

Sexual Harassment

The Board is committed to the elimination of sexual harassment in ESD programs and activities. Sexual harassment is strictly prohibited and shall not be tolerated. This includes sexual harassment of students, staff members, or third parties on or immediately adjacent to ESD property, at any ESD-sponsored activity, on any ESD-provided transportation or at any official ESD bus stop by other students, staff members, Board member or third parties.

For the purpose of this policy the following definitions apply:

“Third parties” include, but are not limited to, volunteers, parents, visitors, service contractors or others engaged in ESD business such as employees of businesses or organizations participating in cooperative work programs with the ESD and others not directly subject to ESD control at interdistrict and intradistrict athletic competitions or other ESD events.

“ESD” includes ESD facilities, ESD premises and non- ESD property if the student or staff member is at any ESD-sponsored, ESD-approved or ESD-related activity or function, such as field trips or athletic events where students are under the jurisdiction of the ESD; or where the staff member is engaged in ESD business. The prohibition also includes off duty conduct which is incompatible with ESD job responsibilities.

Sexual harassment of students, staff members or third parties 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. Submission to or rejection of the conduct or communication is used as the basis for educational decisions affecting a student or employment or assignment of staff members;
3. The conduct or communication is so severe, persistent or pervasive that it has the purpose or effect of unreasonably interfering with a student’s educational performance or with a staff member’s ability to perform job responsibilities; or creates an intimidating, hostile or offensive educational or working environment. Relevant factors to be considered will include, but not 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 sexual harassment; number of individuals involved; age of the alleged harasser; where the sexual harassment occurred; and other incidents of sexual harassment at the site involving the same or other students or 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; sexual gestures or obscene jokes; touching oneself sexually, exhibitionism/exposure 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 members or third parties who have knowledge of conduct in violation of this policy or feels they are a victim of sexual harassment must immediately report their concerns to the designated compliance officer or Superintendent, who has overall responsibility for all investigations. Students may also report concerns to a teacher, counselor or school nurse, who will promptly notify the appropriate ESD official.

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

The student and/or the student's parents, the staff member who initiated the complaint shall be notified that the investigation has been concluded 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 or 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 ESD against any person who, in good faith, reports, files a complaint or otherwise participates in any investigation or inquiry of sexual harassment.

It is the intent of the Board that appropriate corrective action will be taken by the ESD 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 ESD 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 also 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 ESD 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 ESD website and in student/parent and staff handbooks. The ESD's policy shall be posted on a sign in all grade 6 through 12 programs. Such posting shall be by a sign of at least 8 ½" by 11".

The Superintendent will establish a process of reporting incidents of sexual harassment.

END OF POLICY

Legal Reference(s):

[ORS 243.706](#)
[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](#)
HB 4150
(2018)

[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 (2006).

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2006).

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2006); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2006).

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