

Reporting of Suspected Abuse of a Child**

Reporting

Any ESD employee having reasonable cause to believe that any child with whom the employee comes into contact has suffered abuse¹, or that any person with whom the employee comes in contact has abused a child, shall orally report or cause an oral report to be immediately made by telephone or otherwise to the local office of the Oregon Department of Human Services (DHS), or to a law enforcement agency within the county where the person making the report is at the time of his/her contact. The ESD employee shall also immediately inform his/her supervisor, administrator or superintendent.

If known, such report shall contain the names and addresses of the child, and the parents of the child or other persons responsible for the child's care, the child's age, the nature and extent of the suspected abuse, including any evidence of previous abuse, the explanation given for the suspected abuse, any other information which the person making the report believes might be helpful in establishing the possible cause of the suspected abuse and the identity of a possible perpetrator.

If the Superintendent is the alleged abuser the report shall be submitted to the Chief Human Resources Officer who shall refer the report to the Board Chair.

A written record of the abuse report shall be made by the employee suspecting the abuse of a child. The written record of the abuse report shall not be placed in the student's educational record. A copy of the written report shall be retained by the employee making the report and a copy shall be provided to the employee's supervisor and/or Superintendent.

When the ESD receives a report of suspected abuse of a child by one of its employees, and the Superintendent determines that there is reasonable cause to support the report, the ESD shall place the employee on paid administrative leave² until the Department of Human Services or a law enforcement agency either: 1) determines that the report is unfounded or that the report will not be pursued; or 2) determines that the report is founded and the educational provider takes the appropriate disciplinary action against the ESD employee. If the Department of Human Services or a law enforcement agency is unable to determine whether abuse of a child occurred, the ESD may either reinstate the employee or take disciplinary action at the ESD's discretion.

When the designee receives a report of suspected abuse by a contractor, agent or volunteer, the ESD shall prohibit the contractor, agent or volunteer from providing services to the ESD. If the ESD determines there is reasonable cause to support the report of suspected abuse, the ESD shall prohibit the contractor, agent or volunteer, and such reinstatement may not occur until such time as a report of suspected abuse had been investigated³ and a determination has been made by law enforcement or DHS that the report is unsubstantiated.

¹Includes the neglect of a child; abuse is defined in ORS 4193.005.

²The ESD employee cannot be required to use any accrued leave during the imposed paid administrative leave.

³The ESD will investigate all reports of suspected abuse, unless otherwise requested by FHS or its designee or law enforcement pursuant to law.

The written record of each reported incident of abuse of a child, action taken by the ESD and any findings as a result of the report shall be maintained by the ESD.

If, following the investigation, the ESD decides to take an employment action, the ESD will inform the ESD employee of the employment action to be taken and provide information about the appropriate appeal process. The employee may appeal the employment action taken through the appeal process provided by the applicable collective bargaining agreement.

If the ESD is notified that the employee decided not to appeal the employment action or if the determination of an appeal sustained the employment action, a record of the findings of the substantiated report and the employment action taken by the ESD will be placed in the records on the school employee maintained by the ESD. Such records created are confidential and not public records as defined in Oregon Revised Statute (ORS) 192.311, however the ESD may use the record as a basis for providing information required to be disclosed about an ESD employee under ORS 339.378(1). The ESD will notify the employee that information about substantiated reports may be disclosed to a potential employer.

Definitions

1. Oregon law recognizes these types of abuse:
 - a. Physical;
 - b. Neglect;
 - c. Mental injury
 - d. Threat of harm
 - e. Sexual abuse and sexual exploitation.
2. "Child" means an unmarried person who is under 18 years of age.
3. A "substantiated report" means a report of abuse that a law enforcement agency or DHS determines is founded.

Confidentiality of Records

The name, address and other identifying information about the employee who made the report are confidential and are not accessible for public inspection.

Upon request from law enforcement or DHS the ESD shall immediately provide requested documents or materials to the extent allowed by state and federal law.

The disciplinary records of an ESD employee or former ESD employee convicted of a crime listed in Oregon Revised Statute (ORS) 342.143 are not exempt from disclosure under ORS 192.345 or 192.355. Therefore, if an ESD employee or former employee is convicted of a crime listed in ORS 342.143, the ESD that is or was the employer of that employee when the crime was committed shall disclose the disciplinary records of the employee to any person upon request. However, prior to the disclosure of a disciplinary record the Superintendent or designee shall remove any personally identifiable information from the record that would disclose the identity of a child, a crime victim or an ESD employee who is not the subject of the disciplinary record.

