



Joseph Hattrick <jhattrick@rsd.k12.or.us>

## Rainier SD insurance coverage for clubs

1 message

**William White** <wwhite@whainsurance.com>

To: "jhattrick (jhattrick@rsd.k12.or.us)" <jhattrick@rsd.k12.or.us>

Cc: Shalana Harrison <shalana\_harrison@rsd.k12.or.us>, Nathan Cortez <NCortez@whainsurance.com>, Jennifer King <JKing@whainsurance.com>, Tammy Jeffries <TJeffries@whainsurance.com>

Tue, Oct 26, 2021 at 4:30 PM

Dr. Hattrick,

WHA has been tasked with exploring options for Rainier SD to support the community by extending the District's Liability insurance coverage to groups within the community that are primarily comprised of District students. See attached "Club Sports Coverage Analysis".

Attached are some supporting documents:

1. Background Checks PACE QRG. This quick reference guide explains your obligations if you take responsibility for club sports.
2. Private-Transportation-of-Students PACE QRG. This quick reference guide explains student transport in private vehicles.
3. sb-155-brochure-3rd-parties-final-2020. This explains reporting requirements for third parties.
4. School Sponsored Activity Liability Release Form 2020 (2). Participants would complete this form.
5. Waiver of Liability for COVID-19 Student Sport or Activity 22021 (2). Participants would complete this form.

Please, review and then we discuss any changes you would like to see.

All the best,

**William White, ARM, CISR**  
Property/Casualty Account Executive

Direct: (541) 284-5850

Mobile: (541) 735-0421  
Fax: (541) 484-5434  
Phone: (800) 852-6140  
Email: [wwhite@whainsurance.com](mailto:wwhite@whainsurance.com)

**[www.WHAINSURANCE.com](http://www.WHAINSURANCE.com)**

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Policy Disclaimer: Remember you may not bind or amend coverage by e-mail, fax or voicemail. You will receive an e-mail or fax verification that your request has been received and processed.

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#### 6 attachments

 **Background-Checks PACE QRG.pdf**


201K

 **Private-Transportation-of-Students PACE QRG.pdf**


329K

 **sb-155-brochure-3rd-parties-final-2020.pdf**

634K

 **School Sponsored Activity Liability Release Form 2020 (2).docx**

20K

 **Waiver of Liability for COVID-19 Student Sport or Activity 22021 (2).docx**

17K

 **Club Sports Coverage Analysis.pdf**

525K

Dr. Hattrick,

WHA has been tasked with exploring options for Rainier SD to support the community by extending the Districts Liability insurance coverage to groups within the community that are primarily comprised of District students.

Question:

Shall the District consider covering Rainier area club sports under the Districts PACE Educators Liability policy?

Situation:

Youth leagues in Rainier are typically comprised completely of Rainier School District students. These leagues may or may not be incorporated as non-profits. They may or may not have liability insurance for their organization either locally or as part of their larger affiliation. The leadership of these organizations is typically comprised of parents of the participants and other interested adults. If the organization is affiliated with a national program such as Pop Warner for football, Little League or Junior Baseball Org. for baseball, AYSO for soccer, and so on, then the organization typically has its own insurance and leadership requirements. If the organization is unaffiliated then it sets its own bylaws and policies.

These youth groups are not prohibited from including non-Rainier SD students. For example, they may have participants that are students of private schools, are home-schooled, or are from nearby communities. These youth groups do not coordinate their travels, schedules, training, policies, finances, contracting, recruiting, or leadership with the District. The District currently has no supervisory role over the organization or activities of these groups. Any District employees or officers involved with these organizations do so outside the scope of their District employment and duties as general members of the community.

The adults involved with non-District sponsored clubs are not subject to the same training, background check, and requirements as District employees and volunteers. This includes background checks, fingerprinting, and training in Senate Bill 155 requirements to prevent Sexual Abuse and Molestation.

The groups are not required to follow District policies regarding finances, transportation, ADA accommodations, Diversity/Equity/Inclusion requirements, Title IX requirements, or Sexual Abuse & Molestation prevention (SB155) requirements.

Sexual Abuse and Molestation claims are a leading, very expensive, and very damaging source of loss for school districts across Oregon. PACE is the primary self-insurance pool for almost all school districts in Oregon and has seen a critical number of these claims. The State of Oregon and PACE require School Districts to take a variety of actions to protect students from abuse. Those actions include screening adults with background checks and fingerprinting, requiring all adults and students to receive SAM training, and implementing policies to prevent or reduce the likelihood of abuse. Any activities and persons covered under the District's insurance policy would be subject to these requirements.

Certain sports are not District-sponsored for many reasons that can include Title IX requirements, available facilities, available personnel, and costs to support the sport. Districts must follow Title IX requirements to make sports equally available to male and female students.

