



DISTRICT GOALS: Improve Student Achievement, K-3 Literacy, On-Time Graduation

MEETING AGENDA

1. WELCOME

- A. Call to Order
- B. Flag Salute

2. AUDIENCE COMMENTS

This is a time for citizens to address the Board. Public comments will need to be submitted to ruth.hopkins@lebanon.k12.or.us by 4:00 PM on December 10, 2020. The Chair will read them into the record at this time.

3. ELEMENTARY BLUEPRINT, pg. 4

Action: Informational

4. ENROLLMENT/ATTENDANCE UPDATE, pg. 6

Action: Informational

5. CONSTRUCTION EXCISE TAX, pg. 8

Action: Approval Requested

6. CONSENT AGENDA

Action: Approval Requested

- A. November 12, 2020 Meeting Minutes, pg. 21
- B. Policies – First Reading, pg. 27:

CODE	TITLE
GCBDAAGDBDAA	COVID-19 Related Leave
GCBDAAGDBDAA-AR(1)	COVID-19 Related Leave
GCBDAAGDBDAA-AR(2)	COVID-19 Related Leave

- C. Policies – Second Reading, pg. 33:

CODE	TITLE
ACB	All Students Belong
ACB-AR	Bias Incident Complaint Procedure
GBEB GBEB-AR	Communicable Diseases - Staff
GBN/JBA JBA/GBN	Sexual Harassment
GBN/JBA-AR(1) JBA/GBN-AR(1)	Sexual Harassment Complaint Procedure
GBN/JBA-AR(2) JBA/GBN-AR(2)	Federal Law (Title IX) Sexual Harassment Complaint Procedure
JHCC-AR JHCC	Communicable Diseases - Student
GCAB	Personal Electronic Devices and Social Media - Staff

C. Hiring:

NAME	POSITION	FTE	START DATE	END DATE
TEMPORARY				
Mark Anderson	Band/Choir Teacher – Secondary	1.0 FTE	12/7/2020	3/19/2021
Patricia Pierce	Special Education Teacher – Secondary	1.0 FTE	11/16/2020	2/26/2020

7. DEPARTMENT REPORTS

Action: Informational

- A. Operations
- B. Human Resource
- C. Finance, pg. 90

8. COMMUNICATION

Action: Informational

- A. Board
- B. Superintendent

9. ADJOURNMENT

Upcoming meeting dates:

January 14, 2021 - Regular Meeting
February 11, 2021 - Regular Meeting

Agenda Item No. 3

Elementary Blueprint

LCSD K-3 4-6, Return to school plan and process

All k-5,6 students will be provided an abbreviated school day. Class times will be Monday through Friday from 8 am to 1 pm. Teachers will be provided a daily common prep. We will be having school on Wednesdays in order to provide more instructional time for our students. The shortened day will allow for increased daily preparation time and help provide a more consistent M-F model for our students and staff. We anticipate the need to provide some limited after school support on-site. Teachers will be responsible for continuing to support their virtual class site. We will be partnering with the LBGC to provide after school support.

In order to get accurate numbers for in-person instruction we have had parents re-enroll their students and indicate if their preference is to move to in-person instruction or remaining in CDL once the metrics allow. In order to ensure that we have stable classrooms, parents will only be able to move their students from in-person to on-line instruction once we begin start in-person operations. There We will be specific transition dates where we will move students will be able to transition from CDL to in-person instruction. (every 6 weeks after the end of the first semester)

We will continually update the metrics to ensure that everyone is aware of the possibility of our transition to in-person instruction.

Process:

- Monday** Data is confirmed on Monday evening and parents and staff are communicated with regarding our transition to in-person instruction that evening and the following day (Tuesday).
- Tuesday** Regular CDL day. Messaging regarding our transition will be ongoing.
- Wednesday** Asynchronous work available to students. Teachers are encouraged to prepare their classrooms.
- Thursday** Teacher classroom preparation operations\safety meeting
- Friday** Teacher classroom preparation operations\safety meeting
- Monday 2** Start of in-person instruction 8 am -1 pm for K-3
- Wednesday 3** Asynchronous work for 4-6
- Thursday 3** Teacher preparation 4-6 operations\safety meeting
- Friday 3** Teacher preparation 4-6 operations\safety meeting
- Monday 4** Start of instruction for 4-6 at elementary schools

HCR will not have grade 6 return until MS students return.

Teachers who are not able to teach in-person will be responsible for a grade level for CDL

Teachers may be reassigned a grade level in order to cover all grade levels.

Due to the choices that parents make and the inability of some staff to work in an in-person environment, Students may not have the same teacher and teachers may not have the same students

We believe that with the lower enrollment numbers as well as parents who are opting for CDL, we will be able to keep our class sizes around 20 students. Each school plan will identify how they will address situations where the size of the classroom will not support the 35 sqft limit.

Agenda Item No. 4

Enrollment and Attendance

11/30/20														November		October		September	
School	KG	1	2	3	4	5	6	7	8	9	10	11	12	Enrollment	Attendance	Enrollment	Attendance Rate	Enrollment	Attendance Rate
CASCADES ELEM	40	40	42	47	39	38	36							282	91.89	282	92.78	282	93.66
GREEN ACRES ELEM	46	41	41	36	55	42	35							296	86.36	297	87.53	300	87.21
PIONEER SCHOOL	49	44	36	44	52	47	51							323	90.29	322	90.97	324	91.67
RIVERVIEW SCHOOL	51	47	60	65	55	52								330	92.37	329	93.36	331	94.18
HAMILTON CREEK	25	19	28	30	24	27	31	33	29					246	90.04	249	90.62	262	88.81
LACOMB	26	23	26	23	22	15	23	33	29					220	89.33	222	90.15	222	90.87
SEVEN OAK							101	211	239					551	79.97	551	79.16	570	96.08
LEBANON HIGH SCHOOL										339	297	294	289	1219	73.33	1219	75.65	1215	78.24
Total	237	214	233	245	247	221	277	277	297	339	297	294	289	3467	86.70	3471	87.53	3506	77.08
	KG	1	2	3	4	5	6	7	8	9	10	11	12	Total	Attendance	Total	Attendance	Total	Attendance

Agenda Item No. 5

Construction Excise Tax

BOARD RESOLUTION



To: The Honorable Chair and Members
Lebanon Community School District Board of Directors

From: William H. Lewis III, Business Director

Date: December 3, 2020

Meeting Date: December 10, 2020

Re: Imposition of Construction Excise Tax

Background

In 2007 the Oregon Legislature passed Senate Bill 1036, a law that provides a financial tool to help school districts pay for capital improvements, expanded facilities, and equipment needed as a result of community growth. The law authorizes a school district, in cooperation with cities and counties, to tax new residential and non-residential development.

Recommendation

It is recommended that the Board approve the Imposition of Construction Excise Tax.

Resolution #2020-2 Imposition of Construction Excise Tax

Whereas: the District has a critical need to build new facilities and improve existing school facilities; and

Whereas: the Oregon Legislative Assembly passed Senate Bill 1036, authorizing school districts to impose construction excise taxes to fund capital improvements to school facilities; and

Whereas: pursuant to Section 5 of Senate Bill 1036 (2007), the District has entered into an intergovernmental agreement with both The City of Lebanon, and Linn County; and

Whereas: pursuant to Section 5 of Senate Bill 1036 (2007), this intergovernmental agreement establishes: (a) collection duties and responsibilities; (b) the Lebanon Community School District #9 account into which construction tax revenues are to be deposited and the frequency of such deposits; and (c) the amount of the administrative fee of 4% that the entity collecting the tax may retain to recoup its expenses in collecting the tax.

Be It Resolved as follows:

1. The rates of tax, imposed only on improvements to real property that result in a new structure or additional square footage in an existing structure, with the exemptions outlined in Senate Bill 1036, are:
 - (a) Amount not exceeding \$1.25 per square foot on structures or portions of structures intended for residential use, including but not limited to single-unit or multiple-unit housing; and
 - (b) Amount not exceeding \$0.62 per square foot on structures or portions of structures intended for nonresidential use, not including multiple-unit housing of any kind.
2. In addition, a construction tax imposed on structures intended for nonresidential use will not exceed \$33,700 per building permit or \$33,700 per structure, whichever is less.
3. For years beginning on or after June 30, 2021, the tax rates stated in this resolution shall be adjusted for changes in construction costs. The Oregon Department of Revenue will determine the adjusted rate limitations and report to the District.
4. The construction excise tax shall be assessed and collected pursuant to the provisions of Senate Bill 1036 (2007).
5. This resolution takes effect on January 1, 2021.

Approved: _____
Date

Signed: _____
Board Chair

**INTERGOVERNMENTAL AGREEMENT BETWEEN
LEBANON COMMUNITY PUBLIC SCHOOL DISTRICT #9 AND THE
CITY OF LEBANON TO
COLLECT AND REMIT CONSTRUCTION EXCISE TAX**

This Construction Excise Tax Intergovernmental Agreement to collect and remit Tax (“CET Collection IGA”) is effective on the last date of signature below, and is by and between the Lebanon Community Public School District #9, a school district organized under the laws of the state of Oregon (“LCSD”), and the City of Lebanon (“City”) collectively referred to as “Parties.”

WHEREAS, ORS Chapter 190 authorizes the Parties to enter into written agreements for the performance of any or all functions and activities that either entity has the authority to perform on its own; and

WHEREAS, Senate Bill 1036, which was adopted by the 2007 Legislature and became effective on September 27, 2007, authorizes LCSD, as defined in ORS 330.005, to impose a Construction Excise Tax (“CET”) to fund capital improvements to school facilities; and

WHEREAS, LCSD desires to adopt a CET; and

WHEREAS, Section 5 of Senate Bill 1036 provides that the Construction Excise Tax shall be collected by local cities and remitted pursuant Intergovernmental Agreements; and

WHEREAS, Pursuant to Chapter 829, Oregon Laws 2007 (SB 1036), LCSD will adopt a Resolution establishing a Construction Excise Tax (“CET”) throughout its regional jurisdiction. The Resolution will provide that a Construction Excise Tax be collected by the City and remitted to LCSD pursuant to this Intergovernmental Agreement. The Parties desire to agree to certain procedures needed to collect the Construction Excise Tax and remit the tax to LCSD.

NOW, THEREFORE, the Parties hereby agree to the following:

1. Information and Forms. City shall provide all forms and information necessary to collect the CET and LCSD will provide all necessary information to assist the City in doing so.
2. Staffing. City shall provide sufficient staff to implement the CET program, including but not limited to, sufficient staff to calculate and collect the CET.
3. Collection Rate. City shall collect LCSD’s CET at the rate set by resolution by the District, but not to exceed the maximum limitations of ORS 320.176(2), adjusted annually by law. In the event LCSD increases or otherwise modifies the tax, it shall send written notice to the City of the increase or other modification, including a copy of LCSD’s resolution adopting the change. City shall collect the tax at the new rate within ten business days after notice is received by the City, or upon the effective date of the change stated in LCSD’s resolution, whichever is later.
4. Collection; Start date. City agrees to collect the CET on behalf of LCSD for those properties within LCSD and within the City. The City shall begin collecting the CET for all building permits submitted to the City on or after July 1, 2020 that are subject to the CET as prescribed in the LCSD resolution. The City shall continue collection until the CET expires, the underlying statutory authority is repealed, the program is terminated by LCSD, or this CET Collection IGA is terminated by either LCSD

or the City, as provided herein. The City agrees to collect the CET in conjunction with the collection of other building permit fees, if any, upon issuance of a building permit.

5. Exemptions. LCSD shall provide the City with all forms necessary for CET exemptions, rebates, and refunds, and any other forms or information necessary for implementation of the CET. If a Person or entity asserts that it is exempt from the CET and files a CET Exemption Form at the time the CET would otherwise be due, the City shall grant the exemption. It shall be LCSD's responsibility to determine the validity of the exemption and to institute collection procedures to obtain payment of the CET, as well as any other remedy LCSD may have under law, if the Person was not entitled to the exemption. The CET exemption form shall inform the Person or entity, that LCSD has the right to contest the claim of exemption and the claim of exemption will be tried in the Circuit Court for the County in which the real property is located. If the Person or entity is not successful, LCSD shall be entitled to recover the tax due, plus interest from the date when due at the rate of 1% per month, or any portion of a month, together with all costs, including but not limited to, any expert witness fees, attorney fees and all other costs and expenses as allowed by law, whether by administrative rule, statute or civil procedure.

LCSD recognizes that the CET will not apply to commercial or residential remodels which do not add square footage, even in those circumstances where Building Permit fees are charged by the City.

6. Remittance. The City shall remit the collected CET to LCSD. Remittance shall be quarterly by the 30th of the month following the end of each quarter. Quarters end on March 31, June 30, September 30, and December 31 of each year. CET remittance shall be deposited directly into LCSD's LGIP account via electronic funds transfer.

7. CET Reports. Along with the CET remittance, the City shall prepare and submit to LCSD a report of the CETs to include: the aggregate amount of CET paid, the amount of CET administrative fee retained by the City, if any, and a list or copy of forms for all persons that were given an exemption from paying the CET.

