



Code: GBN/JBA
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11/11/20
Orig. Code: GBN/JBA

Sexual Harassment**

The Board is committed to the district being free of sexual harassment. Sexual harassment is strictly prohibited and shall not be tolerated. This policy applies to all students, staff members and third parties who are on or immediately adjacent to school grounds, at any district-sponsored activity, on any district-provided transportation or at any official district bus stop.

The district processes reports or complaints 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 in policy GBNAB. 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 GBNAB and GBNAB-AR - 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.

Definitions

1. “Complainant” means current or former district students, district staff and third parties, that have filed a complaint under Policy GBN/JBA.
2. “District” includes district facilities, district premises and non-district property if the student or staff member is at any district-sponsored, district-approved or district-related activity or function such as field trips or athletic events where students are under the jurisdiction of the district or where the staff member is engaged in district business. The prohibition also includes off duty conduct which is incompatible with a staff member’s district job responsibilities.
3. “Third parties” mean any persons who are not students or staff members but are on or immediately adjacent to school grounds, at any district-sponsored activity, on any district-provided transportation or at any official bus stop by other students or staff members¹.

Students whose behavior is found to be in violation of this policy will be subject to loss of privileges, and/or discipline, up to and including expulsion. Staff whose behavior is found to be in violation of this policy will be subject to discipline, up to and including dismissal.

Third parties whose behavior is found to be in violation of this policy will be subject to appropriate sanctions as determined and imposed by the superintendent or Board. The district may also report individuals to law enforcement if necessary.

Sexual harassment of students and staff members shall include, but is not limited to, unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal or physical conduct of a sexual nature when:

1. The conduct or communication has the purpose or effect of demanding sexual favors in exchange for benefits;
2. Unwelcome conduct of a sexual nature that has the purpose or effect of unreasonably interfering with person's ability to perform their job; or
3. Creates an intimidating, offensive or hostile educational or working environment.
4. Relevant factors to be considered will include, but not be limited to, did the individual view the environment as hostile; was it reasonable to view the environment as hostile; the nature of the conduct; how often the conduct occurred and how long it continued; age and sex of the complainant; whether the alleged harasser was in a position of power over the student or staff member subjected to the harassment; number of individuals involved; age of the alleged harasser; where the harassment occurred; and other incidents of sexual harassment at the school involving the same or other students, staff members or third parties.

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, sexting, sexual gestures or obscene jokes, touching oneself sexually or talking about one's sexuality in front of others or spreading rumors about or rating other students or others as to appearance, sexual activity or performance.

All complaints about behavior that may violate this policy shall be promptly investigated. Any students, staff member or third parties who has knowledge of conduct in violation of this policy or feels they are a victim of sexual harassment must immediately report their concerns to the principal, compliance officer or superintendent, who has overall responsibility for all investigations. Students may also report concerns to any staff member, who will promptly notify the appropriate district official. Notification to the district official (and the reporting staff member when the victim of the harassment is a student or third party) will allow the district official to coordinate efforts to 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 that are 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 staff member who reported to the district official.

Upon receipt of a complaint by a student or student's parents, if applicable, staff member or a third-party alleging behavior that may violate this policy, the district shall provide written notice as required by Oregon Revised Statute 342.704(4) to the complainant.

When the investigation is concluded, the student, the student's parents (if applicable), the staff member or the third party who initiated the complaint shall be notified in writing that the investigation has been concluded and as to whether a violation of this policy was found to have occurred, to the extent allowable under state and federal confidentiality laws.

The initiation of a complaint in good faith about behavior that may violate this policy may not adversely affect the educational assignments or educational environment of a student complainant, any terms or conditions of employment or work environment of the staff member complainant or any terms or conditions of employment or of work or educational environment of a third-party complainant. There shall be no retaliation by the district against any person who, in good faith, reports, files a complaint or otherwise participates in an investigation or inquiry of sexual harassment.

It is the intent of the Board that appropriate corrective action will be taken by the district to stop the sexual harassment, prevent its recurrence and address negative consequences.

Students in violation of this policy shall be subject to discipline up to and including expulsion and/or counseling or sexual harassment awareness training, as appropriate. The age and maturity of the student(s) involved and other relevant factors will be considered in determining appropriate action.

Staff members in violation of this policy shall be subject to discipline, up to and including dismissal and/or additional sexual harassment awareness training, as appropriate. Other individuals whose behavior is found to be in violation of this policy shall be subject to appropriate sanctions as determined and imposed by the superintendent or the Board.

Additionally, the district may report individuals in violation of this policy to law enforcement officials. Licensed staff, staff registered with the Teacher Standards and Practices Commission (TSPC) and those participating in practicum programs, as specified by Oregon Administrative Rules, shall be reported to TSPC.

The superintendent shall ensure appropriate periodic sexual harassment awareness training or information is provided to all supervisors, staff members and students and that annually, the name and position of district officials responsible for accepting and managing sexual harassment complaints, business phone numbers, addresses or other necessary contact information is readily available. This policy as well as the complaint procedure will be made available upon request to all students, parents of students, staff members and third parties, posted on the district's website and published in student/parent and staff handbooks. The district's policy shall be posted on a sign in all district work sites. Posted signs shall be at least 8 1/2 inches by 11 inches in size.

The superintendent or designee will establish a process of reporting incidents of sexual harassment. The superintendent may not modify or change the 3- step complaint procedure without Board approval.

All complaints must be received by the district on the later date of (1) within two years of the alleged violation or the complainant’s discovery of the alleged violation; or (2) one year after the affected student has graduated from, moved away from, or otherwise left the district.

** As used in this policy, the term parent includes legal guardian or person in a parental relationship. The status and duties of a legal guardian are defined in ORS 125.005 (4) and 125.300 - 125.325. The determination of whether an individual is acting in a parental relationship, for purposes of determining residency, depends on the evaluation of the factors listed in ORS 419B.373. The determination for other purposes depends on evaluation of those factors and a power of attorney executed pursuant to ORS 109.056. For special education students, parent also includes a surrogate parent, an adult student to whom rights have transferred and foster parent as defined in OAR 581-015-2000.

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).

Cross Reference(s):

AC - Nondiscrimination

GBNA - Hazing/Harassment/Intimidation/Bullying/Menacing – Staff

GBNAA/JHFF - Reporting Requirements for Suspected Sexual Conduct with Students

JBA/GBN - Sexual Harassment

JFCF - Hazing/Harassment/Intimidation/Bullying/Menacing/Cyberbullying/

Teen Dating Violence/Domestic Violence – Student

JHFE - Reporting of Suspected Abuse of a Child