

Southern Oregon ESD

Code: IGBA
Adopted: 4/16/03
Orig. Code: 5104; 5800; 7000

Students with Disabilities - Child Identification Procedures

The ESD assists local districts, when requested, in locating, identifying, evaluating, and providing special education and related services to children with special learning needs. Including, defined as, all children birth to age 21 residing within its jurisdiction who have disabilities and need early intervention, early childhood special education (EI/ESCE) or special education services. For preschool children the resident district is responsible for the evaluation(s) used to determine eligibility; the designated referral and evaluation agency is responsible for determining the eligibility of children for EI/ECSE services in accordance with Oregon Administrative Rule (OAR) 581-015-2100. The ESD identifies all children with disabilities, regardless of the severity of their disabilities, including those who are:

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

The ESD shall annually submit data to the Oregon Department of Education (ODE) regarding the number of resident students with disabilities who have been identified, located and evaluated and are receiving special education and related services. The ESD conducts an annual count of the total number of private school children attending private schools located within the boundaries of the ESD, and a count of all children with disabilities attending private schools located within the boundaries of the ESD, in accordance with OAR 581-015-2465. The ESD reports any additional data to ODE as required by the ODE to meet the requirements of federal or state law and the applicable reporting dates.

The superintendent, through the district special education administrator, shall adopt procedures that comply with federal and state education laws, including procedures for identifying and evaluating students with disabilities; for initiating, reviewing, and modifying individualized education programs; for determining, changing, or denying placement; for ensuring the confidentiality of student records; and for providing parents an opportunity to examine their child's special education records. The procedures shall be approved by the ESD Board of Directors and the State Department of Education--Office of Special Education.

END OF POLICY

Legal Reference(s):

[ORS 332.075](#)

[ORS 338.165](#)

[ORS 339.115 - 339.137](#)

[ORS 343.151](#)

[ORS 343.157](#)

[ORS 343.193](#)

[ORS 343.221](#)

[ORS 343.517](#)

[ORS 343.533](#)

[OAR 581-015-2040](#)

[OAR 581-015-2045](#)

[OAR 581-015-2080](#)

[OAR 581-015-2085](#)

[OAR 581-015-2190](#)

[OAR 581-015-2195](#)

[OAR 581-015-2315](#)

[OAR 581-015-2480](#)

[OAR 581-021-0029](#)

[OAR 581-022-2315](#)

Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1412(a)(3) (2012).

Early Intervention Program for Infants and Toddlers with Disabilities, 34 C.F.R. Part 303 (2017).

Assistance to States for the Education of Children with Disabilities, 34 C.F.R. § 300.111 (2017).

Southern Oregon ESD

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IGBA-AR

Students with Disabilities - Child Identification Procedures

(Required if ESD is contractor for ODE direct service programs EI/ECSE)

1. The ESD's child find efforts include:
 - a. Public awareness. ESD child find activities involve local media resources and direct contact activities, such as presentations at community meetings, business group meetings, services agencies or advocacy organizations.
 - (1) The ESD provides information about special education services in the ESD's service area and the ESD's special education referral process to public and private facilities located in the ESD's service area, including day care centers, homeless shelters, group homes, county jails, hospitals, medical officer and other facilities that serve children birth to 21 years old.
 - (2) The ESD provides information about special education services and how to make a referral to any migrant education programs operating in the district.
 - b. Notice of confidentiality. Before any major child find activity, the ESD publishes notice in newspapers or other media, or both, informing parents that confidentiality requirements apply to these activities. Circulation for this notice must be adequate to inform parents within the district's jurisdiction.
 - c. Staff awareness. The ESD ensures that staff are knowledgeable of the characteristics of disabilities and the referral procedures for students, including preschool children, suspected of having disabilities.
 - d. Communication to parents. ESD staff shall inform parents about the availability of special education services in the ESD's service area and provide them with information about initiating referral for special education evaluation, including the information about early intervention/early childhood special education services (EI/ECSE) and the designated referral and evaluation agencies with which the ESD collaborates.
2. Private School Children with Disabilities
 - a. The ESD's child find system applies to children, including those children who are residents of another state, that are enrolled by their parents in private schools located within the boundaries of the ESD.
 - b. The ESD's child find activities for private school students enrolled by their parents in private schools are similar to, and completed within a comparable time period, as child find activities for students in component district public schools.
 - c. The ESD does not include the cost of conducting child find activities for private school students, including individual evaluations, in determining whether it has spent a proportionate share of its federal Individuals with Disabilities Education Act (IDEA) funds on parentally-placed school students with disabilities.

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- d. The ESD consults with private school representatives and parents of private school students with disabilities about how to carry out these child find activities, including:
 - (1) How private school children suspected of having a disability can participate equitably; and
 - (2) How parents, teachers and private school officials will be informed of the process.
 - e. The ESD child find process for parentally-placed private school students ensures the equitable participation of parentally-placed private school students with disabilities and an accurate count of such children.

3. Home-Schooled Students with Disabilities

- a. The component district collaborates with the ESD that serves the component district to ensure that the component district responds promptly to information about home-schooled students with suspected disabilities.
- b. The ESD collaborates with home schooling organizations in the ESD's jurisdiction and provides information about special education services in the ESD's service area and how to make a referral.
- c. If the ESD has reason to suspect that a home-schooled student has a disability, the ESD will obtain parent consent for initial evaluation.

Southern Oregon ESD

Code: IGBAB/JO
Adopted: 12/15/93
Orig. Code: 5400; 5401; 5402; 5403

Education Records/Records of Students with Disabilities**

Education records are those records maintained by the ESD that are directly related to a student.

The primary reason for the keeping and maintaining of education records for students is to help the individual student in **their** educational development by providing pertinent information for the student, Their teachers and **their** parents. These records also serve as an important source of information to assist students in seeking productive employment and/or post-high school education.

The ESD shall maintain confidential education records of students in a manner that conforms with state and federal laws and regulations.

Information recorded on official education records should be carefully selected, accurate, verifiable and should have a direct and significant bearing upon the student's educational development.

The ESD annually notifies parents or adult students that it forwards educational records requested by an educational agency or institution in which the student seeks to enroll or receive services, including special education evaluation services.

The ESD shall comply with a request from parents or an adult student to inspect and review records without unnecessary delay. The ESD provides to parents of a student with a disability or to an adult student with a disability the opportunity at any reasonable time to examine all of the records of the district pertaining to the student's identification, evaluation, educational placement and free appropriate public education. The ESD provides parents or an adult student, on request, a list of the types and locations of education records collected, maintained and used by the ESD.

The ESD annually notifies parents of all students, including adult students, currently in attendance that they have to right to:

1. Inspect and review the student's records;
2. Request the amendment of the student's educational records to ensure that they are not inaccurate, misleading or otherwise in violation of the student's privacy or other rights;
3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the student educational record rules authorize disclosure without consent. (See Board policy JOB – Personally Identifiable Information);
4. File with the U.S. Department of Education a complaint concerning alleged failures by the ESD to comply with the requirements of the Family Educational Rights and Privacy Act; and
5. Obtain a copy of the ESD's education records policy.

The ESD's notice includes criteria for determining legitimate educational interest and the criteria for determining which school officials within the agency have legitimate educational interests. ESD officials may also include a volunteer or contractor who performs an institutional service on behalf of the ESD.

The ESD annually notifies parents and adult students of what it considers to be directory information and the disclosure of such (see Board policy JOA – Directory Information).

The ESD shall give full rights to education records to either parent, unless the ESD has been provided legal evidence that specifically revokes these rights. Once the student reaches age 18 those rights transfer to the student.

A copy of this policy and administrative regulation shall be made available upon request to parents and students 18 years of age or older or an emancipated student and the general public.

Records requested by another school district or ESD to determine a student's appropriate placement may not be withheld.

END OF POLICY

Legal Reference(s):

[ORS 30.864](#)
[ORS 107.154](#)
[ORS 326.565](#)
[ORS 326.575](#)

[ORS 326.580](#)
[ORS 339.270](#)
[ORS 343.177\(3\)](#)
[OAR 166-400-0010](#) to 166-400-0065

[OAR 581-021-0220](#) to -0430
[OAR 581-022-2260](#)
[OAR 581-022-2270](#)

Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400-1419 (2012).

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).

Assistance to States for the Education of Children with Disabilities, 34 C.F.R. § 300.501 (2017).

