

## **Hazing, Harassment, Intimidation, Bullying, Menacing, or Cyberbullying – Staff and Third Parties**

The Board is committed to providing a positive and productive learning and working environment.

Hazing, harassment, intimidation, menacing, bullying and acts of cyberbullying of staff, students or third parties by students, staff or third parties towards staff is strictly prohibited and shall not be tolerated in the ESD.

Retaliation against a victim, any person who reports, is thought to have reported, files a complaint, or otherwise participates in an investigation or inquiry is strictly prohibited. Such retaliation shall be considered a serious violation of Board policy and independent of whether a complaint is substantiated. False charges shall also be regarded as a serious offense and will result in disciplinary action or other appropriate sanctions.

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 shall be subject to appropriate sanctions as determined and imposed by the Superintendent or Board.

Students whose behavior is found to be in violation of this policy will be subject to consequences and appropriate remedial action which may include discipline, up to and including expulsion.

Individuals may also be referred to law enforcement officials. Licensed staff will be reported to Teacher Standards and Practices Commission, if required by Oregon Administrative Rules (OAR) 584-020-0041.

The Superintendent is directed to develop administrative regulations to implement this policy. Regulations shall include descriptions of prohibited conduct, reporting and investigative procedures and provisions to ensure annual notice of this policy is provided to staff, students and third parties.

### **For the purpose of this policy the following definitions apply:**

1. "Third parties" include, but are not limited to, coaches, school volunteers, parents, school 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 other ESD-sponsored programs and activities.
2. "ESD" includes ESD facilities, ESD premises and non-ESD property if the employee is at any ESD-sponsored, ESD-approved or ESD-related activity or function, such as field trips, athletic events or where the employee is engaged in ESD business.
3. "Hazing" includes, but is not limited to, any act that recklessly or intentionally endangers the mental health, physical health or safety of a staff member for the purpose of initiation or as a condition or precondition of attaining membership in, or affiliation with, any ESD-sponsored activity, work group or

work assignment, or other such activities intended to degrade or humiliate regardless of the person's willingness to participate.

4. "Harassment" is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), sexual orientation<sup>1</sup>, national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful when 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.
5. "Intimidation" includes, but is not limited to, any threat or act intended to tamper, substantially damage or interfere with another's property, cause substantial inconvenience, subject another to offensive physical contact or inflict serious physical injury on the perception of the other's race, color, religion, national origin, disability, or sexual orientation.
6. "Bullying" is a pattern of repeated mistreatment that harms, intimidates, undermines, offends, degrades, or humiliates an employee.
7. "Cyberbullying" means the use of any electronic communication device to convey a message in any form (text, image, audio or video) that intimidates, harasses, or otherwise harms, insults or humiliates another in a deliberate, repeated or hostile and unwanted manner under a person's true or false identity. In addition, any communication of this form which substantially disrupts or prevents a safe and positive working environment may also be considered cyberbullying, harassment, intimidation, or bullying. Staff will refrain from using personal electronic devices of ESD equipment to harass or stalk another person or people.
8. "Menacing" includes, but is not limited to, any act intended to place an ESD employee or third party in fear of imminent serious physical injury.

END OF POLICY

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**Legal Reference(s):**

[ORS 163.190](#)  
[ORS 163.197](#)  
[ORS 166.065](#)  
[ORS 166.155 - 166.165](#)  
[ORS 174.100](#)

[ORS 334.125](#)  
[ORS 339.250](#)  
[ORS 659A.006](#)  
[ORS 659A.029](#)  
[ORS 659A.030](#)

[ORS 659A.103 - 659A.143](#)  
[ORS 659A.199 - 659A.224](#)  
[OAR 839-003-0000](#)  
[OAR 839-005-0021](#)  
[OAR 839-005-0030](#)

<sup>1</sup>'Sexual orientation' means an individual's actual or perceived heterosexuality, homosexuality, bisexuality or gender identity, regardless of whether the individual's gender identity, appearance, expression or behavior differs from that traditionally associated with the individuals' sex at birth.

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2012).

Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et. Seq. (2012).

Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634 (2012); 29 C.F.R. Part 1626 (2018)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2018); 28 C.F.R. Part 35 (2018).

Americans with Disabilities Act Amendments Act of 2008, 42 U.S.C. §§ 12101-12133 (2012).

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

OREGON BUREAU OF LABOR AND INDUSTRIES, *Workplace Bullying* (visited Feb. 26, 2019),

<<https://www.oregon.gov/boli/docs/WorkplaceBullyingPoster-2018.pdf>>.