Failure to Comply

Any ESD employee who fails to report a suspected child abuse as provided by this policy and the prescribed Oregon law commits a violation punishable by law. An ESD employee who fails to comply with the confidentiality of records requirements commits a violation punishable by the prescribed law. If an employee fails to report suspected child abuse or fails to maintain confidentiality of records as required by this policy, the employee will be disciplined up to and including dismissal.

Cooperation with Investigator

The ESD staff shall make every effort in suspected child abuse cases to cooperate with investigating officials as follows:

1. Any investigation of abuse of a child will be directed by the Oregon Department of Human Services (DHS) or law enforcement officials as required by law. DHS or law enforcement officials wishing to interview a student shall present themselves at the ESD or school office and contact the program administrator, unless the administrator is the subject of the investigation. When an administrator or designee is notified that the DHS or law enforcement would like to interview a student at a school under the jurisdiction of the ESD or on ESD property, the administrator or designee must request that the investigating official complete the form 'Abuse of a Child Investigated on ESD Premises', found at the end of this document. The administrator or designee should not deny the interview based on the investigator's refusal to sign the form. If the student is to be interviewed at the school, the administrator or designee shall make a private space available. The administrator or designee of the ESD may at the discretion of the investigator, be present to facilitate the interview. If the investigating official does not have adequate identification, the program administrator or designee shall refuse access to the student.

Law enforcement officers wishing to remove a student from the premises shall present themselves at the office and contact the administrator or designee. The officer shall sign the student out on a form to be provided by the ESD or school;

2. When the subject matter of the interview or investigation is identified to be related to suspected abuse of a child, ESD employees shall not notify parents;
3. The administrator or designee shall advise the investigation of any conditions of disability prior to any interview with the affected child;
4. ESD employees are not authorized to reveal anything that transpires during an investigation in which the employee participates, nor shall the information become part of the student's education records, except that the employee may testify at any subsequent trial resulting from the investigation and may be interviewed by the respective litigants prior to any such trial.

Nothing prevents the ESD from conducting its own investigation, unless another agency requests to lead the investigation or requests the ESD to suspend the investigation, or taking an employment action based on information available to the ESD before an investigation conducted by another agency is completed. The ESD will cooperate with agencies assigned to conduct such investigations.

Immunity from Liability

Any ESD employee participating in good faith in the making of a report pursuant to this policy and Oregon law and who has reasonable grounds for the making thereof, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of any such report. Further, the initiation of a report in good faith about suspected child abuse may not adversely affect any terms or conditions of employments for the work environment of the complainant. If a student in good faith initiates a report of suspected child abuse by an ESD employee, the student will not be disciplined by the Board or any ESD employee.

**As used in this Administrative Rule, 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.

LBL ESD Staff Documentation Form
Abuse of a Child Investigations Conducted on ESD Property

The Department of Human Services (DHS) or a law enforcement agency has the authority to conduct an investigation of a report of child abuse on ESD or school premises according to Oregon Revised Statute (ORS) 419B.045. The ESD or school administrator must be notified that the investigation is to take place, unless the administrator is a subject of the investigation. The investigator is not required to reveal information about the investigation to the school as a condition of conducting the investigation.

After the investigator provides adequate identification, ESD and school staff shall allow access to the child and provide a private space for conducting the interview. The investigator shall be advised by an ESD or school administrator or a school staff member of a child's relevant disabling conditions, if any, prior to any interview with the child. The ESD or school administrator or designee may, at the investigator's discretion, be present to facilitate the investigation.

ESD and school staff may only notify DHS, the law enforcement agency or other ESD and school employees that are necessary to enable the investigation. ESD and school staff may not notify any other persons, including the child's parent(s) or guardian(s).

Investigator Name (Printed)	Name of Agency
Name of Worker's/Investigator's Supervisor	Supervisor Contact Information
Position and Badge or ID Number	Student Name
Investigator Signature	Date

____ Investigator refused to sign. The ESD administrator and school staff should not deny entry based on refusal to sign.

FOR COMPLETION BY ESD STAFF

- Student not available for interview
- Student refused to be interviewed
- Administrator participated in interview

Name of Administrator Notified

Names of involved office staff and /or participating Administrators/designees

This form should be placed in a separate secure file and not in the student's file