

Regular School Board Meeting
Tuesday, February 15, 2022 6:00 PM

Blachly School District #90---Board Zoom
Meeting Link
20264 Blachly Grange Rd.
Blachly, OR 97412

Agenda

1. **CALL TO ORDER**
2. **WELCOME GUESTS AND VISITORS**
3. **PUBLIC FORUM/COMMUNICATIONS**
4. **CHANGES OR ADDITIONS TO THE AGENDA**
5. **CONSENT AGENDA**
 - 5.1. **BOARD MINUTES**
 - 5.2. **APPROVE STAFF HIRE & RESIGNATION**
 - 5.3. **FINANCIAL REPORT**
 - 5.4. **FIRST READ BOARD POLICY**
 - 5.5. **SECOND READING & ADOPTION 2022-23 BUDGET CALENDAR**
 - 5.6. **MOTION**
6. **REPORTS**
 - 6.1. **ENROLLMENT**
 - 6.2. **CHARTER BOARD REPORT**
 - 6.3. **FACILITIES REPORT**
 - 6.4. **TRANSPORTATION/TECHNOLOGY REPORT**
 - 6.5. **PRINCIPAL'S REPORT**
 - 6.6. **SUPERINTENDENT'S REPORT**
7. **UNFINISHED BUSINESS**
 - 7.1. **RESOLUTION 2021-22-006**
8. **NEW BUSINESS**
 - 8.1. **PRESENTATION AND ADOPTION OF SUPPLEMENTAL BUDGET**
 - 8.2. **BASEBALL CO-OP**
9. **THE BOARD MAY RECESS THE REGULAR MEETING AND CONVENE EXECUTIVE SESSION**
10. **RECONVENE REGULAR SESSION**
11. **ANNOUNCEMENTS**
 - 11.1. **SUPPLEMENTAL DOCUMENTS**
 - 11.2. **UPCOMING BOARD MEETING**
12. **ADJOURN THE REGULAR MEETING**

Blachly School District #90

Code: BDDH
Adopted: 12/13/93
Revised/Readopted: 1/16/08; 11/19/08; 2/21/18;
1/19/22

Public Comment at Board Meetings

All Board meetings, with the exception of executive sessions, will be open to the public. The Board invites the district's community members to attend Board meetings to become acquainted with the program and operation of the district. The public has a right to attend public meetings held in open session, and may be invited to share comments, ideas and opinions with the Board during designated times on the agenda. The Board may conduct a meeting without public comment.

Individuals with hearing, vision or speech impairments will be given an equal opportunity to participate in Board meetings and submit written comments to the Board. Individuals requesting assistance, aids or accommodations are encouraged to notify the district at least 48 hours prior to the Board meeting with the request, consistent with Board policy BD/BDA – Board Meetings.

Procedures for Oral Public Comment

The Board establishes the following procedures for public comment at Board meetings held in open session. The information will be accessible and available to all patrons accessing or attending such a Board meeting.

1. Public comment is limited to its designated place on the agenda and while time allows.
2. A person wishing to provide public comment, if an opportunity is provided by the Board during a meeting open to the public, will submit their request and name electronically prior to the Board meeting.¹ A request to give public comment in-person or electronically does not guarantee time will be available.
3. A person speaking during the public comment portion of the meeting may comment on a topic not on the published agenda.
4. A person speaking during the public comment portion of the meeting should state their name, whether they are a resident of the district, and, if speaking for an organization, the name of the organization. A spokesperson should be designated to represent a group with a common purpose.
5. A person giving public comment is limited to an established time limit of three minutes. Statements should be brief and concise. The Board chair has discretion to waive time limits or extend the overall time allotted for public comment. Additional time will be allocated in a fair and equitable manner. If a person has more comments than time allows or is unable to comment due to time constraints, the

¹ When in-person attendees are allowed to provide oral comment, virtual attendees will be afforded the same opportunity.

person is encouraged to submit additional written comments to the Board through the district office as directed.

6. Inquiries from the public during the designated portion of the agenda will not generally be responded to immediately by the Board chair, and may be referred to the superintendent for reply at a later date. The Board will not respond to inquiries that are expected to be addressed during another designated portion of the agenda.

The Board will not hear public comment at Board work sessions.

Topics raised during the public comment portion may be considered for inclusion as agenda items at future Board meetings.

Procedures for Written Comment

Members of the public may submit written comments or materials to the Board at any time at the district office, by mail or by email to comments@blachly.k12.or.us . Materials or comments submitted at least 72 hours in advance of a Board meeting will be provided to the Board before the Board meeting. Written materials or comments submitted may not warrant action by the Board.

Comments Regarding Staff Members

A person speaking during the designated portion of the agenda for public comment may offer objective criticism of district operations and programs. The Board will not hear comments regarding any individual district staff member. The Board chair will direct the visitor to the procedures in Board policy KL - Public Complaints for consideration of a legitimate complaint involving a staff member. Any association contract governing the employee's rights will be followed. A commendation involving a staff member should be sent to the superintendent, who will forward it to the employee, a supervisor and the Board.

END OF POLICY

Legal Reference(s):

[ORS 165.535](#)
[ORS 165.540](#)

[ORS 192.610 - 192.690](#)
[ORS 332.057](#)

[ORS 332.107](#)

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).

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

Baca v. Moreno Valley Unified Sch. Dist., 936 F. Supp. 719 (C.D. Cal. 1996).

Leventhal v. Vista Unified Sch. Dist., 973 F. Supp. 951 (S.D. Cal. 1997).

Oregon House Bill 2560 (2021).

Cross Reference(s):

BDDC - Board Meeting Agenda

KC - Community Involvement in Decision Making

Blachly School District #90

Code: BDDH-AR
Revised/Reviewed: 2/21/18; 11/17/21

Public Comment at Board Meetings

The Board requests that a public comment add information or a perspective that has not already been mentioned previously, and that the patron refrains from repeating a similar point.

To provide public comment in person, if the opportunity is available on the Board agenda, please submit the Intent to Speak request to the Superintendent, Monday of the week of the Board meeting to comments@blachly.k12.or.us. Those attending virtually and want to provide public comment should submit the Intent to Speak request to the Superintendent, Monday of the week of the Board meeting to comments@blachly.k12.or.us.

A person speaking during the public comment portion of the meeting may comment on a topic not on the published agenda. A person providing public comment will be allowed three minutes. Signing up to provide public comment does not guarantee time will be available.

Any person, who is allowed to speak to the Board during a meeting, should state their name, whether they are a resident of the district and, if speaking for an organization, the name of the organization. A spokesperson should be designated to represent a group with a common purpose.

Comments about a specific employee or group of employees should comply with Board policy BDDH - Public Comment at Board Meetings:

“A person speaking during the designated portion of the agenda for public comment may offer objective criticism of district operations and programs. The Board will not hear comments regarding any individual district staff member. The Board chair will direct the visitor to the procedures in Board policy KL - Public Complaints for consideration of a legitimate complaint involving a staff member. Any association contract governing the employee’s rights will be followed. A commendation involving a staff member should be sent to the superintendent, who will forward it to the employee, a supervisor and the Board.”

SEE FORM ON REVERSE

INTENT TO SPEAK

The Board welcomes input. To provide in-person public comment please complete the request at comments@blachly.k12.or.us that can be found on the District and School websites Monday the week of the Board meeting.

Name: _____ Phone: _____

Name of organization (if applicable): _____

Address: _____

Email (optional): _____

Topic or comment to be presented (brief description): _____

A complaint brought before the Board shall be referred to the proper school authorities. A complaint shall be processed in accordance with Board policy KL - Public Complaints and KL-AR - Public Complaints Procedure. A hearing conducted by the Board regarding personnel may take place in an executive session.

The Board requests that a topic or comment is limited to three minutes or less.

Regular School Board Meeting
Wednesday, January 19, 2022 6:00 PM Pacific

Blachly School District #90---Board Zoom
Meeting Link
20264 Blachly Grange Rd.
Blachly, OR 97412

Dwight Coon: Present
Meleah Drago: Present
Jeff Eastburn: Absent
Derek Pennel: Present
Bev Schiesser: Present
Lanae Sjostrom: Present
Jeff Thiessen: Present

Present: 6, Absent: 1.

Staff in attendance: Lisa Wagner, Dennis Boyd, Kelly Goodwin, Gwendolynn Coons, Pat Rufo, Sadie Mooney and Shane Bencoter. Guests in attendance: Chris Schmidt, Kristen Miles, Rob Lafferty

Lanae Sjostrom: Absent

Present: 5, Absent: 2.

Staff in attendance: Lisa Wagner, Dennis Boyd, Kelly Goodwin, Gwendolynn Coons, Pat Rufo, Sadie Mooney, Shane Bencoter, Aria Richardson, Ray Yarbrough, Ulises Rodriguez. Guests in attendance: Chris Schmidt, Kristen Miles, Rob Lafferty, Carlos Sequeira, Leonora Kent

1. CALL TO ORDER

Board Chair Coon called the meeting to order at 6:02 pm.

2. WELCOME GUESTS AND VISITORS

3. PUBLIC FORUM/COMMUNICATIONS

Ms. Lisa Wagner shared a comment about public relations. She shared an article from OSBA about how to gain community interest in your meetings and form good public relations.

4. CHANGES OR ADDITIONS TO THE AGENDA

Superintendent Watkins asked that we move Ms. Miles presentation on the agenda, to right before enrollment, there were no disagreements.

5. CONSENT AGENDA

5.1. BOARD MINUTES

There were no questions or concerns with the November and December Board Minutes.

5.2. APPROVE STAFF HIRE

Superintendent Watkins announced the hire of Daniel Morgan for the Custodian position and welcomed him to our team.

5.3. FINANCIAL REPORT

The Business Manager presented the Financials for December 31, 2021. The audit ending 2020-21 is complete and annual financial reports submitted to the state. They will be available on the Blachly website. Highlighted in the financials are increases in assets, decreases in revenues, and PERS liability increase. Auditors also did an SIA grant audit which reviewed financial transactions,

governing body monitoring, exposure to the community, and performance growth targets. General fund beginning balance increased and the State School Fund estimate now includes the online student count. Additional revenue is 1.39 million. With the increase in revenue, estimates of expenditures for the online program increased and is included in the report. Ending fund balance is \$452,126. Director Pennel wanted to verify that the addition of State School Fund is increasing the bottom line of the General Fund and Ms. Rufo affirmed that is correct.

A supplemental budget is being prepared and Ms. Rufo requests a budget meeting be held immediately prior to the February School Board meeting. If approved by the Budget Committee the board would be able to approve the budget during the Board Meeting. A list of deferred and necessary maintenance projects was read and funds will be in the budget to address some of them. Director Schiesser requested budget packets be sent out well before the budget meeting.

5.4. FIRST READING 2022-23 BUDGET CALENDAR

There were no questions in regards to the Budget Calendar.

5.5. POST BUDGET COMMITTEE VACANCIES

Superintendent Watkins reminded the board that they are a helpful resource for gathering people to fill the seats on the budget committee. We will look to get these seats filled by the end of March.

5.6. MOTION

Director Pennel moved to approve the consent agenda as presented/amended. This motion, made by Derek Pennel and seconded by Lanae Sjostrom, Carried.

Jeff Eastburn: Absent, Dwight Coon: Yea, Meleah Drago: Yea, Derek Pennel: Yea, Bev Schiesser: Yea, Lanae Sjostrom: Yea, Jeff Thiessen: Yea
Yea: 6, Nay: 0, Absent: 1

6. REPORTS

6.1. APPROVE LANE ESD SERVICE PLAN

Director Pennel moved to approve LESD Service Plan as represented in Resolution 2122-02. This motion, made by Derek Pennel and seconded by Jeff Thiessen, Carried.

Jeff Eastburn: Absent, Dwight Coon: Yea, Meleah Drago: Yea, Derek Pennel: Yea, Bev Schiesser: Yea, Lanae Sjostrom: Yea, Jeff Thiessen: Yea
Yea: 6, Nay: 0, Absent: 1

Assistant Superintendent Carlos Sequeira and Nora Kent are here to present the annual Lane ESD Service Plan. Assistant Superintendent Sequeira thanked Board Chair Coon for being a member of the LESD Budget Committee last year.

Assistant Superintendent Sequeira stated that this is the 2nd year of the Service Plan. He shared some of the additional support listed in the service plan for this year.

Director Schiesser asked about the ability to get help with nursing services at our school.

Superintendent Watkins answered that this was not a priority for most of the districts involved due to most of them having their own nursing services. There was a group of about 5 small districts, including ourselves who were. LESD has helped in getting in place someone out of Douglas County who is working with these districts to help provide services. The LESD is helping provide funding for this as well for these small districts, including us.

6.2. FACILITIES AND ENROLLMENT PRESENTATION-TAP GRANT

Superintendent Watkins introduced Chris Schmidt, Associate Director of Cooperative Strategies, to present some of the findings he has. You can see his presentation here: <https://www.coopstrategies.com/portal/dropbox/service.aspx?fn=5597ecbf-cd0b-4e87-b93a-4438e6e7594a.pptx>

Mr. Schmidt presented the ODE Assessment summary, the ADA Assessment summary, Safety summary and Enrollment projections.

Mr. Schmidt gave a breakdown of each system that was inspected in the ODE assessment. We are in the good range for the facility condition index. This also does not take into account the age of the building. Director Pennel asked Mr. Schmidt to calibrate us among other districts.

Mr. Schmidt said that we are very good. The most common issues in districts are roofs and HVAC systems and we have these both done and in excellent condition.

Mr. Schmidt also shared that we have 17 areas where we have deficiencies and 4 of them account for about half of the work needed. He also shared items that were outside of the scope of the ODE assessment but that were brought up to possibly be prioritized projects.

Mr. Schmidt shared the enrollment span over the last 10 years and showed trends with cohorts. He also shared the addition of online enrollment, which has helped maintain and increase our enrollment while campus has been losing, especially since the Covid years.

Director Pennel asked if the trend is a secular one we are seeing among most districts due to Covid. Mr. Schmidt answered absolutely, there has been a noticeable drop in brick and mortar schools. They are hoping to see this trend start shifting back to campus schools, but it is a big question mark at this time.

Superintendent Watkins shared that Mr. Schmidt will continue to work with us on the long-range TAP Grant.

Director Schiesser asked, when the security people looked at our school, it seemed that a lot of the things brought up were in regards to our facility set up. Superintendent Watkins shared that those recommendations can be used to write up grants and used with other assessments done, but no money will come from that assessment on its own.

Director Pennel thanked Mr. Schmidt for this presentation and stated that he feels we don't celebrate our successes often. We are the only district in Lane county who does not have a bond helping with their facilities and we are still very high in our assessment. He thinks this speaks well of our maintenance plans and our work on additional funding to support our district.

There were no further questions.

6.3. ENROLLMENT

There were no questions in regards to the enrollment presented.

Superintendent Watkins shared that we will start in the next couple of months to advertise and work on gaining enrollment for the next school year.

6.4. CHARTER BOARD REPORT

Director Drago asked about the need for SPED staffing that was touched on in the report. Superintendent Watkins said that Principal Bottensek could answer to her question when it came time for her report.

Director Pennel asked about the position that was vacated by removing the District Board member and how it was filled. Ms. Wagner stated that they opened an at large position.

Director Pennel asked if it was ratified by the District Board. Ms. Wagner stated it wasn't. The position that Director Schiesser vacated was eliminated and a new position was created and

filled by another staff member. Ms. Wagner stated that it was her privy to decide the position and that the district board did not have to direct it. Director Pennel did not agree and should be discussed more in the joint meeting.

Director Schiesser asked about the parent concern about non-vaccinated students and parents. Can this be explained? She does not know what events they are being excluded from. Ms.