Districts are required to follow ODE, State, and Federal laws regarding Diversity, Equity, and Inclusion, ADA, and much more. These requirements may conflict with or be otherwise disharmonious with the youth sports organizations bylaws, policies, and practices.

Districts are required to use qualified transportation providers. These providers meet higher standards than many charter operators care to meet. Any club sport travel would have to follow District and ODE policies regarding transportation. This prohibits the use of taxis, Ride-hailing services, many charter bus companies, and limousines.

PACE Educators Liability coverage specifies who is covered under the policy. A club sport would only become a covered "Participant" if the District had an Insured Contract with the group. Observe in h. that coverage would not apply if the group is solely negligent. See below VII. Definitions, Participant, subsections g and h.

- g. Organizations that are under the supervision of the administration of the **Named Participant**, including **Student Organizations**, **Parent Teacher Organizations**, **Booster Clubs**, and **Foundations**; and
- h. Any person, entity, or any organization the **Named Participant** is required by an **Insured Contract** to include as a **Participant**. The terms of the **Insured Contract** will have no effect on either the **Per Occurrence Limit of Liability**, **Per Wrongful Act Limit of Liability** or the **Annual Aggregate Limit of Liability**. The **Insured Contract** must be effective and executed prior to a covered **Occurrence** or **Wrongful Act**. In no event shall coverage under this **Coverage Document** extend pursuant to this subsection g. to any party for any **Claim**, however or whenever asserted, arising out of such party's sole negligence. The term "Additional Insured," if used in an **Insured Contract**, shall be understood to mean the same as **Additional Participant**.

An Insured Contract would be one where the District had a contract or agreement pertaining to the District's operations and assumes the tort liability of that other person or organization. Section VII. Definitions, Insured Contract, subsection a.6.

- 6. That part of any other contract or agreement pertaining to the **Named Participant's** operations (including an indemnification of a **Public Body** in connection with work performed by or for a **Public Body**) under which the **Named Participant** assumes the tort liability of another person or entity to pay for **Bodily Injury**, **Property Damage**, or **Personal Injury** to a third person or organization, provided the **Bodily Injury**, **Property Damage**, or **Personal Injury** is based on an **Occurrence** that takes place subsequent to the execution of the contract or agreement;

PACE declines coverage for Sexual Abuse and Molestation if acts are reported to anybody that is an officer or administrator of the District and then does not report the incident to authorities such as law enforcement or Oregon Department of Human Services. This

No coverage under this Additional Coverage 7 is provided:

1. To any **Participant** or other person(s) who committed, participated in, or directed, any act described in Paragraph a. or b. of the **Sexual Misconduct** definition.
2. For any **Sexual Misconduct** when any administrator, official, trustee, director, officer, or board member of the **Named Participant** designated as the licensed administrator or alternate licensed administrator under ORS 339.372(4) failed to report such **Sexual Misconduct** when such licensed administrator or alternate licensed administrator is under the legal duty to do so pursuant to ORS 339.372 or ORS 339.388. The exclusion in this paragraph 2 does not apply if such person committed, participated in, or directed, any act described in Paragraph a. or b. of the **Sexual Misconduct** definition.

Volunteer coverage. If the sport becomes a District-sponsored activity then the adults become volunteers for the District and their actions fall under your liability coverage. All volunteers would have to conform to District policies and take mandatory trainings such as for SB155.

Leadership. Covering a club sport means assigning District personnel to supervise the sport which is a commitment of both time and financial resources. A District employee would be required to accompany the team on all travel.

Supervision. Districts typically have policies to ensure adequate supervision during travel to reduce the risk of harm to students through injury, illness, or Sexual Abuse & Molestation. This includes having two awake employees during overnight travel, always having at least two adults or two students in a vehicle, and not allowing adults and students to share rooms.

Financial. The District controls the finances of the clubs, foundations, and sports under its authority with ASB accounts. If the District were to provide insurance coverage for a club sport they should fully embrace it as a District-sponsored club and require the club to follow District financial guidelines regarding ASB accounts.

Independent Contractors. The club sport may want to contract with specialty coaches and will have to follow District guidelines for contracting.

Target:

The goal is to ensure the District follows its mission and that it practices both fiduciary and general liability responsibility. The District's mission:

Rainier School District's Mission Statement

A spirited learning community that is student-centered, safe, academically focused, and dedicated to preparing every student for success in the global society in which we live.

All organizations and persons that use District facilities should have liability insurance to protect the District from loss. This coverage provides the District with recourse in the event the organization causes

damage to the facility or creates a liability. Additionally, the District should be named as an Additional Insured on the party's insurance to protect the District from liability for any of their actions.

Any District-sponsored activities, sports, teams, and clubs must follow all District policies. This includes not only screening and training for the adults, but also requirements to use ODE and District-approved transportation methods, to follow District financial guidelines, and to follow other rules applicable to District-sponsored youth sports such as Title IX requirements.

### Proposal:

We have identified some options the District could take. They can be described as either completely embrace the club or completely divorce it.

