

REPORTING REQUIREMENTS

REGARDING SEXUAL CONDUCT
WITH STUDENTS



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DOES NOT TOLERATE SEXUAL MISCONDUCT IN ANY FORM.

In 2009, the Oregon State Legislature passed a law regarding sexual conduct involving school employees and students. This law impacted hiring procedures, investigations and reporting requirements for sexual conduct, in hopes of stopping grooming behaviors that may lead to abuse. This law was amended in 2019 by Senate Bill 155. Among the key changes are: a new definition for "sexual conduct" including expansion to include contractors, agents and volunteers required to have direct, unsupervised contact with students; mandatory reports to a designated licensed administrator; ODE and TSPC responsibilities in the investigation process; and added training and notification requirements to include appropriate electronic communications with students.

SEXUAL CONDUCT DEFINED

Sexual Conduct is defined as verbal or physical conduct or verbal, written or electronic communications by a school employee, a contractor, an agent or a volunteer that involve a student and that are: sexual advances or requests for sexual favors directed toward the student; or of a sexual nature that are directed toward the student or that have the effect of unreasonably interfering with the student's educational performance, or of creating an intimidating, hostile or offensive educational environment. Sexual conduct does not include touching that is necessitated by the nature of the school employee's job duties or by the services required to be provided by the contractor, agent or volunteer and for which there is no sexual intent. Sexual conduct may include grooming behavior (this is behavior in which adults develop trust to break down a child's defenses so that the adult may engage the child in sexual conduct or sexual abuse). Examples of sexual conduct may also include (but not be limited to):

- Staff performing back rubs on a student
- Kissing students
- Touching students frequently
- Commenting on students' bodies or appearance in a sexual manner
- Exchanging romantic gifts or communications with a student
- Showing obscene or suggestive photos to the student
- Videotaping or photographing a student in revealing or suggestive poses
- Discussing/writing about sexual topics unrelated to curriculum with students, making sexual jokes, gestures and innuendos or engaging in inappropriate banter with students (e.g., discussion of student's dating behavior)
- Sharing one's own sexual exploits or marital difficulties
- Intentionally invading the student's privacy
- Using email, text messaging or instant messaging to discuss sexual topics with individual students

APPLYING POLICY JHFF

ALL EMPLOYEES are required to follow Policy JHFF. This means that if an employee has reasonable cause to believe that another employee, contractor, agent or volunteer has engaged in sexual conduct with a student, the employee must immediately notify the designated licensed administrator. Failure to do so would be a violation of law and policy, and could result in disciplinary action against the employee. The initiation of a report in good faith about suspected sexual conduct may not adversely affect the reporting employee's condition of employment or the work environment of the complainant.

Students, parents, contractors, agents and volunteers may also initiate complaints if they believe that an employee, contractor, agent or volunteer has engaged in sexual conduct with a student. If a student initiates a good-faith report of suspected sexual conduct by an employee, contractor, agent or volunteer, the student will not be disciplined for such action.

Prohibited sexual conduct may also include sexual harassment. For your district's definitions and procedures regarding sexual harassment, please review policy JBA.

School employees also have a duty to report suspected child abuse committed by an employee, contractor, agent, volunteer or student to the Department of Human Services or law enforcement, and the designated licensed administrator. Child abuse includes physical abuse, emotional abuse, sexual abuse, threatened harm and neglect. Sexual abuse includes any nonconsensual sexual contact, including, but not limited to rape, sodomy, incest and sexual penetration with a foreign object, as those acts are defined in ORS Chapter 163.

INVESTIGATIVE PROCEDURES

When an education provider receives a report of suspected sexual conduct by an employee and there is reasonable cause to support the report, the education provider must place the employee on paid administrative leave and take necessary actions to ensure student safety.

If the education provider receives a report of suspected sexual conduct by a contractor, an agent or a volunteer, the education provider must prohibit the contractor, agent or volunteer from providing services to the education provider if the education provider determines that there is reasonable cause to support the report.

When the complaint alleges sexual conduct by a licensed individual, the designated licensed administrator must contact TSPC as soon as possible for TSPC to conduct an investigation. If a complaint alleges sexual conduct by an unlicensed individual, the designated licensed administrator must contact ODE as soon as possible for ODE to conduct an investigation. The education provider may also conduct its own investigation.

If, following the investigation, the education provider determines that it will take employment action, the education provider must inform the employee of the action to be taken and provide the employee with information about the appeal process. The accused employee may appeal the education provider's decision through the applicable appeal process, which may include a collective bargaining agreement's grievance procedure or a neutral third party.

If the employee decides not to appeal the employment action or if the employment action is sustained after an appeal, a record of the substantiated report will be retained by the education provider. The employee will be notified that this information may be disclosed to a potential employer.

NAME AND CONTACT INFORMATION

The education provider is required to post in each school building the name and contact information of the licensed administrator and alternate licensed administrator designated to receive reports of suspected sexual conduct, as well as the procedures the licensed administrator will follow upon receipt of a report.

WHAT ABOUT LAW ENFORCEMENT?

Nothing prohibits an employee, contractor, agent or volunteer from reporting sexual conduct to law enforcement. If the conduct rises to child abuse (including sexual abuse), employees are required to report to local law enforcement or the Department of Human Services. Local law enforcement or the Department of Human Services may conduct their own investigation and the law enforcement agency will determine what charges, if any, will be filed against the individual.

ANNUAL TRAINING REQUIRED

The education provider is required to provide annual training to all employees concerning the prevention, identification and reporting obligations for sexual conduct and regarding appropriate electronic communications with students. The education provider shall also make this training available to contractors, agents, volunteers and parents or guardians of students. An education provider is also required to make available to students annually training that is designed to prevent abuse and sexual conduct.

The education provider is required to annually provide to contractors, agents and volunteers information regarding the prevention and identification of sexual conduct, school employee reporting obligations and appropriate electronic communications with students.

Also, at the time of hire or beginning service, the education provider will provide employees, contractors, agents and volunteers with a description of what may constitute sexual conduct, a description of the investigatory process and possible consequences, and a description of the prohibitions imposed on employees, contractors and agents when another employee, contract or agent attempts to obtain a new job.

SCHOOL DISTRICT CONTACT

Name _____

Title _____

Address _____