8. Failure to Pay CET. Upon a person's refusal or failure to pay the CET when due, the City will not issue that person's building permit until the fee is paid. The City shall treat a refusal to pay the CET the same as a refusal to pay the protection of the fee attributable to the State of Oregon or the City.

9. Records. The City shall make all records related to building permit activity, Construction Excise Tax collections, and CET exemptions available to LCSD, or its designated auditors, as necessary for LCSD to audit Construction Excise Tax collections. Records production may be subject to the City's customary charges and procedures for the inspection and copying of public records. This Agreement shall not obligate City Staff to prepare reports or documents other than as required in response to public records requests or to undertake any other work or activities, except as stipulated in the section, unless a satisfactory agreement is reached between the parties to compensate the City therefore.

10. Administrative Fee. As consideration for the above described services, the City shall retain 4% of the CET collected by the City as authorized by Section 5 of Senate Bill 1036. This administrative fee sum shall be retained by the City to compensate the City for its actual expenses in collecting the CET even in those circumstances where it was subsequently determined that the CET was wrongfully collected. Prior to submitting the CET to LCSD, the City shall deduct this administrative fee directly from the CET collected, and the amounts deducted and retained shall be reported to LCSD. The administrative fee is based on gross CET collected and shall not be reduced by CET refunds or any checks returned for insufficient funds.

11. Amendment. This CET Collection IGA may be amended by mutual written agreement of the
Construction Excise Tax Collection IGA

Parties. The parties further agree to negotiate in good faith to amend this agreement should Senate Bill 1036 be amended by subsequent legislation or judicial proceedings so that this agreement is consistent with the most current legislation. Refusal to negotiate an amendment to this agreement is grounds for immediate termination.

12. Other Agreements. This CET Collection IGA does not affect or alter any other agreements between LCSD and the City.

13. Defense and Indemnification. LCSD agrees to defend, indemnify and hold harmless the City, and its officers, agents and employees, against all claims and actions, and all damages and expenses related thereto, arising from the City's performance of this agreement, except for those caused by the sole negligence of the City or its officers and employees.

14. Termination. Either party may terminate this agreement for any reason upon 365 days written notice to the other party. Upon such termination, neither party shall have any remaining responsibilities to the other concerning the subject of this Agreement.

15. Notice. Whenever notice is required to be given under this Agreement, the notice shall be given in writing to the other party's contact person by US Mail, first class postage prepaid. In addition, notice may be given by email or personal delivery.

16. General Provisions. This Agreement is binding on an inures to the benefit of Parties and their successors and assigns. Except with the other party's prior written consent, a party may not assign any rights or delegate any duties under this Agreement. The headings used in this Agreement are solely for convenience of reference, are not part of this Agreement, and are not to be considered in construing or interpreting the Agreement. This Agreement sets forth the entire understanding of Parties with respect to the subject matter of this Agreement and supersedes any and all prior understandings and agreements, whether written or oral, between Parties with respect to such subject matter. A provision of this Agreement may be waived only by a written instrument executed by the party waiving compliance. No waiver of any provision of this Agreement shall constitute a continuing waiver. Failure to enforce any provision of this Agreement shall not operate as a waiver of such provision or any other provision. From time to time, each of the parties shall execute, acknowledge, and deliver any instruments or documents necessary to carry out the purposes of this Agreement. Nothing in this Agreement, expressed or implied, is intended to confer on any person, other than the parties to this Agreement, any right or remedy of any nature whatsoever. Each party shall bear its own expenses in connection with this Agreement and the transactions contemplated by this Agreement.

SIGNATURES ON FOLLOWING PAGE

LEBANON COMMUNITY SCHOOL DISTRICT

CITY OF LEBANON



By:
Title: Chairperson, Board of Directors

By: Paul R. Aziz
Title: Mayor

Date: _____

Date: 4-8-2020

**INTERGOVERNMENTAL AGREEMENT
TO COLLECT AND REMIT CONSTRUCTION EXCISE TAX**

This Intergovernmental Agreement is effective on November 10, 2020, and is by and between the Lebanon Community Schools, a school District organized under the laws of the State of Oregon, (hereinafter referred to as District), and Linn County, a political subdivision of the State of Oregon, (hereinafter referred to as County), collectively referred to as Parties.

WHEREAS, ORS Chapter 190 allows units of local government, such as District and County, to enter into written agreements for performance of any or all functions and activities which such units have authority to perform; and

WHEREAS, ORS 320.170-320.189 authorizes school districts, as defined in ORS 330.005, to impose construction excise taxes to fund capital improvements to school facilities; and

WHEREAS, District either has imposed or is contemplating imposing a construction excise tax within District's boundaries and desires to enter into an intergovernmental agreement with County to collect the tax prior to the adoption of a construction excise tax; and

NOW, THEREFORE, the Parties hereto agree as follows:

1. **Information and Forms.** District shall create and provide to County all of the forms necessary to collect and remit the construction excise tax (CET), public information in the form of brochures or flyers and other assistance explaining the CET, public information explaining exemptions to the CET and the process for appeals, and any other forms or information necessary for implementation of the CET. All forms created by District shall be on District letterhead, shall be prepared in consultation with County, and shall be subject to review and approval by County prior to implementation of the CET. District shall consult with the County prior to any change in the CET and shall provide updated information, brochures, flyers and forms to County prior to the change taking effect.
2. **Responsibility.** County agrees to collect the CET on behalf of District for those properties within both District's boundaries and the County's area of jurisdiction, including areas for which the County issues building permits on behalf of the legal jurisdiction. County shall collect and remit the CET to the District as prescribed in this agreement.

The County is not responsible for verifying the information on the CET Collection form; provided, however, that the County will review and calculate square footages in accordance with procedures used for County building permits and will determine occupancy classifications for the purpose of calculating the amount of CET owed. In the event that the District determines that a different CET is owed than that calculated and collected by the County, it shall be the District's responsibility to notify the County of the error and correcting the error, whether that is a refund by the District or collection of additional taxes. The County will collect that additional tax from, or refund any excess tax to, the permit applicant. The County shall collect any additional tax in the same manner as provided for in Section 10. The County shall be responsible for payment of refunds only if funds are available before funds are remitted pursuant to Section 8, and if no funds are available the

District shall pay the refund. As a condition of collection, the County shall not be responsible for verifying that the District has met the legislative requirement for its capital improvement plans, or any other requirement of the District imposed by statute.

The County shall not be responsible for collecting the CET for construction that does not require a building permit. The County shall not be responsible for collecting the CET for construction that was carried out without required permits; however, if after-the-fact permits are applied for in such cases, the County will collect the CET as for any building permit.

3. **Facility Plan.** District has adopted, or is currently developing a long term facilities plan for making capital improvements as required by ORS 320.183. District agrees not to adopt the CET until such plan has been completed and adopted by resolution of District's Board of Directors.
4. **Collection Start Date.** County will notify District when County is equipped to collect the District's CET, but the date will be no later than 30 days from the date the District provides written notice to County of the adoption of the CET, including a copy of District's resolution imposing the tax plus all the forms and public information materials required by Paragraph 1 of this Agreement. The County shall start collecting the CET, or an adjusted CET, within 30 calendar days of receipt of a resolution or of updated forms and information described in Section 1, whichever occurs last, or as otherwise provided for by agreement of the Parties under this Section. Alternatively, County may begin collecting the CET on a fixed date mutually agreed upon, in writing, by County and District. County shall collect the District's CET until the CET expires, the underlying statutory authority is repealed, or this Agreement is terminated by either District or County upon 60 days written notice pursuant to Section 21.
5. **Collection Rate.** Pursuant to ORS 320.179, District shall establish the rate of CET by resolution adopted by the District Board. The resolution shall state the rates of tax, subject to the provisions of ORS 320.176. District shall provide a copy of the resolution establishing CET rates to County as provided in Section 4, and County shall have no obligation to collect CET for District until a copy of the resolution is received. District assumes all responsibility for compliance with the provisions of ORS 320.170 to 320.195 related to establishment of the CET rate.
6. **Collection Methodology.** The District agrees to the County's classification of construction activities for purposes of the CET, such classification being uniform across all school districts within the County's jurisdiction. The District, in consultation with the County, shall be responsible for developing appropriate information and forms to explain the CET to applicants and to enable the applicants for a building permit to determine the applicable CET rate (residential or non-residential) and to calculate the amount of CET due.
7. **Exemptions.** Development that is exempt from the CET is specified in *ORS 320.173* and in Exhibit A. District shall provide County with all forms necessary to determine whether a development is subject to or exempt from the CET; to process rebates and refunds; and any other forms or information necessary to implement the CET in accordance with Paragraph 1. To determine whether a development is exempt from the CET, County shall require the appropriate form be submitted with the development permit application. County shall determine application of or exemption from the CET based on an objective evaluation of the project, and shall apply or not apply the CET as appropriate. County shall provide District with copies of completed forms along

with the quarterly reports described in Paragraph 9. Both District and County shall be responsible to determine the validity of an exemption and to obtain payment of the CET. District and County agree that certain common construction activities, identified in Exhibit A, are exempt from the CET, and that District shall defer to County's determination in such cases.

- 8. Remittance.** After the start date of this Agreement, County shall remit the collected CET subject to the terms of Paragraph 12 of this agreement, to District on a quarterly basis, by the end of the month following the end of the quarter. The CET remittance and the CET Report shall be sent to District at the following address: 485 South 5th Street, Lebanon, OR 97355.
- 9. CET Reports.** County shall prepare and submit to District a report of the CETs collected and building permits issued by County for the previous quarter's construction activities within the District's boundaries that are subject to the C.E.T.
- 10. Failure to Pay CET.** District's CET shall be paid by the person applying for a building permit at the time that a permit authorizing construction is issued. If an applicant for a building permit refuses or fails to pay the CET when due, the County shall withhold issuance of the building permit until such time as the CET is paid in full. In the event the County fails to obtain the CET from an applicant, County will collect the CET from the applicant. County collection methods shall include the withholding of the building permit as provided for herein, or the issuance of a demand letter for payment if the building permit has already been issued.
- 11. Records.** County shall make all records related to building permit activity, CET collections, and CET exemptions available to District, or its designated auditors, as necessary for District to audit CET collections. Records shall be stored, maintained and destroyed in accordance with the Secretary of State's General Records Retention Schedule for counties. County shall not be responsible for the storage or provision of records after they have been destroyed.
- 12. Administrative Fee.** County shall retain an administrative fee of 4% of the gross amount of CET collected by County as authorized by ORS 320.179(2) (c). Prior to remitting the CET to District, County shall deduct this amount directly from the CET collected, and the amounts deducted and retained shall be identified on the report submitted to District.
- 13. Re-tooling Costs.** In the future, County may upgrade, re-tool, or replace its building permits software or other systems. This may necessitate reprogramming or other system changes in order for County to continue collecting District's CET. In such case, District agrees to pay its pro-rata share of the costs of such reprogramming.
- 14. Interest Waiver.** District waives any and all claims to any interest which may be earned on CET funds prior to County's remittance of collected CET funds to District pursuant to Paragraph 8 of this Agreement.
- 15. Amendment.** This Agreement may be amended by mutual written agreement of the Parties. If there is legislative change which affects the responsibilities or costs for either party with respect to the CET, the parties will negotiate in good faith towards an amendment of this Agreement.
- 16. Other Agreements.** This Agreement does not affect or alter any other agreements between District and County, if any.

17. Defense and Indemnification To the extent allowed by the Oregon Constitution and the Oregon Tort Claims Act, the parties agree to defend, indemnify and hold harmless each other (including each other's officers, agents and employees) from all claims and actions, and all damages and expenses arising out of the party's negligent acts. District shall intervene in and join in the defense of any action resulting from County's refusal to issue a building permit when a person or entity refuses to pay the CET as described in Section 8 of this Agreement, or when a person or entity challenges the rate of or legality of the CET.

18. Contact Persons. District and County hereby designate the following persons as the individuals having primary responsibility for administration of this Agreement, and as the person designated to receive notice provided for herein. Either party may change its designated contact person by written notice to the other party.

District:	County:
Name: William H. Lewis III	Name: Robert Wheeldon
Title: Business Director	Title: Planning and Building Department Director
Address: 485 South 5 th St, Lebanon, OR 97355	Address: PO Box 100, Albany, OR 97321
Telephone: 541-259-8945	Telephone: 541-967-3816
Email: william.lewis@lebanon.k12.or.us	Email: rwheeldon@co.linn.or.us

19. Notice. Whenever notice is required to be given under this Agreement, the notice shall be given in writing to the other party's contact person by US Mail, first class postage prepaid, by email, or personal delivery.