Cross Reference(s):

JO/IGBAB - Education Records/Records of Students with Disabilities

JOA - Directory Information

JOB - Personally Identifiable Information

Southern Oregon ESD

Code:
Adopted:

IGBAB/JO-AR

Education Records/Records of Students with Disabilities Management

1. Student Education Record

Student education records are those records that are directly related to a student and maintained by the ESD, or by a party acting for the ESD; however, this does not include the following:

- a. Records of instructional, supervisory and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker of the record, used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
- b. Records of the law enforcement unit of the ESD subject to the provisions of Oregon Administrative Rule (OAR) 581-021-0225;
- c. Records relating to an individual who is employed by the ESD that are made and maintained in the normal course of business that relate exclusively to the individual in that individual's capacity as an employee and that are not available for use for any other purpose. Records relating to an individual in attendance at the ESD who is employed as a result of **their** status as a student are education records and are not excepted under this section;
- d. Records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, that are:
 - (1) Made or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in **their** professional capacity or assisting in a paraprofessional capacity;
 - (2) Made, maintained or used only in connection with treatment of the student; and
 - (3) Disclosed only to individuals providing the treatment. For purposes of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the ESD.
- e. Records that only contain information relating to activities in which an individual engaged after **they are** no longer a student at the ESD;
- f. Medical or nursing records which are made or maintained separately and solely by a licensed health care professional who is not employed by the ESD, and which are not used for education purposes or planning.

The ESD shall keep and maintain a permanent record on each student **enrolled in an ESD-operated program** which includes the:

- a. Name and address of educational agency or institution;
- b. Full legal name of the student;
- c. Student birth date and place of birth;
- d. Name of parents;

- e. Date of entry in school;
- f. Name of school previously attended;
- g. Courses of study and marks received;
- h. Data documenting a student's progress toward achievement of state standards and must include a student's Oregon State Assessment results;
- i. Credits earned;
- j. Attendance;
- k. Date of withdrawal from school; and
- l. Such additional information as the district may prescribe.

The ESD may also request the social security number of the student and will include the social security number on the permanent record only if the eligible student or parent complies with the request. The request shall include notification to the eligible student or the student's parent(s) that the provision of the social security number is voluntary and notification of the purpose for which the social security number will be used.

The ESD shall retain permanent records in a minimum one-hour fire-safe place in the ESD, or keep a duplicate copy of the permanent records in a safe depository in another ESD location.

2. Confidentiality of Student Records

- a. The ESD shall keep confidential any record maintained on a student in accordance with OAR 581-021-0220 through 581-021-0430.
- b. Each ESD shall protect the confidentiality of personally identifiable information at collection, storage, disclosure and destruction stages.
- c. Each ESD shall identify one official to assume responsibility for ensuring the confidentiality of any personally identifiable information.
- d. All persons collecting or using personally identifiable information shall receive training or instruction on state policies and procedures.

3. Rights of Parents and Eligible Students

The ESD shall annually notify parents and eligible students **enrolled in ESD-operated programs** through the ESD student/parent handbook or any other means that are reasonably likely to inform the parents or eligible students of their rights. This notification shall state that the parent(s) or an eligible student has a right to:

- a. Inspect and review the student's education records;
- b. Request the amendment of the student's education records to ensure that they are not inaccurate, misleading or otherwise in violation of the student's privacy or other rights;
- c. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the applicable state or federal law authorizes disclosure without consent;
- d. Pursuant to OAR 581-021-0410, file with the Family Policy Compliance Office, United States Department of Education a complaint under 34 C.F.R. § 99.64 concerning alleged failures by the ESD to comply with the requirements of federal law; and
- e. Obtain a copy of the ESD policy with regard to student education records.

The notification shall also inform parents or eligible students that the ESD forwards education records requested under OAR 581-021-0255. The notification shall also indicate where copies of the ESD policy are located and how copies may be obtained.

If the eligible student or the student's parent(s) has a primary or home language other than English, or has a disability, the ESD shall provide effective notice.

These rights shall be given to either parent unless the ESD has been provided with specific written evidence there is a court order, state statute or legally binding document relating to such matters as divorce, separation or custody that specifically revokes these rights.

When a student becomes an eligible student, which is defined as a student who has reached 18 years of age or is attending only an institution of postsecondary education and is not enrolled in a secondary school, the rights accorded to, and the consent required of, the parents transfer from the parents to the student. Nothing prevents the ESD from giving students rights in addition to those given to parents.

4. Parent's or Eligible Student's Right to Inspect and Review

The ESD shall permit an eligible student or student's parent(s) or a representative of a parent or eligible student, if authorized in writing by the eligible student or student's parent(s), to inspect and review the education records of the student, unless the education records of a student contain information on more than one student. In that case the eligible student or student's parent(s) may inspect, review or be informed of only the specific information about the student.

The ESD shall comply with a request for access to records:

- a. Within a reasonable period of time and without unnecessary delay;
- b. For children with disabilities before any meeting regarding an IEP, or any due process hearing, or any resolution session related to a due process hearing;
- c. In no case more than 45 days after it has received the request.

The ESD shall respond to reasonable requests for explanations and interpretations of the student's education record.

The parent(s) or an eligible student shall comply with the following procedure to inspect and review a student's education record:

- a. Provide a written, dated request to inspect a student's education record; and
- b. State the specific reason for requesting the inspection.

The written request will be permanently added to the student's education record.

The ESD shall not destroy any education record if there is an outstanding request to inspect and review the education record.

While the ESD is not required to give an eligible student or student's parent(s) access to treatment records under the definition of "education records" in OAR 581-021-0220(6)(b)(D), the eligible

student or student's parent(s) may, at **their** expense, have those records reviewed by a physician or other appropriate professional of **their** choice.

If an eligible student or student's parent(s) so requests, the ESD shall give the eligible student or student's parent(s) a copy of the student's education record. The ESD may recover a fee for providing a copy of the record, but only for the actual costs of reproducing the record unless the imposition of a fee effectively prevents a parent or eligible student from exercising the right to inspect and review the students educational records. The ESD may not charge a fee to search for or to retrieve the education records of a student.

The ESD shall not provide the eligible student or student's parent(s) with a copy of test protocols, test questions and answers and other documents described in Oregon Revised Statutes (ORS) 192.345(4) unless authorized by federal law.

The ESD will maintain a list of the types and locations of education records maintained by the ESD and the titles and addresses of officials responsible for the records.

Students' education records will be maintained at the school building at which the student is in attendance except for special education records which may be located at another designated location within the ESD. The administrator or designee shall be the person responsible for maintaining and releasing the education records.

2. Release of Personally Identifiable Information

Personally identifiable information shall not be released without prior written consent of the eligible student or student's parent(s) except in the following cases:

- a. The disclosure is to other school officials, including teachers, within the ESD who have a legitimate educational interest.

As used in this section, "legitimate educational interest" means an ESD official employed by the ESD as an administrator, supervisor, instructor or staff support member; a person serving on an ESD or component district Board; who need to review an educational record in order to fulfill his or her professional responsibilities, as delineated by their job description, contract or conditions of employment. Contractors, consultants, volunteers or other parties to whom an agency or institution has outsourced institutional services or functions may be considered a school official provided that party performs an institutional service or function for which the ESD would otherwise use employees, is under the direct control of the district with respect to the use and maintenance of education records, and is subject to district policies concerning the redisclosure of personally identifiable information.

The ESD shall maintain, for public inspection, a listing of the names and positions of individuals within the ESD who have access to personally identifiable information with respect to students with disabilities.

- b. The disclosure is to officials of another department within the ESD;
- c. The disclosure is to authorized representatives of:

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The U.S. Comptroller General, U.S. Attorney General, U.S. Secretary of Education or state and local education authorities or the Oregon Secretary of State Audits Division in connection with an audit or evaluation of federal or state-supported education programs or the enforcement of or compliance with federal or state-supported education programs or the enforcement of or compliance with federal or state regulations.

- d. The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:
- (1) Determine eligibility for the aid;
 - (2) Determine the amount of the aid;
 - (3) Determine the conditions for the aid; or
 - (4) Enforce the terms and condition of the aid.

As used in this section “financial aid” means any payment of funds provided to an individual that is conditioned on the individual’s attendance at an educational agency or institution.

- e. The disclosure is to organizations conducting studies for, or on behalf of, the ESD to:
- (1) Develop, validate or administer predictive tests;
 - (2) Administer student aid programs; or
 - (3) Improve instruction.

