

## **Suspected Sexual Conduct with Students and Reporting Requirements \***

Any ESD employee contractor, agent or volunteer who has reasonable cause to believe that a student has been subjected to sexual conduct by another ESD employee, contractor, agent or volunteer, or that another ESD employee, contractor, agent or volunteer has engaged in sexual conduct with a student, shall immediately report such suspected sexual conduct to the designated licensed administrator or the alternate designated licensed administrator. In the event the designated licensed administrator is the suspected perpetrator, for their building, they shall report to the Chief Human Resource Officer. If the conduct also constitutes child abuse, the employee must make mandatory reports in accordance with the Board policy GBNAB/JHFE – Suspected Abuse of a Child Reporting Requirement.

Sexual conduct by ESD employees, contractors<sup>1</sup>, agents<sup>2</sup>, and volunteers<sup>3</sup> is prohibited and will not be tolerated. All ESD employees, contractors, agents, and volunteers are subject to this policy. Students are also subject to this policy if they are acting as an employee, contractor, agent or volunteer.

<sup>4</sup> “Sexual conduct,” means verbal or physical conduct or verbal, written or electronic communications by a school employee, a contractor, agent or a volunteer that involve a student and that are sexual advances or requests for sexual favors directed toward the student, or of a sexual nature that are directed toward the student or that have the effect of unreasonably interfering with a student’s educational performance, or of creating an intimidating, or hostile or offensive educational environment. “Sexual conduct” does not include touching or other physical contact that is necessitated by the nature of the school employee’s job duties or by the services required to be provided by the contractor, agent or volunteer, and for which there is no sexual intent; verbal, written or electronic communications that are provided as part of an education program that meets state educational standards or a policy approved by the Board; or conduct or communications described in the definition of sexual conduct herein if the school employee, contractor, agent or volunteer is also a student and the conduct or communications arise out of a consensual relationship between students, do not create an intimidating or hostile educational environment and are not prohibited by law, any policies of the ESD or any applicable employment agreements.

“Student” means any person who is in any grade from prekindergarten through grade 12 or 21 years of age or younger and receiving educational or related services from the ESD that is not a post-secondary

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<sup>1</sup> “Contractor” means a person providing services to the ESD under a contract in a manner that requires the person to have direct, unsupervised contact with students.

<sup>2</sup> “Agent” means a person acting as an agent for the ESD in a manner that requires the person to have direct, unsupervised contact with students.

<sup>3</sup> “Volunteer” means a person acting as a volunteer for the ESD in a manner that requires the person to have direct, unsupervised contact with students.

<sup>4</sup> This definition of “sexual conduct” affects all conduct that occurs before, on or after June 23, 2021, for purposes of reports that are made, investigations that are initiated, or a collective bargaining agreement, an employment contract, an agreement for resignation or termination, a severance agreement or any similar contract or agreement entered into, on or after June 23, 2021.

institution of education, or who was previously known as a student by the person engaging in sexual conduct and who left school or graduated from high school within 90 days prior to the sexual conduct.

The ESD will post in each school building the names and contact information of a licensed administrator or an alternative licensed administrator designated for the respective school building(s) to receive reports of suspected sexual conduct and the procedures the designee will follow upon receipt of the report.

If the Superintendent is the alleged perpetrator, the report shall be submitted to the Board Chair.

If an employee fails to report suspected sexual conduct or fails to maintain confidentiality of records, the employee will be disciplined up to and including dismissal.

When a designated licensed administrator receives a report of suspected sexual conduct by an ESD employee, contractor, agent or volunteer, the administrator will follow procedures established by the ESD and set forth in the ESD's administrative regulation GBNAA/JHFF -AR - Suspected Sexual Conduct Report Procedures and Form. All such reports will be reported to the Oregon Department of Education (ODE) or Teacher Standards and Practices Commission (TSPC) as appropriate, for investigation in accordance with such administrative regulation. The agency receiving a report will complete an investigation regardless of any changes in the relationship or duties of the person who is the alleged perpetrator.

When there is reasonable cause to support the report, an ESD employee suspected of sexual conduct shall be placed on paid administrative leave pending an investigation and the ESD will take necessary actions to ensure the student's safety. When there is reasonable cause to support the report, an ESD contractor, agent or volunteer suspected of sexual conduct shall be removed from providing services to the ESD and the ESD will take necessary actions to ensure the student's safety.

The ESD will notify, as allowed by state and federal law, the person who was subjected to the suspected sexual conduct about any actions taken by the ESD as a result of the report.

An ESD employee, contractor, agent or volunteer will not assist another ESD employee, contractor or agent in obtaining a new job if the individual knows, or has reasonable cause to believe the ESD employee, contractor or agent engaged in sexual conduct. Nothing in this policy prevents the ESD from disclosing information required by law or providing the routine transmission of administrative and personnel files pursuant to law.

The initiation of a report in good faith about suspected sexual conduct may not adversely affect any terms or conditions of employment or the work environment of the person who initiated the report or who may have been subject to sexual conduct. If a student initiates a report of suspected sexual conduct by an ESD employee, contractor, agent or volunteer in good faith, the student will not be disciplined by the ESD or any ESD employee, contractor, agent or volunteer.

The ESD will provide to employees at the time of hire, or to a contractor, agent or volunteer at the time of beginning service for the ESD, the following:

1. A description of conduct that may constitute sexual conduct;

2. A description of the investigatory process that uses of preponderance of evidence standard for determinations and possible consequences if a report of suspected sexual conduct is substantiated; and
3. A description of the prohibitions imposed on ESD employees and contractors when they attempt to obtain a new job, pursuant to ORS 339.378(2).

All ESD employees are subject to Board policy GCAB - Personal Electronic Devices and Social Media - Staff regarding appropriate electronic communications with students.

Any electronic communications with students by a contractor, agent or volunteer for the ESD will be appropriate and only when directed by ESD administration. When communicating with students electronically regarding school-related matters, contractors, agents or volunteers shall use mailing lists and/or other internet messaging approved by the ESD to a group of students rather than individual students or as directed by ESD administration. Texting or electronically communicating with a student through contact information gained as a contractor, agent or volunteer for the ESD is strongly discouraged.

The Superintendent shall develop administrative regulations to implement this policy and to comply with state law.

END OF POLICY

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**Legal Reference(s):**

[ORS 334.125](#)  
[ORS 339.370 - 339.400](#)

[ORS 419B.005 - 419B.045](#)

Senate Bill 155 (2019)

Every Student Succeeds Act, 20 U.S.C. § 7926 (2018).  
House Bill 2136 (2021).  
Senate Bill 51 (2021).