1. Extend PACE (Property and Casualty Coverage for Education) Educators Liability coverage to youth clubs in the community.
  - a. Advantages:
    - i. This would enable youth clubs to be covered by the District without needing to obtain their own liability coverage.
  - b. Disadvantages:
    - i. The District would have limited, if any, oversight of club operations.
    - ii. The District would potentially be liable for any torts committed by the club. Any torts solely caused by the club are excluded from coverage.
    - iii. The club may enter into agreements or contracts with others that imperil the District.
  - c. Cost:
    - i. There is not a specific added cost. There would need to be an Insured Contract that makes the club a Participant.
  - d. Discussion:
    - i. The District would need to provide administrative oversight of the club. The District should treat the club the same as a District-sponsored club and follow all practices, procedures, and policies as such. The District would have to take charge of financial responsibilities and control the club's accounts. As described throughout the Situation section of this document, when a club chooses to fall under the District's insurance program it also must adhere to extensive District policies. Some of these policies may be contrary to the current practices or will of the club. This is especially true in a few key areas.
      1. Sexual Abuse and Molestation. This risk cannot be overstated. Claims are frequent and expensive and children are permanently harmed. The District faces significant risk by extending coverage to a club if it does not also require the club to follow all SB155 rules.
        - a. All members of the club, both adult leaders, coaches, board members, and the youth members or athletes must take SB155 training. All volunteers, employees, coaches, etc. must get background checks and fingerprinting.
      2. Discrimination. The club may face claims of discrimination for not allowing transgender, gay, lesbian, or other persons. The District risks liability for these claims.

3. Fiduciary. The District must require the club to put its finances under the control of the District and follow District and Public financing requirements. This may limit the club's ability to contract with and pay others.
2. Non-District sponsored clubs, sports, and groups obtain their own insurance as needed to conduct their operations and protect their liabilities.
  - a. Advantages:
    - i. This would enable groups to be covered by their own liability coverage.
    - ii. The club would have the autonomy to conduct its business without District oversight.
    - iii. The District would not be liable for the actions of the club.
  - b. Disadvantages:
    - i. The club would have to incorporate as a not-for-profit.
    - ii. The club would have to pay for its own insurance.
  - c. Cost:
    - i. There is no cost to the District.
  - d. Discussion:
    - i. The club should incorporate as a 501(c)(3) and obtain its own liability insurance. This would enable the club to enter into agreements with other parties and issue their own Certificates of Insurance in contracts. The club would conduct its own fundraising and follow its own fiduciary policies.

Please contact us at WHA insurance for further discussion.

**William White, ARM, CISR**

Property/Casualty Account Executive

Direct: (541) 284-5850

Mobile: (541) 735-0421

Fax: (541) 484-5434

Phone: (800) 852-6140

Email: [wwhite@whainsurance.com](mailto:wwhite@whainsurance.com)

**[www.WHAINSURANCE.com](http://www.WHAINSURANCE.com)**



## QUICK REFERENCE GUIDE

# BACKGROUND CHECKS

This guide is intended to be a starting point for understanding background checks, when they are required and what PACE recommends as best practice. This guide should not be substituted for legal advice, especially for more complex situations. If you have further questions or need additional guidance please reach out to your retained general counsel or [PACE Legal Services](#).

**PACE often gets asked about background checks and their requirements. This topic can often be confusing because of the various requirements and distinct terminology. Following are definitions to common background check terminology:**

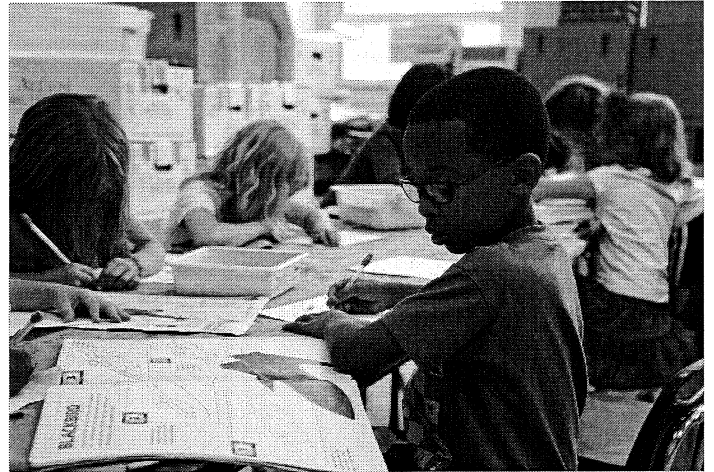
**Background Check** – an all-encompassing term for different checks, that you as an educational employer are required to do per ORS 339.374. The following types of background checks will be further explored in subsequent sections: criminal records check, reference check and ODE/TSPC verification.

**Contractor** – “a person providing services to an education provider under a contract in a manner that requires the person to have direct, unsupervised contact with students,” as defined by ORS 339.370(3).