The ESD may disclose information under this section only if disclosure is to an official listed in paragraph (c) above and who enters into a written agreement with the district that:

- (1) Specifies the purpose, scope and duration of the study and the information to be disclosed;
- (2) Limits the organization to using the personally identifiable information only for the purpose of the study;
- (3) The study is conducted in a manner that does not permit personal identification of parents or students by individuals other than representatives of the organization; and
- (4) The information is destroyed when no longer needed for the purposes for which the study was conducted.

For purposes of this section, the term “organization” includes, but is not limited to, federal, state and local agencies, and independent organizations.

- b. The district may disclose information under this section only if the disclosure is to an official listed in paragraph (c) above who is conducting an audit related to the enforcement of or compliance with federal or state legal requirements and who enters into a written agreement with the district that:
- (1) Designates the individual or entity as an authorized representative;
 - (2) Specifies the personally identifiable information being disclosed;
 - (3) Specifies the personally identifiable information being disclosed in the furtherance of an audit, evaluation or enforcement or compliance activity of the federal or state-supported education programs;

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- (4) Describes the activity with sufficient specificity to make clear it falls within the audit or evaluation exception; this must include a description of how the personally identifiable information will be used;
 - (5) Requires information to be destroyed when no longer needed for the purpose for which the study was conducted;
 - (6) Identifies the time period in which the personally identifiable information must be destroyed; and
 - (7) Establishes policies and procedures which are consistent with FERPA and other federal and state confidentiality and privacy provisions to insure the protection of the personally identifiable information from further disclosure and unauthorized use.
- c. The disclosure is to accrediting organizations to carry out their accrediting functions;
 - d. The disclosure is to comply with a judicial order or lawfully issued subpoena. The ESD may disclose information under this section only if the ESD makes a reasonable effort to notify the eligible student or student's parent(s) of the order or subpoena in advance of compliance, unless an order or subpoena of a federal court or agency prohibits notification to the parent(s) or student;
 - e. The disclosure is to comply with a judicial order or lawfully issued subpoena when the parent is a party to a court proceeding involving child abuse and neglect or dependency matters;
 - f. The disclosure is to the parent(s) of a dependent student, as defined in Section 152 of the Internal Revenue Code of 1986;
 - g. The disclosure is in connection with a health or safety emergency. The ESD shall disclose personally identifiable information from an education record to law enforcement, child protective services and health care professionals, and other appropriate parties in connection with a health and safety emergency if knowledge of the information is necessary to protect the health and safety of the student or other individuals. If the ESD determines that there is an articulable and significant threat, the ESD will document the information available at that time of determination and the rationale basis for the determination for the disclosure of the information from the educational records.

In making a determination whether a disclosure may be made under the health or safety emergency, the district may take into account the totality of the circumstances pertaining to a threat to the health to safety of a student or other individuals. As used in this section a "health or safety emergency" includes, but is not limited to, law enforcement efforts to locate a child who may be a victim of kidnap, abduction or custodial interference and law enforcement or child protective services efforts to respond to a report of child abuse or neglect pursuant to applicable state law, or other such reasons that the ESD may in good faith determine a health or safety emergency.

- h. The disclosure is information the ESD has designated as "directory information" (See Board policy JOA – Directory Information);
- i. The disclosure is to the parent(s) of a student who is not an eligible student or to an eligible student;
- j. The disclosure is to officials of another school, school system, institution of postsecondary education, an education service district (ESD), state regional program or other educational agency that has requested the records and in which the student seeks or intends to enroll or is enrolled or in which the student receives services. The term "receives services" includes, but is

not limited to, an evaluation or reevaluation for purposes of determining whether a student has a disability;

- k. The disclosure is to the Board during an executive session pursuant to ORS 332.061.

The ESD will use reasonable methods to identify and authenticate the identity of the parents, students, school officials and any other parties to whom the district discloses personally identifiable information from educational records;

- l. The disclosure is to a caseworker or other representative, who has the right to access the student's case plan, of a state or local child welfare agency or tribal organization that are legally responsible for the care and protection of the student, provided the personally identifiable information will not be disclosed unless allowed by law.

2. Record-Keeping Requirements

The ESD shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student. Exceptions to the record-keeping requirements shall include the parent, eligible student, school official or **their** assistant responsible for custody of the records and parties authorized by state and federal law for auditing purposes. The ESD shall maintain the record with the education records of the student as long as the records are maintained. For each request or disclosure the record must include:

- a. The party or parties who have requested or received personally identifiable information from the education records; and
- b. The legitimate interests the parties had in requesting or obtaining the information.

The following parties may inspect the record of request for access and disclosure to a student's personally identifiable information:

- a. The parent(s) or an eligible student;
- b. The ESD official or **their** assistants who are responsible for the custody of the records;
- c. Those parties authorized by state or federal law for purposes of auditing the record-keeping procedures of the district.

2. Request for Amendment of Student's Education Record

If an eligible student or student's parent(s) believes the education records relating to the student contain information that is inaccurate, misleading or in violation of the student's rights of privacy or other rights, **they** may ask the building level principal/ESD official where the record is maintained to amend the record.

The principal/ESD official shall decide, after consulting with the necessary staff, whether to amend the record as requested within a reasonable time after the request to amend has been made.

The request to amend the student's education record shall become a permanent part of the student's education record.

If the principal/ESD official decides not to amend the record as requested, the eligible student or the student's parent(s) shall be informed of the decision and of **their** right to appeal the decision by requesting a hearing.

3. Hearing Rights of Parents or Eligible Students

If the building level principal/ESD official decides not to amend the education record of a student as requested by the eligible student or the student's parent(s), the eligible student or student's parent(s) may request a formal hearing for the purpose of challenging information in the education record as inaccurate, misleading or in violation of the privacy or other rights of the student. The ESD shall appoint a hearings officer to conduct the formal hearing requested by the eligible student or student's parent. The hearing may be conducted by any individual, including an official of the ESD, who does not have a direct interest in the outcome of the hearing. The hearings officer will establish a date, time and location for the hearing, and give the student's parent or eligible student notice of date, time and location reasonably in advance of the hearing. The hearing will be held within 10 working days of receiving the written or verbal request for the hearing.

The hearings officer will convene and preside over a hearing panel consisting of:

- a. The principal/ESD official or **their** designee;
- b. A member chosen by the eligible student or student's parent(s); and
- c. A disinterested, qualified third party appointed by the superintendent.

The parent or eligible student may, at **their** own expense, be assisted or represented by one or more individuals of **their** own choice, including an attorney. The hearing shall be private. Persons other than the student, parent, witnesses and counsel shall not be admitted. The hearings officer shall preside over the panel. The panel will hear evidence from the school staff and the eligible student or student's parent(s) to determine the point(s) of disagreement concerning the records. Confidential conversations between a licensed employee or district counselor and a student shall not be part of the records hearing procedure. The eligible student or student's parent(s) has the right to insert written comments or explanations into the record regarding the disputed material. Such inserts shall remain in the education record as long as the education record or a contested portion is maintained and exists. The panel shall make a determination after hearing the evidence and make its recommendation in writing within 10 working days following the close of the hearing. The panel will make a determination based solely on the evidence presented at the hearing and will include a summary of the evidence and the reason for the decision. The findings of the panel shall be rendered in writing not more than 10 working days following the close of the hearing and submitted to all parties.

If, as a result of the hearing, the panel decides that the information in the education record is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall inform the eligible student or the student's parent(s) of the right to place a statement in the record commenting on the contested information in the record or stating why **they disagree** with the decision of the panel. If a statement is placed in an education record, the district/ESD will ensure that the statement:

- a. Is maintained as part of the student's records as long as the record or a contested portion is maintained by the district/ESD; and

- b. Is disclosed by the district/ESD to any party to whom the student's records or the contested portion are disclosed.

If, as a result of the hearing, the panel decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall:

- a. Amend the record accordingly; and
- b. Inform the eligible student or the student's parent(s) of the amendment in writing.

2. Duties and Responsibilities When Requesting Education Records

The ESD shall, within 10 days of a student seeking initial enrollment in or services from the district, notify the public or private school, ESD, institution, agency or detention facility or youth care center in which the student was formerly enrolled, and shall request the student's education records.