20. General Provisions. This Agreement is binding on and inures to the benefit of Parties and their successors and assigns. Except with the other party's prior written consent, a party may not assign any rights or delegate any duties under this Agreement. The headings used in this Agreement are solely for convenience of reference, are not part of this Agreement, and are not to be considered in construing or interpreting this Agreement. This Agreement sets forth the entire understanding of Parties with respect to the subject matter of this Agreement and supersedes any and all prior understandings and agreements, whether written or oral, between Parties with respect to such subject matter. A provision of this Agreement may be waived only by a written instrument executed by the party waiving compliance. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. Failure to enforce any provision of this Agreement shall not operate as a waiver of such provision or any other provision. From time to time, each of the parties shall execute, acknowledge, and deliver any instruments or documents necessary to carry out the purposes of this Agreement. Time is of the essence for each and every provision of this Agreement. Nothing in this Agreement, express or implied, is intended to confer on any third party other than the parties to this Agreement, any right or remedy of any nature whatsoever. Each party shall bear its own expenses in connection with this Agreement and the transactions contemplated by this Agreement, except as otherwise provided herein.

21. Termination of Agreement. Under ORS 320.170, District has the right to impose tax and therefore may unilaterally terminate this agreement upon 60-day notice to the County of its intent to not collect the CET. This Agreement may be terminated by mutual consent of the parties. If one party alleges the other party has breached a material term of this Agreement, written notice shall be provided to the allegedly breaching party. The breaching party shall have 60-days to correct the material breach. If the material breach is not cured, the party complaining about the breach may provide written notice of its intent to terminate the Agreement, which shall be effective upon receipt. If a notice of intent to terminate is issued, District and County agree to meet and discuss the concerns leading to the notice of termination upon receipt of a request to do so from the other party. Sections 8, 9, 12, and 17 shall survive termination of this Agreement.

22. Dispute Resolution. All disputes and obligations between the parties arising under this Agreement are subject to the jurisdiction of the Linn County, Oregon Circuit Court. The prevailing party is entitled to reasonable attorney fees and costs, including any appeal process. The parties agree to engage in a mediation to resolve a dispute before resorting to filing a civil case in Linn County Circuit Court. The costs of mediation shall be paid equally by District and County.

District

Lebanon Community Schools School District No.

By: _____
School Board Chair

Date: _____

BOARD OF COUNTY COMMISSIONERS FOR LINN COUNTY

	AYE	NO
 _____ Roger Nyquist, Chairman	<u>X</u>	_____
 _____ John K. Lindsey, Commissioner	<u>X</u>	_____
 _____ William C. Tucker, Commissioner	<u>X</u>	_____

Approved as to Content



Darrin L. Lane
County Administrative Officer

EXHIBIT A EXEMPTIONS

The following improvements are exempt from the Construction Excise Tax (CET) pursuant to ORS 320.173. As used with these exemptions, the term “residential structure” means a single family dwelling.

1. Private School Improvements
2. Public Improvements as defined in ORS 279A.010
3. Residential housing that is guaranteed to be affordable, under guidelines established by the United States Department of Housing and Urban Development, to households that earn no more than 80% of the median household income for the area in which the construction tax is imposed, for a period of at least 60 years following the date of construction of the residential housing.
4. Public or Private hospital improvements
5. Improvements to religious facilities primarily used for worship or education associated with worship.
6. Agricultural buildings as defined in ORS 455.315(2)(a)
7. Facilities that are operated by a not-for-profit corporation and that are:
 - a. Long term care facilities, as defined in ORS 442.015;
 - b. Residential care facilities, as defined in ORS 443.400; or
 - c. Continuing care retirement communities, as defined in ORS 101.020.

For purposes of clarity, **District** and **County** have agreed that the following construction-related activities are also exempt from the CET. This list is not necessarily exhaustive, and pursuant to the Intergovernmental Agreement between **District** and **County**, **District** agrees to **County**'s determination of whether and at which rate a given construction activity shall be taxed. District agrees to consider County's proposal for a waiver of the CET for economic development construction projects.

8. A non-profit corporation with current 501(c) (3) status.
9. Any improvements involving an existing residential structure such as a remodel or expansion.
10. Improvements involving a detached, non-occupied residentially-related building such as a garage, shop, or barn on a tax lot containing an existing residential structure.
11. The amount of the original square footage of an improvement when an existing residential or non-residential structure is removed and a new structure is constructed on the same tax lot.
12. Equine facilities as defined by ORS 455.315(2)(d).
13. Temporary hardship dwellings.
14. Temporary structures.

Agenda Item No. 6

*Consent Agenda
November Meeting Minutes*



**LEBANON COMMUNITY SCHOOL DISTRICT
BOARD MEETING
NOVEMBER 12, 2020, 6:00 PM**

Zoom Meeting

MEETING MINUTES

<u>BOARD MEMBERS PRESENT:</u> Tom Oliver, Chair Mike Martin, Vice Chair Richard Borden Tammy Schilling Absent: Todd Gestrin	<u>EXECUTIVE STAFF PRESENT:</u> Bo Yates, Superintendent Jennifer Meckley, Assistant Superintendent William Lewis, Business Director Kim Grousbeck, Human Resources Director Tami Volz, Director of School Improvement
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The meeting minutes were recorded by Executive Secretary Ruth Hopkins.

1. WELCOME AND CALL TO ORDER

Board Chair Tom Oliver called the meeting to order at 6:05 PM and led the Pledge of Allegiance.

2. AUDIENCE COMMENTS

There were no comments from the public.

3. STAR ASSESSMENT REPORT

Tami Volz presented the STAR assessment report that was included in the meeting packet and is available online to review. She explained that the assessments were done one-on-one with an instructional assistant this year, which is different from years past. She then reviewed overall scores for the reading and math assessments. The question was asked as to whether the comparative data was fall to fall or fall to winter. It was clarified that the data provided was a fall to fall comparison.

Tami Volz will present the ESGI data at the December board meeting.

4. CET UPDATE

William Lewis shared that the county has just signed off on the CET agreement, so he will have that for approval for the December board meeting. The question was asked as to when the tax would take effect and Lewis indicated it would take effect in January.

5. PRESCHOOL UPDATE

Superintendent Yates provided the preschool update. He explained that one of the issues the district was having was the need of a location for preschool students. The high school construction class will build a 70x70 building for a preschool on the lot located between the district office and the Lebanon Boys and Girls Club, and he is working on getting donations of materials for the project. The purpose of it is to help students enter school more prepared than they have been. There will be a play area, walkways and a parking area. The question was asked about operational funds for staffing. It was explained that the district is going to partner with the Boys and Girls Club for staffing, so it should be self-sufficient. There are some Measure 98 funds that are flexible and can be applied to the project as well.

6. OPERATIONAL UPDATE

Superintendent Yates provided the October 30, 2020 update from Governor Brown and the Oregon Department of Education regarding the changes to the state metrics and the possibility of returning to in-person instruction. With the lower enrollment numbers in the district, there is a possibility of having all students come back in person. He reviewed the metrics numbers for the state and Linn County, and added that the tracking on the district website will be changed to be able to follow the numbers more clearly.

The changes to the instructional model were reviewed, which is the operational blueprint for the district. Then the onsite instructional priorities for elementary, middle school and the high school were reviewed and he added that he did not know if the metrics will allow the high school to get back in person during the first semester. The enrollment totals for the district remain much the same as last month.

The failure rate at the high school is currently about 30%. Most high schools across the state are struggling with the same issues of attendance and grades. As a result, the summer school programs

will become more robust and will look like we are doing year-round school and not just summer school, in an effort to meet the needs of our students.

The question was asked if there has been any talk about additional funding for the schools that would allow schools to operate through the summer to try to gain back ground that has been lost. Superintendent Yates responded that he has not been a part of any conversations about extending the school year.

Whereupon, there was a discussion around funding, enrollment totals and options for the district to make up ground that has been lost due to the pandemic.

7. OSBA RESOLUTION

After a discussion regarding the resolution, the Board decided not to move forward on a vote regarding the resolution.

8. SIA GRANT AGREEMENT

Assistant Superintendent Meckley presented the SIA Grant Agreement that is available online and is a part of the November packet. She reviewed items that were included in the reduced allocation and items that are not going to be included. She added that there was a change in the grant since she wrote the memorandum that was included in the Board packet and there is now more time to implement the plan and reflect on it before submitting. Once it is submitted, the district will receive three reimbursements from the state.

Upon a motion made by Vice Chair Mike Martin, and duly seconded by Richard Borden, the Board voted unanimously to approve the SIA Grant Agreement as presented.

9. CONSENT AGENDA

Upon a motion made by Member Richard Borden, and duly seconded by Vice Chair Mike Martin, the Board voted unanimously to approve the September 10, 2020 meeting minutes and October 8, 2020 meeting minutes as presented, and to move the policies as presented on first reading to second reading.

10. DEPARTMENT REPORTS

A. Operations

Superintendent Yates shared that the Nutrition Department has been doing a wonderful job and currently have served more than 35,000 meals.

In an attempt to keep the cohort numbers down and operational at the high school, they will only be able to be in the classroom a couple of hours a day. The Technology Department has been working on ways to use the cameras in the classrooms to provide more content to students.

B. Human Resources

Kim Grousbeck shared that HR is working with staff members who are considered high risk. In looking at coming back, there are about 31 staff members who will not be able to come back and they are working closely with them for what they would be doing if students are able to come back, and are looking at them for home school supports for students. The district is trying to keep the high risk individuals working and safe.

C. Finance

William Lewis provided an update for the SRGP Grant. The district has hired HMK Company for the seismic project at the LHS gym. They will begin meeting with architects at the high school tomorrow to start looking at the design project. He will bring back the finalists from the RFP in January for the Board approval.

Chair Oliver asked if it was possible to do a contingent approval, if there were not any protests, to help speed the process along. Lewis will check into that to see if it is a possibility. Chair Oliver added that the Board could also do a special meeting to award the design work, if needed.

11. COMMUNICATION

A. Board

Vice Chair Mike Martin shared that he drove by Sisters Elementary in Sisters, Oregon today and kids were on the playground and he did not think he saw any masks. He felt things were getting back to normal there.

B. Superintendent

Superintendent Yates is working with the Lebanon Aquatics District regarding repairs to the swimming pool. The Aquatics District is interested in building a new pool, which they would need to go out and do a bond to build. If they did that and it passed, we would have our pool back. He has suggested that we work together to go out for a matching grant for the repairs, then add money to the bond to upgrade what we have. He will continue to work with them to put something together that makes sense for both parties. He feels that working together would in the best interest for both parties.

Whereupon, there was a discussion on how to maximize the pool for all who use it. More information will come from the Superintendent as the process moves forward.

12. ADJOURNMENT

There being no further questions or comments, the meeting was adjourned at 7:19 PM.

Tom Oliver, Chair

Bo Yates, Superintendent

Agenda Item No. 6

*Consent Agenda
Policies – First Reading*

BOARD MEMORANDUM



To: Lebanon Community School District Board of Directors

From: Jennifer Meckley, Assistant Superintendent

Date: December 3, 2020

Meeting Date: December 10, 2020

Re: New Board Policies

December 2020 POLICY UPDATES – REVIEW AND RECOMMENDATIONS

Code	Title	OSBA Recommendation	DO Staff Lead(s)	Changes/DO Staff Comments	Recommend Adoption? (Yes/No)
GCBDAAGDBDAA GCBDAAGDBDAA - AR (1) GCBDAAGDBDAA - AR (2)	COVID-19 Related Leave	Highly Recommended	Kim G.	In response to the coronavirus disease (COVID-19) pandemic the U.S. Congress passed the Families First Coronavirus Response Act (2020), that includes the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act. The Oregon Bureau of Labor and Industries adopted a temporary rule that amended the Oregon Family Leave Act for the purpose of allowing eligible employees to take leave during the statewide public health emergency	Yes

OSBA Model Sample Policy

Code: GCBDAAGDBDAA
Adopted:

COVID-19 Related Leave *

When applicable, the district will comply with the provisions of the Families First Coronavirus Response Act (FFCRA) which includes the Emergency Paid Sick Leave Act (EPSLA) and the Emergency Family and Medical Leave Expansion Act (EFMLEA). The district will also comply with the Oregon Bureau of Labor and Industries' (BOLI) temporary rule BLI 4-2020 that amends Oregon Administrative Rule 839-009-0230 for the purpose of taking leave during the statewide public health emergency. This policy and its accompanying administrative regulation will be in effect until each of the above laws have expired.

Employees are eligible for EFMLEA leave if they have been employed for at least 30 days.

EPSLA applies to all employees no matter how long they have been employed or how many hours they have worked.

The district may exclude from the EPSLA and EFMLEA employees who are health care providers, including anyone employed at any post-secondary educational institution offering health care instruction.

The BOLI rule applies to districts with employees who are eligible for leave under the Oregon Family Leave Act.

The district shall post a notice of FFCRA requirements in conspicuous places at district facilities. The district may meet the notice requirement by emailing the notice to employees or posting notice on an internal or external website made available to employees.

The district is prohibited from retaliating against an employee who takes leave or takes actions to enforce the requirements of these acts.

This policy does not affect employee rights or benefits under any other law, collective bargaining agreement, or district policy. The district is not required to pay an employee for unused emergency paid sick time if an employee resigns, retires, or is terminated.