**Volunteer** – “a person acting as a volunteer for an education provider in a manner that requires the person to have direct, unsupervised contact with students,” as defined by ORS 339.370(14).

**Direct, unsupervised contact with students** – “contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision,” as defined by OAR 581-021-0510(3).

*These definitions and legal requirements are found in OSBA model policy GCDA/GDDA and GCDA/GDDA-AR. It is recommended that the entity contact the OSBA Policy Department to confirm that it has the most recent version of this policy.*



## Types of background checks required by ORS 339.374 to help prevent sexual abuse and molestation (SAM).

### Criminal Records Check

*Please note that the preceding definitions of contractor and volunteer may not encompass every contractor and volunteer that walks onto your campus.*

### Employees

- All non-licensed employees are required to submit to a fingerprinting and criminal records check through the Oregon Department of Education (ODE) upon offer of employment.
- All licensed staff go through a fingerprinting and criminal records check upon licensure through the Teacher Standards and Practices Commission (TSPC).

### Contractors

- Contractors are required to submit to the same fingerprinting and criminal records check as required for employees.



# QUICK REFERENCE GUIDE | BACKGROUND CHECKS

## Volunteers

- Educational entities are required to have a policy requiring volunteers to undergo a criminal records check.
- There is currently no regulatory guidance on the contents of a criminal records check.
  - As a best practice, PACE recommends at a minimum, that the criminal records check be from a national database. There are some educational service districts (ESD) that provide this service through a contract.
  - You should already have policy (GCDA/GDDA and associated AR) that defines what your entity does for criminal records checks. Some of those policies may require positions such as volunteer coaches to undergo fingerprinting in addition to the criminal records check. Be aware of and follow your policy.

## Reference Check

In 2009, Oregon passed the first bill related to sexual conduct of school employees. This bill included a provision that educational providers must conduct a reference check of the last three educational employers for all new hires. The reference check is to verify with those employers if the prospective employee:

- has been the subject of a substantiated report of abuse or sexual conduct; or
- is the subject of an ongoing investigation related to a report of suspected abuse or suspected sexual conduct, and if so, includes:
  - dates of reports;
  - definitions of "abuse" and sexual conduct" used in the investigation; and
  - standards used to determine whether any reports were substantiated.

This law requires the prospective employee to furnish you with:

- a list of their previous and current educational employers;
- written authorization for those employers to release certain information pertinent to this law (PACE has a sample disclosure release that can be used for this process); and
- a written statement of whether they have been the subject of a substantiated report of child abuse or sexual conduct and/or they are the subject of an ongoing investigation related to a report of suspected child abuse or suspected conduct.



## ODE/TSPC Verification

In 2019 the Oregon Legislature passed a bill that resulted in major changes to Oregon's sexual conduct laws. The main change related to background checks was the addition of a verification that must be completed related to the investigation of substantiated reports of sexual conduct.

Prior to the educational provider hiring a new employee or accepting the services of a contractor or volunteer, the educational provider must verify with:

- TSPC for those persons who are licensed by the TSPC or
  - ODE for those persons who are not licensed by TSPC
- if the person is the subject of an ongoing investigation or has a substantiated report relating to conduct by the person that may constitute sexual conduct. Refer to ODE's webpage on sexual conduct that includes ODE's verification process.

**If you have any additional questions or need further assistance, please reach out to the Risk Management Department at 800-285-5461 or at [riskmanagement@sdao.com](mailto:riskmanagement@sdao.com)**

## PACE RISK MANAGEMENT

MN rev. 07.2021

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# BACKGROUND CHECKS | FREQUENTLY ASKED QUESTIONS

This FAQ is designed to supplement the Background Check QRG. PACE created this FAQ with best practices and clarifying background check requirements in mind. Please reference the QRG to understand the terminology used in this document for the different required background checks. Note, this FAQ should not substitute for legal advice, especially for more complex or unique situations. If you have further questions or need additional guidance please reach out to your retained general counsel or PACE Legal Services.

**Q: What background checks do I need to complete for licensed staff?**

**A:** You need to conduct a:

- reference check
- TSPC verification

*\*Fingerprinting and criminal records check is completed upon licensure with TSPC.*

**Q: What background checks do I need complete for unlicensed staff?**

**A:** You need to conduct a:

- fingerprinting and criminal records check through ODE
- reference check
- ODE verification

**Q: What background checks do I need to complete for an unlicensed staff position that is being filled by an individual who holds a current TSPC licensure?**

**A:** You need to conduct a:

- reference check
- TSPC verification

*\*Fingerprinting and criminal records check is completed upon licensure with TSPC.*

**Q: What background checks do I need complete for contactors?**

**A:** For those contactors that will have contact with students that provides the person the opportunity and probability for personal communication or touch when not under direct supervision, you need to conduct:

- the same criminal records check and fingerprinting you would conduct on your employees, and
- ODE/TSPC verification (TSPC for those persons who are licensed by the TSPC or ODE for those persons who are not licensed by TSPC)

**Q: What background checks do I need complete for volunteers?**

**A:** You need to:

- reference and follow your policy (GCDA/GDDA and associated AR), and
- for those volunteers who have contact with students that provides the person the opportunity and probability for personal communication or touch when not under direct supervision, you need to conduct:
  - ODE/TSPC verification (TSPC for those persons who are licensed by the TSPC or ODE for those persons who are not licensed by TSPC)

**Q: What background checks do I need to complete for an "Agent"?**

**A:** "Agents" should fall into the category of either a contractor or volunteer with the educational entity, and therefore should be background checked accordingly.

- If you feel you have a unique situation where an agent does not fall into either of these categories, please contact PACE Legal.

**Q: What do we do for those contractors and volunteers that do not have contact with students that provides the person the opportunity and probability for personal communication or touch when not under direct supervision?**

**A:** Nothing is required statutorily, but as a best practice you need to put controls in place to help reduce the likelihood of grooming behaviors and other sexual misconduct. Those controls may include actions such as:

- developing processes and practices to ensure those individuals do not have direct unsupervised contact with students, and/or
- electing to complete criminal records checks on these individuals (you need to follow your policy for your volunteers), and/or
- electing to conduct the ODE/TSPC verification.

If you have further questions or need additional guidance please reach out to your retained general counsel or PACE Legal Services.

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## QUICK REFERENCE GUIDE

### STUDENT TRANSPORTATION IN PRIVATE VEHICLES

Student transportation to school-sponsored activities in private vehicles is not best practice. It is always preferred to utilize a school's standard protocols for student transportation, whether that is in a district or school vehicle with appropriately trained staff or contracted to a third party.

If a district or school is going to consider allowing the use of private transportation, here are a few things they should consider:

- The insurance for drivers who are transporting students would be primary if an accident were to occur. Thus, drivers could incur some personal liability.
- The entity needs to confirm board policy governing this matter. If an existing policy is not already in place, it is recommended that one be adopted to provide guidance. Policy should direct that:
  - School or district administration approves the use of private transportation for that activity.
  - Parents or guardians consent via a signed permission slip.
  - The entity requires the vehicle and driver to be properly licensed.
  - The entity requires proof of insurance from the driver(s), which meets or exceeds the minimum limits set by the state and the entity. (The insurance agent of record would be a good resource to help the school set appropriate limits within your risk tolerance.)
- Private transportation has adequate seating and appropriate restraints in good working order for the students being transported, including child safety restraints such as booster seats, if required.
- If student transportation is allowed in private vehicles, ensure that a driver is never alone with a student. In other words, if you must transport a single student, at least two adults should be present in the vehicle. This is to help limit perception and liability issues and to ensure reliable witnesses for potential allegations from the trip.
- Students transporting fellow students to school-sponsored events is not best practice and should be avoided.
- Finally, it is mandatory that all drivers complete required training and background checks, including providing information as required by Oregon's sexual conduct rules.



If you would like to further discuss your situation or brainstorm risk mitigation on this topic or any other topic, please reach out to your PACE Risk Management Team at [riskmanagement@sdao.com](mailto:riskmanagement@sdao.com).

## PACE RISK MANAGEMENT

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# Abuse and Sexual Conduct Information and Reporting Requirements for School Contractors, Agents and Volunteers

\_\_\_\_\_ SCHOOL DISTRICT

**DOES NOT TOLERATE CHILD ABUSE OR SEXUAL CONDUCT IN ANY FORM.**

## PREVENTION

The \_\_\_\_\_ School District seeks to prevent child abuse and sexual harassment by committing to:

- Teaching students about appropriate boundaries and relationships (in coordination with curriculum);
- Training all employees regarding child abuse and sexual conduct, and clearly communicating responsibilities and procedures;
- Making this training available to parents, community members, contractors and volunteers; and
- Promptly and thoroughly investigating any reports or complaints of abuse or sexual conduct.

## ABUSE DEFINED

- Any assault of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.
- Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.
- Rape of a child.
- Sexual abuse.
- Sexual exploitation, including but not limited to: Contributing to the sexual delinquency of a minor, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, sexual abuse involving a child or rape of a child, and Allowing, permitting, encouraging or hiring a child to engage in prostitution or a commercial sex act, to purchase sex with a minor or to engage in commercial sexual solicitation.
- Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.
- Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.
- Buying or selling a person under 18 years of age.

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- Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.
- Unlawful exposure to a controlled substance, or to the unlawful manufacturing of a cannabinoid extract, that subjects a child to a substantial risk of harm to the child's health or safety. ORS 419B.005(1).

### **SEXUAL CONDUCT DEFINED**

Verbal or physical conduct or verbal, written or electronic communications by a school employee, a contractor, an agent or 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. ORS 339.370(11)(a).