3. Duties and Responsibilities When Transferring Education Records

The ESD shall transfer originals of all requested student education records, including any ESD records, relating to the particular student to the new educational agency when a request to transfer the education records is made to the ESD. The transfer shall be made no later than 10 days after receipt of the request. For students in substitute care programs, the transfer must take place within five days of a request. Readable copies of the following documents shall be retained:

- a. The student's permanent records, for one year;
- b. Such special education records as are necessary to document compliance with state and federal audits, for five years after the end of the school year in which the original was created. In the case of records documenting speech pathology and physical therapy services, until the student reaches age 21 or 5 years after last seen, whichever is longer.

Note: Education records shall not be withheld for student fees, fines and charges if requested in circumstances described in ORS 326.575 and applicable rules of the State Board of Education or such records are requested for use in the appropriate placement of a student.

Disclosure Statement

Required for use in collecting personally identifiable information
related to social security numbers.

On any form that requests the social security number (SSN), the following statement shall appear just above the space for the SSN:

“Providing your social security number (SSN) is voluntary. If you provide it, the ESD will use your SSN for record-keeping, research, and reporting purposes only. The ESD will not use your SSN to make any decision directly affecting you or any other person. Your SSN will not be given to the general public. If you choose not to provide your SSN, you will not be denied any rights as a student. Please read the statement on the back of this form that describes how your SSN will be used. Providing your SSN means that you consent to the use of your SSN in the manner described.”

On the back of the same form, or attached to it, the following statement shall appear:

“OAR 581-021-0250 (1)(j) authorizes districts¹ to ask you to provide your social security number (SSN). The SSN will be used by the district for reporting, research and record keeping. Your SSN will also be provided to the Oregon Department of Education. The Oregon Department of Education gathers information about students and programs to meet state and federal statistical reporting requirements. It also helps districts and the state research, plan and develop educational programs. This information supports the evaluation of educational programs and student success in the workplace.”

The district and Oregon Department of Education may also match your SSN with records from other agencies as follows:

The Oregon Department of Education uses information gathered from the Oregon Employment Division to learn about education, training and job market trends. The information is also used for planning, research and program improvement.

State and private universities, colleges, community colleges and vocational schools use the information to find out how many students go on with their education and their level of success.

Other state agencies use the information to help state and local agencies plan educational and training services to help Oregon citizens get the best jobs available.

Your SSN will be used only for statistical purposes as listed above. State and federal law protects the privacy of your records.

¹ OAR 581-021-0220(5) defines school districts to include ESDs.

Southern Oregon ESD

Code:
Adopted:

IGBAC

Special Education - Personnel

Consistent with Teacher Standards and Practices Commission (TSPC) requirements, the ESD's personnel are appropriately and adequately prepared to implement special education and related services, and have the content knowledge and skills to serve children with disabilities.

The ESD takes measurable steps to recruit, hire, train and retain personnel, who are appropriately licensed by TSPC or their respective licensing agency, to provide special education and related services to children with disabilities.

The ESD shall develop a plan for providing personnel development programs for ESD staff.

END OF POLICY

Legal Reference(s):

Assistance to States for the Education of Children with Disabilities, 34 C.F.R. § 300.156(d) and § 300.207 (2017).
Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1412(a)(14)(D) and § 1413(a)(3) (2012).

Southern Oregon ESD

Code:
Adopted:

IGBAI

Special Education - Private Schools

Individuals with Disabilities Education Act (IDEA) requires special education services for two different groups of private school students: those referred or placed by the district or component district and those enrolled by parents. The law, rules and requirements for these groups of students are vastly different. It is the policy of the ESD to implement differentiated procedures and services for these groups.

The ESD shall ensure that a student with a disability who is placed in or referred to a private school or facility by the district or component district is provided special education and related services at no cost to the parents, is provided an education that meets the standards that apply to education provided by the ESD and has all of the rights of a student with a disability who is served by the ESD.

If a student with a disability has a free appropriate public education available to **them** and the parents choose to place the student in a private school, the ESD is not required to pay the cost of the student's education, including special education and related services, at the private school.

All parentally-placed private school students attending a private school within the ESD's boundaries will be included in the ESD's special education private school student count and the private school students for whom the ESD may provide services.

END OF POLICY

Legal Reference(s):

[ORS 343.155](#)

[OAR 581-015-2080](#)

[OAR 581-015-2085](#)

[OAR 581-015-2265](#)

[OAR 581-015-2270](#)

[OAR 581-015-2280](#)

[OAR 581-015-2450](#)

[OAR 581-015-2455](#)

[OAR 581-015-2460](#)

[OAR 581-015-2470](#)

[OAR 581-015-2480](#)

[OAR 581-015-2515](#)

[OAR 581-021-0029](#)

Assistance to States for the Education of Children with Disabilities, 34 C.F.R. §§ 300.221, 300.380-300.382 (2006).

Southern Oregon ESD

Code:
Adopted:

IGBAI-AR

Special Education - Private Schools

(Required if the ESD has Early Intervention or other classes)

Approved Private Schools

1. Obligations of the district:

- a. The ESD ensures that parents are included in any decision about their child's evaluation, eligibility, placement or provision of services.
- b. If the ESD refers a student with a disability to, or places such a student in, a private school or facility as a means of providing special education and related services, the ESD ensures that the student receives an education that meets the standards of the state in a private preschool, school or facility approved by the Oregon Department of Education (ODE) to provide such education in conformance with an individualized education program (IEP)/individualized family service plan (IFSP), and at no cost to the parents, and has all the rights of a student with a disability who is served by the district.
- c. Before placing a student with a disability in an approved private school or preschool, the ESD ensures that the program has current Oregon Department of Education approval to provide special education and related services.
- d. The ESD or public agency fulfills all federal and state requirements relating to the evaluation, the IEP/individualized family service plan (IFSP) development and placement when determining whether to place the child in an approved private preschool or school for special education services.
- e. For each student age three through 21, the ESD's or public agency's placement team, including the parent, determines whether placement in an approved private school constitutes a free appropriate public education in the least restrictive environment.
 - (1) When proposing to place a child with a disability in an approved private school or preschool, the ESD ensures that school-age students are district residents or preschool-age children are eligible to receive EI/ECSE or special education services.
 - (2) The ESD initiates and conducts an individualized education program team meeting that includes a representative of the approved private school or preschool. If a representative of the approved private school or preschool, or other member of the IEP/IFSP team is unable to attend the IEP/IFSP meeting, the ESD and the parent may agree to use alternative means of meeting participation such as individual or conference telephone calls, or video conferences.
 - (3) After the ESD initially places a student in an approved private school or preschool, any subsequent meetings to review or revise an IEP/IFSP or placement are the responsibility of the ESD or public agency, unless the ESD or public agency requests by written agreement that the approved private school or preschool initiate and conduct meetings to review and revise the IEP or IFSP.
 - (4) The ESD may, by written agreement, request that the approved private school or preschool initiate and conduct meetings to review and revise the IEP or IFSP. Under such an agreement the ESD remains responsible for ensuring the private school or preschool meets:
 - (a) All federal and state requirements related to these meetings; and
 - (b) Ensures the participation of parents and the ESD or public agency representative.

P

- (5) The private school or preschool may not determine or implement program changes without the participation and agreement of the parents and the ESD or public agency representative.
- (6) The district in which the child resides provides transportation to and from the approved private school or preschool at no cost to the parent.
- (7) The ESD or public agency terminates the placement of students in a private school or preschool if ODE suspends, revokes or refuses to renew the approval of a private school or preschool.

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- (a) The ESD ensures that every student with a disability who is placed in or referred to a private school, preschool or facility by the district as a means of providing special education and related services;
 - (i) Receives education and services that constitute a free appropriate public education in the least restrictive environment at no cost to the parents;
 - (ii) Is provided an education that meets the standards that apply to education provided by the public agency; and
 - (iii) Has all of the rights of a student with a disability who is served by the public agency.
- (b) The ESD ensures that all applicable federal and state requirements relating to the evaluation, eligibility, IEP/IFSP development, placement and procedural safeguards are followed when determining whether the student will be placed in an approved private school for special education services.
- (c) The ESD initiates and conducts an IEP/IFSP meeting at which an IEP/IFSP is developed based upon the needs of the student before determining placement of a student with a disability in an approved private school or preschool.

2. Out-of-State Placements for Special Education

- a. The ESD ensures that any private educational institution located outside the state of Oregon with which it contracts to provide special education and related services to Oregon students is approved by the state educational agency of the state in which the educational institution is located. If the state does not have a formal approval process, the educational institution shall meet whatever requirements apply for private schools to serve publicly placed students in that state.
- b. The ESD maintains documentation of such approval and makes it available to ODE upon request.
- c. The ESD makes contractual agreements for out-of-state placements for the provision of special education and related services when, in accordance with applicable federal and state law, the ESD has:
 - (1) Developed an individualized education program;
 - (2) The placement team has determined that no appropriate in-state placement options are available.