END OF POLICY

Legal Reference(s):

[ORS 332.507](#)
[ORS 342.545](#)
[ORS 659A.090](#)

[ORS 659A.093](#)
[ORS 659A.096](#)
[ORS 659A.099](#)

[ORS 659A.150 - 659A.186](#)
[OAR 839-009-0200 - 0320](#)

BOLI Temporary Administrative Order BLI 4-2020

Families First Coronavirus Response Act, Public Law No: 116-127, Mar. 18, 2020.

Americans with Disabilities Act, 42 U.S.C. §§ 12101-12213 (2018); 29 C.F.R. Part 1630 (2019); 28 C.F.R. Part 35 (2019).

Family and Medical Leave Act, 29 U.S.C. §§ 2601-2654 (2018); 5 U.S.C. §§ 6381-6387 (2018); Family and Medical Leave Act, 29 C.F.R. Part 825 (2019).

Americans with Disabilities Act Amendments Act of 2008, 42 U.S.C. § 2000ff-1 (2018).

Escriba v. Foster Poultry Farms, Inc. 743 F.3d 1236 (9th Cir. 2014).

OSBA Model Sample Policy

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

COVID-19 Related Leave *

Emergency Paid Sick Leave Act

The district shall provide paid sick time to employees who are unable to work due to the effects of coronavirus disease 2019 (COVID-19). Full-time employees are entitled to 80 hours of paid sick time, which is available immediately for use if the employee:

1. Is subject to a governmental quarantine or isolation order;
2. Has been advised by a health-care provider to self-quarantine;
3. Is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
4. Is caring for an individual who is subject to quarantine or isolation by governmental order or health care provider advisement;
5. Is caring for their son or daughter whose school or child-care provider is closed; or
6. Is experiencing a substantially similar condition related to COVID-19 as specified by the Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Secretary of Labor.

Paid sick time may be used before other paid leave that may be available to the employee. A part-time employee is entitled to such paid sick time for the average number of hours the part-time employee works during an average two-week period. Paid sick time shall not carry over from one year to the next.

The district shall pay the regular rate of pay up to \$511 per day, and \$5,110 in the aggregate, for paid sick time used by an employee who experiences symptoms of COVID-19, or is required or advised to self-quarantine due to concerns related to COVID-19.

The district shall pay two-thirds of the regular rate of pay up to \$200 per day, and \$2,000 in aggregate, for paid sick time used by an employee:

1. To care for an individual subject to quarantine or isolation by governmental order or health care provider advisement;
2. To care for their child because the child's school or child-care provider is closed due to COVID-19 related reasons; or
3. Who is experiencing a substantially similar condition related to COVID-19 as specified by the Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Secretary of Labor.

Emergency Family and Medical Leave Expansion Act

A district employee may take public health emergency leave to care for the employee's child during a COVID-19 public health emergency.

The district is not required to pay an employee for the first 10 days of such public health emergency leave. However, an employee may use accrued paid leave during such time. After the 10 days, the district must pay not less than two-thirds of an employee's regular rate of pay for the number of hours per week the employee normally works. The maximum amount of compensation for such leave is \$200 per day and \$10,000 in aggregate.

The district shall restore the employee's former position following the use of public health emergency leave unless, the district:

1. Has fewer than 25 employees;
2. Has made reasonable efforts to retain the employee's position but such position no longer exists due to economic or operating conditions caused by the public health emergency; and
3. Has made reasonable efforts to restore the employee to an equivalent position.

Temporary BOLI Rule affecting Oregon Family Leave Act (OFLA)

The temporary BOLI rule extends OFLA's sick child leave to include the absence to care for an employee's child whose school or place of care has been closed in conjunction with a statewide public health emergency declared by a public health official.

The leave is protected but unpaid, and in most circumstances will run concurrently with leave taken under the Families First Coronavirus Response Act. An employee may elect to use any accrued paid leave time.

OSBA Model Sample Policy

Code: GCBDAAGDBDAA-AR(2)

Revised/Reviewed:

COVID-19 Related Leave *

Employee's Name: _____ Date: _____

Dates for which the leave is requested: _____

Qualifying reason for leave:

- Is subject to governmental-quarantined or isolation order.
- Has been advised by health-care provider to self-quarantine.
- Is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- Is caring for an individual who is subject to a quarantine or isolation by governmental order or health care provider advisement.
- Is caring for their son or daughter whose school or child-care provider is closed.
- Is experiencing a substantially similar condition related to COVID-19 as specified by the Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Secretary of Labor.

The employee is unable to work, including telework due to: _____

Documentation supporting the qualifying reason for requesting leave: _____

For quarantine or isolation orders, provide the name of the health care provider who advised the self-quarantine:

Name of health care provider

Contact information

For emergency Family Medical Leave Act (FMLA) leave and paid sick leave taken for COVID-19 related school or child care closings, provide documentation to support the need for leave, i.e., notice posted on government, school or day care website, published in a newspaper, or an email from an official of the school, place of care, or child care provider.

Agenda Item No. 6

*Consent Agenda
Policies – Second Reading*

Code: ACB
Adopted:

All Students Belong

The district is dedicated to the success of every student in each of our schools. For that success to occur, the district is committed to equity by recognizing institutional barriers and creating access and opportunities that benefit each student. Equity at Lebanon Community School District will not be confused with equality, where all students are treated the same. Equity will be an enduring commitment where race will no longer be a predictor of student achievement; where historically underserved groups increase in capacity and power; and where barriers to student success have been mitigated or eliminated.

All students are entitled to a high quality educational experience, free from discrimination or harassment based on perceived race, color, religion, gender identity, sexual orientation, disability or national origin.

All employees are entitled to work in an environment that is free from discrimination or harassment based on perceived race, color, religion, gender identity, sexual orientation, disability or national origin^{1}.

All visitors are entitled to participate in an environment that is free from discrimination or harassment based on perceived race, color, religion, gender identity, sexual orientation, disability or national origin^{2}.

“Bias incident” means a person’s hostile expression of animus toward another person, relating to the other person’s perceived race, color, religion, gender identity, sexual orientation, disability or national origin, of which criminal investigation or prosecution is impossible or inappropriate. Bias incidents may include derogatory language or behavior directed at or about any of the preceding demographic groups.

“Symbol of hate” means a symbol, image, or object that expresses animus on the basis of race, color, religion, gender identity, sexual orientation, disability or national origin including, the noose, swastika, or confederate flag³,^{4} and whose display: **(BOARD CAN ADD HERE)**

1. Is reasonably likely to cause a substantial disruption of or material interference with school activities; or
2. Is reasonably likely to interfere with the rights of students by denying them full access to the services, activities, and opportunities offered by a school.

The district prohibits the use or display of any symbols of hate^{5} on school^{6} grounds or in any district- or school-sponsored program, service, school or activity that is funded in whole or in part by monies

¹ {OAR 581-022-2312 does not include this list of classes for employees (only for students), but it can be added.}

² {OAR 581-022-2312 does not include this list of classes for visitors (only for students), but it can be added.}

³ While commonly referred to as the “confederate flag,” the official name of the prohibited flag is the Battle Flag of the Armies of Northern Virginia.

⁴ {We strongly advise that a district not add to these symbols of hate without first consulting with legal counsel.}

⁵ {Prior to adopting the symbols of hate prohibition, or adding other symbols to the list, we recommend that the district document why the district feels that the presence of these symbols will cause a “material and substantial interference with

appropriated by the Oregon Legislative Assembly, except where used in teaching curriculum that is aligned to the Oregon State Standards.

In responding to the use of any symbols of hate, the district will use non-disciplinary remedial action whenever appropriate.

The district prohibits retaliation against an individual because that person has filed a charge, testified, assisted or participated in an investigation, proceeding or hearing; and further prohibits anyone from coercing, intimidating, threatening or interfering with an individual for exercising any rights guaranteed under state and federal law.

Nothing in this policy is intended to interfere with the lawful use of district facilities pursuant to a lease or license.

The district will use administrative regulation ACB-AR - Bias Incident Complaint Procedure to process reports or complaints of bias incidents.

END OF POLICY

Legal Reference(s):

schoolwork or discipline” or collide “with the rights of other students to be secure and be let alone.” These reasons may include previous incidents, current conditions in the schools and other factors.}

⁶ {Oregon Administrative Rule uses “school.”}

[ORS 659.850](#)
[ORS 659.852](#)

[OAR 581-002-0005](#)
[OAR 581-022-2312](#)

[OAR 581-022-2370](#)

Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503 (1969).
Dariano v. Morgan Hill Unified Sch. Dist., 767 F.3d 764 (9th Cir. 2014).
State v. Robertson, 293 Or. 402 (1982).

Code: ACB-AR
Adopted:

Bias Incident Complaint Procedure

The term “bias incident” is defined in policy. Persons impacted by a bias incident shall be defined broadly to include individuals at whom an incident was directed as well as students in the larger school community likely to be impacted by the incident.¹

Step 1 {²}: When a staff member learns of a potential bias incident, the staff member will prioritize the safety and well-being of all persons impacted and promptly report the incident to the building or program administrator.

Step 2: The administrator or designee shall acknowledge receipt of the complaint, reduce the complaint to writing, and investigate any complaint of a bias incident. Responding staff will recognize the experience of all persons impacted, acknowledge the impact, commit to taking immediate action, and prevent further harm against those persons impacted from taking place. Redirection procedures, if any, will include:

- Educational components that address the history and impact of hate;
- Procedural components to ensure the safety, healing, and agency of those impacted by hate;
- Accountability and transformation for people who cause harm; and
- Transformation of the conditions that perpetuated the harm. {³}

The administrator or designee must consider whether the behavior implicates other district policies or civil rights laws, and if so, respond accordingly.

The administrator or designee will determine responsibility within 10 days of receiving the complaint.

All persons impacted will be provided with information relating to the investigation and the outcome of the investigation. At a minimum, the information provided must include:

- That an investigation has been initiated;
- When the investigation has been completed;
- The findings of the investigation and the final determination based on those findings; and

¹ The term “complainant” in this administrative regulation includes persons filing formal complaints and persons reporting bias incidents, regardless of whether the complainant is a victim. Similarly, the term “complaint” includes any report, information or complaint.

² {These specific procedures are not required. The procedures must include all of the requirements listed in OAR 581-022-2312(6)(e). If making changes, we recommend working closely with legal counsel.}

³ {ODE will be releasing additional guidance to support administrators in these situations.}

- Actions taken with the person or persons who committed the harassing behavior to remedy the behavior and prevent reoccurrence when the actions relate directly to a person impacted by the event.

If any of the above information cannot be shared, a citation to the law prohibiting release and an explanation of how that law applies to the current situation will be provided.⁴

Step 3: If complainant or a respondent wishes to appeal the decision of the administrator or designee, the complainant or respondent may submit a written appeal to the superintendent within five school days after receipt of the administrator or designee’s response to the complaint.

The superintendent or designee shall acknowledge receipt of the appeal and may meet with all parties involved. The superintendent or designee will review the merits of the complaint and the administrator or designee’s decision. The superintendent or designee will respond in writing to the complainant within 10 school days.

The superintendent or designee will ensure that the requirements in Steps 1 and 2 (redirection procedures, notice, etc.) are continued to be met through Step 3, as appropriate.

Step 4: If the complainant or respondent is not satisfied with the decision of the superintendent or designee, a written appeal may be filed with the Board within five school days of receipt of the superintendent or designee’s response to Step 3. The Board may decide to hear or deny the request for appeal at a Board meeting. The Board may use an executive session if the subject matter qualifies under Oregon law. If the Board decides to hear the appeal, the Board may meet with the concerned parties and their representative at the next regular or special Board meeting. The Board’s decision will be final and will address each allegation in the complaint and contain reasons for the Board’s decision. A copy of the Board’s final decision shall be sent to the complainant in writing within 10 days of this meeting.

The Board will ensure that the requirements in Steps 1 and 2 (redirection procedures, notice, etc.) are continued to be met through Step 4, as appropriate.

Complaints can be filed with or communicated directly to the administrator or designee, in which case Step 1 will be skipped. Complaints against the administrator can be directed to the superintendent or designee and will begin at Step 3. Complaints against the superintendent or a Board member(s) can be directed to the Board and will begin at Step 4. If complaints begin later than Step 1, the individuals reviewing the complaint will ensure that all requirements are met.

The complainant, if a person who resides in the district or a parent or guardian of a student who attends school in the district, is not satisfied after exhausting local complaint procedures, the district fails to render a written decision within 30 days of submission of the complaint at any step or fails to resolve the complaint within 90 days of the initial filing of the complaint, may appeal⁵ the district’s final decision to the Deputy Superintendent of Public Instruction under Oregon Administrative Rules (OAR) 581-002-0001 – 581-002-0023.

⁴ Refer to policies GBL - Personnel Records, JOA - Directory Information and JOB - Personally Identifiable Information and district legal counsel for guidance in these situations. Possible laws include, but are not limited to, Title 34 C.F.R. § 99.31 and ORS 342.850.

⁵ An appeal must meet the criteria found in OAR 581-002-0005(1)(a).

Complaints may also be filed directly with the U.S. Department of Education Office for Civil Rights.⁶

District administration will develop and implement instructional materials to ensure that all school employees and staff are made aware of this procedure and related practices. The materials will include reporting procedures, educational processes, and possible consequences.