Wagner stated that she is not sure what the exact nature of this concern is. There might just be a perception that needs to be clarified. Director Pennel says he has also got this misperception brought up to him and he has tried to clarify it. Superintendent Watkins asks that these comments be directed to administration for clarification. Superintendent Watkins also directed Ms. Wagner that there would be possible complaints and that they be referred to administration and the complaint policy the district has in-place. Director Drago states that this might be due to the rule of no volunteers on campus and no coaches/assistants allowed if they are not vaccinated.

Director Drago states that parents are concerned that they can't find links to the Charter or Board meetings. Is there someone who is working on connecting all the websites so that it is easy to move from website to website and make communication/availability more accessible or user-friendly? Superintendent Watkins feels that we are communicating much better now than before. The addition of ParentSquare has helped hugely with communication getting to families immediately. Our District website is new but we are working on sharing it more. But we have several outlets of communication now to push info out to families. Ms. Wagner says the Charter Board has also been discussing how they can better share their information.

6.5. FACILITIES REPORT

Director Drago asked if some of the landscaping was going to get covered through grants instead of general funds. Superintendent Watkins answered that most of the front area will be covered under the ESSER grant. The parts around the back of the building will not be able to be included with a grant.

6.6. TRANSPORTATION/TECHNOLOGY REPORT

Director Drago asked when we would get the new bus. Superintendent Watkins states that we are looking at a grant to help cover some costs. If we are able to get this, then we will have funds to put towards a replacement for the green van. Mr. Boyd is looking into this and the stock bus is done. We just need to finalize the process. We are hoping to have the bus no later than next school year.

Director Drago asked what brand of bus we were looking at and how many passengers. Mr. Boyd stated it is the largest bus BlueBird makes, so it would look like buses 6 and 7. It is already made and we just have a couple of final changes to specify it for us.

6.7. PRINCIPAL'S REPORT

Superintendent Watkins asked Director Drago to circle back to her SPED question in regards to aides. Do we need more aides and support? Ms. Bottensek states that we currently have all of our positions filled now after some shuffling from staff changes. What we are feeling now are two positions being filled by people who are long-term subs and also two subs who are unable to sub at this time. Ms. Bottensek feels that most of the stress right now is the lack of subs for our aides, but she does not expect this to be long term. Superintendent Watkins shares that most districts in Oregon are feeling the stress of lack of subs for all areas of the school. He feels that we have been fortunate in our ability to find the help that we have and gives credit to our staff for their outreach. Ms. Bottensek shares that the moving of two subs into long-term

sub positions has added stress, but she is very grateful that we have had the ability to fill these positions.

Director Schiesser asked if since winter break we have had an increase in absences of students and staff. Are we at a tipping point we need to be aware of? Superintendent Watkins and Principal Bottensek stated that the priority is keeping students on campus. We are not exempt from being impacted by the virus right now, both our HS basketball teams have been quarantined this week. But we are anticipating that most of them will be returning next week. At this time, there is no way to predict this trend of absences due to the virus but we have staff who have jumped in and filled the voids where needed. Ms. Bottensek adds that students who are out receive remote learning cover sheets from each of their teachers outlining what they need to do while learning remotely, as well as how to access support if needed.

6.8. SUPERINTENDENT'S REPORT

Superintendent Watkins thanks our staff for their efforts to adapt to the ongoing changes that have been going on this year. He commends all of our staff for the continued effort and support they are giving. Superintendent Watkins shared that the district received the AVID grant! We hope to get the details of the grant next week so we can start planning for the upcoming training this summer. We did write in our ESSER grant that AVID was a possibility, so we might be able to add additional staff into the training process using some of the ESSER funds. We have communicated this addition to staff. We are still waiting for the Pioneer grant to be signed. Jim Renard with Pioneer Connect has said he will reach out to us as soon as this is signed so we can start looking at projections and timetables.

Director Drago asked if Superintendent Watkins could send the details of the grant to the Board. She was wondering if Horton was excluded from this grant. Superintendent Watkins believes she is right and we wrote up the second grand which will cover the Horton area if we get it.

6.9. ANALYSIS OF CHARTER BOARD CONTRACT AND BYLAWS

Board Chair Coon asked the board to write down their questions to be able to have a more in depth conversation with Kristen Miles at a later time. Ms. Miles has quite a bit to share and this is a long board meeting so we can talk more in depth at a later date.

Kristen Miles was asked to provide support and training to the Charter Board and on how to conduct public meetings. During this time, Ms. Miles discovered we were violating the law by having a District Board member also acting as a voting member of the Charter Board. After that, she was asked to perform a deeper analysis into our charter contract and by-laws of the charter to help us make sure we were in compliance.

Ms. Miles shared her analysis with both boards. She feels that the Charter Contract is very inconsistent and contradicting. Her overall recommendation is that the roles of both boards need to be made very clear. Best practice is the District Board overseeing all things finance and the hiring and supervision of the Superintendent. The Charter board should be community relations, make recommendations on budget. The Superintendent manages contracts, day to day operations, hiring and managing the budget.

Ms. Miles feels that from her reading there is a lot of language that needs cleaning up to help prevent contradiction and confusion. Change some of the wordage that leaves room for interpretation. She suggests doing a reading and seeing if there is practice that is happening that isn't written up in the contract.

Director Schiesser asks what a re-write could look like. Are we bound by a certain number of

years? Ms. Miles says we can amend at any time as long as both parties agree.

Director Pennel asks if there is a difference of understanding between the two boards about the contract, how is it decided? Ms. Miles states that if there can not be an agreement, then that is when you get the help of a lawyer. She wants to specify that the most important thing about a contract is clarification.

Ms. Miles shares that she has done work with Days Creek and she feels like they are a good example of a school with two boards like ours. She has done work with them in the past and feels like they have their boards set up and working very well together. This is just a reference if we want to look into checking in with another district.

Ms. Miles recommends that the two boards have a joint meeting to discuss the conflicts that are steeped in the contract.

Director Pennel asked, why is it not recommended that staff make up the charter board? Ms. Miles states this is a real challenge and also a unique situation that she doesn't see often. It presents issues when voting and if the item to be voted on could cause a conflict of interest, which comes up often. The teachers and or staff on the board would need to remove themselves from the discussion and voting. It is a risk with conflict of interest and ethical violations.

Board Chair Coon asked if there were any additional questions. Ms. Miles really stressed that both parties needed to get together and work through the contract, search for clarity and continue to work on the relationship between the two boards.

Board Chair Coon would like us to discuss a timeline for getting both boards together and also looking into having a moderator there to facilitate the meeting. Superintendent Watkins will discuss opportunities with both boards and look into when to come together and look into someone to facilitate the meeting as well.

Director Pennel suggests that the first meeting is to cover all the black and white areas where it is clear that we are not in compliance with the law, then have another meeting to come together to work on other contract issues. Starting with the review of the Matrix might be a good place to start. Both Board Chair Coon and Director Schiesser agree the Matrix is a good starting point. The board agrees that Superintendent Watkins can start looking at moving forward with planning a joint meeting of the boards.

7. UNFINISHED BUSINESS

8. SECOND READING OF POLICY BDDH

Director Pennel moved to approve Policy BDDH as presented/amended. This motion, made by Derek Pennel and seconded by Bev Schiesser, Carried.

Jeff Eastburn: Absent, Lanae Sjostrom: Absent, Meleah Drago: Nay, Dwight Coon: Yea,

Derek Pennel: Yea, Bev Schiesser: Yea, Jeff Thiessen: Yea

Yea: 4, Nay: 1, Absent: 2

Meleah Drago: Nay

Director Drago suggests not adopting this policy at this time due to our changes in meeting style presently. She feels it gives a negative feeling to our community at this time. Superintendent Watkins shared that this is just an amendment to an already existing policy.

Director Pennel states that he feels that we already had a work session to cover this and at that time we agreed to do this. Why would we then change our minds now?

Director Schiesser states that she likes this one. It gives people time to speak without interruption

and guarantees they have time to speak and share.
Board Chair Coon shares this sentiment and urges the board to move to approve this policy.

9. NEW BUSINESS

9.1. LANE ESD BUDGET COMMITTEE APPOINTMENT

Director Pennel moves to elect Director Coon for the position of Lane ESD budget member. This motion, made by Derek Pennel and seconded by Jeff Thiessen, Carried.
Jeff Eastburn: Absent, Lanae Sjostrom: Absent, Dwight Coon: Yea, Meleah Drago: Yea, Derek Pennel: Yea, Bev Schiesser: Yea, Jeff Thiessen: Yea
Yea: 5, Nay: 0, Absent: 2

Board Chair Coon served last year but his time is up. He offered to serve again if it was the decision of the board. This is a three-term commitment to be on the Budget Committee for Lane ESD.

10. THE BOARD MAY RECESS THE REGULAR MEETING AND CONVENE EXECUTIVE SESSION

The board recessed the regular meeting to convene for an executive session at 8:32pm.

11. RECONVENE REGULAR SESSION

Board Chair Coon reconvenes regular session at 8:56 pm.

12. ANNOUNCEMENTS

12.1. UPCOMING BOARD MEETING

Director Schiesser and Board Chair Coon will make up the team to work with Superintendent Watkins in the upcoming contract negotiations with the classified group.
There will be a Special Regular Board Meeting this coming Wednesday, January 26th at 7:00 pm

12.2. ADJOURN THE REGULAR MEETING

Board Chair Coon adjourned the meeting at 8:58 pm.

Special-Regular School Board Meeting
Wednesday, January 26, 2022 7:00 PM Pacific

Blachly School District #90---Board Zoom
Meeting Link
20264 Blachly Grange Rd.
Blachly, OR 97412

Dwight Coon: Present
Meleah Drago: Present
Jeff Eastburn: Present
Derek Pennel: Absent
Bev Schiesser: Present
Lanae Sjostrom: Present
Jeff Thiessen: Absent

Present: 5, Absent: 2.

Staff: Brittany Bottensek, Gwendolynn Coons, Aria Richardson, Kelly Goodwin, Bri Simington
Guests: Tammy Bionda,

Derek Pennel: Present

Present: 6, Absent: 1.

Staff: Brittany Bottensek, Gwendolynn Coons, Aria Richardson, Kelly Goodwin, Bri Simington, Lisa Wagner
Guests: Tammy Bionda,

1. CALL TO ORDER

Board Chair convenes the meeting at 7:05 pm

2. WELCOME GUESTS AND VISITORS

3. CHANGES OR ADDITIONS TO THE AGENDA

4. THE BOARD WILL RECESS THE SPECIAL- REGULAR MEETING AND CONVENE EXECUTIVE SESSION

Board Chair Coon recesses the meeting to convene an executive session at 7:06 pm.

5. RECONVENE THE SPECIAL-REGULAR BOARD MEETING

Director Pennel makes a motion for the amendment of the 19-22 contract of Adam Watkins, he moves to allow him to exchange his unused vacation days in excess of 30 days in exchange for his prorated salary. This motion, made by Derek Pennel and seconded by Jeff Eastburn, Carried.

Jeff Thiessen: Absent, Dwight Coon: Yea, Meleah Drago: Yea, Jeff Eastburn: Yea, Derek Pennel: Yea, Bev Schiesser: Yea, Lanae Sjostrom: Yea
Yea: 6, Nay: 0, Absent: 1

Board Chair Coon reconvened the regular meeting at 8:13 pm.

6. ANNOUNCEMENTS

The next regular board meeting was scheduled for February 16th. The board discussed moving this meeting back to February 23rd. The board is all in agreement to move this meeting. Director Schiesser asked if this was the day we also had the special revenue meeting. We will make sure all communication reflects this change in date to the 23rd of February.

The February Regular Board Meeting will be Wednesday, February 23, 2022.

7. ADJOURN THE SPECIAL-REGULAR BOARD MEETING
Board Chair Coon adjourns the meeting at 8:18 pm.

2021-22 General Fund Financial Summary

Blachly School District

January 31, 2022

	Original Budget	Jul Actual	Aug Actual	Sep Actual	Oct Actual	Nov Actual	Dec Actual	Jan Actual	Feb Estimate	Mar Estimate	Apr Estimate	May Estimate	Jun Estimate	Final Total	Over/ (Under)
Revenue															
State School Fund	3,077,460	521,269	260,478	260,478	260,478	336,612	336,612	336,612	336,612	336,612	495,592	495,592	(27,098)	3,949,849	872,389 (1)
State Timber Sales	100,000	-	317,165	242,960	-	-	32,576	-	-	-	-	-	-	592,702	492,702
Property Taxes	334,245	608	727	718	576	230,420	87,217	5,408	1,877	3,363	596	692	2,042	334,245	0
Federal Forest Fees		-	-	-	-	-	-	-	-	-	-	-	-	-	-
Interest Earnings	12,000	386	453	465	356	351	384	371	426	436	456	476	456	5,015	(6,985)
Common School Fund	24,160	-	-	-	-	-	-	13,749	-	-	-	-	-	13,749	3,338
Other County Revenue		-	305	-	-	199	-	-	-	-	-	-	-	504	504
Rentals		-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other Small Grants	2,600	-	-	-	-	-	-	-	-	2,600	-	-	-	2,600	-
Lane ESD Flex Dollars	39,031	-	-	-	-	-	-	-	9,758	-	4,222	4,222	4,221	22,423	(16,608)
Miscellaneous	8,000	-	6,382	982	-	459	29	-	645	655	664	713	581	11,111	3,111
County School Fund	2,000	-	-	-	-	-	-	-	-	-	-	-	2,000	2,000	-
Indirect		-	-	-	-	-	-	-	-	-	-	-	-	-	-
Interfund Transfers		-	-	-	-	-	-	-	-	-	-	-	-	-	-
Beginning Fund Balance	330,650	447,220												447,220	116,570

Total Revenue	3,930,146	969,483	585,510	505,603	261,410	568,041	456,819	356,139	349,318	343,666	501,530	501,695	(4,049)	5,395,166	1,465,020
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Expenditures															
Salaries	1,750,300	49,603	54,444	169,097	173,400	177,196	182,854	187,242	223,926	223,775	223,775	223,775	486,066	2,375,153	624,853
Benefits	1,147,126	25,470	30,339	107,832	106,601	106,842	110,825	107,402	141,327	141,268	141,268	141,268	249,805	1,410,246	263,120
Purchased Services	200,961	15,596	18,359	16,718	43,281	26,841	21,642	28,096	27,835	28,385	27,635	28,517	13,510	296,415	95,454
Supplies and Materials	198,431	10,495	8,534	10,726	10,771	38,938	9,167	12,435	66,383	66,383	66,383	66,383	95,965	462,563	264,132
Other	108,285	83,433	1,156	447	(379)	2,711	2,988	581	2,434	2,434	2,434	2,434	2,434	103,108	(5,177)
Transfers	250,678	-	-	-	-	-	-	-	-	-	-	-	295,678	295,678	45,000
Contingency	274,365	-	-	-	-	-	-	-	-	-	-	-	-	-	(274,365)

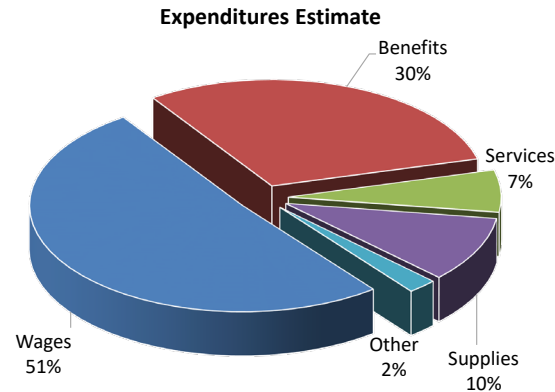
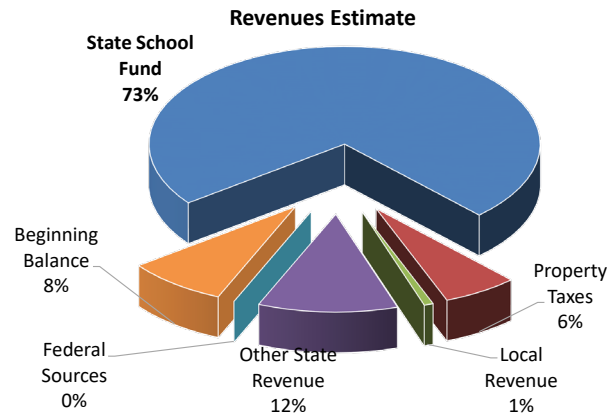
Total Expenditures	3,930,146	184,596	112,832	304,819	333,674	352,528	327,476	335,757	461,906	462,246	461,496	462,377	1,143,458	4,943,164	1,013,018
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Ending Fund Balance -

