

## **Suspected Sexual Conduct Report Procedures and Form \***

The ESD posts in each school building the names and contact information of the ESD employees<sup>1</sup> in each school building designated for the respective school building to receive reports of suspected sexual conduct and the procedures the designee(s) will follow upon receipt of the report.

When a designed licensed administrator<sup>2</sup> receives a report of suspected sexual conduct that may have been committed by a commission licensee<sup>3</sup> through Teacher Standards and Practices Commission (TSPC), the designee shall notify Teacher Standards and Practices Commission (TSPC) as soon as possible. The designee shall notify the Oregon Department of Education (ODE) if the administrator receives a report of suspected sexual conduct that may have been committed by a school employee, contractor, agent or volunteer that is not licensed through TSPC, the designee shall notify a commission licensor as soon as possible.

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

The ESD will investigate all reports of suspected sexual conduct, unless otherwise requested by TSPC or ODE as appropriate.

When the designee receives a report of suspected sexual conduct by an ESD employee, the designee will provide the employee a copy of the complaint process and explain the non-retaliation policy. If there is reasonable cause to support the report, the ESD shall place the ESD employee on paid administrative leave<sup>4</sup> and take necessary actions to ensure the student's safety. The employee shall remain on leave until TSPC<sup>5</sup> or ODE<sup>6</sup> determines that the report is substantiated and the ESD takes appropriate employment

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<sup>1</sup> ORS 339.372 requires the ESD to post the names and contact information of the persons, i.e., a licensed administrator and an alternate licensed administrator, who are designated to receive reports of sexual conduct for a school building in the respective school building. A "licensed administrator" is a person employed as an administrator by the ESD and holds an administrative license issued by TSPC or may be a person employed by the ESD that does not hold an administrative license issued by TSPC if the ESD does not require the administrator to be licensed by TSPC.

<sup>2</sup> A "licensed administrator" is a person employed as an administrator by the ESD and holds an administrative license issued by TSPC or may be a person employed by the ESD that does not hold an administrative license issued by TSPC if the ESD does not require the administrator to be licensed by TSPS.

<sup>3</sup> "License" includes a license, registration or certificate issued by the Teacher Standards and Practices Commission. "Commission licensee," as defined in ORS 342.120 (as amended by HB 2136 (2021)), means a person whom the TSPC has authority to investigate or discipline because the person is enrolled in an approved educator preparation program, is an applicant for a TSPC license or registration, holds a license or registration issued by TSPC, or has held a license or registration issued by the TSPC at any time during the previous five years.

<sup>4</sup> The ESD employee cannot be required to use any accrued leave during the imposed paid administrative leave.

<sup>5</sup> TSPC investigates reports on commission licenses.

<sup>6</sup> ODE investigates reports on persons who are not commission licensees.

action against the employee, or cannot be substantiated or is not a report of sexual conduct and the ESD determines either: 1) an employment policy was violated and the ESD will take appropriate employment action against the employee; or 2) an employment policy has not be violated and an employment action against the employee is not required.

The ESD will investigate all reports of suspected sexual conduct by persons who are licensed by the TSPC, unless otherwise requested by TSPC, and all reports of suspected sexual conduct by persons who are not licensed by TSPC, unless otherwise requested by ODE. The preponderance of evidence standard is used to determine if the allegation is or is not substantiated. Preponderance of evidence means it is more likely than not that the sexual conduct occurred.

When the designee receives a report of suspected sexual conduct by a contractor, agent or a volunteer, the ESD may prohibit the contractor, agent or volunteer from providing services to the ESD. If the ESD determines there is reasonable cause to support a report of suspected sexual conduct, the ESD shall prohibit the contractor, agent or volunteer from providing services. The ESD may reinstate the contractor, agent or volunteer, and such reinstatement may not occur until such time as a report of suspected sexual conduct has been investigated and a determination has been made by TSPC or ODE, as appropriate, that the report is unsubstantiated.

Upon request from ODE or TSPC the ESD will provide requested documents or materials to the extent allowed by state and federal law.

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

An “investigation” means a detailed inquiry into the factual allegations of a report of suspected sexual conduct that is based on interviews with the person who initiated the report, the person who may have been subjected to sexual conduct, witnesses and the person who is the subject of the report, and results in a finding using the preponderance of evidence standard that the report is a substantiated report, cannot be substantiated, or is not a report of sexual conduct. If the subject of the report is an ESD employee represented by a contract or a collective bargaining agreement, the investigation must meet any negotiated standards of such employment contract or agreement.

Nothing prevents the ESD from conducting its own investigation, unless another agency requests to lead the investigation or requests the ESD to suspend their 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.

A “substantiated report” means a report of sexual conduct that TSPC or ODE determines is founded.

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. The employee may appeal the employment action taken through an appeal process administered by a neutral third party.

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, the ESD shall create 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.

### **Training**

The ESD shall provide information and training each school year to ESD employees on the following:

1. Prevention and identification of sexual conduct;
2. Obligations of ESD employees under ORS 339.388 and 419B.005 - 419B.050 and under adopted board policies to report suspected sexual conduct; and
3. Appropriate electronic communications with students.

The ESD shall make available each school year the training described above to contractors, agents, volunteers and to parents and legal guardians of students attending ESD-operated schools, and will be made available separately from the training provided to ESD employees.

The ESD shall provide to contractors and volunteers each school year information on the following:

1. Prevention and identification of sexual conduct;
2. Obligations of ESD employees under adopted board policies to report suspected sexual conduct; and
3. Appropriate electronic communications with students.

The ESD shall make available each school year training that is designed to prevent sexual conduct to students attending ESD-operated schools.

**Linn Benton Lincoln ESD**

**SUSPECTED SEXUAL CONDUCT REPORT FORM**

Name of person making report: \_\_\_\_\_

Position of person making report: \_\_\_\_\_

Name of person suspected of sexual conduct: \_\_\_\_\_

Date and place of incident or incidents: \_\_\_\_\_

\_\_\_\_\_

Description of suspected sexual conduct: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name of witnesses (if any): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Evidence of suspected sexual conduct, e.g., letters, photos, etc. (attach evidence if possible): \_\_\_\_\_

\_\_\_\_\_

Any other information: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I agree that all of the information on this form is accurate and true to the best of my knowledge.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Linn Benton Lincoln ESD**

**WITNESS DISCLOSURE FORM**

Name of witness: \_\_\_\_\_

Position of witness: \_\_\_\_\_

Date of testimony/interview: \_\_\_\_\_

Description of instance witnessed: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Any other information: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I agree that all the information on this form is accurate and true to the best of my knowledge.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_