When necessary, timelines may be adjusted by the district by communicating to all parties in writing. This communication must include a new timeline and an explanation of why the timeline must be adjusted.

⁶ Complaints must meet criteria as established by law. For more information, visit <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>

OSBA Model Sample Policy

Code: GBEB
Adopted:

Communicable Diseases – Staff

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

An employee may not attend work while in a communicable stage of a restrictable disease or when an administrator has reason to suspect that the employee has or has been exposed to any disease for which exclusion is required in accordance with law and per administrative regulation GBEB-AR - Communicable Diseases - Staff. If the disease is a reportable disease, the administrator will report the occurrence to the local health department.

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

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

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

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

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

END OF POLICY

Legal Reference(s):

[ORS 332.107](#)

[ORS 431.150 - 431.157](#)

[ORS 433.001 - 433.526](#)

[OAR 333-018](#)

[OAR 333-019-0010](#)

[OAR 333-019-0014](#)

[OAR 333-019-1000](#)

[OAR 437-002-0360](#)

[OAR 437-002-0377](#)

[OAR 581-022-2220](#)

OREGON DEPARTMENT OF EDUCATION and OREGON HEALTH AUTHORITY, *Communicable Disease Guidance* (2020).

Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (2018); Family Educational Rights and Privacy, 34 C.F.R. Part 99 (2019).

Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §§ 1320d to -1320d-8 (2018); 45 C.F.R. Parts 160, 164 (2019).

HR 7/31/20 | LF

Communicable Diseases – Staff – GBEB

1-1

Leslie Fisher 7/17/2020 1:42 PM

Deleted: who knows that he or she has or has been exposed to any restrictable disease,

Leslie Fisher 7/17/2020 2:40 PM

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Leslie Fisher 7/17/2020 2:40 PM

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Leslie Fisher 7/17/2020 2:40 PM

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Leslie Fisher 7/17/2020 11:17 AM

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Leslie Fisher 7/17/2020 11:18 AM

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Leslie Fisher 7/17/2020 2:41 PM

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Leslie Fisher 7/30/2020 8:16 AM

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

... [1]

Leslie Fisher 7/10/2020 1:20 PM

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Leslie Fisher 7/10/2020 1:31 PM

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Leslie Fisher 7/10/2020 1:32 PM

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Leslie Fisher 7/10/2020 1:20 PM

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Leslie Fisher 7/10/2020 1:20 PM

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OSBA Model Sample Policy

Code: GBEB-AR
Revised/Reviewed:

Communicable Diseases – Staff

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

1. “Restrictable diseases” are defined by rule and include but are not limited to COVID-19¹, chickenpox, diphtheria, hepatitis A, hepatitis E, measles, mumps, pertussis, rubella, Salmonella enterica serotype Typhi infection, scabies, Shiga-toxicogenic Escherichia coli (STEC) infection, shigellosis and infectious tuberculosis, and may include a communicable stage of hepatitis B infection if, in the opinion of the local health officer, the person poses an unusually high risk to others (e.g., a child that exhibits uncontrollable biting or spitting). Restrictable disease also includes any other communicable disease identified in an order issued by the Oregon Health Authority or the local public health officer as posing a danger to the public’s health. A disease is considered to be a restrictable disease if it is listed in Oregon Administrative Rule (OAR) 333-019-0010, or it has been designated to be a restrictable disease by the local public health administrator after determining that it poses a danger to the public’s health.
2. “Susceptible” for an employee means lacking evidence of immunity to the disease.
3. “Reportable diseases” means a disease or condition, the reporting of which enables a public health authority to take action to protect or to benefit the public health.

Restrictable Diseases

1. An employee of the district will not attend or work at a district school or facility while in a communicable stage of a restrictable disease, including a communicable stage of COVID-19³, unless authorized to do so under Oregon law. When an administrator has reason to suspect that an employee has a restrictable disease, the administrator shall send the employee home.
2. An administrator shall exclude an employee if the administrator has reason to suspect that an employee has been exposed to measles, mumps, rubella, diphtheria, pertussis, hepatitis A, or hepatitis B, unless the local health officer determines that exclusion is not necessary to protect the public’s health. The administrator may request the local health officer to make a determination as allowed by law. If the disease is reportable, the administrator will report the occurrence to the local health department.
3. An administrator shall exclude an employee if the administrator has been notified by a local public health administrator or local public health officer that the employee has had a substantial exposure to an individual with COVID-19 and exclusion is deemed necessary by same.

¹ Added per OAR 333-019-1000(2).

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

HR 7/31/20 | LF

Communicable Diseases – Staff – GBEB-AR

1-2

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4. An employee will be excluded in such instances until such time as the employee presents a certificate from a physician, a physician assistant licensed under Oregon Revised Statute (ORS) 677.505 - 677.525, a nurse practitioner licensed under ORS 678.375 - 678.390, local health department nurse or school nurse stating that the employee does not have or is not a carrier of any restrictable disease.
5. An administrator may allow attendance of an employee restricted for chickenpox, scabies, staphylococcal skin infections, streptococcal infections, diarrhea or vomiting if the restriction has been removed by a school nurse or health care provider.
6. More stringent exclusion standards for employees from school or work may be adopted by the local health department.
7. The district's emergency plan shall address the district's plan with respect to a declared public health emergency at the local or state level.

Reportable Diseases Notification

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

Equipment and Training

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

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

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OSBA Model Sample Policy

Code: GBN/JBA

Adopted:

Sexual Harassment

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

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

General Procedures

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

OREGON DEFINITION AND PROCEDURES

Oregon Definition

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

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

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

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

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

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

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

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

Oregon Procedures

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

Name	Position	Phone	Email
<u>Kim Grousbeck</u>	<u>Director of HR</u>	<u>541-259-8948</u>	<u>kim.grousbeck@lebanon.k12.or.us</u>
<u>Jennifer Meckley</u>	<u>Asst. Superintendent</u>	<u>541-259-8909</u>	<u>jennifer.meckley@lebanon.k12.or.us</u>

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

Response

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

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

This includes providing resources for support measures to the student, staff member or third party who was subjected to the behavior and taking any actions necessary to remove potential future impact on the student, staff member or third party, but are not retaliatory against the student, staff member or third party being harassed or the person who reported to the district official.

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

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

Investigation

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

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

The district will use a reasonable person standard when determining whether a hostile environment exists. A hostile environment exists if a reasonable person with similar characteristics and under similar circumstances would consider the conduct to be so severe as to create a hostile environment.^{5}

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

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

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

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

^{5} OSBA strongly recommends that the Board receive input from district administration prior to adopting a standard here. Of note, Title IX's definition of sexual harassment includes "unwelcome conduct determined *by a reasonable person* to be..." 34 CFR 106.30(a), emphasis added. It is important to consider the different definitions under Oregon law and Title IX when determining which standards will apply for the Oregon process.

No Retaliation

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

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

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

Notice

When a person⁶ who may have been affected by this policy files a complaint or otherwise reports behavior that may violate the policy, the district shall provide written notification to the following:

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

The written notification must include⁷:

1. Name and contact information for all person designated by the district to receive complaints;
2. The rights of the person that the notification is going to;
3. Information about the internal complaint processes available through the school or district that the person who filed the complaint may pursue, including the person designated for the school or district for receiving complaints and any timelines.
4. Notice that civil and criminal remedies that are not provided by the school or district may be available to the person through the legal system and that those remedies may be subject to statutes of limitation;
5. Information about services available to the student or staff member through the school or district, including any counseling services, nursing services or peer advising;

⁶ Student, staff member, or third party, or if applicable, the student or third party's parent. If the person is a minor, the district should consider when to contact the person's parent.

⁷ Remember confidentiality laws when providing any information.

6. Information about the privacy rights of the person and legally recognized exceptions to those rights for internal complaint processes and services available through the school or district;
7. Information about, and contact information for, services and resources that are available to the person, including but not limited to:
 - a. For the reporting person, state and community-based resources for persons who have experienced sexual harassment; or
 - b. For the reported persons, information about and contact information for state and community-based mental health services.
8. Notice that students who report about possible prohibited conduct and students who participate in an investigation under this policy may not be disciplined for violations of the district’s drug and alcohol policies that occurred in connection with the reported prohibited conduct and that were discovered as a result of a prohibited conduct report or investigation unless the student gave another person alcohol or drugs without the person’s knowledge and with the intent of causing the person to become incapacitated and vulnerable to the prohibited conduct; and
9. Prohibition of retaliation.

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

The notice must:

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

Oregon Department of Education (ODE) Support

The ODE will provide technical assistance and training upon request.

FEDERAL DEFINITION AND PROCEDURES

Federal Definition

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

1. An employee of the district conditioning the provision of an aid, benefit, or service of the district on an individual’s participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district’s education program or activity⁸;
3. “Sexual assault”: an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;

⁸ “Education program or activity” includes locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs.” (Title 34 C.F.R. § 106.44(a))

4. “Dating violence”: violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship;
5. “Domestic Violence”: felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction; or
6. “Stalking”: engaging in a course of conduct directed at a specific person that would cause a reasonable person fear for the person’s own safety or the safety of others, or suffer substantial emotional distress.

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

Federal Procedures

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

Reporting

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

Kim Grousbeck is designated as the Title IX Coordinator and can be contacted at (541) 259-8948. The Title IX Coordinator will coordinate the district’s efforts to comply with its responsibilities related to this AR. The district prominently will display the contact information for the Title IX Coordinator on the district website and in each handbook. {⁹}

Response

The district will promptly respond to information, allegations or reports of sexual harassment when there is actual knowledge of such harassment, even if a formal complaint has not been filed.¹⁰ The district shall treat complainants and respondents equitably by providing supportive measures¹¹ to the complainant and

⁹ Note the difference in requirements for Title IX and Oregon law. It makes sense to align these requirements.}

¹⁰ (Title 34 C.F.R. §106.44(a)) Response cannot be deliberately indifferent. A recipient is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

¹¹ (Title 34 C.F.R. § 106.44(a)) Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the district’s educational environment, or deter sexual harassment.¹¹ The district must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide supportive measures. (Title 34 C.F.R. § 99.30(a))

by following a grievance procedure¹² prior to imposing any disciplinary sanctions or other actions that are not supportive measures against a respondent. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes, with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.¹³

If after an individualized safety and risk analysis, it is determined that there is an immediate threat to the physical health or safety of any person, an emergency removal of the respondent can take place.¹⁴ The district must provide the respondent with notice and an opportunity to challenge the decision immediately following the removal. A non-student employee may also be placed on non-disciplinary administrative leave pending the grievance process.

Notice

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

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

Inquiries about the application to Title IX and its requirements may be referred to the Title IX Coordinator.

No Retaliation

Neither the district or any person may retaliate¹⁵ against an individual for reporting, testifying, providing evidence, being a complainant, otherwise participating or refusing to participate in any investigation or process in accordance with this procedure. The district must keep confidential the identity of parties and participating persons, except as disclosure is allowed under Family Educational Rights and Privacy Act (FERPA), as required by law, or to carry out the proceedings herein. Complaints of retaliation may be filed using these procedures.

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

Publication

¹² This grievance procedure must meet the requirements of Title 34 C.F.R. § 106.45 (included in accompanying administrative regulation, *see* GBN/JBA-AR(2) - Federal Law (Title IX) Sexual Harassment Complaint Procedure).

¹³ The Title IX Coordinator may also discuss that the Title IX Coordinator has the ability to file a formal complaint.

¹⁴ The district may still have obligations under Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 or the American with Disabilities Act (ADA). (Title 34 C.F.R. § 106.44(c))

¹⁵ Retaliation includes, but is not limited to, intimidation, threats, coercion, and discrimination.

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

END OF POLICY

Legal Reference(s):

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

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

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

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

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

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

Bartsch v. Elkton School District, FDA-13-011 (March 27, 2014).

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

Sexual Harassment Complaint Procedure

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

Table with 4 columns: Name, Position, Phone, Email. Rows include Kim Grousbeck (Director of HR) and Jennifer Meckley (Asst. Superintendent).

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

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

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

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

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

{^} Align with same positions identified in policy.}

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

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

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

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

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

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

Direct complaints related to employment may be filed with the U.S. Department of Labor, Equal Employment Opportunity Commission or Oregon Bureau of Labor and Industries.

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

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

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

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

The superintendent shall report the name of any person holding a teaching license or registered with Teacher Standards and Practices Commission (TSPC) or participating in a practicum under Oregon Administrative Rule (OAR) Chapter 584, Division 17, when, after appropriate investigation, there is reasonable cause to believe the person may have committed an act of sexual harassment. Reports shall be made to TSPC within 30 days of such a finding. Reports of sexual contact with a student shall be given to a representative from law enforcement or Oregon Department of Human Services, as possible child abuse.