452,002

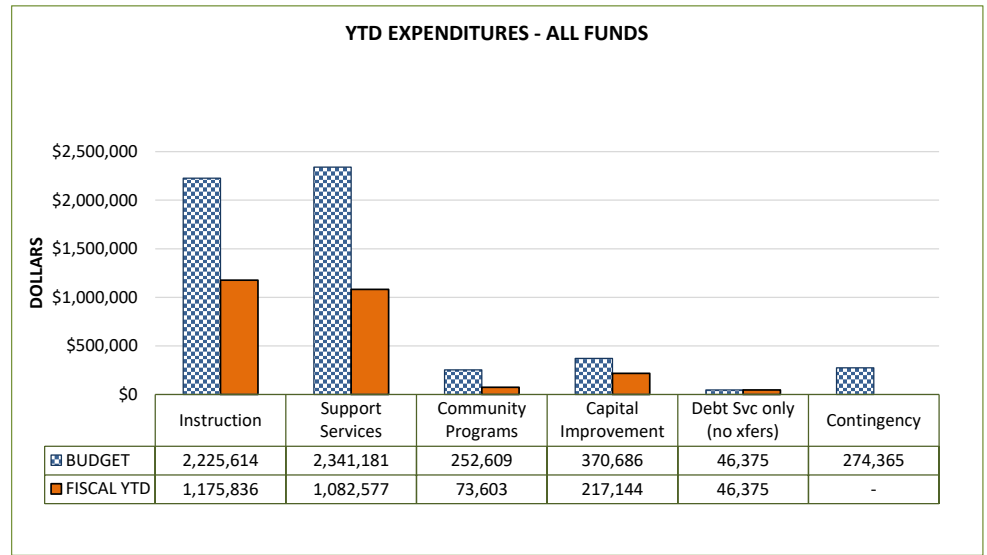
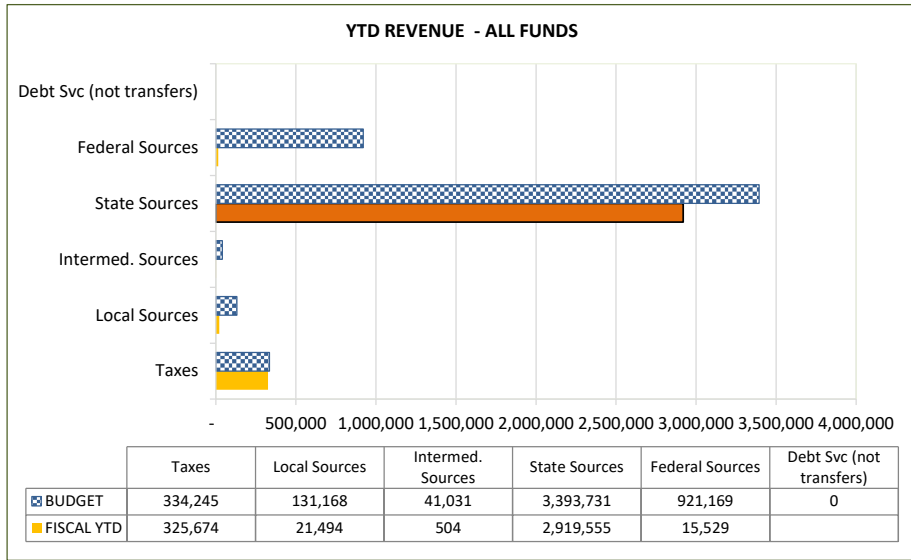
452,002

(1) Budgeted SSF is based on 230 ADM.
Estimates based on 363 ADM



Contingency fund is at 8.38% of estimated revenue

ALL FUNDS YEAR-TO-DATE ACTUALS



ALL FUNDS YTD	BUDGET	REVENUES	EXPEND.	NET	EXPEND. % OF BUDGET
General Fund	\$ 3,930,146	\$ 3,703,005	\$ (1,951,682)	\$ 1,751,323	50%
Grants, Non-Capital	\$ 1,018,089	\$ 17,704	\$ (402,221)	\$ (384,517)	40%
Vehicle Replacement	\$ 153,063	\$ 85,354	\$ (21,660)	\$ 63,694	14%
PERS Reserve	\$ 131,104	\$ 106,104	\$ -	\$ 106,104	0%
Food Service	\$ 158,553	\$ 41,145	\$ (55,174)	\$ (14,029)	35%
Athletics	\$ 113,545	\$ 14,055	\$ (76,331)	\$ (62,276)	67%
Student Body	\$ 74,857	\$ 45,169	\$ -	\$ 45,169	0%
Capital Projects	\$ 67,982	\$ 56,606	\$ (72,797)	\$ (16,191)	107%
Unemployment Reserve	\$ 44,500	\$ 55,500	\$ -	\$ 55,500	0%
Scholarship Funds	\$ 775,669	\$ 773,148	\$ (15,670)	\$ 757,478	2%
TOTALS	\$ 6,467,508	\$ 4,897,790	\$ (2,595,535)	\$ 2,302,255	40%

MONTHLY ACTIVITY - ALL FUNDS

	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
REVENUES	2,137,428	585,649	510,656	263,615	585,121	458,914	356,407	-	-	-	-	-
EXPENDITURES	(232,684)	(169,951)	(459,217)	(391,277)	(465,711)	(446,866)	(429,829)	-	-	-	-	-
MONTHLY NET	1,904,744	415,698	51,439	(127,662)	119,410	12,048	(73,422)	-	-	-	-	-

OSBA Model Sample Policy

Code: DH
Adopted:

~~Bonded Employees and Officers~~ Loss Coverage

~~All district employees responsible for funds, fees, cash collections or inventory control will be bonded to protect the district against loss in an amount determined by the Board and upon recommendation of the district's agent of record. In compliance with Oregon statutes and administrative rules, the superintendent[, custodian of funds and other individuals as deemed necessary by the Board] will have individual fidelity bond coverage or equivalent crime coverage. The district will pay the cost of such coverage.~~

The Board and designated district employees are responsible to safeguard the district against loss regarding funds, fees, cash collections and inventory. The Board shall designate the district employees responsible as custodians of such items. The district shall purchase bond coverage or equivalent crime coverage in an amount determined by the Board[, in consultation with the district's agent of record]. The district will pay the cost of such coverage.

END OF POLICY

Legal Reference(s):

[ORS 328.441](#)

[ORS 332.525](#)

[OAR 581-022-2405](#)

OSBA Model Sample Policy

Code: GBL

Adopted:

Personnel Records *

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

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

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

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

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

¹ Includes former employees.

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

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

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

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

END OF POLICY

Legal Reference(s):

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

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

[ORS Chapter 659A](#)
[OAR 581-022-2405](#)

OSEA v. Lake County Sch. District, 93 Or. App. 481 (1988).
Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12112 (2018); 29 C.F.R. Part 1630 (2019); 28 C.F.R. Part 35 (2019).
Americans with Disabilities Act Amendments Act of 2008, 42 U.S.C. § 2000ff-1 (2018).

OSBA Model Sample Policy

Code: GBLA

Adopted:

D

Disclosure of Information

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

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

END OF POLICY

Legal Reference(s):

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

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

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

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

E

OSBA Model Sample Policy

Code: DBDB
Adopted:

Fund Balance

The Board recognizes its responsibility to establish an unrestricted fund balance¹ in an amount sufficient to:

1. Protect the district from unnecessary borrowing in order to meet cash-flow needs;
2. Provide prudent reserves to meet unexpected emergencies and protect against catastrophic events;
3. Meet the uncertainties of state and federal funding; and
4. Help ensure a district credit rating that would qualify the district for lower interest costs and greater marketability of bonds that may be necessary in the construction and renovation of school facilities.

Consequently, the Board directs the ~~{superintendent}~~ to manage the currently adopted district budget in such a way to ensure an ending fund cash balance of at least ~~{8}~~ percent of total adopted revenues.

In determining an appropriate unrestricted fund balance, the Board will consider a variety of factors with potential impact on the district's budget including the predictability and volatility of its expenditures²; the availability of resources in other funds as well as the potential drain upon general fund resources from other funds³; liquidity⁴; and designations⁵. Such factors will be reviewed annually.

END OF POLICY

Legal Reference(s):

[ORS 294.311\(18\)](#)

[ORS 294.398](#)

[ORS 332.107](#)

¹ The Government Finance Officers Association (GFOA) recommends, at a minimum, that general-purpose governments, regardless of size, maintain an unrestricted fund balance in their general fund of no less than 5 to 15 percent of regular general fund operating revenues, or of no less than one to two months of regular general fund operating expenditures. The Oregon Association of School Business Officials recommends, at a minimum, an unrestricted ending fund balance of no less than 3 to 8 percent of the general fund budget. In general practice, levels of fund balance, typically, are less for larger governments than for smaller governments because of the magnitude of the amounts involved and because the diversification of their revenues and expenditures often results in lower degrees of volatility.

² Higher levels of unrestricted fund balance may be needed if significant revenue sources are subject to unpredictable fluctuations or if operating expenditures are highly volatile.

³ The availability of resources in other funds may reduce the amount of unrestricted fund balance needed in the general fund, just as deficits in other funds may require that a higher level of unrestricted fund balance be maintained in the general fund.

⁴ The disparity between when financial resources actually become available to make payments and the average maturity of related liabilities may require that a higher level of resources be maintained.

⁵ The need to maintain a higher level of unrestricted fund balance to compensate for any portion of unrestricted fund balance already designated for a special purpose.

Notice
Budget Committee meetings are open and the public is invited to attend.
 Please keep this notice posted until June 30, 2022

BLACHLY SCHOOL DISTRICT #90
Draft 2022-23 Budget Calendar

2022

- April 20 Regular School Board meeting
 - April 27 Publish first Budget Committee meeting in Register-Guard & Fern Ridge Review
 - May 11 First Budget Committee meeting (Budget Message/public comment)**
 - May 18 Regular Board meeting
 - May 25 Second Budget Meeting - target date for approval**
 - June 8 Publish notice of budget hearing/summary in Register-Guard
 - June 15 Regular School Board meeting**
 - Budget Hearing
 - Adopt the budget
 - Make appropriations
 - Declare the Levy by fund
 - July 15 Deadline to certify the tax levy to the County Assessor**
-

Budget Committee Meeting

Times: 6:00 - 8:00 PM. or two hours length when starting time is delayed
Place: TBD – Virtual or TLCS Library

Additional meetings will be posted as necessary.

Charter Board Report to District Board

The Charter Board met Feb 2, 2022

Stakeholder Reports:

- Parents still concerned about Covid19 restrictions and rules around exemptions. Mostly negative comments about the restrictions. There were several positive comments about the lunch program and some improvements being made there, for example, kids are invited to make suggestions for changes or additions to the menu.
- Elementary students are making valentines for the Ronald McDonald House kids.
- Kelly Goodwin is starting a Fruit Tree Sale fundraiser for some after school enrichment activities.
- The online program held an aquarium field trip in Newport and it was a great success.

The Charter Board is looking for ways to increase communication and will be looking at sending out some messages via Parent Square. They are also pursuing making budget recommendations and will be gathering information from stakeholders and then holding a work session before in order to have information ready for February 16th.

There was a review of our contract, especially focusing on the Roles and Responsibilities Matrix. They are looking forward to working with the District Board to create procedures that will allow them to function within these roles.

There was a question about the MOU request made by the district, the current cap in the contract is not in compliance, the MOU response by the Charter Board was sent in October but there has been no District Board answer to that as of this meeting.

The issues with the By-Laws for the Charter Board were addressed, any legal issues not already changed were addressed and corrected.

Board Maintenance Report

February 9th, 2022

MODULAR OFFICE

The building permits and special use permit are still under review at Lane County.

FOOTBALL IRRIGATION

I have received one quote on the football field irrigation project and am currently waiting for others to compare and present recommendations.

LANDSCAPING

There are several areas around campus that are I am considering different options to upgrade the appearance and reduce maintenance. I have met with several landscapers and hope to have different options to review and discuss in our upcoming maintenance committee meeting.

PLAYGROUND

I have contacted the Buell Recreation to revisit the previously quoted playground and have reapplied for their matching fund grant.

Along with the quote on equipment they are giving us options and pricing for the surface area the proposed playground will be placed on.

Board Report for February Board Meeting

Technology:

- 1) 25 new chromebooks received and will be used to replace failing chromebooks and outfit new students.

Transportation:

- 1) Procured a new van to replace aging activity van.
- 2) Final application submitted for new bus driver and will be driving by 2/14 most likely (awaiting ODE response).
- 3) An additional person has expressed interest in being a substitute driver.

District Board Meeting: Triangle Lake Charter School Report

February Meeting

- **Elementary Music Concert was January 27th. Mr. Schlea and the K-5 students did a great job.**
- **Winter Sports season is winding down.**
 - **MS boys have their last league game tomorrow evening at Eddyville and the league tournament is on Friday the 18th at Siletz.**
 - **HS boys & girls had their last league game last night at Siletz**
 - **Two home play-in games this week for HS basketball**
 - **Boys will play Eddyville in a play-in game on Wednesday the 16th at 7:00pm**
 - **Girls will play the winner of the Mapleton- Alsea game in a play-in game on Thursday the 17th at 5:30pm**
 - **Mountain West League Tournament at Junction City HS on Saturday the 19th.**
- **K-5 Students will be celebrating Two's Day on Tuesday, 2-22-22.**
- **Portrait of a Graduate Task Force will be meeting for the first time on Wednesday, February 23rd from 6:00 to 8:00pm with the Consultants from Lane ESD as we begin this important work.**
- **Spring sports season is quickly approaching:**
 - **HS Track & Field just before Spring Break**
 - **MS Track & Field the Monday after Spring Break**
- **The Spring Play returns this year! Mr. Schlea has already chosen the play and has several very excited HS students ready to get started with practices very soon.**

BLACHLY SCHOOL DISTRICT #90
Triangle Lake Charter Schools
20264 Blachly Grange Road
Blachly, OR 97412
(541) 925-3262
www.blachly.k12.or.us

RESOLUTION
Blachly S.D. #2021-22-006

BE IT RESOLVED, that the Board of Directors, School District #90, Lane County, hereby authorizes Superintendent Adam Watkins, Principal Brittany Bottensek and Executive Secretary Anni Thiessen to handle all Student Body transactions and Adam Watkins, Brittany Bottensek and Linda Richardson to sign checks.

Adopted by the Blachly School Board of Directors at a regular school board meeting held on February 15, 2022.