**STUDENT DEFINED:** Any person who is in any grade from prekindergarten through grade 12 or twenty-one years of age or younger and receiving educational or related services from an education provider that is not a post-secondary institution or education or who was previously known as a student by the person engaging in sexual conduct and who left school or graduated from high school within 90 days prior to the sexual conduct. ORS 339.370(12).

### **GROOMING AND EXAMPLES OF SEXUAL CONDUCT**

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.

Sexual Conduct includes but is not limited to the following examples:

- Performing back rubs on students
- Touching students frequently
- Exchanging romantic gifts or communications with a student
- 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)
- Intentionally invading the student's privacy
- Kissing students
- Commenting on students' bodies or appearance in a sexual manner
- Videotaping or photographing a student in revealing poses
- Sharing one's own sexual exploits or marital difficulties
- Using email, text messaging or instant messaging to discuss sexual topics with individual students

## **OBLIGATIONS OF SCHOOL EMPLOYEES TO REPORT ABUSE AND SEXUAL CONDUCT**

ALL EMPLOYEES are required to follow Policy JHFE "Reporting of Suspected Abuse of a Child" and policy JHFF/GBNAA "Reporting Requirements for Suspected Sexual Conduct with Students." These policies help ensure employees are properly reporting incidents of abuse and sexual conduct.

Policy JHFE requires employees who have a reasonable cause to believe **any child** with whom the employee has come into contact has suffered abuse, to report this to DHS or the law enforcement agency within the county where the person making the report is located at the time of the contact. It also requires employees who have a reasonable cause to believe that **any adult or student** with whom the employee is in contact has abused a child to report this to DHS or to the law enforcement agency within the county where the person making the report is located at the time of the contact. See attached district policy JHFE "Reporting Requirements for Suspected Abuse of a Child" for more detail regarding these reporting obligations.

Policy JHFF requires employees who have reasonable cause to believe that another employee, contractor, agent or volunteer has engaged in sexual conduct with a student, to immediately notify the designated licensed administrator of the conduct. The designated licensed administrator who receives the report is required to report to the Oregon Department of Education (ODE or Teacher Standards and Practices Commission (TSPC) as appropriate. See attached district policy "Reporting Requirements for Suspected Sexual Conduct with Students" for more detail regarding these reporting obligations.

## **INVESTIGATORY PROCESS**

When the designated licensed administrator (or alternate) receives a report of sexual conduct and has reasonable cause to believe that it has occurred, the designated licensed administrator will report the alleged conduct to TSPC if the alleged perpetrator is a licensed individual, and to ODE if the alleged perpetrator is not licensed (effective July 1, 2020). TSPC or ODE will conduct an investigation and report back to the district. The district may also conduct an investigation into the alleged sexual conduct. If the designated licensed administrator (or alternate) receives a report of child abuse and has reasonable cause to believe that it has occurred, the designated licensed administrator will ensure that the report has been made to DHS and/or law enforcement for investigation. The district may also conduct an investigation into the alleged abuse. The designated licensed administrator will also report to TSPC if required by OAR 584-020-0041. A contractor, agent or volunteer may be removed from their position based on information of sexual conduct and/or child abuse.

## **[OBLIGATIONS OF SCHOOL CONTRACTORS, AGENTS AND VOLUNTEERS TO REPORT ABUSE AND SEXUAL CONDUCT]**

ALL CONTRACTORS, AGENTS AND VOLUNTEERS are required to report all known or suspected incidents of abuse and sexual conduct to a school administrator. Failure to report known or suspected incidents of abuse and sexual conduct may lead to termination of your contract with the District, termination of your right to volunteer with the District, and/or trespass from all school property and events.]<sup>1</sup>

<sup>1</sup> This Section is optional. The District should review contract and consult with legal counsel.

## **APPROPRIATE ELECTRONIC COMMUNICATIONS WITH STUDENTS**

Policy JHFF/GBNAA requires that any electronic communications with students by a contractor, agent or volunteer for the district will be appropriate and only when directed by district administration. When communicating with students electronically regarding school-related matters, contractors, agents or volunteers shall use district e-mail using mailing lists and/or other internet messaging to a group of students rather than individual students or as directed by district administration. Texting or electronically communicating with a student through contact information gained as a contractor, agent or volunteer for the district is \_\_\_\_\_.<sup>2</sup> See attached district policy JHFF/GBNAA Reporting Requirements for Suspected Sexual Conduct with Students for more detail regarding these reporting obligations.

## **ADDITIONAL PROHIBITIONS**

If a school employee, contractor or agent knows or has reason to know that another school employee, contractor or agent has engaged in sexual conduct or abuse, the school employee, contractor or agent may not assist the other in obtaining a new job. This prohibition does not apply if the employee, contractor or agent knows or has reasonable cause to believe that the conduct was reported to the appropriate agency and was resolved, or the investigation remains ongoing after four years.