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Southern Oregon ESD

Code:
Adopted:

IGBAK

Special Education - Public Availability of State Application

The superintendent will be responsible for ensuring that all documents relating to the ESD's eligibility for funds under Part B of the Individuals with Disabilities Education Act (IDEA) are available to parents of children with disabilities and to the general public for inspection, review and comment.

1. In complying with this requirement the ESD does not release or make public personally identifiable information.
2. Information available for public review includes, but is not limited to:
 - a. How the ESD implements policies, procedures and programs for special education, consistent with state and federal requirements;
 - b. Performance of students with disabilities on statewide assessments;
 - c. Results of the state's general supervision and monitoring of ESD programs for special education, including the timeliness and accuracy of required data submissions;
 - d. ESD achievement of performance targets established in the State Performance Plan (SPP);
 - e. Financial information related to revenue and expenditures for students with disabilities, including but not limited to, ESD information about:
 - (1) Identifying the excess costs of educating students with disabilities;
 - (2) Maintaining the financial support for programs and services for students with disabilities (Maintenance of Effort (MOE)); and
 - (3) Describing available schoolwide programs under Title I of the Elementary and Secondary Education Act (ESEA) or the Every Student Succeeds Act (ESSA);
 - (4) Documenting the annual ESD application for IDEA funds; and
 - (5) Reporting of official audits, complaints and due process hearings.
 - f. ESD dispute resolution information, including the resolution of state complaints and due process hearings.

END OF POLICY

Legal Reference(s):

State-Administered Programs, 34 C.F.R. § 76.304 (2017).

Assistance to States for the Education of Children with Disabilities, 34 C.F.R. § 300.212 (2017).

Every Student Succeeds Act, 20 U.S.C. § 6314 (2012).

Southern Oregon ESD

Code:
Adopted:

IGBAL

Special Education - Services for Home-Schooled Students with Disabilities

If the ESD receives notice that a parent intends to home school a student with a disability, the ESD to offer an opportunity for an individualized education program (IEP) meeting to consider providing special education and related services in conjunction with home schooling and shall provide written notice to the parent that a free appropriate public education will be provided if the student enrolls in the district. This notice shall be provided annually as long as:

1. The student remains eligible for special education; and
2. The student is exempt from compulsory education as a home-schooled student; and
3. The student is not receiving special education and related services from the district.

Notice Requirements

The ESD superintendent will notify the appropriate district if the ESD receives notice that a parent intends to home school a child with a disability. END OF POLICY

END OF POLICY

Legal Reference(s):

[ORS 339.020](#)

[ORS 339.030 \(3\)](#)

[ORS 339.035](#)

[ORS 343.165](#)

[OAR 581-015-2000\(30\)](#)

[OAR 581-015-2090](#)

[OAR 581-015-2115](#)

[OAR 581-015-2120](#)

[OAR 581-015-2125](#)

[OAR 581-015-2130 to -2180](#)

[OAR 581-015-2210](#)

[OAR 581-015-2260](#)

[OAR 581-015-2310](#)

[OAR 581-021-0026 to -0029](#)

Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400-1419 (2012).

OSBA Model ESD Sample Policy

Code: IGBHD
Adopted:

Program Exemptions**

{Highly recommended policy for ESDs that operate schools. The content comes primarily from OAR 581-021-0009. If the ESD would like to add language regarding procedure or authority, it could be added to this policy or an AR could be created.}

The ESD may excuse students from a state-required program or learning activity for reasons of religion, disability¹ or other reasons deemed appropriate by the ESD. Requests for excusal or accommodation must be in writing and must include the reasons for the request and a proposed alternative for an individualized learning activity which substitutes for the period of time exempt from the program and meets the goals of the learning activity or course being exempt. Requests may be filed by the student's parent or guardian, or by a student who is 18 years of age or older or who is an emancipated minor. Requests must be submitted to the [Program Coordinator] .

The ESD will determine if credit will be granted for any alternative activity.

END OF POLICY

Legal Reference(s):

ORS 334.125

OAR 581-021-0009

[OAR 581-022-2050](#)

[OAR 581-022-2110](#)

[OAR 581-022-2505](#)

¹ If the ESD receives a request for a disability accommodation, the ESD should consider its obligations under the Individuals with Disabilities in Education Act and Section 504 of the Rehabilitation Act.

Southern Oregon ESD

Code:
Adopted:

IIA

Instructional Materials

The Board recognizes the responsibility of the ESD to provide high quality materials for ESD-operated classrooms located in component school districts[and in school[s] operated by the ESD]. The Board believes proper care and judgment should be exercised in selecting such materials. [The process to select materials will reflect respect for all people, regardless of age, sex, sexual orientation, gender identity, race¹, religion, color, national origin, disability, parental status, familial status, marital status, linguistic background, culture, socioeconomic status, capability or geographic location]

The ESD will provide and maintain instructional and resource materials which may contribute to the instructional programs of the ESD and its component school districts; are appropriate to the learning levels of users; are relevant to the diverse problems, aspirations, attitudes and ideas of the contemporary world; provide stimulus to creative thinking; and are of acceptable technical quality.

The ESD will establish a process and timeline for regularly determining and considering whether the textbooks and other instructional materials are available through online resources that enable students with print disabilities to receive textbooks and instructional materials free of charge.

The superintendent shall develop administrative regulations to assure that materials selected for and maintained by the ESD meet these criteria.

The superintendent shall develop administrative regulations to assure that requests for reconsideration of instructional materials selected by the ESD are handled in the best interests of the students, teachers and community members of the district. Such regulations shall contain provisions for handling concerns about materials used in ESD classrooms operated in component school districts.

A material involved with a reconsideration will remain available throughout the reconsideration process. Materials will not be removed for discriminatory reasons.

END OF POLICY

Legal Reference(s):

[ORS 334.125](#)
[ORS 336.035](#)
[ORS 336.082](#)
[ORS 336.840](#)
[ORS 337.120](#)
[ORS 337.141](#)
[ORS 337.150](#)

[ORS 337.260](#)
[ORS 337.511](#)
[ORS 339.155](#)
[ORS 659.850](#)

[OAR 581-011-0050 - 0117](#)
[OAR 581-021-0045](#)

[OAR 581-021-0046](#)
[OAR 581-022-2310](#)
[OAR 581-022-2340](#)
[OAR 581-022-2350](#)
[OAR 581-022-2355](#)

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

Every Student Succeeds Act, 20 U.S.C. §§ 6311-6322 (2018).

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2018); 28 C.F.R. §§ 42.101-42.106 (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 (2024).

Americans with Disabilities Act Amendments Act of 2008, 42 U.S.C. §§ 12101-12133 (2018); 29 C.F.R. Part 1630 (2019); 28 C.F.R. Part 35 (2019).

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

PROPOSED

Southern Oregon ESD

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

Instructional Materials

Board policy stipulates that the ESD shall maintain collections of instructional materials for use in the instructional programs of the ESD and its component districts.

To ensure that materials acquired for the collections are oriented to the needs of the various curricula and diverse classroom practices, it shall be the policy of the ESD to seek the cooperation and involvement of its own teachers and the teachers and administrators from component districts in the evaluation and selection of materials for the collections.

Component district teachers and administrators determine which of the available ESD materials are to be used in their respective schools. It is not the responsibility of the ESD to judge the suitability of choices made by the local districts.

In establishing and maintaining instructional materials, the ESD recognizes that not all materials will be appropriate for all programs and communities and that complaints about materials may be expressed from time to time.

Any complaints from patrons regarding the suitability of instructional materials shall be referred to:

1. The appropriate administrator if the complaint involves the use of materials in an ESD classroom or program. In this instance the procedure for reconsideration of instructional materials used in an ESD classroom or program will be followed;
2. The superintendent of the component district in which the patron resides if the complaint involves the use of ESD materials in a component district classroom or program. In this instance, the established policy of the local district will be followed in processing the complaint. The local district may decide to discontinue the use of certain ESD materials in its schools. Such a decision shall not prejudice the right of the ESD to use its own discretion in continuing to provide that material to other districts.

A material involved with a reconsideration will remain available throughout the reconsideration process. Materials will not be removed for discriminatory reasons.