Attest: _____
Dwight Coon, Board Chair

Attest: _____
Adam Watkins, Superintendent

Blachly SD Budget Summary 2021-22

	Adopted Budget	Feb 2022 Supplemental Budget	Revised Budget
General Fund (100)			
1000 Instruction	\$ 1,810,427	1,092,440	\$ 2,902,867
2000 Support Services	\$ 1,569,961	\$ 114,100	\$ 1,684,061
3000 Community/Enterprise Services	\$ -		\$ -
5100 Debt Service	\$ 24,715		\$ 24,715
5200 Transfer of Funds	\$ 250,678	\$ 183,000	\$ 433,678
6000 Contingency	\$ 274,365		\$ 274,365
	\$ 3,930,146	\$ 1,389,540	\$ 5,319,686
Special Revenue Funds (200-299)			
1000 Instruction	\$ 415,186		\$ 415,186
2000 Support Services	\$ 689,389	\$ 42,000	\$ 731,389
3000 Community/Enterprise Services	\$ 167,940		\$ 167,940
4000 Capital Improvement	\$ 345,036		\$ 345,036
5100 Debt Service	\$ 21,660		\$ 21,660
	\$ 1,639,211	\$ 42,000	\$ 1,681,211
Capital Projects Fund (400)			
2000 Support Services	\$ 42,332		\$ 42,332
4000 Capital Improvement	\$ 25,650	\$ 141,000	\$ 166,650
	\$ 67,982	\$ 141,000	\$ 208,982
Internal Service Fund (601)			
2000 Support Services	\$ 39,500		\$ 39,500
Scholarship Funds (700-705)			
3000 Community/Enterprise Services	\$ 84,669		\$ 84,669
Total Appropriations	\$ 5,761,508	\$ 1,572,540	\$ 7,334,048
Unappropriated	706,000	-	706,000
Total Adopted Budget	\$ 6,467,508	1,572,540	8,040,048

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Unappropriated	706,000	-	706,000
Total Adopted Budget	\$ 6,467,508	1,572,540	8,040,048

OSBA Model Sample Policy

Code: EEAB-AR

~~Adopted~~ Revised/Reviewed:

School Bus Scheduling and Routing*

Actual bus stops and routes will be determined by the {transportation director} and will be based upon efficiency, safety, Board policy and applicable state and federal laws and rules.

The determination of safe roads for school bus travel will be made by the {transportation director}.

The superintendent {or designee} will:

1. Annually review and assess school bus routes, stops and loading zones for safety, changing student population and supervision of students;
2. Advise parents of any changes in transportation policy affecting their students as early as possible and be responsive to parents' calls for assistance in seeking alternatives to busing; and
3. Work with cities, the county and other appropriate governmental agencies on a continuing basis regarding transportation issues.

School bus routes will be planned and organized to ensure student safety and receive the maximum bus use efficiency.

1. Student safety will be the major part of any route decisions.
2. Bus routing will be the responsibility of the transportation supervisor, or delegated representative, with the administrator's assistance.
3. Anyone requesting a route change will be referred to the transportation supervisor or delegated representative.
4. Route conditions will be reviewed routinely.
5. Routes will be planned to ensure the least possible amount of time elapsing from first pick-up to school, commensurate with economical efficiency.
6. Bus routes will traverse city, county, state or federal roads using district discretion.
7. Students living within one mile of school may be transported for health, safety and disability reasons when an approved supplemental plan is on file.
8. Secondary students eligible for bus transportation may be expected to walk up to one and one-half miles to a bus stop. Elementary students may be expected to walk up to one mile to a bus stop.
9. Where feasible, bus stops will be designated and students will be expected to gather at the assigned stop.

10. A fully supported seat shall be provided each student. Students must not stand.
11. Students may be transferred directly from one bus to another while being transported to and from school.
12. Transportation of students for nonschool group activities during regular school to home routes shall, in order to ensure adequate space, require written request from the parent and prior approval from the transportation supervisor.

~~13. Staff members and patrons may, with written administrative approval, use transportation routes if load conditions permit. A liability release must be signed prior to authorization.~~

~~END OF POLICY~~

~~Legal Reference(s):~~

~~ORS 332.405~~

~~OAR 581-023-0040~~

~~OAR 581-053-0031~~

~~OAR 581-053-0004~~

OSBA Model Sample Policy

Code: GBA-AR
Revised/Reviewed:

Veterans' Preference

Oregon's Veterans' Preference Law requires the district to grant a preference to qualified and eligible veterans and disabled veterans at each stage in the hiring and promotion process. To be **qualified** for veterans' preference, a veteran or disabled veteran must meet the minimum and any other special qualifications required for the position sought. To be **eligible** for veterans' preference, a veteran or disabled veteran must provide certification they are a veteran or disabled veteran as defined by Oregon law².

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

A veteran may submit a written request to the district for an explanation of the reasons why they were not selected for the position.³ The district shall provide the reasons for not selecting the candidate when requested.

Recruitment Procedures

All job postings or announcements will include a concise list of minimum and any special qualifications required for the position. Job postings will include a statement that the district's policy is to provide veterans and disabled veterans with preference as required by law and the job posting will require applicants to provide certification⁴ of eligibility for preference, in addition to other requested materials.

Selection Procedures⁵

¹ See Oregon Revised Statute (ORS) 408.235.

² See Oregon Revised Statute (ORS) 408.225; and OAR 839-006-0440 for definitions of veteran and disabled veteran.

³ ~~Oregon Revised Statute (ORS) 408.230(5)~~

⁴ See Verification of Veteran's Preference (OAR 839-006-0465). An ~~veteran~~ applicant claiming veteran's or disabled veteran's preference will submit: ~~(a)~~ a copy of their Certificate of Release or Discharge from Active Duty (DD Form 214 or 215); ~~or (b)~~ ~~proof of receiving a nonservice-connected pension from the U.S. Department of Veterans Affairs~~ or a certification that the veteran is expected to be discharged or released from active duty under honorable conditions not later than 120 days after the submission of the certification. A disabled veteran ~~will~~ may also submit a copy of their letter from the U.S. Department of Veterans Affairs ~~verifying disabled veteran status~~, unless the information is included in the DD Form 214/215 or a certification that the veteran is expected to be medically separated from active duty under honorable conditions not later than 120 days after the submission of the certification.

⁵ ~~OSBA recommends use of a scored system.~~ If the district chooses not to use a scored system the law requires that the district give special consideration in the district's hiring decision to veterans and disabled veterans and the district will need to be able to demonstrate the method used for providing special consideration. ORS 408.230(2)(c).

- Step 1: Before the review of any applications the {hiring supervisor} will establish an evaluation scoring guide based on the minimum and any special qualifications listed in the job posting.
- Step 2: The {hiring supervisor} will review the application materials using the ~~above~~ evaluation scoring guide to determine which applicants meet the minimum and any special qualifications listed in the job posting. In assessing the applicant materials of a veteran or disabled veteran the [human resource director] shall evaluate whether the skill experience obtained in the military are transferable to the posted position. ~~In this step the district does not apply a veterans' preference.~~ Any applicants that do not meet the minimum and any special qualifications shall be removed from the applicant pool.
- Step 3: Based on Step 2, the {hiring supervisor} determines who will be interviewed. All qualified and eligible veterans or disabled veterans shall be given an opportunity to interview.
- Step 4: Interview questions and scoring sheets will be developed and each scoring sheet must be completed after each interview by the interviewers.
- Step 5: Following completion of the interviews, the {hiring supervisor} shall complete the selection matrix and score the applicants based on the scoring sheets completed during interviews. Veterans' preference ~~points must~~ shall be applied by adding 5 percentage points to an eligible veteran and 10 percentage points to an eligible disabled veteran.⁶
- Step 6: The {hiring supervisor} makes the offer to the applicant with the highest final score. The district is not obligated to hire or promote a qualified and eligible veteran or disabled veteran. The district is obligated to hire or promote a qualified or eligible veteran or disabled veteran if they are equal or better than the top candidate after the veterans' preference has been applied.

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

Filing a Complaint

A veteran or disabled veteran is encouraged to contact the {hiring supervisor} if they have any concerns or questions concerning the application of or the process used for veterans' preference.

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

⁶The points are based on a 100 point scoring matrix. If a 100 point scoring matrix is not used, the district must use a multiplier equivalent to 5 percent for a veteran and 10 percent for a disabled veteran, or the equivalent.

OSBA Model Sample Policy

Code: GCBDA/GDBDA-AR(1)

Revised/Reviewed:

Oregon Family ~~Medical~~ Leave (OFLA) *

(For employers that offer OFLA or employers with 25 to 49 employees)

Coverage

The Oregon Family Leave Act (OFLA) and the Oregon Military Family Leave Act (OMFLA) covers districts that employ 25 or more part-time or full-time employees in Oregon based on employment during each working day during any of the 20 or more workweeks in the calendar year in which the leave is to be taken or in the calendar year immediately preceding the year in which the leave is to be taken.

Eligibility

An eligible employee is an employee employed in the state of Oregon on the date OFLA leave begins. OFLA applies to employees who work an average of 25 hours or more per week during the 180 calendar days or more immediately prior to the first day of the start of the requested leave.¹ For parental leave purposes, an employee becomes eligible upon completing at least 180 calendar days immediately preceding the date on which the parental leave begins. There is no minimum average number of hours worked per week when determining employee eligibility for parental leave.

An employee of a covered employer is eligible to take leave for purposes of OFLA during a period of time covered by a public health emergency except:

1. An employee who worked for the covered employer for fewer than 30 days immediately before the date on which the family leave would commence; or
2. An employee who worked for the covered employer for an average of fewer than 25 hours per week in the 30 days immediately before the date on which the family leave would commence.

An employee of a covered employer is eligible to take leave for purposes of OFLA if the employee:

1. Separates from employment with the covered employer:
 - a. Is eligible to take leave OFLA at the time the employee separates; and
 - b. Is reemployed by the covered employer within 180 days of separation from employment; or
2. Is eligible to take OFLA leave:
 - a. At the beginning of a temporary cessation of scheduled hours of 180 days or less; and
 - b. Returns to work at the end of the temporary cessation of scheduled hours of 180 days or less.

Any OFLA leave taken by the employee within any one-year period continues to count against the length of time of OFLA leave the employee is entitled. The amount of time that an employee is deemed to have worked for a covered employer prior to a break in service due to a separation from employment or a temporary cessation of scheduled hours shall be restored to the employee when the employee is

¹ The requirements of OFLA do not apply to an employer offering eligible employees a nondiscriminatory cafeteria plan, as defined by section 125 of the Internal Revenue Code of 1986, which provides as one of its options, employee leave at least as generous as leave required by OFLA.

reemployed by the employer within 180 days of separation from employment or when the employee returns to work at the end of the temporary cessation of scheduled hours of 180 days or less.

An employee who has previously qualified for and has taken some portion of OFLA leave, may request additional OFLA leave within the same leave year. In such instances, the employee must requalify as an eligible employee for each additional leave requested unless one of the following exceptions apply:

1. A female employee who has taken 12 weeks of pregnancy disability leave need not requalify leave in the same leave year for any other purpose;
2. An employee who has taken 12 weeks of parental leave need not requalify to take an additional 12 weeks in the same leave year for sick child leave; and
3. An employee granted leave for a serious health condition for the employee or a family member need not requalify if additional leave is taken in this leave year for the same reason, unless the reason is no longer qualifying.

OMFLA applies to employees who work an average of at least 20 hours per week. There is no minimum number of days worked when determining employee eligibility for OMFLA.

In determining if an employee has been employed for the preceding 180 calendar days, when applicable, the employer must consider days (e.g. paid or unpaid) an employee is maintained on payroll for any part of a workweek. Full-time public school teachers who have been maintained on payroll by a district for 180 consecutive calendar days are thereafter deemed to have been employed for an average of at least 25 hours per week during the 180 days immediately preceding the start date of the OFLA leave. This provision is eligible for rebuttal if for example the employee was on a nonpaid sabbatical.

In determining average workweek, the employer must count the actual hours worked using the Fair Labor Standards Act (FLSA) guidelines.

Qualifying Reasons

Eligible employees may access OFLA for the following reasons:

1. Serious health condition of the employee or the employee's covered family member:
 - a. Inpatient care;
 - b. Continuing treatment;
 - c. Chronic conditions;
 - d. Permanent, long-term or terminal conditions;
 - e. Multiple treatments;
 - f. Pregnancy and prenatal care.
2. Parental leave (separate from eligible leave as a result of the child's serious health condition):
 - a. Bonding with and the care for the employee's newborn (within 12 months following birth);
 - b. Bonding with and the care for a newly adopted or newly placed foster child under the age of 18 (within 12 months of placement);
 - c. Care for a newly adopted or newly placed foster child over 18 years of age who is incapable of self-care because of a physical or mental impairment (within 12 months of placement);
 - d. Time to effectuate the legal process required for placement of a foster child or the adoption of a child.

3. Sick Child Leave: leave for non-serious health conditions of the employee’s child. Sick child leave includes absence to care for an employee’s child whose school or child care provider has been closed² in conjunction with a statewide public health emergency declared by a public health official.³
4. Bereavement Leave: leave related to the death of a covered family member.⁴
5. Eligible employees may access OMFLA for the purpose of spending time with a spouse or same-gender domestic partner who is in the military and has been notified of an impending call or order to active duty or who has been deployed during a period of military conflict.
6. The eligibility of an employee who takes multiple leaves for different qualified reasons during the same district designated leave period may be reconfirmed at the start of each qualified leave requested.

Definitions

1. Family member:

For the purposes of OFLA, “family member” means:

- a. Spouse⁵;
- b. Same-gender domestic partner;
- c. Parent;
- d. Parent-in-law;
- e. Parent of employee’s same-gender domestic partner;
- f. Child;
- g. Child of employee’s same-gender domestic partner;
- h. Grandchild;
- i. Grandparent;
- j. Persons who are “in loco parentis”.

2. Child:

- a. For the purposes of OFLA, “child” means a biological, adopted, foster child or stepchild of the employee, the child of the employee’s same-gender domestic partner, or a child with whom the employee is or was in a relationship of “in loco parentis”.
- b. For the purposes of parental and sick child leave under OFLA, the child must be under the age of 18 or an adult dependent child substantially limited by a physical or mental impairment.

² “Closure” for the purpose of sick child leave during a statewide public health emergency declared by a public health official means a closure that is ongoing, intermittent, or recurring and restricts physical access to the child’s school or child care provider. OAR 839-009-0210(4).

³ The district may request verification of the need for sick child leave due to a closure during a statewide emergency. Verification may include:

1. The name of the child being cared for;
2. The name of the school or child care provider that has closed or become unavailable; and
3. A statement from the employee that no other family member of the child is willing and able to care for the child. With the care of a child older than 14, a statement that special circumstances exist requiring the employee to provide care to the child during daylight hours.

⁴ Bereavement leave under OFLA must be completed within 60 days of when the employee received notice of the death.

⁵ “Spouse” means individuals in a marriage, including “common law” marriage, same-sex marriage or same sex individuals with a Certificate of Registered Domestic Partnership.

3. In loco parentis:

For the purposes of OFLA, “in loco parentis” means person in the place of the parent having financial or day-to-day responsibility for the care of a child. A legal or biological relationship is not required.

4. Public health emergency:

For OFLA a public health emergency means:

- a. A public health emergency declared under ORS 433.441.
- b. An emergency declared under ORS 401.165 if related to a public health emergency as defined in ORS 433.442.

Leave Period

For the purposes of calculating an employee’s leave period, the district will use ~~the calendar year~~ ~~any fixed 12-month “leave year”~~ [the 12-month period measured forward from the date the employee’s leave begins] ~~a “rolling” 12-month period measured backward from the date the employee uses any family and medical leave~~. The same method for calculating the 12-month period for OFLA leave entitlement shall be used for all employees. However, in all instances, the leave period for the purposes of OMFLA shall be dependent on the start of any such regardless of the district’s designated 12-month leave period described above.