Lebanon Community School District
485 S. 5th Street, Lebanon, OR 97355 | (541) 451-8511

SEXUAL HARASSMENT COMPLAINT FORM

Name of complainant: _____

Position of complainant: _____

Date of complaint: _____

Name of alleged harasser: _____

Date and place of incident or incidents: _____

Description of misconduct: _____

Name of witnesses (if any): _____

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

Any other information: _____

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

Signature: _____ Date: _____

Lebanon Community School District
485 S. 5th Street, Lebanon, OR 97355 | (541) 451-8511

WITNESS DISCLOSURE FORM

Name of Witness: _____

Position of Witness: _____

Date of Testimony/Interview: _____

Description of Instance Witnessed: _____

Any Other Information: _____

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

Signature: _____ Date: _____

OSBA Model Sample Administrative Regulation **NEW**

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

Federal Law (Title IX) Sexual Harassment Complaint Procedure

Additional Definitions

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

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

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

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

Formal Complaint Procedures

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

1. Notice of the district’s grievance process, including any informal resolution process.
2. Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details⁶ known at the time and with sufficient time to prepare a response before any initial interview.

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

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

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

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

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

3. That the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility be made at the conclusion of the grievance process.
4. That the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
5. The parties may inspect and review evidence.
6. A reference to any provision in the district's code of conduct^{7} that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

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

Investigation

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

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

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

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

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

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

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

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

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

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

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

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

Determination of Responsibility

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

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

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

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

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

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

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

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

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

Remedies

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

The disciplinary sanctions¹⁴ may include:

1. Discipline up to and including suspension and expulsion;
2. Removal from various activities, committees, extra-curricular, positions, etc.
3. Disqualification for awards and honors;
4. Discipline up to and including termination, in accordance with laws, agreements, contracts, handbooks, etc.¹⁵

Other remedies may include:

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

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

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

1. Educational programming.

Dismissal of a Formal Complaint

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

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

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

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

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

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

Consolidation of Complaints

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

Informal Resolution

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

1. Provides written notice to the parties disclosing:
 - a. The allegations;
 - b. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and

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

- c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
2. Obtains the parties' voluntary written consent to the informal resolution process; and
3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

Appeals

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

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

When an appeal is filed, the district must:

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

Timelines

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

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

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

Records

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

Training

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

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

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

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

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

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

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

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

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

OSBA Model Sample Policy

Code: GCAB
Adopted:

Personal Electronic Devices and Social Media - Staff**

Staff possession or use of personal electronic devices on district property, in district facilities during the work day and while the staff is on duty in attendance at district-sponsored activities may be permitted subject to the limitations set forth in this policy and consistent with any additional school rules as may be established by the superintendent or designee. At no time, whether on duty or off duty, will a personal electronic device be used in a manner that interferes with staff duty and responsibility for the supervision of students.

A “personal electronic device” is a device not issued by the district and is capable of electronically communicating, sending, receiving, storing, recording, reproducing, and/or displaying information and data.

Personal electronic devices shall be silenced during instructional time, while on duty or at any other time where such use of the device would cause a disruption of school activities or interfere with a work assignment. Devices, which have the capability to take photographs or record video or audio, shall not be used for such purposes while on district property or while a staff member is on duty at district-sponsored activities, unless as expressly authorized by the principal or designee for a use directly related to and consistent with the employee’s assigned duties. Computers, tablets, iPads or similar devices brought to school will be restricted to academic activities during on duty time.

The district will not be liable for loss or damage to personal electronic devices brought to district property and district-sponsored activities.

Staff members, while on duty and off duty, will utilize social media websites, public websites and blogs, judiciously by not posting confidential information about students, staff or district business.¹ Staff may not post images of district facilities, staff, students, volunteers or parents without written authorization from persons with authority to grant such a release. Staff members, while on duty and off duty, will treat fellow employees, students and the public with respect while posting on social media websites, etc., in order to prevent substantial disruption in school.

Communication with students using personal electronic devices will be appropriate and professional. Communication with students using personal electronic devices regarding nonschool-related matters is prohibited during work hours and strongly discouraged at all other times. If communicating with students electronically regarding school-related matters, staff should use district e-mail using mailing lists and/or other internet messaging to a group of students rather than individual students. Texting a student during work hours is prohibited. Texting a student while off duty is strongly discouraged.

Exceptions to the prohibitions set forth in this policy may be made for health, safety or emergency reasons with superintendent or designee approval.

¹ Nothing in this policy is intended in any form to limit the right of employees to engage in protected labor activities via the use of social media.

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Staff are subject to disciplinary action up to and including dismissal for using a personal electronic device in any manner that is illegal or violates the terms of this policy. Staff actions on social media websites, public websites and blogs, while on or off duty, which disrupt the school environment, are subject to disciplinary action up to and including dismissal.

The taking, disseminating, transferring or sharing of obscene, pornographic or otherwise illegal images or photographs, whether by electronic data transfer or otherwise (commonly called texting, sexting, emailing, etc.) may constitute a crime under state and/or federal law. Any person taking, disseminating, transferring or sharing obscene, pornographic or otherwise illegal images or photographs, will be reported to law enforcement and/or other appropriate state or federal agencies.

Licensed staff are subject at all times to the Standards for Competent and Ethical Performance of Oregon Educators. (See Board policy GCAA)

The superintendent shall ensure that this policy is available to all employees.

END OF POLICY

Legal Reference(s):

ORS 163.432	ORS 163.693	ORS 336.840
ORS 163.433	ORS 163.700	ORS 339.372
ORS 163.684	ORS 167.057	
ORS 163.686	ORS 326.011	[OAR 584-020-0000 – 020-0035]
ORS 163.687	ORS 326.051	
ORS 163.688	ORS 332.072	Senate Bill 155 (2019)
ORS 163.689	ORS 332.107	

18 U.S.C. § 1466A (2018).
18 U.S.C. § 1470 (2018).
20 U.S.C. § 7131 (2018).
20 U.S.C. § 7906 (2018).

Copyrights, Title 17, as amended, United States Code (2018); 19 C.F.R. Part 133 (2019).
Melzer v. Bd. Of Educ., City of New York, 336 F.3d 185 (2d Cir. 2003).
Ross v. Springfield Sch. Dist., No. FDA 80-1, aff'd, 56 Or. App. 197, rev'd and remanded, 294 Or. 357 (1982), order on remand (1983), aff'd, 71 Or. App. 111 (1984), rev'd and remanded, 300 Or. 507 (1986), order on second remand (1987), revised order on second remand (1988).

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OSBA Model Sample Policy

Code: JBA/GBN

Adopted:

Sexual Harassment

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

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

General Procedures

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

OREGON DEFINITION AND PROCEDURES

Oregon Definition

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

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

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

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

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

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

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

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

Oregon Procedures

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

Name	Position	Phone	Email
<u>Kim Grousbeck</u>	<u>Director of HR</u>	<u>541-259-8948</u>	<u>kim.grousbeck@lebanon.k12.or.us</u>
<u>Jennifer Meckley</u>	<u>Asst. Superintendent</u>	<u>541-259-8909</u>	<u>jennifer.meckley@lebanon.k12.or.us</u>

This/These individual(s) is/are responsible for accepting and managing complaints of sexual harassment. Persons wishing to report should contact them using the above information. This person is also designated as the Title IX Coordinator. ^{5} See JBA/GBN-AR(1) - Sexual Harassment Complaint Procedure.

Response

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

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

This includes providing resources for support measures to the student, staff member or third party who was subjected to the behavior and taking any actions necessary to remove potential future impact on the student, staff member or third party, but are not retaliatory against the student, staff member or third party being harassed or the person who reported to the district official.

Any student or staff member who feels they are a victim of sexual harassment are encouraged to immediately report their concerns to district officials, this includes officials such as the principal,

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

^{5} This must be communicated elsewhere, but it is a good reason to specify it here as well.}

compliance officer or superintendent. Students may also report concerns to a teacher, counselor or school nurse, who will promptly notify the appropriate district official.

Investigation

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

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

The district will use a reasonable person standard when determining whether a hostile environment exists. A hostile environment exists if a reasonable person with similar characteristics and under similar circumstances would consider the conduct to be so severe as to create a hostile environment. ^{6}

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

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

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

1. Removing that third party's ability to contract or volunteer with the district, or be present on district property;
2. If the third party works for an entity that contracts with the district, communicating with the third party's employer;
3. If the third party is a student of another district or school, communicate information related to the incident to the other district or school;

^{6} OSBA strongly recommends that the Board receive input from district administration prior to adopting a standard here. Of note, Title IX's definition of sexual harassment includes "unwelcome conduct determined *by a reasonable person* to be..." 34 CFR 106.30(a), emphasis added. It is important to consider the different definitions under Oregon law and Title IX when determining which standards will apply for the Oregon process.

4. Limiting attendance at district events; and
5. Providing for additional supervision, including law enforcement if necessary, at district events.

No Retaliation

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

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

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

Notice

When a person⁷ who may have been affected by this policy files a complaint or otherwise reports behavior that may violate the policy, the district shall provide written notification to the following:

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

The written notification must include⁸:

1. Name and contact information for all person designated by the district to receive complaints;
2. The rights of the person that the notification is going to;
3. Information about the internal complaint processes available through the school or district that the person who filed the complaint may pursue, including the person designated for the school or district for receiving complaints and any timelines.

⁷ Student, staff member, or third party, or if applicable, the student or third party's parent. If the person is a minor, the district should consider when to contact the person's parent.

⁸ Remember confidentiality laws when providing any information.

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

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

The notice must:

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

Oregon Department of Education (ODE) Support

The ODE will provide technical assistance and training upon request.

FEDERAL DEFINITION AND PROCEDURES

Federal Definition

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

1. An employee of the district conditioning the provision of an aid, benefit, or service of the district on an individual’s participation in unwelcome sexual conduct;

2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district’s education program or activity⁹;
3. “Sexual assault”: an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
4. “Dating violence”: violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship;
5. “Domestic Violence”: felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction; or
6. “Stalking”: engaging in a course of conduct directed at a specific person that would cause a reasonable person fear for the person’s own safety or the safety of others, or suffer substantial emotional distress.

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

Federal Procedures

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

Reporting

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

Kim Grousbeck is designated as the Title IX Coordinator and can be contacted at 541-259-8948. The Title IX Coordinator will coordinate the district’s efforts to comply with its responsibilities related to this AR. The district prominently will display the contact information for the Title IX Coordinator on the district website and in each handbook. ^{10}

⁹ “Education program or activity” includes locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs.” (Title 34 C.F.R. § 106.44(a))

^{10} Note the difference in requirements for Title IX and Oregon law. It makes sense to align these requirements. }

Response

The district will promptly respond to information, allegations or reports of sexual harassment when there is actual knowledge of such harassment, even if a formal complaint has not been filed.¹¹ The district shall treat complainants and respondents equitably by providing supportive measures¹² to the complainant and by following a grievance procedure¹³ prior to imposing any disciplinary sanctions or other actions that are not supportive measures against a respondent. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes, with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.¹⁴

If after an individualized safety and risk analysis, it is determined that there is an immediate threat to the physical health or safety of any person, an emergency removal of the respondent can take place.¹⁵ The district must provide the respondent with notice and an opportunity to challenge the decision immediately following the removal. A non-student employee may also be placed on non-disciplinary administrative leave pending the grievance process.

Notice

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

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

Inquiries about the application to Title IX and its requirements may be referred to the Title IX Coordinator.

¹¹ (Title 34 C.F.R. §106.44(a)) Response cannot be deliberately indifferent. A recipient is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

¹² (Title 34 C.F.R. § 106.44(a)) Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the district's educational environment, or deter sexual harassment.¹² The district must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide supportive measures. (Title 34 C.F.R. § 99.30(a))

¹³ This grievance procedure must meet the requirements of Title 34 C.F.R. § 106.45 (included in accompanying administrative regulation, *see* JBA/GBN-AR(2) - Federal Law (Title IX) Sexual Harassment Complaint Procedure).

¹⁴ The Title IX Coordinator may also discuss that the Title IX Coordinator has the ability to file a formal complaint.

¹⁵ The district may still have obligations under Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 or the American with Disabilities Act (ADA). (Title 34 C.F.R. § 106.44(c))

No Retaliation

Neither the district or any person may retaliate¹⁶ against an individual for reporting, testifying, providing evidence, being a complainant, otherwise participating or refusing to participate in any investigation or process in accordance with this procedure. The district must keep confidential the identity of parties and participating persons, except as disclosure is allowed under Family Educational Rights and Privacy Act (FERPA), as required by law, or to carry out the proceedings herein. Complaints of retaliation may be filed using these procedures.

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

Publication

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

END OF POLICY

Legal Reference(s):

¹⁶ Retaliation includes, but is not limited to, intimidation, threats, coercion, and discrimination.

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

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

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

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

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

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

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

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

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

Sexual Harassment Complaint Procedure

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

Table with 4 columns: Name, Position, Phone, Email. Rows include Kim Grousbeck (Director of HR) and Jennifer Meckley (Asst. Superintendent).

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

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

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

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

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

{^} Align with same positions identified in policy.}

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

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

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

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

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

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

Direct complaints related to employment may be filed with the U.S. Department of Labor, Equal Employment Opportunity Commission or Oregon Bureau of Labor and Industries.