Procedure for reconsideration of instructional materials used in an ESD classroom or program:

1. The classroom teacher or supervisor who receives a request for reconsideration of an instructional material will attempt to resolve the concern with the complainant;
2. All requests for reconsideration, whether or not resolved at Step One, will be reported to the appropriate administrator;

3. Requests for reconsideration not resolved at Step One will be processed by the appropriate administrator;
4. The person requesting reconsideration shall be supplied with a standard printed form which must be completed before consideration can be given;
5. The ESD superintendent [and Board chair] shall arrange for a review committee of [seven, consisting of one component district administrator, one classroom teacher, an ESD instructional materials specialist, an ESD Board member and three community members of the district]. The committee will proceed as follows:
 - a. The committee will meet, review the issues and expressions of those concerned and return a written report of its findings to the ESD superintendent within four weeks;
 - b. The chair of the committee will be appointed by the committee;
 - c. One representative from the ESD staff and the person requesting reconsideration may personally appear before the committee to provide information;
 - d. The committee may recommend that the challenged material be:
 - (1) Retained without restriction;
 - (2) Not retained;
 - (3) Retained with restriction.

Meetings of reconsideration committees may be subject to Public Meetings Law. Records regarding reconsideration procedures are subject to Public Records Law.

6. The committee will report its findings to the superintendent who will place the report on the agenda of the next regularly scheduled meeting of the ESD Board;
7. The Board will make the final decision, binding upon all parties, which will be reported to the ESD staff members involved and to the person registering the concern.

Southern Oregon ESD

Code: IIA-AR(2)
Revised/Reviewed:

Request for Reconsideration of Instructional Materials Form

(Submit to [Program Administrator])

Please complete this form in its entirety for consideration. This document will become a public record and is subject to public records requests.

People who wish to file a request for reconsideration of instructional materials must follow the informal process for concerns related to those materials prior to filing this request for reconsideration.

Request initiated by: _____ Phone _____

Address _____ City _____ Zip _____

Email: _____

Book or other material:

Title: _____ Author _____

Publisher: _____ Publication Date: _____

Type of material: ☐ Article ☐ Audio recording ☐ Book ☐ Textbook ☐ Video ☐ Website

☐ Other: _____

Producer/Source (if known): _____

Please respond to the following questions.

1. Did you discuss your concerns with the teacher or other involved staff? ☐ Yes ☐ No

If no, you must first discuss your concerns with the teacher or other involved staff before filing a request for reconsideration.

If yes, on what date? _____

Please provide a summary of the conversation: _____

What is the name of the staff member(s)? _____

2. Did you review the entire material? ☐ Yes ☐ No

If not, what sections did you review? _____

3. How was the material acquired by the student (i.e., required reading, free choice selection, etc.)?

-
-
4. To what in the material do you object and why? (Please be specific and cite pages, frames, etc.)
-
-
-

5. What material do you recommend in its place which would provide information on the subject?
-
-
-

6. What action are you requesting the reconsideration committee consider? _____
-

7. Do you wish to provide oral or written testimony to the reconsideration committee?

☐ Yes, oral testimony ☐ Yes, written testimony ☐ No

If yes, please call the [program administrator's] office at [_____].

Signature

Date

Received by [program administrator]: _____

Date

References:

Southern Oregon ESD

Code:

IIBGA

Adopted:

Electronic Communications System

(Version 2)

(Does the ESD participate in the federal [E-rate](#) program and receive funding for, but not limited to, computers and Internet access? If yes, this policy is required.)

The ESD's system will be used to provide statewide, national and global communications opportunities for staff and students and for the advancement and promotion of teaching and learning.

The superintendent will establish administrative regulations for the use of the ESD's electronic communication system including compliance with the following provisions of the Children's Internet Protection Act:

1. Technology protection measures, installed and in continuous operation, that protect against Internet access by both adults and minors to visual depictions that are obscene, child pornography or, with respect to the use of the computers by minors, harmful to minors;
2. Educating minors about appropriate online behavior, including cyberbullying awareness and response, and how to interact with other individuals on social networking sites and in chat rooms;
3. Monitoring the online activities of minors;
4. Denying access by minors to inappropriate matter on the Internet and World Wide Web;
5. Ensuring the safety and security of minors when using e-mail, [social media,]chat rooms and other forms of direct electronic communication;
6. Prohibiting unauthorized access, including so-called "hacking" and other unlawful activities by minors online;
7. Prohibiting unauthorized disclosure, use and dissemination of personal information regarding minors; and
8. Installing measures designed to restrict minors' access to materials harmful to minors.

[¹] Administrative regulations developed shall ensure compliance with privacy rights under applicable federal and state laws and regulations, including but not limited to the Age Discrimination in Employment Act of 1967 (ADEA), the Americans with Disabilities Act (ADA), the Genetic Information

¹ { If the ESD allows staff to download and store ESD proprietary information, including personally recognizable information about ESD students or staff, OSBA recommends including this content and an indicated related item in the model administrative regulation. See #3 on page 2 of model sample administrative regulation IIBGA-AR. }

Nondiscrimination Act of 2008 (GINA) and the Health Insurance Portability and Accountability Act of 1996 (HIPPA).]

Administrative regulations will be consistent with guidelines as may be provided by the Oregon Department of Education and/or the Oregon Government Ethics Commission, copyright law, and will include a complaint procedure for reporting violations.

Failure to abide by ESD policy and administrative regulations governing use of the ESD's electronic communications system may result in the suspension and/or revocation of system access. Additionally, student violations may result in discipline up to and including expulsion. Staff violations may result in discipline up to and including dismissal. Violations of law may be reported to law enforcement officials and may result in criminal or civil sanctions. Fees, fines or other charges may also be imposed.

END OF POLICY

Legal Reference(s):

[ORS 167.060 - 167.100](#)

[ORS Chapter 192](#)

[ORS 260.432](#)

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

[ORS 339.250](#)

[ORS 339.270](#)

[OAR 581-021-0050](#)

[OAR 581-021-0055](#)

[OAR 584-020-0040](#)

[OAR 584-020-0041](#)

Children's Internet Protection Act, 47 U.S.C. §§ 254(h) and (l) (2018); 47 C.F.R. § 54.520 (2019).

Copyrights, 17, U.S.C. §§ 101-1332 (2018); 19 C.F.R. Part 133 (2020).

Safe and Drug-Free Schools and Communities Act, 20 U.S.C. §§ 7101-7117 (2018).

Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 8101-8107 (2018); 34 C.F.R. Part 84, Subpart F (2020).

Controlled Substances Act, 21 U.S.C. § 812, Schedules I through V (2018); 21 C.F.R. §§ 1308.11-1308.15 (2020).

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2018); 29 C.F.R. Part 1630 (2020); 28 C.F.R. Part 35 (2020).

Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g (2018); 34 C.F.R. Part 99 (2020).

Every Student Succeeds Act, 20 U.S.C. § 7131 (2018).

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

Southern Oregon ESD

Code: IIBGA-AR
Revised/Reviewed: 7/13/16
Orig. Code: 7500; 7501; 7502; 7503;
7504; 7505; 7506; 7507;
7508; 7509; 7510; 7511;
7512

Electronic Communications System

Definitions

1. “Technology protection measure,” as defined by the Children’s Internet Protection Act (CIPA), means a specific technology that blocks or filters Internet access to visual depictions that are:
 - a. “Obscene,” has the meaning given such term in Section 1460 of Title 18, United States Code;
 - b. “Child pornography,” has the meaning given such term in Section 2256 of Title 18, United States Code; or
 - c. Harmful to minors.
2. “Harmful to minors,” as defined by CIPA, means any picture, image, graphic image file or other visual depiction that:
 - a. Taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex or excretion;
 - b. Depicts, describes or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and
 - c. Taken as a whole, lacks serious literary, artistic, political or scientific value to minors.
3. “Sexual act and sexual contact,” as defined by CIPA, have the meanings given such terms in Section 2246 of Title 18, United States Code.
4. “Minor,” as defined by CIPA, means an individual who has not attained the age of 17. For the purposes of Board policy and this administrative regulation, minor will include all students enrolled in ESD schools.
5. “Inappropriate matter,” as defined by the ESD, means material that is inconsistent with general public education purposes and the ESD’s vision, mission and goals, as determined by the ESD.
6. “ESD proprietary information” is defined by the ESD as any information created, produced or collected by ESD staff for the business or education purposes of the ESD including but not limited to student information, staff information, parent or patron information, curriculum, forms and like items used to conduct the ESD’s business.
7. “ESD software” is defined by the ESD as any commercial, staff developed, or free software acquired using ESD resources.

