

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

Sexual conduct by ESD employees, contractors<sup>1</sup>, and volunteers<sup>2</sup> is not tolerated. All ESD employees, contractors, and volunteers are subject to this policy.

“Sexual conduct,” means verbal or physical conduct or verbal, written or electronic communications by a school employee, a contractor 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, hostile or offensive educational environment. “Sexual conduct” does not include touching 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.

“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 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.

Any ESD employee, contractor or volunteer who has reasonable cause to believe that a student has been subjected to sexual conduct by another ESD employee, contractor or volunteer, or that another ESD employee, contractor or volunteer has engaged in sexual conduct with a student, shall immediately report such suspected sexual conduct to the Chief Human Resources Officer (CHRO) or the Superintendent. 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 the designated licensed administrator receives a report of suspected sexual conduct by an ESD employee, contractor or volunteer, the administrator will follow procedures established by the ESD and set forth in the ESD’s administrative regulation JHFF/GBNAA-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. 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.

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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> “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.

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 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 post in each school building the names and contact information of the employees<sup>3</sup> designated for the school building to receive reports of suspected sexual conduct and the procedures the designee will follow upon receipt of the report.

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 or agent will not assist another ESD employee, contractor in obtaining a new job if the individual knows, or has reasonable cause to believe the ESD employee, contractor 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 or volunteer in good faith, the student will not be disciplined by the ESD or any ESD employee, contractor or volunteer.

The ESD will provide to employees at the time of hire, or to a contractor 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.

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<sup>3</sup> Senate Bill 155 (2019) requires the ESD to designate a licensed administrator to receive reports of suspected sexual conduct, and designate an alternate licensed administrator for each school building.

Any electronic communications with students by a contractor 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 or volunteers shall use mailing lists and/or other internet messaging 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 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 419B.005 - 419B.045](#)

Senate Bill 155 (2019)

[ORS 339.370 - 339.400](#)

Every Student Succeeds Act, 20 U.S.C. § 7926 (2018).