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

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

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

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

The superintendent shall report the name of any person holding a teaching license or registered with Teacher Standards and Practices Commission (TSPC) or participating in a practicum under Oregon Administrative Rule (OAR) Chapter 584, Division 17, when, after appropriate investigation, there is reasonable cause to believe the person may have committed an act of sexual harassment. Reports shall be made to TSPC within 30 days of such a finding. Reports of sexual contact with a student shall be given to a representative from law enforcement or Oregon Department of Human Services, as possible child abuse.

Lebanon Community School District
485 S. 5th Street, Lebanon, OR 97355 | 541-451-8511

SEXUAL HARASSMENT COMPLAINT FORM

Name of complainant: _____

Position of complainant: _____

Date of complaint: _____

Name of alleged harasser: _____

Date and place of incident or incidents: _____

Description of misconduct: _____

Name of witnesses (if any): _____

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

Any other information: _____

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

Signature: _____ Date: _____

Lebanon Community School District
485 S. 5th Street, Lebanon, OR 97355 | 541-451-8511

WITNESS DISCLOSURE FORM

Name of Witness: _____

Position of Witness: _____

Date of Testimony/Interview: _____

Description of Instance Witnessed: _____

Any Other Information: _____

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

Signature: _____ Date: _____

OSBA Model Sample Administrative Regulation **NEW**

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

Federal Law (Title IX) Sexual Harassment Complaint Procedure

Additional Definitions

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

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

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

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

Formal Complaint Procedures

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

1. Notice of the district’s grievance process, including any informal resolution process.
2. Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details⁶ known at the time and with sufficient time to prepare a response before any initial interview.

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

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

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

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

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

3. That the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility be made at the conclusion of the grievance process.
4. That the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
5. The parties may inspect and review evidence.
6. A reference to any provision in the district's code of conduct^{7} that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

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

Investigation

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

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

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

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

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

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

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

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

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

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

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

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

Determination of Responsibility

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

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

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

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

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

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

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

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

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

Remedies

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

The disciplinary sanctions¹⁴ may include:

15. Discipline up to and including suspension and expulsion;
16. Removal from various activities, committees, extra-curricular, positions, etc.
17. Disqualification for awards and honors;
18. Discipline up to and including termination, in accordance with laws, agreements, contracts, handbooks, etc.¹⁵

Other remedies may include:

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

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

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

19. Educational programming.

Dismissal of a Formal Complaint

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

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

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

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

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

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

Consolidation of Complaints

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

Informal Resolution

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

26. Provides written notice to the parties disclosing:
 - a. The allegations;
 - b. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and

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

- c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
- 27. Obtains the parties' voluntary written consent to the informal resolution process; and
- 28. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

Appeals

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

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

When an appeal is filed, the district must:

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

Timelines

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

- 40. General grievance process (from receipt of formal complaint to determination of responsibility): 90 days;
- 41. Appeals (from receipt of appeal): 60 days;
- 42. Informal resolution process: 60 days.

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

Records

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

Training

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

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

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

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

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

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

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

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

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

OSBA Model Sample Policy

Code: JHCC
Adopted:

Communicable Diseases - Students

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

A student will not attend school while in a communicable stage of a restrictable disease or when an administrator has reason to suspect that any susceptible student has or has been exposed to any disease for which the student is required to be excluded in accordance with law and per administrative regulation JHCC-AR - Communicable Diseases - Students. If the disease is a reportable disease, the administrator will report the occurrence to the local health department. The administrator will also take whatever reasonable steps it considers necessary to organize and operate its programs in a way which both furthers the education and protects the health of students and others.

The district may, for the protection of both the student who has a restrictable disease and the exposed student, provide an educational program in an alternative setting.

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

The district shall protect the confidentiality of each student's health condition and record to the extent possible and consistent with federal and state law. In cases when a restrictable or reportable disease is diagnosed and confirmed for a student, the administrator shall inform the appropriate employees with a legitimate educational interest to protect against the risk of exposure.

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

END OF POLICY

Legal Reference(s):

[ORS 431.150 - 431.157](#) [OAR 333-019-0010](#) [OAR 437-002-0377](#)
[ORS 433.001 - 433.526](#) [OAR 333-019-0014](#) [OAR 581-022-2220](#)
[OAR 333-018](#) [OAR 333-019-1000](#)
[OAR 437-002-0360](#)

OREGON DEPARTMENT OF EDUCATION and OREGON HEALTH AUTHORITY, *Communicable Disease Guidance* (2020).
Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (2018); Family Educational Rights and Privacy, 34 C.F.R. Part 99 (2019).

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Communicable Diseases - Students – JHCC

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OSBA Model Sample Policy

Code: JHCC-AR
Adopted:

Communicable Diseases – Student

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

1. “Restrictable diseases” are defined by rule and include but are not limited to COVID-19¹, chickenpox, diphtheria, hepatitis A, hepatitis E, measles, mumps, pertussis, rubella, Salmonella enterica serotype Typhi infection, scabies, Shiga-toxicogenic Escherichia coli (STEC) infection, shigellosis and infectious tuberculosis, and may include a communicable stage of hepatitis B infection if, in the opinion of the local health officer, the person poses an unusually high risk to others (e.g., a child that exhibits uncontrollable biting or spitting). Restrictable disease also includes any other communicable disease identified in an order issued by the Oregon Health Authority or the local public health officer as posing a danger to the public’s health. A disease is considered to be a restrictable disease if it is listed in Oregon Administrative Rule (OAR) 333-019-0010, or it has been designated to be a restrictable disease by the local public health administrator, after determining that it poses a danger to the public’s health.

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2. “Susceptible” for a child means lacking documentation of immunization required under OAR 333-050-0050.

3. “Reportable disease” means a disease or condition, the reporting of which enables a public health authority to take action to protect or to benefit the public health.

Restrictable Diseases

1. A student of the district will not attend a district school or facility while in a communicable stage of a restrictable disease, including a communicable stage of COVID-19³, unless authorized to do so under Oregon law. When an administrator has reason to suspect any child has a restrictable disease, the administrator shall send the student home.

2. An administrator shall exclude a susceptible child from school if the administrator has reason to suspect that the student has been exposed to measles, mumps, rubella, diphtheria, pertussis, hepatitis A, or hepatitis B, unless the local health officer determines that exclusion is not necessary to protect the public’s health. The administrator may request the local health officer to make a determination as allowed by law. If the disease is reportable, the administrator will report the occurrence to the local health department.

3. An administrator shall exclude a student if the administrator has been notified by a local public health administrator or local public health officer that the student has had a substantial exposure to an individual with COVID-19 and exclusion is deemed necessary by same.

¹ Added per OAR 333-019-1000(2).

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

4. A student will be excluded in such instances until such time as the student or the parent or guardian of the student presents a certificate from a physician, a physician assistant licensed under Oregon Revised Statute (ORS) 677.505 - 677.525, a nurse practitioner licensed under ORS 678.375 - 678.390, local health department nurse or school nurse stating that the student does not have or is not a carrier of any restrictable diseases.

5. The district may, for the protection of both the student who has a restrictable disease and the exposed student, provide an educational program in an alternative setting. A student may remain in an alternative educational setting until such time as a certificate from a physician, physician assistant, nurse practitioner, local health department nurse or school nurse states that the student does not have or is not a carrier of any restrictable disease, or until such time as a local public health administrator states that the disease is no longer communicable to others or that adequate precautions have been taken to minimize the risk of transmission. A restrictable disease exclusion for chickenpox, scabies, staphylococcal skin infections, streptococcal infections, diarrhea or vomiting may be removed by a school nurse or health care provider.

6. More stringent exclusion standards for students from school may be adopted by the local health department.

7. The district's emergency preparedness plan shall address the district's plan with respect to a declared public health emergency at the local or state level.

Reportable Diseases Notification

- 1. All employees shall comply with all reporting measures adopted by the district and with all rules set forth by the Oregon Health Authority, Public Health Division and the local health department.
- 2. An administrator may seek confirmation and assistance from the local health officer to determine the appropriate district response when the administrator is notified that a student or an employee has been exposed to a restrictable disease that is also a reportable disease.
- 3. An administrator shall determine other persons who may be informed of a student's communicable disease when a legitimate educational interest exists or for health and safety reasons in accordance with law.

Education

- 1. The administrator or designee shall seek information from the district's school nurse or other appropriate health officials regarding the health needs/hazards of all students and the impact on the educational needs of a student diagnosed with a restrictable disease or exposed to a restrictable disease.
- 2. The administrator or designee shall, utilizing information obtained above, determine an educational program for such a student and implement the program in an appropriate (i.e., regular or alternative) setting.
- 3. The administrator or designee shall review the appropriateness of the educational program and the educational setting of each individual student diagnosed with a restrictable disease.

Equipment and Training

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Communicable Diseases – Student – JHCC-AR

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

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Agenda Item No. 7

Financial Reports

BOARD MEMORANDUM



To: The Honorable Chair and Members
Lebanon Community School District Board of Directors

From: William H. Lewis III, Business Director

Date: December 3, 2020

Meeting Date: December 10, 2020

Re: Financial Report

Financial Report

The 2020-2021 Financial Board Report included in this packet reflects all revenues and expenditures for 2015-2019 and the budgeted YTD expenditures, plus encumbered amounts for 2020-2021 as of 12/03/20.

CET Update-Resolution 2020-2 is on tonight's agenda for approval of the CET. Both the City of Lebanon and Linn County have agreed to intergovernmental agreements with the district regarding the collection of the CET.

2020-2021 General Fund Summary Report

	13/14 Actual	16/17 Actual	17/18 Actual	18/19 Budget	19/20 Budget	20-21 Budget	12-03-20 YTD & Enc	12-03-20 Balance
General Fund - Revenue								
SSF Formula		37,131,855	40,190,370	39,633,000	39,705,718	43,560,057	22,564,052	20,996,005
SSF Adjustment		390,697	280,233	-	250,598	-	-	-
State Fiscal Stabilization Fund					-	-	-	-
Federal Ed Jobs					-	-	-	-
School Year SubAccount					-	-	-	-
Loan Receipts					-	-	-	-
Interest		156,492	267,981	100,000	322,591	250,000	40,554	209,446
Third Party Billing		102,447	72,379	80,000	-	-	-	-
TMR		208,252	210,894	175,000	180,556	210,000	103,846	106,154
JROTC		73,726	69,777	65,000	35,236	65,000	21,739	43,261
Other		299,398	360,539	420,000	361,770	387,500	114,651	272,849
Interfund Transfer		60,000	82,657	70,000	8,029	-	-	-
BFB		3,024,733	3,310,041	5,075,000	5,263,314	3,784,307	4,046,537	(262,230)
Total		41,447,600	44,844,870	45,618,000	46,127,812	48,256,864	26,891,379	21,365,485
	=====	=====	=====	=====	=====	=====	=====	=====
General Fund - Expenses								
Salaries		18,826,313	19,506,444	21,146,522	1,626,358	21,680,883	20,211,954	1,468,929
Benefits		10,952,659	12,144,929	13,883,105	1,075,711	15,086,873	13,346,946	1,739,927
P. Services		4,332,849	4,321,151	4,804,971	1,173,868	5,299,827	2,308,377	2,991,451
Supplies		1,337,164	1,742,328	1,670,267	(293,397)	1,530,133	889,966	640,167
Capital Outlay		65,034	195,888	54,500	(141,973)	90,000	-	90,000
Other Objects		442,882	335,817	437,635	18,724	469,147	362,673	106,474
Transfers		2,180,656	1,335,000	2,621,000	1,286,000	2,100,000	2,100,000	-
Contingency		-	-	1,000,000	-	2,000,000	-	2,000,000
Total		38,137,559	39,581,557	45,618,000	4,745,292	48,256,864	39,219,916	9,036,948
	=====	=====	=====	=====	=====	=====	=====	=====