Leave Duration

For the purposes of OFLA, an eligible employee is generally entitled to a total of 12 weeks of qualified leave during the district’s designated leave period. However, ~~a woman~~ an eligible employee is entitled to an additional full 12 weeks of parental leave during the district’s designated leave period following the birth of a child, regardless of how much OFLA qualified leave ~~she~~ the employee has taken prior to the birth of such child during the district’s designated leave period. Likewise, an employee who uses the full 12 weeks of parental leave during the district designated leave period, will be entitled to an additional 12 weeks of sick child leave under OFLA during the district’s designated leave period for the purpose of caring for a child(ren) with a non-serious health condition requiring home care.⁶ OFLA does not combine the leave entitlement for spouses working for the district. However, under OFLA, family members who work for the district may be restricted from taking concurrent OFLA qualified leave.⁷ For the purposes of OMFLA, an eligible employee is entitled to 14 days of leave per call or order to active duty or notification of a leave from deployment. When an employee also meets the eligibility requirements of OFLA, the duration of the OMFLA leave counts toward that employee’s leave entitlement during the district’s designated leave period.

Except as otherwise noted above, qualified leave under OFLA for an eligible employee will run concurrently during the district’s designated leave period.

For the purpose of tracking the number of leave hours an eligible employee is entitled and/or has used during each week of the employee’s leave, leave entitlement is calculated by multiplying the number of

⁶ Sick child leave under OFLA need not be provided if another family member, including a noncustodial biological parent, is willing and able to care for the child.

⁷ Exceptions to the ability to require family members from taking OFLA qualified leave at different times are when 1) employee is caring for the other employee who has a serious medical condition; 2) one employee is caring for a child with a serious medical condition when the other employee is suffering a serious medical condition; 3) each family member is suffering a serious medical condition; 4) each family members want to take bereavement leave under OFLA; and 5) the employer allows the family members to take concurrent leave.

hours the eligible employee normally works per week by 12⁸. If an employee's schedule varies from week to week, a weekly average of the hours worked over the 12 weeks worked prior to the beginning of the leave period shall be used for calculating the employee's normal workweek¹⁹. If an employee takes intermittent or reduced work schedule leave, only the actual number of hours of leave taken may be counted toward the 12 weeks of leave to which the employee is entitled.

Intermittent Leave

With the exception of parental leave, which must be taken in one continuous block of time, an eligible employee is permitted under OFLA to take intermittent leave for any qualifying reason.

Intermittent leave is taken in multiple blocks of time (hours, days, weeks, etc.) rather than in one continuous block of time and/or requires a modified or reduced work schedule. For OFLA this includes but is not limited to sick child leave taken requiring an altered or reduced work schedule because the intermittent or recurring closure of a child's school or child care provider due to a statewide public health emergency declared by a public health official.

When an employee is eligible for OFLA leave the employer:

1. May allow an exempt employee, as defined by state and federal law, with accrued paid time off to take OFLA leave in blocks of less than a full day, but;
2. May not reduce the salary of an employee who is taking intermittent leave when they do not have accrued paid leave available. To do so would result in the loss of exemption under state law.

An employee's OFLA intermittent leave time is determined by calculating the difference between the employee's normal work schedule and the number of hours the employee actually works during the leave period. The result of such calculation is credited against the eligible employee's leave entitlement.

Holidays or days in which the district is not in operation are not counted against the eligible employee's intermittent leave period unless the employee was scheduled and expected to work on any such day.

Alternate Work Assignment

The district may transfer an employee recovering from a serious health condition to an alternate position which accommodates the serious health condition provided:

1. The employee accepts the position voluntarily and without coercion;
2. The transfer is temporary, lasts no longer than necessary and has equivalent pay and benefits;
3. The transfer is compliant with any applicable collective bargaining agreement;
4. The transfer is compliant with state and federal law, including but not limited to the protections provided for in OFLA; and
5. The transfer is not used to discourage the employee from taking OFLA leave for a serious health condition or to create a hardship for the employee.

⁸ For example, an employee normally employed to work 30 hours per week is entitled to 12 times 30 hours, or a total of 360 hours of leave.

⁹ For example, an employee working an average of 25 hours per week is entitled to 12 times 25 hours, or a total of 300 hours of leave.

The district may transfer an eligible employee who is on a foreseeable intermittent OFLA leave to another position with the same or different duties to accommodate the leave, provided:

1. The employee accepts the transfer position voluntarily and without coercion;
2. The transfer is temporary, lasts no longer than necessary and has equivalent pay and benefits;
3. The transfer is compliant with any applicable collective bargaining agreement;
4. The transfer is compliant with state law, including but not limited to the protections provided for in OFLA;
5. The transfer to an alternate position is used only when there is no other reasonable option available that would allow the employee to use intermittent leave or reduced work schedule; and
6. The transfer is not used to discourage the employee from taking intermittent or reduced work schedule leave, or to create a hardship for the employee.

If an eligible employee is transferred to an alternative position, and as a result the employee works fewer hours than the employee was working in the original position, the employee's OFLA leave time is determined by calculating the difference between the employee's normal work schedule and the number of hours the employee actually works during the leave period. The result of such calculation is credited against the eligible employee's leave entitlement.

When an employee is transferred to alternate position as described above but such transfer does not result in a reduced schedule, time worked in any such alternate position shall not be considered for the purpose of OFLA leave. An employee working in an alternate position retains the right to return to the employee's original position unless all OFLA leave taken in that leave year plus the period of time worked in the alternate position exceeds 12 weeks.

Special Rules for School Employees

For the purposes of OFLA, "school employee" means employees employed principally as instructors in public kindergartens, elementary schools, secondary schools or education service districts.

OFLA leave that is taken for a period that ends with the school year and begins with the next semester is considered consecutive rather than intermittent. In any such situation, the eligible school employee will receive any benefits during the break period that employees would normally receive if they had been working at the end of the school year.

1. Foreseeable Intermittent Leave Exceeding 20 Percent of Working Days

When the qualified leave is foreseeable, will encompass more than 20 percent of the eligible school employee's regular work schedule during the leave period, and the purpose of such leave is to care for a family members with a serious medical condition, for a servicemember with a serious medical condition or because of the employee's own serious medical condition, the district may require the eligible school employee to:

- a. Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
- b. Temporarily transfer the eligible school employee to an alternate position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than the employee's original position.

2. Limitation on Leave near the End of the School Year

When an eligible school employee requests leave near the end of the school year, the district may require the following:

- a. When the qualified leave begins more than five weeks before the end of the school year:
 - (1) For the purposes of OFLA leave, if the reason for the leave is because of the eligible school employee's own serious health condition, the eligible school employee may be required to remain in leave until the end of the school year provided:
 - (a) The leave will last at least three weeks; and
 - (b) The employee's return to work would occur within three weeks of the end of the school year.
- b. For the purposes of OFLA leave, when the qualified leave begins within five weeks of the end of the school year and the purpose of such leave is parental leave, for the serious health condition of a family member or for the serious health condition of a servicemember, the eligible school employee may be required to remain on leave until the end of the school year provided:
 - (1) The leave will last more than two weeks; and
 - (2) The employee would return to work during the two week period before the end of the school year.
- c. For the purposes of OFLA leave, when the qualified leave begins within three weeks of the end of the school year and the purpose of such leave is parental leave, for the serious health condition of a family member or for the serious health condition of a servicemember, the eligible school employee may be required to remain on leave until the end of the school year provided the length of the leave will last more than five working days.

If the district requires an eligible school employee to remain on leave until the end of the school year as described above, additional leave required by the employer until the end of the school year shall not count against the eligible school employee's leave entitlement.

Paid/Unpaid Leave

OFLA does not require the district to pay an eligible employee who is on a qualified leave. Subject to any related provisions in any applicable collective bargaining agreement, ¹⁰~~[an employee may elect to use any available accrued paid leave including personal and sick leave, or available accrued vacation leave during the leave period.] [the district requires the eligible employee to use any available accrued sick leave, vacation or personal leave days (or other available paid time established by Board policy(ies) and/or collective bargaining agreement) in the order specified by the district and before taking OFLA leave without pay during the leave period.] [the district requires the eligible employee to use any available accrued paid leave, including personal and sick leave or available accrued vacation leave before taking OFLA leave without pay during the leave period. The employee may select the order in which the available paid leave is used.]~~

The district will notify the eligible employee that the requested leave has been designated as OFLA leave and, if required by the district, that available accrued paid leave shall be used during the OFLA leave period. In the event the district is aware of an OFLA qualifying exigency, the district shall notify the eligible employee of its intent to designate the leave as such regardless of whether a request has been made by the eligible employee. Such notification will be given to the eligible employee prior to the

¹⁰ ~~[[The district must choose one of the following from the three available bracketed options to complete this paragraph, and delete the other two.]]~~

commencement of the leave or within two working days of the employee's notice of an unanticipated or emergency leave, whichever is sooner.

When the district does not have sufficient information to make a determination of whether the leave qualifies as OFLA leave, the district will provide the required notice promptly when the information is available but no later than two working days after the district has received the information. Oral notices will be confirmed in writing no later than the following payday. If the payday is less than one week after the oral notice is given, written notice will be provided no later than the subsequent payday.

Eligible employees who request OMFLA leave shall not be required to use any available accrued paid time off during the OMFLA leave period.

Benefits and Insurance

When an eligible employee returns to work following a OFLA qualified leave, the employee must be reinstated to the same position the employee held when the leave commenced, or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment.

During an OFLA qualified leave an eligible employee does not accrue seniority or other benefits that would have accrued while the employee was working, unless the terms of a collective bargaining agreement, other agreement or other employer's policy provide otherwise.¹¹ The eligible employee is also subject to layoff to the same extent similarly situated employees not taking OFLA leave are subject unless the terms of an applicable collective bargaining agreement, other agreement or the district's policies provides otherwise.

For the purposes of OFLA, the school district will continue to pay the employer portion of the eligible employee's group health insurance contribution (if applicable) during the qualified leave period. The eligible employee is required to the employee portion of any such group health insurance contribution as a condition of continued coverage.

For the purposes of OMFLA, the eligible employee is entitled to a continuation of benefits.

Fitness-for-Duty Certification

Prior to the reinstatement of an employee following a leave which was the result of the employee's own serious health condition, the district may require the employee to obtain and present a Fitness-for-Duty Certification. The certification will specifically address the employee's ability to perform the essential functions of the employee's job as they relate to the health condition that was the reason for the leave. If the district is going to require a fitness-for-duty certification upon return to work, the district must notify the employee of such requirement when the leave is designated as an OFLA leave. Failure to provide the fitness-for-duty certification may result in a delay or denial of reinstatement.

For the purposes of OFLA qualified leave, any out of pocket costs associated with obtaining the fitness-for-duty certification shall be borne by the district.

If the leave is qualified under OFLA, any out-of-pocket costs associated with obtaining the fitness-for-duty certification shall be borne by the district.

Application

An eligible employee requesting OFLA leave shall provide at least 30 days' notice prior to the leave date if the leave is foreseeable. The notice shall be written and include the anticipated start, duration and reasons for the requested leave. When appropriate, the eligible employee must make a reasonable effort to

¹¹ See also ORS 342.934(4)(d) in reduction force situations.

schedule treatment, including intermittent leave and reduced leave, so as not to unduly disrupt the operation of the district.

The district may request additional information to determine that the requested leave qualifies as OFLA leave. The district may designate the employee as provisionally on OFLA leave until sufficient information is received to properly make a determination. An eligible employee able to give advance notice of the need to take OFLA leave must follow the employer's known, reasonable and customary procedures for requesting any kind of leave.

For the purposes of OFLA, an eligible employee is required to provide oral or written notice within 24 hours of commencement of the leave in unanticipated or emergency leave situations. The employee may designate a family member or friend to notify the district during that period of time. Failure of an employee to provide the required notice for leave covered by OFLA may result in the district deducting up to three weeks from the employee's unused OFLA leave in that one-year leave period. The employee may be subject to disciplinary action for not following the district's notice procedures.

In all cases, proper documentation must be submitted no later than three working days following the employee's return to work.

Medical Certification

The district ~~{may}~~ ~~{shall}~~ require an eligible employee to provide medical documentation, when appropriate, to support the stated reason for the leave, other than to care for a child who requires home care due to the closure of the child's school or child care provider as a result of a public health emergency. The district will provide written notification to employees of this requirement within three working days of employee's request for leave. If the employee does not provide 30 days' notice, the employee is required to submit such medical certification no later than 15 calendar days after receipt of the district's notification that medical certification is required.

Second and Third Opinions

For the purposes of OFLA and except for leave related to sick child leave under OFLA, the district may require the employee to obtain a second opinion from a health care provider designated by the district. If the first and second verifications conflict, the employer may require the two health care providers to jointly designate a third health care provider for the purpose of providing a verification. This third verification shall be final and binding.

Notification

Any notice required by state laws explaining employee rights and responsibilities will be posted in all staff rooms and the district office. Additional information may be obtained by contacting the ~~{superintendent}~~ ~~{district office}~~.

Record Keeping/Posted Notice

The district will maintain all records as required by state laws including dates leave is taken by employees, identified separately from other leave; hours/days of leave; copies of general and specific notices to employees, including Board policy(ies) and regulations; premium payments of employee health benefits while on leave and records of any disputes with employees regarding granting of leave.

Medical documentation will be maintained separately from personnel files as confidential medical records.

The district will post notice of ~~Oregon Family Leave Act~~ OFLA¹² requirements.

¹² Poster available at <https://www.oregon.gov/boli/employers/pages/required-worksites-postings.aspx>.

OSBA Model Sample Policy

Code: GCBDA/GDBDA-AR(1)
Revised/Reviewed:

~~Federal Family and Medical Leave/State Family Medical Leave~~ *

Coverage

The federal Family and Medical Leave Act (FMLA) applies to districts with 50 or more employees within 75 miles of the employee's work site, based on employment during each working day during any of the 20 or more workweeks in the calendar year in which the leave is to be taken, or in the calendar year preceding the year in which the leave is to be taken. The 50 employee test does not apply to educational institutions for determining employee eligibility.

The Oregon Family Leave Act (OFLA) and the Oregon Military Family Leave Act (OMFLA) applies to districts that employ 25 or more part-time or full-time employees in Oregon, based on employment during each working day during any of the 20 or more workweeks in the calendar year in which the leave is to be taken, or in the calendar year immediately preceding the year in which the leave is to be taken.

Employee Eligibility

FMLA applies to employees who have worked for the district for at least 12 months (not necessarily consecutive) and worked for at least 1,250 hours during the 12-month period immediately preceding the start of the leave.

An employee who has previously qualified for and has taken some portion of FMLA leave may request additional FMLA leave within the same leave year. In such instances, the employee need not requalify as an eligible employee, if the additional leave applied for is in the same leave year and for the same condition.

OFLA applies to employees who work an average of 25 hours or more per week during the 180 calendar days or more immediately prior to the first day of the start of the requested leave.¹ For parental leave purposes, an employee becomes eligible upon completing at least 180 days immediately preceding the date on which the parental leave begins. There is no minimum average number of hours worked per week when determining employee eligibility for parental leave.

An employee of a covered employer is eligible to take leave for purposes of OFLA during a period of time covered by a public health emergency except:

1. An employee who worked for the covered employer for fewer than 30 days immediately before the date on which the family leave would commence; or
2. An employee who worked for the covered employer for an average of fewer than 25 hours per week in the 30 days immediately before the date on which the family leave would commence.

An employee of a covered employer is eligible to take leave for purposes of OFLA if the employee:

1. Separates from employment with the covered employer, irrespective of any reason:
 - a. Is eligible to take leave OFLA at the time the employee separates; and
 - b. Is reemployed by the covered employer within 180 days of separation from employment; or
2. Is eligible to take OFLA leave:
 - a. At the beginning of a temporary cessation of scheduled hours of 180 days or less; and
 - b. Returns to work at the end of the temporary cessation of scheduled hours of 180 days or less.

Any OFLA leave taken by the employee within any one-year period continues to count against the length of time of OFLA leave the employee is entitled. The amount of time that an employee is deemed to have worked for a covered employer prior to a break in service due to a separation from employment or a temporary cessation of scheduled hours shall be restored to the employee when the employee is reemployed by the employer within 180 days of separation from employment or when the employee returns to work at the end of the temporary cessation of scheduled hours of 180 days or less.