General SOESD Responsibilities

SOESD will:

1. Designate staff as necessary to ensure coordination and maintenance of the ESD's electronic communications system which includes all ESD computers, e-mail and Internet access;
2. Provide staff training in the appropriate use of the ESD's electronic communications system including copies of ESD policy and administrative regulations. Staff will provide similar training to authorized system users;
3. *Option A.* ~~[Prohibit staff use of personal electronic devices to download [{}¹] or access] ESD proprietary information[.]~~ [Allow staff use of personal electronic devices to access the ESD's electronic communications system when it is consistent with ESD board policies and administrative regulations] (See Staff User Agreement);]

OR

- ~~*Option B.* Provide a system for obtaining prior written agreement from staff for the recovery of ESD proprietary information downloaded to staff personal electronic devices as necessary to accomplish ESD purposes, obligations or duties, and when the use of the personal electronic device is no longer authorized, to ensure verification that information downloaded has been properly removed from the personal electronic device; (See Staff User Agreement)}~~
4. Cooperate fully with local, state or federal officials in any investigation relating to misuse of the ESD's electronic communications system;
 5. Use only properly licensed software, audio or video media purchased by the ESD or approved for use by the ESD. The ESD will comply with the requirements of law regarding the use, reproduction and distribution of copyrighted works and with applicable provisions of use or license agreements;
 6. Install and use server virus detection and removal software;
 7. Provide technology protection measures that protect against Internet access by both adults and minors to visual depictions that are obscene, child pornography, or with respect to the use of computers by minors, harmful to minors. A supervisor or other individual authorized by the appropriate administrator may disable the technology protection measures to enable access for bona fide research or other lawful purposes, as deemed appropriate;
 8. Prohibit access by minors to inappropriate matter on the Internet and World Wide Web;
 9. Provide staff supervision to monitor the online activities of students to prevent unauthorized access, including "hacking" and other unlawful activities online, and ensure the safety and security of minors when authorized to use e-mail, chat rooms and other forms of direct electronic communication;

10. Provide student education about appropriate online behavior, including cyberbullying awareness and response, and how to interact with other individuals on social networking and social media websites and in chat rooms;
11. Determine which users and sites accessible as part of the ESD's electronic communications system are most applicable to the curricular needs of the ESD and may restrict user access, accordingly;
12. Determine which users will be provided access to the ESD's electronic communications system;
13. Notify appropriate system users that:
 - a. The ESD retains ownership and control of its computers, hardware, software and data at all times. All communications and stored information transmitted, received or contained in the ESD's information system, computers, hardware and software are the ESD's property and are to be used for authorized purposes only. Use of ESD equipment or software for unauthorized purposes is strictly prohibited. To maintain system integrity, monitor network etiquette and ensure that those authorized to use the ESD's system are in compliance with Board policy, administrative regulations and law, administrators may routinely review user files and communications;
 - b. Files and other information, including e-mail, sent or received, generated or stored on ESD servers are not private and may be subject to monitoring. By using the ESD's system, individuals consent to have that use monitored by authorized ESD personnel. The ESD reserves the right to access and disclose, as appropriate, all information and data contained on ESD computers and ESD-owned e-mail system;
 - c. System users are responsible for maintaining appropriate confidentiality of information on or generated by ESD owned and non-ESD owned equipment;
 - d. If an ESD owned, personal, or other device under the user's control is lost or stolen that contains confidential or proprietary information or software, the user must report the event immediately to their supervisor along with the steps they are taking to safeguard any confidential information.
 - e. The ESD may establish a retention schedule for the removal of e-mail;
 - f. E-mail sent or received by a Board member or employee in connection with the transaction of public business may be a public record and subject to state archivist rules for retention and destruction;
 - g. Information and data entered or stored on the ESD's computers and e-mail system may be subject to disclosure if a public records request is made or a lawsuit is filed against the ESD. "Deleted" or "purged" data from ESD computers or e-mail system may be retrieved for later public records disclosure or disciplinary purposes, as deemed necessary by the ESD;
 - h. The ESD may set quotas for system data usage. The ESD may allow system users to increase their quota by submitting a request to the supervising teacher, system administrator, or supervisor as appropriate stating the need for the increase;
 - i. Passwords used on the ESD's electronic communication system will be changed at [90]-day intervals;
 - j. Transmission of any communications or materials related to activities prohibited by ORS 260.432 is prohibited.

14. Ensure all student, staff and nonschool system users complete and sign an agreement to abide by the ESD's electronic communications system policy and administrative regulations. All such agreements will be maintained on file in the [ESD's administration office];
15. Notify users of known copyright infringing activities and deny access to or remove the material.

Electronic Communications System Access

1. Access to the ESD's system is authorized to:

Board members, ESD employees, students, with parent approval and when under the direct supervision of staff, and ESD volunteers, ESD contractors or other members of the public as authorized by the system administrator or ESD administrators consistent with the ESD's policy governing use of ESD equipment and materials.

2. [Students may be permitted to use the ESD's electronic communications system, when consistent with board policy and administrative regulations, for school and instructional related activities. Personal use of ESD-owned computers or devices including Internet and e-mail access is ~~prohibited.~~ [permitted when consistent with board policy and administrative regulations and when during the school day.]

[Staff and Board members may be permitted to use the ESD's electronic communications system to conduct business related to the management or instructional needs of the ESD or to conduct research related to education and when in compliance with Board policy and administrative regulations.] [Personal use of the ESD's system or ESD-owned computers or devices including Internet and e-mail access by ESD staff ~~is prohibited~~ [may be permitted] when consistent with Oregon ethics laws, Board policy and administrative regulations[, when used on school property] [, and when on own time].] [Personal use of the ESD's system or ESD-owned computers or devices [including Internet and e-mail access] by Board members is prohibited.]

[ESD staff and Board members may use the ESD's electronic communications system[, ESD-owned computers or devices] [including Internet and e-mail access] for personal use under the same terms and conditions that access is provided to the general public under the ESD's policy governing use of ESD equipment and materials.]

[Volunteers[, [and] ESD contractors [and] [other members of the public may be permitted to use the ESD's electronic communications system for personal use when consistent with Board policy, general use prohibitions and guidelines/etiquette and other applicable provisions of this administrative regulation.]

General Use Prohibitions/Guidelines/Etiquette

Operation of the ESD's electronic communications system relies upon the proper conduct and appropriate use of system users. Students, staff and others granted system access are responsible for adhering to the following prohibitions and guidelines which require legal, ethical and efficient utilization of the ESD's system.

1. General Use Prohibitions

The following conduct is strictly prohibited:

- a. Attempts to use the ESD's system for:
 - (1) Unauthorized solicitation of funds;
 - (2) Distribution of chain letters;
 - (3) Unauthorized sale or purchase of merchandise and services;
 - (4) Collection of signatures;
 - (5) Membership drives;
 - (6) Transmission of materials in violation of ORS 260.432 regarding political campaigns.
- b. Attempts to upload, download, use, reproduce or distribute information, data, software, or file share music, videos or other materials on the ESD's system in violation of copyright law or applicable provisions of use or license agreements;
- c. Attempts to degrade, disrupt or vandalize the ESD's equipment, software, materials or data or those of any other user of the ESD's system or any of the agencies or other networks connected to the ESD's system;
- d. Attempts to evade, change or exceed resource quotas or disk usage quotas;
- e. Attempts to send, intentionally access or download any text file or picture or engage in any communication that includes material which may be interpreted as:
 - (1) Harmful to minors;
 - (2) Obscene or child pornography as defined by law or indecent, vulgar, profane or lewd as determined by the ESD;
 - (3) A product or service not permitted to minors by law;
 - (4) Harassment, intimidation, bullying, menacing, threatening, or a bias incident;
 - (5) Constitutes insulting or fighting words, the very expression of which injures or harasses others, or which includes a symbol of hate;
 - (6) A likelihood that, either because of its content or the manner of distribution, it will cause a material or substantial disruption of the proper and orderly operation of the school or school activity;
 - (7) Defamatory, libelous, reckless or maliciously false, potentially giving rise to civil liability, constituting or promoting discrimination, a criminal offense or otherwise violates any law, rule, regulation, Board policy and/or administrative regulation.
- f. Attempts to gain unauthorized access to any service via the ESD's system which has a cost involved or attempts to incur other types of costs without specific approval. The user accessing such services will be responsible for these costs;
- g. Attempts to post or publish personal student contact information unless authorized by the system administrator, teacher or supervisor and consistent with applicable Board policy pertaining to student directory information and personally identifiable information. Personal contact information includes photograph, age, home, school, work or e-mail addresses or phone numbers or other unauthorized disclosure, use and dissemination of personal information regarding students;
- h. Attempts to arrange student meetings with anyone on the ESD's electronic communications system, unless authorized by the system administrator, teacher or supervisor or when consistent with school or educational related activities[and with prior parent approval when necessary];

- i. Attempts to represent self on behalf of the ESD through use of the ESD's name in external communication forums, e.g., social media, chat rooms without prior ESD authorization;
- j. Attempts to use another individual's account name or password, failure to provide the ESD with individual passwords to access restricted information, resources or networks to which the user has not been given access.