2020-2021 General Fund Expenditure Report

Obj	Description	16/17 Actual	17/18 Actual	18/19 Project	19/20 Budget	20/21 Budget	12-03-20 YTD	12-03-20 Encumb	12-03-20 Balance
111	Certified salaries	10,161,648	10,831,007	12,299,845	12,665,056	12,540,564	3,036,634	8,918,876	585,054
112	Classified salaries	4,545,055	4,757,666	5,617,686	6,227,931	6,008,791	1,689,612	3,796,106	523,073
113	Administrative salaries	1,648,330	1,614,127	1,782,092	1,873,807	1,863,955	773,276	1,091,169	(491)
114	Managerial - classified	178,755	187,797	249,120	154,577	289,051	117,029	166,191	5,831
116	Retirement stipends	51,134	35,621	19,904	91,904	133,413	31,275	90,000	12,138
119	Confidential salaries	84,504	131,698	159,789	162,808	284,898	116,533	166,191	2,175
121	Certified subs	432,293	446,157	43,660	2,000	0	0	0	0
122	Classified subs	155,004	150,074	42,523	1,500	23,975	0	0	23,975
123	Temp certified	73,949	133,971	162,287	82,264	45,425	0	0	45,425
124	Temp classified	0	0	23,111	8,000	21,658	4,335	0	17,323
127	Student helpers salaries	7,895	6,544	4,413	21,000	16,654	4,790	0	11,863
132	Compensation time	25,767	37,764	77,738	52,300	44,207	24,273	0	19,934
133	Extra duty	324,897	286,017	350,933	279,579	128,295	40,587	0	87,708
134	Classified extra hrs	185,048	192,566	200,393	208,000	0	0	0	0
135	Vacation Payoff	6,938	12,246	14,017	29,817	24,292	326	0	23,967
136	Mentor teacher pay	609	0	0	0	0	0	0	0
137	Personal Leave Payout	0	0	0	0	0	0	0	0
138	Department Head Extra Duty	1,613	1,556	788	6,000	30,000	5,000	7,000	18,000
142	Taxable Meal Reimbursement	903	1,503	2,073	0	809	10	0	799
143	Cell Phone Stipend				0	1,080	450	630	0
145	Travel Stipend				0	11,400	0	0	11,400
150	Club Advisor			34,950	29,650	120,904	45,318	80,682	(5,096)
	Total Salaries	17,884,343	18,826,313	21,136,091	21,896,193	21,680,883	5,895,109	14,316,845	1,468,929
210	PERS	4,187,401	4,442,519	5,780,868	7,398,130	7,286,664	1,930,314	4,651,614	704,735
220	Social Security	1,328,140	1,385,595	1,550,125	1,655,388	1,642,024	427,809	1,033,120	181,094
231	Worker's Comp	173,370	196,943	238,867	293,025	275,747	40,076	82,361	153,310
241	Employee Ins - Admin	212,862	208,912	239,427	215,642	275,263	108,560	150,254	16,450
242	Employee Ins - Certified	2,328,554	2,370,817	2,831,052	2,449,421	2,756,998	642,336	1,914,956	199,707
243	Employee Ins - Classified	2,137,321	2,102,847	2,408,513	2,327,520	2,596,579	654,988	1,576,609	364,982
244	Employee Ins - Other	7,731	27,124	36,487	33,429	65,298	27,413	38,315	(431)
245	Employee Ins - Retired	228,774	195,821	122,925	83,600	52,700	20,779	0	31,921
247	TSA	40,991	22,082	24,336	25,200	45,600	19,000	26,600	0
	Total Benefits	10,645,144	10,952,659	13,232,600	14,481,355	15,086,873	3,873,118	9,473,829	1,739,927
311	Instructional Services	157,581	110,051	121,558	103,800	76,375	16,616	0	59,759
312	Instr Prog Improve Service	36,748	39,424	33,042	53,000	67,750	38,719	25,885	3,146
319	Other Instr-Prof-Tech SVCS	9,745	23,110	11,205	20,000	10,000	210	0	9,790
322	Repairs & Maintenance	168,482	173,295	254,579	190,300	227,612	58,650	15,035	153,927
323	Radio Service	7,767	38,310	12,455	11,100	11,100	5,741	5,606	(248)

2020-2021 General Fund Expenditure Report

Obj	Description	16/17 Actual	17/18 Actual	18/19 Project	19/20 Budget	20/21 Budget	12-03-20 YTD	12-03-20 Encumb	12-03-20 Balance
324	Rentals	104,777	102,560	121,067	129,400	88,286	18,420	211	69,655
325	Electricity	473,758	466,093	453,206	502,620	465,700	96,094	268,906	100,700
326	Fuel	187,899	223,740	181,534	223,135	217,800	24,005	90,058	103,737
327	Water & Sewer	121,239	150,725	138,029	153,520	142,500	57,955	0	84,545
328	Garbage	96,811	95,095	112,864	102,400	87,000	25,761	0	61,239
329	Other Property Services	19,246	34,726	10,550	20,000	0	0	0	0
330	Reimb. Student Transportation	0	1,589	(64,563)	10,200	29,900	3,014	0	26,886
340	Travel	140,225	178,985	149,454	158,263	150,513	(19)	394	150,138
343	Travel - Student - Out of Dist.	0	2,916	1,140	5,300	4,500	0	0	4,500
346	Meals/Transportation	48	99	153	200	350	0	0	350
348	Staff Tuition	44,768	71,830	92,746	47,000	2,000	38,007	0	(36,007)
351	Telephone	70,529	39,486	44,987	73,165	65,100	18,616	22,211	24,273
353	Postage	21,909	14,712	24,224	26,074	28,900	11,305	8,381	9,214
354	Advertising	3,551	1,087	2,761	4,300	2,650	325	0	2,325
355	Printing & Binding	48,223	51,996	13,712	29,400	30,950	17,447	0	13,503
360	Charter School Payments	1,961,788	1,866,943	2,159,564	2,195,000	2,300,000	1,199,141	0	1,100,859
371	Tuitions Payments to Other Dist.	29,701	29,536	0	0	0	0	0	0
373	Tuition Pay Private School	0	0	0	5,000	0	0	0	0
374	Other Tuition	625,503	162,192	240,090	92,500	90,000	0	29,665	60,335
381	Audit Services	25,150	27,700	29,150	30,000	39,000	0	0	39,000
382	Legal Services	5,288	11,261	33,971	35,000	35,000	5,480	0	29,520
384	Negotiation Services	13,784	8,590	0	10,000	5,000	0	0	5,000
386	Data Processing SVCS	76,794	75,380	65,278	89,600	65,000	16,668	0	48,332
388	Election Services	0	1,573	4,623	5,000	5,000	0	0	5,000
389	Other Non_instr Pro/Tech	539,114	292,488	451,897	363,700	351,450	167,873	11,891	171,686
391	Physical Exams - Drivers	3,168	4,193	4,072	4,400	5,750	2,383	2,300	1,067
392	Drug Tests Drivers	635	1,255	1,670	3,000	2,250	0	2,000	250
393	Child Care Services	22,000	22,000	0	15,000	0	0	0	0
394	Sub calling service	7,489	6,464	14,113	15,000	12,000	0	0	12,000
395	Classified subs	0	0	226,030	194,000	228,600	152	0	228,448
396	Criminal History checks	2,928	3,179	4,066	3,200	3,500	61	0	3,439
398	Fingerprinting	462	266	38	1,000	2,500	59	0	2,441
399	Classified subs	0	0	499,109	425,000	445,791	2,969	0	442,822
	Total P. Services	5,027,111	4,332,849	5,448,375	5,349,577	5,299,827	1,825,833	482,543	2,991,451
406	Gas Oil & Lubricants	103,868	115,426	190,500	190,500	189,100	9,488	151,037	28,575
410	Supplies & Materials	419,096	486,014	452,860	648,024	651,837	119,065	17,643	515,129
413	Vehicle repair parts	48,980	44,746	27,649	52,800	50,500	9,638	25,467	15,395
414	Transportation operations	6,060	8,776	30,655	15,000	25,000	5,087	2,900	17,013

2020-2021 General Fund Expenditure Report

Obj	Description	16/17 Actual	17/18 Actual	18/19 Project	19/20 Budget	20/21 Budget	12-03-20 YTD	12-03-20 Encumb	12-03-20 Balance
420	Textbooks	131,379	83,687	68,642	28,033	9,933	6,949	0	2,984
430	Library Books	8,588	5,880	5,914	15,694	8,200	335	0	7,865
440	Periodicals	1,937	5,354	6,511	6,000	10,800	10,432	0	368
460	Equipment under 5K	212,514	184,119	162,389	178,842	146,100	8,081	0	138,019
470	Computer software	195,888	181,289	184,472	264,360	257,398	254,375	2,190	833
480	Computer hardware	252,444	221,873	146,797	170,593	181,265	52,278	215,000	(86,013)
	Total Supplies & Materials	1,380,753	1,337,164	1,276,389	1,569,846	1,530,133	475,729	414,237	640,167
520	Buildings Acquisition				0	0	0	0	0
540	Equipment	20,047	65,034	39,805	54,500	25,000	0	0	25,000
541	New Equipment over 5K	0			0	45,000	0	0	45,000
542	Replace of Equip over 5K	0			0	20,000	0	0	20,000
550	Depreciable Technology			7,579	0	0	0	0	0
564	Bus Replacement	0		258	0	0	0	0	0
	Total Capital Outlay	20,047	65,034	47,641	54,500	90,000	0	0	90,000
621	Regular Interest	0	0	0	500	0	0	0	0
640	Dues & Fees	67,655	178,632	101,706	175,180	159,726	52,986	0	106,740
650	Insurance & Judgments	218,639	230,250	245,279	265,588	306,221	0	0	306,221
651		0	0		0	0	0	0	0
652		0	0		0	0	100	0	(100)
653	Property Insurance Premium	0	0		0	0	308,606	0	(308,606)
654		0	0		0	0	0	0	0
655	Judgments & Settlements	0	0		0	2,500	0	0	2,500
659	Settlements	0	34,000		0	0	0	0	0
670	Taxes & Licenses	0	0	0	200	700	981	0	(281)
	Total Other Objects	286,294	442,882	346,985	441,468	469,147	362,673	0	106,474
707	Transfer - Vocational House Fun	0	0	40,000	0	70,000	70,000	0	0
710	Transfer - Technology	200,000	225,000	100,000	0	80,000	80,000	0	0
711	Transfer - Classroom Furniture	50,000	25,000	50,000	0	10,000	10,000	0	0
712	Transfer - Textbook Adoption	350,000	300,000	400,000	400,000	200,000	200,000	0	0
713	Transfer - Capital Improvement	250,000	250,000	400,000		200,000	200,000	0	0
714	Transfer - Track and Turf Fund	110,000	10,000	85,000	10,000	0	0	0	0
715	Transfer - Athletic Fund	365,000	405,000	446,000	450,000	475,000	475,000	0	0
716	Transfer - Bus Replacement	250,000	250,000	300,000	150,000	225,000	225,000	0	0
717	Transfer - Unemploy Ins	15,000	25,000	25,000	25,000	250,000	250,000	0	0
718	PERS Reserve	500,000	500,000	525,000	0	450,000	450,000	0	0
719	Transfer - Food Service	65,225	90,656	100,000	100,000	120,000	120,000	0	0
720	Transfer - Music/Band Replacem	0	0	0	0	20,000	20,000	0	0
730	Transfer - Debt Service	0	100,000	150,000	50,000	0	0	0	0
731	Transfer - Academic Achievemer	0	0	0	0	0	0	0	0
	Total Transfers	2,155,225	2,180,656	2,621,000	1,185,000	2,100,000	2,100,000	0	0

2020-2021 General Fund Expenditure Report

Obj	Description	16/17 Actual	17/18 Actual	18/19 Project	19/20 Budget	20/21 Budget	12-03-20 YTD	12-03-20 Encumb	12-03-20 Balance
810	Reserve/Contingency	0	0	0	1,750,000	2,000,000	0	0	2,000,000
	Grand Total	37,398,917	38,137,559	44,109,082	46,727,940	48,256,864	14,479,493	24,740,423	9,036,948

2020-2021 General Fund Revenue Report

		15/16	16/17	17/18	18/19	19/20	20-21	12-03-20	12-03-20
		Actual	Actual	Actual	Project	Budget	Budget	YTD	Balance
SSF Formula									
1111,	Taxes	8,533,160	9,048,901	10,057,517	10,136,079	10,938,094	10,938,094	6,608,369	4,329,725
4801,4899	Federal Forest Fees	205,708	23,160	142,770	179,478	130,000	130,000	-	130,000
3103	Common School	492,013	502,314	410,848	437,082	405,245	400,000	196,116	203,884
3104	State Timber	181,382	137,286	167,068	167,048	160,000	100,000	-	100,000
3101/3199	School Support Fund	26,623,971	27,420,195	29,412,167	29,101,930	31,264,455	31,791,963	15,759,567	16,032,396
Adjustments to SSF Payments									
	Adj for Prior Year payments	(330,463)	261,223	250,598	(755,646)	-	-	-	-
	Adj for HC Disability Grant	76,394	129,474	29,635	439,748	-	-	-	-
	Total SSF Formula	35,782,164	37,522,552	40,470,603	39,705,718	42,897,794	43,560,057	22,564,052	20,996,005
1510	Interest on Investments	91,245	156,492	267,981	322,591	300,000	250,000	40,554	209,446
4200	Third Party billing	45,178	102,447	72,379	72,372	-	-	-	-
2210	TMR	149,514	208,252	210,894	180,556	150,000	210,000	103,846	106,154
4300	JROTC reimbursement	66,034	73,726	69,777	35,236	65,000	65,000	21,739	43,261
Other									
1910	Rental Fees	10,474	9,114	7,731	3,626	10,000	7,500	-	7,500
1980	Fees Charged to Grants	800	-	-	-	100,000	50,000	-	50,000
1312,									
1960,									
1990,									
5300	Miscellaneous	202,944	213,437	284,801	358,144	300,000	250,000	79,419	170,581
1994	E-Rate reimbursement	82,910	76,847	68,007	-	80,000	80,000	35,232	44,768
5200	Interfund Transfer - Athletics	60,000	60,000	82,657	8,029	850,000	-	-	-
5400	Beginning Fund Balance	3,932,387	3,024,733	3,310,041	5,263,314	2,280,000	3,784,307	4,046,537	(262,230)
	Total	40,423,650	41,447,600	44,844,870	45,949,586	47,032,794	48,256,864	26,891,379	21,365,485