¹ The requirements of OFLA do not apply to any employer offering eligible employees a nondiscriminatory cafeteria plan, as defined by section 125 of the Internal Revenue Code of 1986, which provides as one of its options employee leave at least as generous as the leave required by OFLA.

An employee who has previously qualified for and has taken some portion of OFLA leave, may request additional OFLA leave within the same leave year. In such instances, the employee must requalify as an eligible employee for each additional leave requested unless one of the following exceptions apply:

1. A female employee who has taken 12 weeks of pregnancy disability leave need not requalify leave in the same leave year for any other purpose;
2. An employee who has taken 12 weeks of parental leave need not requalify to take an additional 12 weeks in the same leave year for sick child leave; and
3. An employee granted leave for a serious health condition for the employee or a family member need not requalify if additional leave is taken in this leave year for the same reason.

OMFLA applies to employees who work an average of at least 20 hours per week. There is no minimum number of days worked when determining employee eligibility for OMFLA.

In determining if an employee has been employed for the preceding 180 calendar days, when applicable, the employer must consider days, e.g., paid or unpaid, an employee is maintained on payroll for any part of a work week. Full-time public school teachers who have been maintained on payroll by a district for 180 consecutive calendar days are thereafter deemed to have been employed for an average of at least 25 hours per week during the 180 days immediately preceding the start date of the OFLA leave. This provision is eligible for rebuttal if for example, the employee was on a nonpaid sabbatical.

In determining average workweek, the employer must count the actual hours worked using the Fair Labor Standards Act (FLSA) guidelines.

Qualifying Reason

Eligible employees may access FMLA leave for the following reasons:

1. Serious health condition of the employee or the employee's covered family member:
 - a. Inpatient care;
 - b. Continuing treatment;
 - c. Chronic conditions;
 - d. Permanent, long-term or terminal conditions;
 - e. Multiple treatments;
 - f. Pregnancy and prenatal care.
2. Parental leave² (separate from eligible leave as a result of a child's serious health condition):
 - a. Bonding with and the care for the employee's newborn (within 12 months following birth);
 - b. Bonding with and the care for a newly adopted or newly placed foster child under the age of 18 (within 12 months of placement);

² Parental leave must be taken in one continuous block of time within 12 months of the triggering event.

- c. Care for a newly adopted or newly placed foster child over 18 years of age who is incapable of self-care because of a physical or mental impairment (within 12 months of placement);
 - d. Time to effectuate the legal process required for placement of a foster child or the adoption of a child.
3. Military Caregiver Leave: leave for the care for spouse, son, daughter or next-of-kin who is a covered servicemember/veteran with a serious injury or illness;
 4. Qualifying Exigency Leave: leave arising out of the foreign deployment of the employee's spouse, son, daughter or parent.

Eligible employees may access OFLA for the following reasons:

1. Serious health condition of the employee or the employee's covered family member:
 - a. Inpatient care;
 - b. Continuing treatment;
 - c. Chronic conditions;
 - d. Permanent, long-term or terminal conditions;
 - e. Multiple treatments;
 - f. Pregnancy and prenatal care.
2. Parental leave (separate from eligible leave as a result of the child's serious health condition):
 - a. Bonding with and the care for the employee's newborn (within 12 months following birth);
 - b. Bonding with and the care for a newly adopted or newly placed foster child under the age of 18 (within 12 months of placement);
 - c. Care for a newly adopted or newly placed foster child over 18 years of age who is incapable of self-care because of a physical or mental impairment (within 12 months of placement);
 - d. Time to effectuate the legal process required for placement of a foster child or the adoption of a child.
3. Sick Child Leave: leave for non-serious health conditions of the employee's child. For OFLA, sick child leave includes absence to care for an employee's child whose school or child care provider has been closed³ in conjunction with a statewide public health emergency declared by a public health official.⁴

³ "Closure" for the purpose of sick child leave during a statewide public health emergency declared by a public health official means a closure that is ongoing, intermittent, or recurring and restricts physical access to the child's school or child care provider. OAR 839-009-0210(4).

⁴ The district may request verification of the need for sick child leave due to a closure during a statewide emergency. Verification may include:

1. The name of the child being cared for;
2. The name of the school or child care provider that has closed or become unavailable; and
3. A statement from the employee that no other family member of the child is willing and able to care for the child. With the care of a child older than 14, a statement that special circumstances exist requiring the employee to provide care to the child during daylight hours.

4. Bereavement Leave: leave related to the death of a covered family member.⁵
5. Eligible employees may access OMFLA for the purpose of spending time with a spouse or same-gender domestic partner who is in the military and has been notified of an impending call or order to active duty, or who has been deployed during a period of military conflict.
6. The eligibility of an employee who takes multiple leaves for different qualified reasons during the same district designated leave period may be reconfirmed at the start of each qualified leave requested.

Definitions

1. Family member:
 - a. For the purposes of FMLA, “family member” means:
 - (1) Spouse⁶;
 - (2) Parent;
 - (3) Child; or
 - (4) Persons who are “in loco parentis”.
 - b. For the purposes of OFLA, “family member” means:
 - (1) Spouse;
 - (2) Registered, same-gender domestic partner;
 - (3) Parent;
 - (4) Parent-in-law;
 - (5) Parent of employee’s registered, same-gender domestic partner;
 - (6) Child;
 - (7) Child of employee’s registered, same-gender domestic partner;
 - (8) Grandchild;
 - (9) Grandparent; or
 - (10) Persons who are “in loco parentis”.
2. Child:
 - a. For the purposes of FMLA, “child” means a biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing “in loco parentis”, who is either under the age of 18, or who is 18 years of age or older and who is incapable of self-care because of a physical or mental impairment.
 - b. For the purposes of Military Caregiver Leave and Qualifying Exigency Leave under FMLA, “child” means the employee’s son or daughter on covered active duty regardless of that child’s age.

⁵ Bereavement leave under OFLA must be completed within 60 days of when the employee received notice of the death.

⁶ “Spouse” means individuals in a marriage, including “common law” marriage and same-sex marriage. For OFLA, spouse also includes same-sex individuals with a Certificate of Registered Domestic Partnership.

- c. For the purposes of OFLA, “child” means a biological, adopted, foster child or stepchild of the employee, the child of the employee’s same-gender domestic partner, or a child with whom the employee is or was in a relationship of “in loco parentis”.
- d. For the purposes of parental and sick child leave under OFLA, the child must be under the age of 18 or an adult dependent child substantially limited by a physical or mental impairment.

3. In loco parentis:

- a. For the purposes of FMLA, “in loco parentis” means persons with day-to-day responsibility to care for and financially support a child, or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.
- b. For the purposes of OFLA, “in loco parentis” means person in the place of the parent having financial or day-to-day responsibility for the care of a child. A legal or biological relationship is not required.

4. Next of kin:

For the purposes of FMLA and Military Caregiver Leave under FMLA, “next of kin” means the nearest blood relative other than the servicemember’s spouse, parent, son or daughter in the following order of priority (unless otherwise designated in writing by the servicemember):

- a. Blood relatives who have been granted legal custody of the servicemember by court decree or statutory provisions;
- b. Brothers or sisters;
- c. Grandparents;
- d. Aunts and uncles; and
- e. First cousins.

5. Covered servicemembers:

For the purposes of Military Caregiver Leave under FMLA, “covered servicemember” means a current member of the Armed Forces, including a member of the National Guard or Reserves, who is receiving medical treatment, recuperation or therapy, or is in outpatient status, or is on the temporary disability retired list for a serious injury or illness.

6. Covered veteran:

For the purposes of Military Caregiver Leave under FMLA, “covered veteran” means a veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness provided they were:

- a. A member of the Armed Forces (including a member of the National Guard or Reserves);
- b. Discharged or released under conditions other than dishonorable; and
- c. Discharged within the five-year period before the eligible employee first takes FMLA, Military Caregiver Leave.

7. Public health emergency:

For OFLA a public health emergency means:

- a. A public health emergency declared under ORS 433.441.
- b. An emergency declared under ORS 401.165 if related to a public health emergency as defined in ORS 433.442.

Leave Period

For the purposes of calculating an employee's leave period, the district will use ~~[the calendar year]~~ ~~[any fixed 12-month "leave year"]~~ [the 12-month period measured forward from the date the employee's leave begins] ~~[a "rolling" 12-month period measured backward from the date the employee uses any family and medical leave]~~. The same method for calculating the 12-month period for FMLA and OFLA leave entitlement shall be used for all employees. However, in all instances, the leave period for the purposes of OMFLA and Military Caregiver Leave under FMLA shall be dependent on the start of any such leave regardless of the district's designated 12-month leave period described above.

Leave Duration

For the purposes of FMLA, an eligible employee is generally entitled to a total of 12 weeks of qualified leave during the district's designated leave period⁷. Spouses who work for the district may be limited to a combined 12 weeks of FMLA leave during the district's designated leave period when the purpose of the leave is for the birth of a child or to care for a child after birth, placement of an adopted or foster child or the care for an adopted or foster child after placement, or to care for the employee's parent's serious medical condition. Except in specific and unique instances, all qualified leave under FMLA counts toward an employee's leave entitlement within the district's designated leave period.

For the purposes of OFLA, an eligible employee is generally entitled to a total of 12 weeks of qualified leave during the district's designated leave period. However, ~~a woman~~ an eligible employee is entitled to an additional, full 12 weeks of parental leave during the district's designated leave period following the birth of a child regardless of how much OFLA qualified leave ~~she~~ the employee has taken prior to the birth of such child during the district's designated leave period. Likewise, an employee who uses the full 12 weeks of parental leave during the district designated leave period, will be entitled to an additional 12 weeks of sick child leave under OFLA during the district's designated leave period for the purpose of caring for a child(ren) with a non-serious health condition requiring home care.⁸ Unlike FMLA, OFLA does not combine the leave entitlement for spouses working for the district. However, under OFLA, family members who work for the district may be restricted from taking concurrent OFLA qualified leave.⁹

⁷ An eligible employee taking Military Caregiver Leave under FMLA is entitled to up to 26 weeks of leave in the 12-month period beginning with the first day of such leave and regardless of any FMLA leave taken previously during the district's leave period. However, once the 12-month period begins for the purposes of Military Caregiver Leave under FMLA, any subsequent FMLA qualified leave, regardless of reason for such leave, will count toward the employee's 26-week entitlement under Military Caregiver Leave under FMLA.

⁸ Sick child leave under OFLA need not be provided if another family member, including a noncustodial biological parent, is willing and able to care for the child.

⁹ Exceptions to the ability to require family members from taking OFLA qualified leave at different times are when 1) employee is caring for the other employee who has a serious medical condition; 2) one employee is caring for a child with a serious medical condition when the other employee is suffering a serious medical condition; 3) each family member is suffering a

For the purposes of OMFLA, an eligible employee is entitled to 14 days of leave per call or order to active duty or notification of a leave from deployment. When an employee also meets the eligibility requirements of OFLA, the duration of the OMFLA leave counts toward that employee's leave entitlement during the district's designated leave period.

Except as otherwise noted above, qualified leave under FMLA and OFLA for an eligible employee will run concurrently during the district's designated leave period.

For the purpose of tracking the number of leave hours an eligible employee is entitled and/or has used during each week of the employee's leave, leave entitlement is calculated by multiplying the number of hours the eligible employee normally works per week by 12¹⁰. If an employee's schedule varies from week-to-week, a weekly average of the hours worked over the 12 weeks worked prior to the beginning of the leave period shall be used for calculating the employee's normal workweek¹¹. If an employee takes intermittent or reduced work schedule leave, only the actual number of hours of leave taken may be counted toward the 12 weeks of leave to which the employee is entitled.

Intermittent Leave

With the exception of parental leave which must be taken in one continuous block of time, an eligible employee is permitted under FMLA and OFLA to take intermittent leave for any qualifying reason.

Intermittent leave is taken in multiple blocks of time (i.e., hours, days, weeks, etc.) rather than in one continuous block of time and/or requires a modified or reduced work schedule. For OFLA this includes but not limited to sick child leave taken requiring an altered or reduced work schedule because the intermittent or recurring closure of a child's school or child care provider due to a statewide public health emergency declared by a public health official.

When an employee is eligible for OFLA leave, but not FMLA leave, the employer:

1. May allow an exempt employee, as defined by state and federal law, with accrued paid time off to take OFLA leave in blocks of less than a full day; but
2. May not reduce the salary of an employee who is taking intermittent leave when they do not have accrued paid leave available. To do so would result in the loss of exemption under state law.

An employee's FMLA and/or OFLA intermittent leave time is determined by calculating the difference between the employee's normal work schedule and the number of hours the employee actually works

serious medical condition; 4) each family member wants to take Bereavement Leave under OFLA; and 5) the employer allows the family members to take concurrent leave.

¹⁰ For example, an employee normally employed to work 30 hours per week is entitled to 12 times 30 hours, or a total of 360 hours of leave.

¹¹ For example, an employee working an average of 25 hours per week is entitled to 12 times 25 hours, or a total of 300 hours of leave.

during the leave period. The result of such calculation is credited against the eligible employee's leave entitlement.

Holidays or days in which the district is not in operation, are not counted against the eligible employee's intermittent OFLA leave period unless the employee was scheduled and expected to work on any such day.

Alternate Work Assignment

The district may transfer an employee recovering from a serious health condition to an alternate position which accommodates the serious health condition provided:

1. The employee accepts the position voluntarily and without coercion;
2. The transfer is temporary, lasts no longer than necessary and has equivalent pay and benefits;
3. The transfer is compliant with any applicable collective bargaining agreement;
4. The transfer is compliant with state and federal law, including but not limited to the protections provided for in FMLA and/or OFLA; and
5. The transfer is not used to discourage the employee from taking FMLA and/or OFLA leave for a serious health condition or to create a hardship for the employee.

The district may transfer an eligible employee who is on a foreseeable intermittent FMLA and/or OFLA leave to another position with the same or different duties to accommodate the leave, provided:

1. The employee accepts the transfer position voluntarily and without coercion;
2. The transfer is temporary, lasts no longer than necessary and has equivalent pay and benefits;
3. The transfer is compliant with any applicable collective bargaining agreements;
4. The transfer is compliant with state and federal law, including but not limited to the protections provided for in FMLA and/or OFLA;
5. The transfer to an alternate position is used only when there is no other reasonable option available that would allow the employee to use intermittent leave or reduced work schedule; and
6. The transfer is not used to discourage the employee from taking intermittent or reduced work schedule leave, or to create a hardship for the employee.

If an eligible employee is transferred to an alternative position, and as a result the employee works fewer hours than the employee was working in the original position, the employee's FMLA and/or OFLA leave time is determined by calculating the difference between the employee's normal work schedule and the number of hours the employee actually works during the leave period. The result of such calculation is credited against the eligible employee's leave entitlement.

When an employee is transferred to alternate position as described above but such transfer does not result in a reduced schedule, time worked in any such alternate position shall not be considered for the purpose of FMLA and/or OFLA leave. An employee working in an alternate position retains the right to return to the employee's original position unless all FMLA and/or OFLA leave taken in that leave year plus the period of time worked in the alternate position exceeds 12 weeks.

Special Rules for School Employees

For the purposes of FMLA, “instructional school employee” means those whose principal function is to teach and instruct students in a class, a small group or an individual setting. Athletic coaches, driving instructors and special education assistants, such as interpreters for the hearing impaired, are included in this definition. This definition does not apply to teacher assistants or aides who do not have as their principal job actual teaching or instructing, counselors, psychologist, curriculum specialists, cafeteria workers, maintenance workers or bus drivers.

For the purposes of OFLA, “school employee” means employees employed principally as instructors in public kindergartens, elementary schools, secondary schools or education service districts.