2. Guidelines/Etiquette

Appropriate system use etiquette is expected of all users.

Complaints

Complaints regarding use of the ESD's Electronic Communications System may be made to the employee's supervisor or system administrator. The ESD's established complaint procedure in Board policy KL – Public Complaint and accompanying administrative regulation will be used to process complaints or concerns about violations of the ESD's Electronic Communications System policy and/or administrative regulation.

Violations/Consequences

1. Students

- a. Students who violate general system user prohibitions shall be subject to discipline up to and including expulsion and/or revocation access to the ESD electronic communication system access up to and including permanent loss of privileges.
- b. Violations of law will be reported to law enforcement officials and may result in criminal or civil sanctions.
- c. Disciplinary action may be appealed by parents, students and/or a representative in accordance with established ESD procedures.

2. Staff

- a. Staff who violate general system user prohibitions shall be subject to discipline up to and including dismissal in accordance with Board policy, collective bargaining agreements and applicable provisions of law.
- b. Violations of law will be reported to law enforcement officials and may result in criminal or civil sanctions.
- c. Violations of applicable Teacher Standards and Practices Commission (TSPC), Standards for Competent and Ethical Performance of Oregon Educators will be reported to TSPC as provided by OAR 584-020-0041.
- d. Violations of ORS 244.040 will be reported to the Oregon Government Ethics Commission (OGEC).

3. Others

- a. Other guest users who violate general electronic communications system user prohibitions shall be subject to suspension of system access up to and including permanent revocation of privileges.

- b. Violations of law will be reported to law enforcement officials or other agencies, as appropriate, and may result in criminal or civil sanctions.

Telephone/Membership/Internet/Other Charges

1. The ESD assumes no responsibility or liability for any membership or phone or Internet service and/or related charges incurred by any home usage or other external access of the ESD's electronic communication system.
2. Any disputes or problems regarding phone services or Internet services for home users or external access of the ESD's electronic communications system are strictly between the system user and their internet service provider and/or local phone provider.

Information Content/Third Party Supplied Information

1. System users and parents of student system users are advised that use of the ESD's electronic communications system may provide access to materials that may be considered objectionable and inconsistent with the ESD's vision, mission and goals. Parents should be aware of the existence of such materials and monitor their student's home usage of the ESD's electronic communications system accordingly.
2. Opinions, advice, services and all other information expressed by system users, information providers, service providers or other third-party individuals are those of the providers and not the ESD.
3. Users of the electronic communications system may, with supervising teacher or system coordinator approval, order services or merchandise from other vendors that may be accessed through the ESD's electronic communications system. These vendors are not affiliated with the ESD. All matters concerning merchandise and services ordered including, but not limited to, purchase terms, payment terms, warranties, guarantees and delivery are solely between the vendor and the electronic communications system user. The ESD makes no warranties or representation whatsoever with regard to any goods or services provided by the seller. ESD staff and administration shall not be a party to any such transaction or be liable for any costs or damages arising out of, either directly or indirectly, the actions or inactions of sellers.
4. The ESD does not warrant that the functions or services performed by or that the information or software contained on the electronic communications system will meet the system user's requirements or that the electronic communications system will be uninterrupted or error-free or that defects will be corrected. The ESD's electronic communications system is provided on an "as is, as available" basis. The ESD does not make any warranties, whether express or implied including, without limitation, those of merchantability and fitness for a particular purpose with respect to any services provided by the electronic communications system and any information or software contained therein.

[Agreement for an Electronic Communications System Account]

(Staff System User)

[I have received notice of, read and agree to abide by the provisions in the ESD's electronic communications system policy and administrative regulation. I understand that violation of these provisions may result in suspension and/or revocation of system access and related privileges, and may include discipline, up to and including dismissal, and/or referral to law enforcement officials.]

~~[I will not download [or access] ESD proprietary information to a personally owned electronic device.]~~

OR

[I understand that I may use my personal electronic device (PED) for education related purposes and that certain ESD proprietary information may be downloaded to, or accessed through my PED. I agree that any ESD proprietary information downloaded on my PED will only be as necessary to accomplish ESD purposes, obligations or duties, and will be properly removed from my PED when the use on my PED is no longer authorized. I ensure that the PED in use is owned by me, and I am in complete control of the device at all times.]

In consideration for the privilege of using the ESD's electronic communications system and in consideration for having access to the public networks, I hereby release the ESD, its operators and any institutions with which they are affiliated from any and all claims and damages of any nature arising from my use or inability to use the system including, without limitation, the type of damages identified in the ESD's policy and administrative regulation.

Signature _____ Date _____

Email Address _____

Home Phone Number _____ Cell Number _____]

Southern Oregon ESD

Code: IICC
Adopted: 4/18/07
Orig. Code: 8800; 8801; 8802; 8803

Volunteers *

Community members who voluntarily contribute their time and talents to the improvement and enrichment of ESD programs and services are valuable assets. The Board encourages constructive participation of groups and individuals to perform appropriate tasks outside regular hours under the direction and supervision of district personnel.

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

All placements of volunteers will be approved by the superintendent.

All volunteers who are allowed to have direct, unsupervised contact with students will submit to an in-state criminal records check. This check will be paid for by Southern Oregon ESD. (See Board policy GCDA/GDDA – Criminal Records Checks and Fingerprinting)

The superintendent will ensure that all appropriate training and orientation procedures are followed.

END OF POLICY

Legal Reference(s):

[ORS 326.607](#)

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

[OAR 581-021-0510 – 021-0512](#)

Cross Reference(s):

GCDA/GDDA - Criminal Records Checks and Fingerprinting *

Southern Oregon ESD

Code: ING
Adopted:

Animals in ESD Facilities

Only service animals¹ serving persons with a disability and animals approved by the ~~[human resource director]~~ [superintendent or superintendent's designee] that are part of an approved ESD curriculum or cocurricular activity are allowed in ESD facilities.

Approved animals must be adequately cared for and appropriately secured. Only the staff or students designated by the [program supervisor] are to handle the animals.

If animals are to be kept in the classroom on days when classes are not in session, arrangements must be made for their care.

END OF POLICY

Legal Reference(s):

[ORS 334.125](#)

[ORS 659A.400](#)

[OAR 581-053-0010](#)

[OAR 581-053-0230\(9\)\(j\)](#)

[OAR 581-053-0330\(1\)\(q\)](#)

[OAR 581-053-0430\(16\)](#)

[OAR 581-053-0531\(15\)](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 28 CFR §§ 35.104, 35.136 (2017).
Americans with Disabilities Act Amendments Act of 2008.

¹ The American with Disabilities Act definition of “service animal” means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. Companion and comfort animals are not considered service animals. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual’s disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal’s presence and the provision of emotional support, well-being, comfort or companionship do not constitute work or tasks for the purposes of this definition. The law and its regulations also make an allowance for miniature horses.

Southern Oregon ESD

Code: ING-AR
Revised/Reviewed:

Animals in ESD Facilities

If the animal is a service animal¹, please answer the following questions:

1. Is the service animal required due to a disability? _____

2. What work or task has the service animal been trained to perform²? _____

If an animal is not a service animal, the ESD staff may request emergency contact information.

¹ The American with Disabilities Act definition of “service animal” means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Companion and comfort animals are not considered service animals. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual’s disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal’s presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition. The law and its regulations also make an allowance for miniature horses.

² The district may request this information if the nature of the work or task the assistance animal is trained, or is being trained to do or perform, is not readily apparent.