 (2012).
Equal Pay Act of 1963, 29 U.S.C. § 206(d) (2012).
Rehabilitation Act of 1973, 29 U.S.C. §§ 503, 791, 793-794 (2012).
Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2012).
The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (2012).
Title II of the Genetic Information Nondiscrimination Act of 2008.

Corbett School District 39

Code: GDEA
Adopted: 5/21/98
Orig. Code: GDEA

D

Substitute Classified Employees

Substitute classified employees will be employed at salary rates established by the superintendent.

END OF POLICY

E

Legal Reference(s):

[ORS 332.505](#)

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Corbett School District 39

Code: GDI/GDIA
Adopted: 5/21/98
Orig. Code: GDI/GDIA

D

Classified Staff Assignments and Transfers

Classified staff will be assigned in accordance with the needs of the district. The administration shall determine assignments and transfers.

END OF POLICY

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Legal Reference(s):

[ORS 332.554](#)

[OAR 581-022-2405\(4\)](#)

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Corbett School District 39

Code: GDKB
Adopted: 5/21/98
Orig. Code: GDKB

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Staff Meetings

Classified personnel are expected to attend general staff meetings as requested by the superintendent and other meetings for a specified purpose if requested by the superintendent.

Classified personnel may attend in-service meetings when the nature of the meetings is pertinent to their duties and permission is given by the building principal.

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The building principals may call meetings at which attendance by all, or part, of the classified personnel is requested.

END OF POLICY

Legal Reference(s):

[ORS 332.107](#)

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Corbett School District 39

Code: GDM/GDN
Adopted: 5/21/98
Orig. Code: GDM/GDN

Supervision and Evaluation of Classified Staff

(see GCN/GDN)

Periodically, administrators of the district will provide evaluations and supervision recommendations for classified employees working under their supervision. Reports may be informal or formal, written or oral as specified by the superintendent and shall be made to him/her. At least one formal written evaluation will be conducted annually with a copy maintained in his/her personnel file.

All classified employees are entitled to know of any deficiencies in their work and should accept such discussion as a helpful matter. A report shall be submitted to the employee and superintendent.

END OF POLICY

Legal Reference(s):

[ORS 243.650](#)
[ORS 332.505](#)

[ORS 342.850](#)

[OAR 581-022-1720](#)

Corbett School District 39

Code: GDO
Adopted: 5/21/98
Orig. Code: GDO

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Promotion of Classified Staff

Any classified employee whose job skills, knowledge and ability would qualify him/her for higher classification may be promoted upon application when any job opening occurs. When more than one employee with equal qualifications apply, seniority will be the determining factor.

END OF POLICY

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Legal Reference(s):

[ORS 332.505](#)

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Corbett School District 39

Code: GDPB
Adopted: 5/21/98
Orig. Code: GDPB

D

Resignation of Classified Staff

A classified staff member who wishes to resign from his/her position with the district must file a written notice in the district office prior to the date he/she wishes to leave district employment. The superintendent is authorized to accept the resignation effective the day it is received. The Board, at its next meeting, will ratify the action of the superintendent.

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END OF POLICY

Legal Reference(s):

[ORS 342.553](#)

[ORS 652.140](#)

[OAR 581-022-1720](#)

Pierce v. Douglas County School District No. 4, 60 Or. App. 285 (1982); rev'd, 197 Or. 363 (1984).

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Corbett School District 39

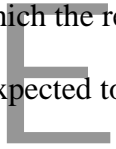
Code: GDPC
Adopted: 5/21/98
Orig. Code: GDPC



Retirement of Classified Staff

In order to assist the district in its planning efforts, classified staff members who are considering retirement are encouraged to notify the district as early as possible, preferably at the beginning of the school year in which the retirement will take place.

Employees are expected to retire consistent with PERS guidelines.



END OF POLICY

Legal Reference(s):

[ORS Chapter 237](#)
[ORS Chapter 238](#)

[ORS 243.303](#)
[ORS 342.120](#)

Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, 29 U.S.C. 1161-1169.
Tax Reform Act of 1986, 29 U.S.C. Sections 1001-1461.
Oregon Constitution, Article IX, Sections 10-13.