FMLA and/or OFLA leave that is taken for a period that ends with the school year and begins with the next semester is considered consecutive rather than intermittent. In any such situation, the eligible school employee will receive any benefits during the break period that employees would normally receive if they had been working at the end of the school year.

1. Foreseeable Intermittent Leave Exceeding 20 Percent of Working Days

When the qualified leave is foreseeable, will encompass more than 20 percent of the eligible school employee's regular work schedule during the leave period, and the purpose of such leave is to care for a family member with a serious medical condition, for a servicemember with a serious medical condition or because of the employee's own serious medical condition, the district may require the eligible school employee to:

- a. Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
- b. Temporarily transfer the eligible school employee to an alternate position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than the employee's original position.

2. Limitation on Leave Near the End of the School Year

When an eligible school employee requests leave near the end of the school year, the district may require the following:

- a. When the qualified leave begins more than five weeks before the end of the school year:
 - (1) For the purposes of FMLA leave, the eligible school employee may be required to continue taking leave until the end of the school year provided:
 - (a) The leave will last at least three weeks; and

- (b) The employee would return to work during the three-week period before the end of the term.
- (2) For the purposes of OFLA leave, if the reason for the leave is because of the eligible school employee's own serious health condition, the eligible school employee may be required to remain in leave until the end of the school year, provided:
 - (a) The leave will last at least three weeks; and
 - (b) The employee's return to work would occur within three weeks of the end of the school year.
- b. For the purposes of FMLA and/or OFLA leave, when the qualified leave begins within five weeks of the end of the school year and the purpose of such leave is parental leave, for the serious health condition of a family member or for the serious health condition of a servicemember, the eligible school employee may be required to remain on leave until the end of the school year provided:
 - (1) The leave will last more than two weeks; and
 - (2) The employee would return to work during the two-week period before the end of the school year.
 - c. For the purposes of FMLA and/or OFLA leave, when the qualified leave begins within three weeks of the end of the school year and the purpose of such leave is parental leave, for the serious health condition of a family member or for the serious health condition of a servicemember, the eligible school employee may be required to remain on leave until the end of the school year provided the length of the leave will last more than five working days.

If the district requires an eligible school employee to remain on leave until the end of the school year as described above, additional leave required by the employer until the end of the school year shall not count against the eligible school employee's leave entitlement.

Paid/Unpaid Leave

FMLA and OFLA do not require the district to pay an eligible employee who is on a qualified leave. Subject to any related provisions in any applicable collective bargaining agreement, ^{12}~~{an employee may elect to use any available accrued paid leave including personal and sick leave, or available accrued vacation leave during the leave period.} [the district requires the eligible employee to use any available accrued sick leave, vacation or personal leave days (or other available paid time established by Board policy(ies) and/or collective bargaining agreement) in the order specified by the district and before taking FMLA and/or OFLA leave without pay during the leave period.] [the district requires the eligible employee to use any available accrued paid leave, including personal and sick leave or available accrued vacation leave before taking FMLA and/or OFLA leave without pay during the leave period. The employee may select the order in which the available paid leave is used.]~~

¹² ~~{The district must choose one of the following from the three available bracketed options to complete this paragraph, and delete the other two.}~~

The district will notify the eligible employee that the requested leave has been designated as FMLA and/or OFLA leave and, if required by the district, that available accrued paid leave shall be used during the leave period. In the event the district is aware of an OFLA or FMLA qualifying exigency, the district shall notify the eligible employee of its intent to designate the leave as such regardless of whether a request has been made by the eligible employee. Such notification will be given to the eligible employee prior to the commencement of the leave or within two working days of the employee's notice of an unanticipated or emergency leave, whichever is sooner.

When the district does not have sufficient information to make a determination of whether the leave qualifies as FMLA or OFLA leave, the district will provide the required notice promptly when the information is available but no later than two working days after the district has received the information. Oral notices will be confirmed in writing no later than the following payday. If the payday is less than one week after the oral notice is given, written notice will be provided no later than the subsequent payday.

Eligible employees who request OMFLA leave shall not be required to use any available accrued paid time off during the OMFLA leave period.

Benefits and Insurance

When an eligible employee returns to work following a FMLA or OFLA qualified leave, the employee must be reinstated to the same position the employee held when the leave commenced, or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment.

During an OFLA qualified leave an eligible employee does not accrue seniority or other benefits that would have accrued while the employee was working, unless the terms of a collective bargaining agreement, other agreement or other employer's policy provide otherwise.¹³ The eligible employee is also subject to layoff to the same extent similarly situated employees not taking OFLA leave are subject unless the terms of an applicable collective bargaining agreement, other agreement or the district's policies provide otherwise.

For the purposes of FMLA and OFLA, the district will continue to pay the employer portion of the eligible employee's group health insurance contribution (if applicable) during the qualified leave period. The eligible employee is required to pay the employee portion of any such group health insurance contribution as a condition of continued coverage.

For the purposes of FMLA qualified leave, the district's obligation to maintain the employee's group health insurance coverage will cease if the employee's contribution is remitted more than 30 calendar days late. The district will provide written notice that the premium payment is more than 30 calendar days late. Such notice will be provided within 15 calendar days before coverage is to cease.

For the purposes of OMFLA, the eligible employee is entitled to a continuation of benefits.

Fitness-for-Duty Certification

¹³ See also ORS 342.934(4)(d) in reduction force situations.

Prior to the reinstatement of an employee following a leave which was the result of the employee's own serious health condition, the district may require the employee to obtain and present a Fitness-for-Duty Certification. The certification will specifically address the employee's ability to perform the essential functions of the employee's job as they relate to the health condition that was the reason for the leave. If the district is going to require a fitness-for-duty certification upon return to work, the district must notify the employee of such requirement when the leave is designated as FMLA and/or OFLA leave. Failure to provide the certification may result in a delay or denial of reinstatement.

For the purposes of FMLA qualified leave, any costs associated with obtaining the fitness-for-duty certification shall be borne by the employee.

For the purposes of OFLA qualified leave, any out-of-pocket costs associated with obtaining the fitness-for-duty certification shall be borne by the district.

If the leave is qualified under both FMLA and OFLA, any out-of-pocket costs associated with obtaining the fitness-for-duty certification shall be borne by the district.

Application

Under federal and state law, an eligible employee requesting FMLA and/or OFLA leave shall provide at least 30 days' notice prior to the leave date if the leave is foreseeable. The notice shall be written and include the anticipated start date, duration and reasons for the requested leave. When appropriate, the eligible employee must make a reasonable effort to schedule treatment, including intermittent leave and reduced leave, so as not to unduly disrupt the operation of the district.

The district may request additional information to determine that the requested leave qualifies as FMLA and/or OFLA leave. The district may designate the employee as provisionally on FMLA and/or OFLA leave until sufficient information is received to properly make a determination. An eligible employee able to give advance notice of the need to take FMLA and/or OFLA leave must follow the employer's known, reasonable and customary procedures for requesting any kind of leave.

For the purposes of FMLA, if advance notice is not possible, an employee eligible for FMLA leave must provide notice as soon as practicable. "As soon as practicable," for the purpose of FMLA leave, means the employee must comply with the employer's normal call-in procedures except in limited and under unique circumstances. Failure of an employee to provide the required notice for FMLA leave may result in the district delaying the employee's leave up to 30 days after the notice is ultimately given.

For the purposes of OFLA, an eligible employee is required to provide oral or written notice within 24 hours of commencement of the leave in unanticipated or emergency leave situations. The employee may designate a family member or friend to notify the district during that period of time. Failure of an employee to provide the required notice for leave covered by OFLA may result in the district deducting up to three weeks from the employee's unused OFLA leave in that one-year leave period. The employee may be subject to disciplinary action for not following the district's notice procedures.

When an employee fails to give advance notice for both the FMLA and OFLA above, the district must choose the remedy that is most advantageous to the employee.

In all cases, proper documentation must be submitted no later than three working days following the employee's return to work.

Medical Certification

The district ~~[may]~~ ~~[shall]~~ require an eligible employee to provide medical documentation, when appropriate, to support the stated reason for such leave, other than to care for a child who requires home care due to the closure of the child's school or child care provider as a result of a public health emergency. The district will provide written notification to an employee of this requirement within five working days of the employee's request for leave. If the employee provides less than 30 days' notice, the employee is required to submit such medical certification no later than 15 calendar days after receipt of the district's notification that medical certification is required.

The district may request re-certification of a condition when the minimum duration of a certification expires if continued leave is requested. If the certification does not indicate a duration or indicates that it is ongoing, the district may request re-certification at least every six months in connection with an absence.

Under federal law, a second medical opinion may be required whenever the district has reason to doubt the validity of the initial medical opinion. The health care provider may be selected by the district. The provider shall not be employed by the district on a regular basis. Should the first and second medical certifications differ, a third opinion may be required. The district and the employee will mutually agree on the selection of the health care provider for a third medical certification. The third opinion will be final. Second and third opinions and the actual travel expenses for an employee to obtain such opinions will be paid for by the district.

Second and Third Opinions

1. For the purposes of FMLA, the district may designate a second health care provider, but that person cannot be utilized by the district on a regular basis except in rural areas where health care is extremely limited. If the opinions of the employee's and the district's designated health care provider(s) differ, the district may require a third opinion at the district's expense. The third health care provider must be designated or approved jointly by the employee and the district. This third opinion shall be final and binding.
2. For the purposes of OFLA, and except for leave related to sick child leave under OFLA, the district may require the employee to obtain a second opinion from a health care provider designated by the district. If the first and second verifications conflict, the employer may require the two health care providers to jointly designate a third health care provider for the purpose of providing a verification. This third verification shall be final and binding.

Notification

Any notice required by federal and state laws explaining employee rights and responsibilities will be posted in all staff rooms and the district office. Additional information may be obtained by contacting the ~~[superintendent]~~ ~~[district office]~~.

Record Keeping/Posted Notice

The district will maintain all records as required by federal and state laws including dates leave is taken by employees, identified separately from other leave; hours/days of leave; copies of general and specific notices to employees, including Board policy(ies) and regulations; premium payments of employee health benefits while on leave and records of any disputes with employees regarding granting of leave.

Medical documentation will be maintained separately from personnel files as confidential medical records.

The district will post notice of FMLA¹⁴ and OFLA¹⁵ leave requirements.

Federal vs. State Law

Both federal and state law contain provisions regarding leave for family illness. Federal regulations state an employer must comply with both laws; that the federal law does not supersede any provision of state law that provides greater family leave rights than those established pursuant to federal law; and that OFLA and FMLA leave entitlements run concurrently. State law requires that FMLA and OFLA leave entitlements run concurrently when possible.

For example, due to differences in regulations, an eligible employee who takes OFLA leave after 180 days of employment, but before they are eligible for FMLA leave, is still eligible to take a full 12 workweeks of FMLA leave after meeting FMLA's eligibility requirements. Thereafter, any eligible leave period will run concurrently, when appropriate.

¹⁴ Poster available at <https://www.dol.gov/agencies/whd/fmla/posters>.

¹⁵ Poster available at <https://www.oregon.gov/boli/employers/pages/required-worksite-postings.aspx>.

EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee’s child after birth, or placement for adoption or foster care;
- To care for the employee’s spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee’s job.

Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness*; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness*.

*The FMLA definition of “serious injury or illness” for current servicemembers and veterans are distinct from the FMLA definition of “serious health condition”.

Benefits and Protections

During FMLA leave, the employer must maintain the employee’s health coverage under any “group health plan” on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee’s leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least 12 months, have 1,250 hours of service over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee’s job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a

chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer’s operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer’s normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days’ notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer’s normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees’ rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility. Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee’s leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA; and
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer. FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulations 29 C.F.R. § 825.300(a) may require additional disclosures.

For additional information:

1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627

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U.S. Department of Labor | Wage and Hour Division

OSBA Model Sample Policy

Code: IGBAF-AR
Adopted:

Special Education - Individualized Education Program (IEP)**

1. General IEP Information

- a. The district ensures that an IEP is in effect for each eligible student:
 - (1) Before special education and related services are provided to a student;
 - (2) At the beginning of each school year for each student with a disability for whom the district is responsible; and
 - (3) Before the district implements all the special education and related services, including program modifications, supports and/or supplementary aids and services, as identified on the IEP.
- b. The district uses:
 - (1) The Oregon standard IEP; or
 - (2) An IEP form that has been approved by the Oregon Department of Education.
- c. The district develops and implements all provisions of the IEP as soon as possible following the IEP meeting.
- d. The IEP will be accessible to each of the student's regular education teacher(s), the student's special education teacher(s) and the student's related services provider(s) and other service provider(s).
- e. The district takes steps to ensure that parent(s) are present at each IEP meeting or have the opportunity to participate through other means.
- f. The district ensures that each teacher and service provider is informed of:
 - (1) Their specific responsibilities for implementing the IEP specific accommodations, modifications and/or supports that must be provided for, or on behalf of the student; and
 - (2) Their responsibility to fully implement the IEP including any amendments the district and parents agreed to make between annual reviews.

The district takes whatever action is necessary to ensure that parents understand the proceedings of the IEP team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.

- g. The district provides a copy of the IEP to the parents at no cost.

2. IEP Meetings

- a. The district conducts IEP meetings within 30 calendar days of the determination that the student is eligible for special education and related services.

- b. The district convenes IEP meetings for each eligible student periodically, but not less than once per year.
- c. At IEP meetings, the team reviews and revises the IEP to address any lack of expected progress toward annual goals and in the general curriculum, new evaluation data or new information from the parent(s), the student's anticipated needs, or the need to address other matters.
- d. Between annual IEP meetings, the district and the parent(s) may amend or modify the student's current IEP without convening an IEP team meeting using the procedures in the Agreement to Amend or Modify IEP subsection.
- e. When the parent(s) requests a meeting, the district will either schedule a meeting within a reasonable time or provide timely written prior notice of the district's refusal to hold a meeting.
- f. If an agency other than the district fails to provide agreed upon transition services contained in the IEP, the district convenes an IEP meeting to plan alternative strategies to meet the transition objectives and, if necessary, to revise the IEP.

3. IEP Team Members

- a. The district's IEP team members include the following:
 - (1) The student's parent(s);
 - (2) The student, if the purpose of the IEP meeting is to consider the student's postsecondary goals and transition services (beginning for IEPs in effect at age 16), or for younger students, when appropriate;
 - (3) At least one of the student's special education teachers or, if appropriate, at least one of the student's special education providers;
 - (4) At least one of the student's regular education teachers if the student is or may be participating in the regular education environment. If the student has more than one regular education teacher, the district will determine which teacher or teachers will participate;
 - (5) A representative of the district (who may also be another member of the team) who is qualified to provide or supervise the provision of special education and is knowledgeable about district resources. The representative of the district will have the authority to commit district resources and be able to ensure that all services identified in the IEP can be delivered;
 - (6) An individual, who may also be another member of the team, who can interpret the instructional implications of the evaluation results; and
 - (7) At the discretion of the parent or district, other persons who have knowledge or special expertise regarding the student.
- b. Student participation:
 - (1) Whenever appropriate, the student with a disability is a member of the team.
 - (2) If the purpose of the IEP meeting includes consideration of postsecondary goals and transition services for the student, the district includes the student in the IEP team meeting.
 - (3) If the purpose of the IEP meeting includes consideration of postsecondary goals and transition services for the student, and the student does not attend the meeting, the

district will take other steps to consider the student's preferences and interests in developing the IEP.

c. Participation by other agencies:

- (1) With parent or adult student written consent, and where appropriate, the district invites a representative of any other agency that is likely to be responsible for providing or paying for transition services if the purpose of the IEP meeting includes the consideration of transition services (beginning at age 16, or younger if appropriate); and
- (2) If the district refers or places a student in an education service district, state-operated program, private school or other educational program, IEP team membership includes a representative from the appropriate agencies. Participation may consist of attending the meeting, conference call or participating through other means.