<sup>2</sup> Choose "strongly discouraged" or "prohibited" - whatever language that matches the language in District policy JHFF "Reporting Requirements for Suspected Sexual Conduct with Students."



[Name School District]  
School Sponsored Activity Liability Release Form  
Emergency Medical Treatment Authorization

Student Name: \_\_\_\_\_

Grade \_\_\_\_\_ Home Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Parent(s)/Guardian(s) Name(s): \_\_\_\_\_

Parent(s)/Guardian(s) Phone Numbers: \_\_\_\_\_

Activity: \_\_\_\_\_

Description of Activity: \_\_\_\_\_

**I understand that participation in this Activity is not required. The Activity is voluntary and will expose my child/student (Student) to risks of injuries.** I understand that participation in the Activity, involves a certain element of risk. I understand that any transportation during and participation in the Activity will expose Student to risks of injuries. Some of these hazards and risks are foreseeable, but some are unforeseeable. Examples of risks include, but are not limited to, physical injury, emotional injury, property damage, economic loss, noneconomic loss, and deprivation of rights, privileges, and immunities. Some of these hazards and risks cannot be eliminated due to the nature of the activities. **I understand that these risks could cause harm to Student, his/her property, and other persons.**

In consideration for providing Student the opportunity to participate in the Activity, fully recognizing the dangers and hazards inherent in participating in the above mentioned Activity and any related transportation to and from Activity events, **both Student and I voluntarily agree to waive and discharge any and all claims against the [Name School District] (District) and release it from liability for any loss regardless of cause**, including claims for any negligent actions of the District or its employees or agents, to the fullest extent allowed by law, for myself, Student, our estates, our heirs, our administrators, our executors, our assignees, and our successors. I also agree to release, exonerate, discharge and **Hold Harmless** the District, its Board of Directors, the individual members thereof, and all officers, agents, employees, volunteers, and representatives from all liability for any loss, claims, causes of action, or demands, including attorney fees, arising out of injuries of any kind to me, Student, or to our property, or losses of any kind which may result from or in connection with Student's participation in the Activity, up to and including injuries stemming from the negligent actions of the District or its employees or agents. **I further certify and represent that I have the legal authority to waive, discharge, release, and hold harmless the released parties on behalf of Student.**

If permitted and allowed to participate in the Activity, Student agrees to the following: [describe any rules or requirements Student must follow while participating in the Activity]

In the event that Student may require emergency medical treatment while participating in the Activity, I authorize the District and its employees to secure the services of a physician or hospital, and to incur the expenses for necessary services in the event of an accident or illness and I will provide for the payment of these costs.

This Agreement is intended to be as broad and inclusive as is permitted by law. If any provision or any part of any provision of this Agreement is held to be invalid or legally unenforceable for any reason, the remainder of this Agreement shall not be affected thereby and shall remain valid and fully enforceable.

Signature of Parent/Guardian \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Student: \_\_\_\_\_ Date: \_\_\_\_\_

[Name School District]  
School Sponsored Activity Liability Release Form  
Emergency Medical Treatment Authorization

**Medical Information:**

Known allergies (drug or natural) \_\_\_\_\_

Special medication being taken \_\_\_\_\_

Date of last tetanus shot \_\_\_\_\_

History of serious medical conditions \_\_\_\_\_

\_\_\_\_\_

Any physical restrictions \_\_\_\_\_

Other conditions \_\_\_\_\_

Family Doctor \_\_\_\_\_

Parent or Guardian phone number: Work: \_\_\_\_\_ Home: \_\_\_\_\_ Other: \_\_\_\_\_

Insurance Company Name: \_\_\_\_\_ Policy #: \_\_\_\_\_

**WAIVER OF LIABILITY AND HOLD HARMLESS FOR COMMUNICABLE  
DISEASES INCLUDING COVID-19**

Student Name: \_\_\_\_\_

Grade: \_\_\_\_\_ Home Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Parent(s)/Guardian(s) Names: \_\_\_\_\_

Parent/ Guardian phone: Work: \_\_\_\_\_ Home: \_\_\_\_\_ Other: \_\_\_\_\_

The novel coronavirus ("COVID-19"), has been declared a worldwide pandemic by the World Health Organization. COVID-19 is extremely contagious and is believed to spread mainly from person-to-person contact. While rules, guidance, and personal discipline may reduce this risk, the risk of serious illness and death does exist. **[Name School District] ("District") cannot completely mitigate the transfer of communicable diseases like COVID-19 especially when involved in [sport or activity]. Participation in [sport or activity] includes possible exposure to and illness, injury, or death from infectious diseases including COVID-19.**

In consideration for providing my child the opportunity to participate in [sport or activity] and any related transportation to and from [sport or activity] events, both my child and I voluntarily agree to waive and discharge any and all claims against District and release it from liability for any exposure to or illness or injury from an infectious disease including COVID-19, including claims for any negligent actions of the District or its employees or agents, to the fullest extent allowed by law, for myself, my child, our estates, our heirs, our administrators, our executors, our assignees, and our successors.

I also agree to release, exonerate, discharge and hold harmless the District, its Board of Directors, the individual members thereof, and all officers, agents, employees, volunteers, and representatives from all liability, claims, causes of action, or demands, including attorney fees, fines, fees, or other costs (e.g. medical costs) arising out of any exposure to or illness or injury from an infectious disease including COVID-19, which may result from or in connection with my child's participation in [sport or activity]

I further certify and represent that I have the legal authority to waive, discharge, release, and hold harmless the released parties on behalf of myself and the above-named student.

I also understand and agree that in consideration for participating in any sports or activities and any related transportation to and from events, Student is committed and agrees to isolate and quarantine if exposed to COVID-19.

**I certify that I have read this document in its entirety and fully understand its contents. In exchange for the opportunity to participate in the [sport or activity], the above-named student and I freely and voluntarily assume all risks of such hazards and notwithstanding such, release District from all liability for any loss regardless of cause, and claims arising from the student's participation in the [sport or activity].**

\_\_\_\_\_  
Student Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Parent/Legal Guardian Signature

\_\_\_\_\_  
Date

## Student Clubs K-12

Student clubs and activities promote student engagement and contribute to student learning and success. Though beneficial, they may pose certain risks for schools. In managing the risks associated with these activities, the School District must be cautious that it does not inadvertently or vicariously become responsible for clubs or activities that were not intended to be a part of the School District. Though typically well intentioned, we often see the lines blurred between school-sponsored clubs/activities and those of outside parties.

The first step is to determine if the club is or is not intended to be a part of the School District. PACE would be happy to address any questions, comments or concerns related to rendering that sometimes problematic decision. Once the intent has been determined, the second step will identify the parameters or protocols that must be established and maintained to ensure the club remains either inclusive or exclusive of the School District. It is paramount to create and maintain a clear distinction between what is and what is not the responsibility of the School District. PACE recommends each School District use a formal process to make that distinction.

If the club is determined to be part of the School District, the third step is to conduct a risk assessment for the activities and determine the appropriate strategies to help mitigate those risks. This reference guide will address the first two steps identified above. For the third step (risk assessment) refer to the Student Club Risk Assessment Q & A (TBD\*) and/or contact Risk management at [riskmanagement@sdao.com](mailto:riskmanagement@sdao.com).

**Step 1: Determine if the club or activity is or is not intended to be a part of the School District.**

This is typically determined by policy, authorized administrator, board or other administrative process. Rarely, if ever do staff have the authority to make this determination. Other terminology may be used such as approved, non-approved, sponsored, non-sponsored, endorsed, non-endorsed, sanctioned, non-sanctioned, etc.

**Step 2: Considerations for:**

### **APPROVED CLUBS**

- Develop policy/procedure/guidelines for clubs (OSBA Policy Series on co-curricular/extracurricular activities)
- Develop a student club manual or guidebook that includes but is not limited to the following:
  - Club approval/charter process, etc.
  - Participant eligibility requirements

\* Student Club Risk Assessment Q & A (TBD)

- Participant/guardian acknowledgement of rules, etc.
- Affiliations with other (outside) organizations
- Staff/Volunteer/Advisor requirements (include course and scope language)
- Background/criminal history clearance
- Activity specific approval process (liabilities associated with certain activities may be excluded from coverage)
- Waivers/releases
- Finance protocols (fundraising, contracting, purchasing, etc.)
- Transportation Guidelines
- Accessibility/Accommodation considerations/processes
- Activity/Age Appropriate Supervision
- Facilities Use
- Excursions/Trips/Overnight stays
- Emergency Procedures/Communication as necessary
- \*Risk Assess/Strategies for activities (may include examples of activities that are typically approved, those that may need additional consideration and those that are prohibited)

### **NON-APPROVED CLUBS**

- All facilities use rules (forms, contracts, insurance requirement) will apply
- Address access, restricted use, clean up, other, etc.
- Where appropriate address use of school name, logo, mascot, other appropriations
- Address staff/volunteer conflicts/perceptions
- Address appearance of any association with the School or District
- Enforce rules regarding preparing/serving of food on site

### **PACE COVERAGE**

The PACE coverage document may extend to student clubs (terms and conditions apply) that meet the definition of a Participant. This *includes acting under the direction and control of the Named Participant (School District) and within the course and scope of their duties.* This includes *organizations that are under the supervision of the administration of the Named Participant, including Student Organizations, Parent Teacher Organizations, Booster Clubs, and Foundations;*

For questions and clarification regarding PACE coverage, the LEA should consult with its Insurance Agent and/or PACE Underwriting at [underwriting@sdao.com](mailto:underwriting@sdao.com).