4. Agreement for Nonattendance and Excusal

- a. The district and the parent may consent to excuse an IEP team member from attending an IEP meeting, in whole or in part, when the meeting involves a discussion or modification of team member's area of curriculum or service. The district designates specific individuals to authorize excusal of IEP team members.
- b. If excusing an IEP team member whose area is to be discussed at an IEP meeting, the district ensures:
 - (1) The parent and the district consent in writing to the excusal;
 - (2) The team member submits written input to the parents and other members of the IEP team before the meeting; and
 - (3) The parent is informed of all information related to the excusal in the parent's native language or other mode of communication according to consent requirements.

5. IEP Content

- a. In developing the IEP, the district considers the student's strengths, the parent's concerns, the results of the initial or most recent evaluation, and the academic, developmental and functional needs of the student.
- b. The district ensures that IEPs for each eligible student includes:
 - (1) A statement of the student's present levels of academic achievement and functional performance that:
 - (a) Includes a description of how the disability affects the progress and involvement in the general education curriculum;
 - (b) Describes the results of any evaluations conducted, including functional and developmental information;
 - (c) Is written in language that is understood by all IEP team members, including parents;
 - (d) Is clearly linked to each annual goal statement;
 - (e) Includes a description of benchmarks or short-term objectives for children with disabilities who take alternative assessments aligned to alternate achievement standards.

- (2) A statement of measurable annual goals, including academic and functional goals, or for students whose performance is measured by alternate assessments aligned to alternate achievement standard, statements of measurable goals and short-term objectives. The goals and, if appropriate, objectives:
 - (a) Meet the student’s needs that are present because of the disability, or because of behavior that interferes with the student’s ability to learn, or impedes the learning of other students;
 - (b) Enable the student to be involved in and progress in the general curriculum, as appropriate; and
 - (c) Clearly describe the anticipated outcomes, including intermediate steps, if appropriate, that serve as a measure of progress toward the goal.
- (3) A statement of the special education services, related services, supplementary aids and services that the district provides to the student:
 - (a) The district bases special education and related services, modifications and supports on peer-reviewed research to the extent practicable to assist students in advancing toward goals, progressing in the general curriculum and participating with other students (including those without disabilities), in academic, nonacademic and extracurricular activities.
 - (b) Each statement of special education services, related or supplementary services, aids, modifications or supports includes a description of the inclusive dates, amount or frequency, location and who is responsible for implementation.
- (4) A statement of the extent, if any, to which the student will not participate with nondisabled students in regular academic, nonacademic and extracurricular activities.
- (5) A statement of any individual modifications and accommodations in the administration of state or districtwide assessments of student achievement.
 - (a) A student will not be exempt from participation in state or districtwide assessment because of a disability unless the parent requests an exemption;
 - (b) If the IEP team determines that the student will take the alternate assessment instead of the regular statewide or a districtwide assessment, a statement of why the student cannot participate in the regular assessment and why the alternate assessment is appropriate for the student.
- (6) A statement describing how the district will measure student’s progress toward completion of the annual goals and when periodic reports on the student’s progress toward the annual goals will be provided.

6. Agreement to Amend or Modify IEP

Between annual IEP meetings, the district and the parent may agree to make changes in the student’s current IEP without holding an IEP meeting. These changes require a signed, written agreement between the district and the parent.

- a. The district and the parent record any amendments, revisions or modifications on the student's current IEP. If additional IEP pages are required these pages must be attached to the existing IEP.
- b. The district files a complete copy of the IEP with the student's education records and informs the student's IEP team and any teachers or service providers of the changes.
- c. The district provides the parent prior written notice of any changes in the IEP and upon request, provides the parent with a revised copy of the IEP with the changes incorporated.

7. IEP Team Considerations and Special Factors

- a. In developing, reviewing and revising the IEP, the IEP team considers:
 - (1) The strengths of the student and concerns of the parent for enhancing the education of the student;
 - (2) The results of the initial or most recent evaluation of the student;
 - (3) As appropriate, the results of the student's performance on any general state or districtwide assessments;
 - (4) The academic, developmental and functional needs of the child.
- b. In developing, reviewing and revising the student's IEP, the IEP team considers the following special factors:
 - (1) The communication needs of the student; and
 - (2) The need for assistive technology services and/or devices.
- c. As appropriate, the IEP team also considers the following special factors:
 - (1) For a student whose behavior impedes ~~his or her~~ their learning or that of others, strategies, positive behavioral intervention and supports to address that behavior;
 - (2) For a student with limited English proficiency, the language needs of the student as those needs relate to the IEP;
 - (3) For a student who is blind or visually impaired, instruction in Braille and the use of Braille unless the IEP team determines (after an evaluation of reading and writing skills, needs and media, including evaluation of future needs for instruction in Braille or the use of Braille, appropriate reading and writing), that instruction in Braille or the use of Braille is not appropriate;
 - (4) For a student who is deaf or hard of hearing, the student's language and communication needs, including opportunities for direct communication with peers and professional personnel in the student's language and communication mode, academic level and full range of needs, including opportunities for direct instruction in the student's language and communication mode; ~~and~~
 - (5) If a student is deaf, deafblind, or hard of hearing, the district will provide information about relevant services and placements offered by the school district, the education service district, regional programs, and the Oregon School for the Deaf; and
 - (6) A statement of any device or service needed for the student to receive a free appropriate public education (FAPE).
- d. In addition to the above IEP contents, the IEP for each eligible student of transition age includes:

- (1) Beginning not later than the first IEP in effect when the student turns 16, or as early as 14 or younger, if determined appropriate by the IEP team (including parent(s)), and updated annually thereafter, the IEP must include:
 - (a) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training education, employment, and where appropriate, independent living skills; and
 - (b) The transition services (including courses of study) needed to assist the student in reaching those goals.
 - (i) Regarding employment planning, the parent shall be provided information about and opportunities to experience employment services provided by Oregon Vocational Rehabilitation or the Oregon Office of Developmental Disability Services. These services must be provided in a competitive integrated employment setting, as defined by Oregon Administrative Rule 441-345-0020. Information about these services shall also be provided to the parent by the district at each annual review for IEPs to be in effect when the child turns 16, or as early as 14 or younger, if determined appropriate by the IEP team (including parent(s)).
 - (2) At least one year before a student reaches the age of majority (student reaches the age of 18, or has married or been emancipated, whichever occurs first), a statement that the district has informed the student that all procedural rights will transfer at the age of majority; and
 - (3) If identified transition service providers, other than the district, fail to provide any of the services identified on the IEP, the district will initiate an IEP meeting as soon as possible to address alternative strategies and revise the IEP if necessary.
- e. To promote self-determination and independence, the district shall provide the student and the student's parents with information and training resources regarding supported decision-making as a less restrictive alternative to guardianship, and with information and resources regarding strategies to remain engaged in the student's secondary education and post-school outcomes. The district shall provide this information at each IEP meeting that includes discussion of post-secondary education goals and transition services.

8. Incarcerated Youth

- a. For students with disabilities who are convicted as adults, incarcerated in adult correctional facilities and otherwise entitled to FAPE, the following IEP requirements do not apply:
 - (1) Participation of students with disabilities in state and districtwide assessment; and
 - (2) Transition planning and transition services, for students whose eligibility will end because of their age before they will be eligible to be released from an adult correctional facility based on consideration of their sentence and eligibility for early release.
- b. The IEP team may modify the student's IEP, if the state has demonstrated a bona fide security or other compelling interest that cannot be otherwise accommodated.

9. Extended School Year Services

- a. The district makes extended school year (ESY) services available to all students for whom the IEP team has determined that such services are necessary to provide FAPE.
- b. ESY services are:
 - (1) Provided to a student with a disability in addition to the services provided during the typical school year;
 - (2) Identified in the student's IEP; and
 - (3) Provided at no cost to the parent.
- c. The district does not limit consideration of ESY services to particular categories of disability or unilaterally limit the type, amount or duration of service.
- d. The district provides ESY services to maintain the student's skills or behavior, but not to teach new skills or behaviors.
- e. The district's criteria for determining the need for extended school year services include:
 - (1) Regression (a significant loss of skills or behaviors) and recoupment time based on documented evidence; or
 - (2) If no documented evidence, on predictions according to the professional judgment of the team.
- f. "Regression" means significant loss of skills or behaviors in any area specified on the IEP as a result of an interruption in education services.
- g. "Recoupment" means the recovery of skills or behaviors specified on the IEP to a level demonstrated before the interruption of education services.

10. Assistive Technology

- a. The district ensures that assistive technology devices or assistive technology services, or both, are made available if they are identified as part of the student's IEP. These services and/or devices may be part of the student's special education, related services or supplementary aids and services.
- b. On a case-by-case basis, the district permits the use of district-purchased assistive technology devices in the student's home or in other settings if the student's IEP team determines that the student needs access to those devices to receive a free appropriate public education. In these situations, district policy will govern liability and transfer of the device when the student ceases to attend the district.

11. Transfer Students

- a. In state:

If a student with a disability (who had an IEP that was in effect in a previous district in Oregon) transfers into the district and enrolls in a district school within the same school year, the district (in consultation with the student's parents) provides a free appropriate public education to the student (including services comparable to those described in the student's IEP from the previous district), until the district either:

- (1) Adopts the student's IEP from the previous district; or

- (2) Develops, adopts and implements a new IEP for the student in accordance with all of the IEP provisions.

b. Out of state:

If a student transfers into the district with a current IEP from a district in another state, the district, in consultation with the student's parents, will provide a free appropriate public education to the student, including services comparable to those described in the student's IEP from the previous district, until the district:

- (1) Conducts an initial evaluation (if determined necessary by the district to determine Oregon eligibility) with parent consent and determines whether the student meets eligibility criteria described in Oregon Administrative Rules.
- (2) If the student is eligible under Oregon criteria, the district develops, adopts and implements a new IEP for the student using the Oregon Standard IEP or an approved alternate IEP.
- (3) If the student does not meet Oregon eligibility criteria, the district provides prior written notice to the parents explaining that the student does not meet Oregon eligibility criteria and specifying the date when special education services will be terminated.

OSBA Model Sample Policy

Code: IGBAG-AR
Adopted:

Special Education - Procedural Safeguards**

1. Procedural Safeguards

a. The district provides procedural safeguards to:

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

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

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

c. The *Procedural Safeguards Notice* is:

- (1) Provided written in the native language or other communication of the parents (unless it is clearly not feasible to do so) and in language clearly understandable to the public.
- (2) If the native language or other mode of communication of the parent is not a written language, the district takes steps to ensure that:

- (a) The notice is translated orally or by other means to the parent in ~~his/her~~ their native language or other mode of communication;
- (b) The parent understands the content of the notice; and
- (c) There is written evidence that the district has met these requirements.

2. Content of *Procedural Safeguards Notice*

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

3. Parent or Adult Student Meeting Participation

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

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

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

4. Surrogate Parents

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

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

5. Transfer of Rights at Age of Majority

- a. When a student with a disability reaches the age of majority, marries or is emancipated, rights previously accorded to the student's parents under the special education laws, transfer to the student. A student for whom rights have transferred is considered an "adult student" under OAR 581-015-2000(1).

- b. The district provides notice to the student and the parent that rights (accorded by statute) will transfer at the age of majority. This notice is provided at an IEP meeting and documented on the IEP:
 - (1) At least one year before the student’s 18th birthday;
 - (2) More than one year before the student’s 18th birthday, if the student’s IEP team determines that earlier notice will aid transition; or
 - (3) Upon actual knowledge that within a year the student will likely marry or become emancipated before age 18.
- c. The district provides written notice to the student and to the parent at the time of the transfer.
- d. These requirements apply to all students, including students who are incarcerated in a state or local adult or juvenile correctional facility or jail.
- e. After transfer of rights to the student, the district provides any written prior notices and written notices of meetings required by the special education laws to the adult student and to the parent if the parent can be reasonably located.
- f. After rights have transferred to the student, receipt of notice of an IEP meeting does not entitle the parent to attend the meeting unless invited by the student or the district.
- g. To promote self-determination and independence, the district shall provide the student and the student’s parents with information and training resources regarding supported decision-making as a less restrictive alternative to guardianship, and with information and resources regarding strategies to remain engaged in the student’s secondary education and post-school outcomes. The district shall provide this information at each IEP meeting that includes discussion of post-secondary goals and transition services.

6. Prior Written Notice

- a. The district provides prior written notice to the parent of a student, or student, within a reasonable period of time, before the district:
 - (1) Proposes to initiate or change, the identification, evaluation or educational placement of the student, or the provision of a FAPE to the child; or
 - (2) Refuses to initiate or change the identification, evaluation or educational placement of the student, or the provision of a FAPE to the child.
- b. The content of the prior written notice will include:
 - (1) A description of the action proposed or refused by the district;
 - (2) An explanation of why the district proposed or refused to take the action;
 - (3) A description of each evaluation procedure, test, assessment, record or report used as a basis for the proposal or refusal;
 - (4) A statement that the parents of a student with a disability have procedural safeguards and, if this notice is not an initial referral for evaluation, how a copy of the *Procedural Safeguards Notice* may be obtained;
 - (5) Sources for parents to contact to obtain assistance in understanding their procedural safeguards;
 - (6) A description of other options the IEP team considered and the reasons why those options were rejected; and
 - (7) A description of other factors that are relevant to the agency’s proposal or refusal.

- c. The prior written notice is:
 - (1) Written in language understandable to the general public; and
 - (2) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so;
 - (3) If the native language or other mode of communication of the parent is not a written language, the district shall take steps to ensure that:
 - (a) The notice is translated orally or by other means to the parent in the parent’s native language or other mode of communication;
 - (b) The parent understands the content of the notice; and
 - (c) There is written evidence that the requirements of this rule have been met.

7. Consent¹ – Initial Evaluation

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

8. Consent – Initial Provision of Special Education Services

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

9. Consent – Re-evaluation

- a. The district obtains informed parent consent before conducting any re-evaluation of a child with a disability, except:

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

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

10. Consent – Other Requirements

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

11. Exceptions to Consent

- a. The district does not need written parent or adult student consent before:
 - (1) Reviewing existing data as part of an evaluation or re-evaluation;
 - (2) Administering a test or other evaluation administered to all students without consent unless, before administration of that test or evaluation, consent is required of parents of all students;
 - (3) Conducting evaluations, tests, procedures or instruments that are identified on the student’s individualized education program (IEP) as a measure for determining progress;
 or

- (4) Conducting a screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation.
- b. The district does not need written parent consent to conduct an initial special education evaluation of a student who is a ward of the state and not living with the parent if:
 - (1) Despite reasonable efforts to do so, the district has not been able to find the parent;
 - (2) The parent's rights have been terminated in accordance with state law; or
 - (3) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.
- c. The district does not need written parental consent if an administrative law judge (ALJ) determines that the evaluation or re-evaluation is necessary to ensure that the student is provided with a free appropriate public education.

12. Independent Educational Evaluations (IEE)

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

- f. The district considers an independent educational evaluation submitted by the parent, in any decision made with respect to the provision of a free appropriate public education to the student, if the submitted independent evaluation meets district criteria.

13. Dispute Resolution – Mediation

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

14. Dispute Resolution – Complaint Investigation

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

- f. If the district disagrees with the findings and conclusions in a complaint final order, it may seek reconsideration by ODE or judicial review in county circuit court.

15. Due Process Hearing Requests

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

16. Resolution Session

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

17. Time Limitations and Exception

- a. A parent must request a due process hearing within two years after the date of the district act or omission that gives rise to the parent's hearing request.

- b. This timeline does not apply to a parent if the district withheld relevant information from the parent or incorrectly informed the parent that it had resolved the problem that led the parent's hearing request.

18. Hearing Costs

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

19. Discipline and Placement in Interim Alternative Setting

See Board policy JGDA - Discipline of Students with Disabilities.