

## Nondiscrimination

The district prohibits discrimination and harassment on any basis protected by law, including but not limited to, an individual's perceived or actual race, color, religion, sex, sexual orientation<sup>1</sup>, national or ethnic origin, marital status, age, mental or physical disability, pregnancy, familial status, economic status, veterans' status, or because of the perceived or actual race, color, religion, sex, sexual orientation, national or ethnic origin, marital status, age, mental or physical disability, pregnancy, familial status, economic status or veterans' status of any other persons with whom the individual associates.

The district prohibits discrimination and harassment in, but not limited to, employment, assignment and promotion of personnel; educational opportunities and services offered students; student assignment to schools and classes; student discipline; location and use of facilities; educational offerings and materials; and accommodating the public at public meetings.

The Board encourages staff to improve human relations within the schools, to respect all individuals and to establish channels through which citizens can communicate their concerns to the administration and the Board.

The superintendent shall appoint and make known the individuals to contact on issues concerning the Americans with Disabilities Act of 1990 and Americans with Disabilities Act Amendments Act of 2008 (ADA), Section 504 of the Rehabilitation Act of 1973, Title VI, Title VII, Title IX and other civil rights or discrimination issues<sup>2</sup>. The district will publish complaint procedures providing for prompt and equitable resolution of complaints from students, employees and the public.

The district prohibits retaliation and discrimination against an individual who has opposed any discrimination act or practice; because that person has filed a charge, testified, assisted or participated in an investigation, proceeding or hearing; and further prohibits anyone from coercing, intimidating, threatening or interfering with an individual for exercising any rights guaranteed under state and federal law.

END OF POLICY

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<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 individual's sex at birth.

<sup>2</sup>Districts are reminded that the district is required to notify students and employees of the name, office address and telephone number of the employee or employees appointed.

**Legal Reference(s):**

<a href="#"><u>ORS 174.100</u></a>	<a href="#"><u>ORS 659A.006</u></a>	<a href="#"><u>ORS 659A.321</u></a>
<a href="#"><u>ORS 192.630</u></a>	<a href="#"><u>ORS 659A.009</u></a>	<a href="#"><u>ORS 659A.409</u></a>
<a href="#"><u>ORS 326.051(1)(e)</u></a>	<a href="#"><u>ORS 659A.029</u></a>	
<a href="#"><u>ORS 659.805</u></a>	<a href="#"><u>ORS 659A.030</u></a>	<a href="#"><u>OAR 581-021-0045</u></a>
<a href="#"><u>ORS 659.815</u></a>	<a href="#"><u>ORS 659A.040</u></a>	<a href="#"><u>OAR 581-021-0046</u></a>
<a href="#"><u>ORS 659.850 to -860</u></a>	<a href="#"><u>ORS 659A.103 to -145</u></a>	<a href="#"><u>OAR 581-021-0049</u></a>
<a href="#"><u>ORS 659.865</u></a>	<a href="#"><u>ORS 659A.230 to -233</u></a>	<a href="#"><u>OAR 581-022-1140</u></a>
<a href="#"><u>ORS 659.870</u></a>	<a href="#"><u>ORS 659A.236</u></a>	<a href="#"><u>OAR 839-003-0000</u></a>
<a href="#"><u>ORS 659A.003</u></a>	<a href="#"><u>ORS 659A.309</u></a>	

Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6107 (2006).

Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634 (2006); 29 C.F.R Part 1626 (2006).

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2006); 28 C.F.R. Part 35 (2006).

Equal Pay Act of 1963, 29 U.S.C. § 206(d) (2006).

Rehabilitation Act of 1973, 29 U.S.C. §§ 503, 791, 793-794 (2006).

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2006); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2006).

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2006).

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2006).

Wygant v. Jackson Bd. of Educ., 476 U.S. 267 (1989).

Americans with Disabilities Act Amendments Act of 2008.

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212.

Title II of the Genetic Information Nondiscrimination Act of 2008.

**Cross Reference(s):**

GBA - Equal Employment Opportunity

JB - Equal Educational Opportunity

## Staff Ethics

### I. Conflict of Interest

No district employee will use his/her district position to obtain personal financial benefit or avoidance of financial detriment or financial gain or avoidance of financial detriment for relatives or for any business with which the employee or relative is associated.

This prohibition does not apply to any part of an official compensation package, honorarium allowed by ORS 244.042, reimbursement of expenses, or unsolicited awards of professional achievement. Further, this prohibition does not apply to gifts from one without a legislative or administrative interest. Nor does it apply if the gift is under the \$50 gift limit for one who has a legislative or administrative interest in any matter subject to the decision or vote of the district employee.

District employees will not engage in, or have a financial interest in, any activity that raises a reasonable question of conflict of interest with their duties and responsibilities as staff members. This means that:

1. Employees will not use their position to obtain financial gain or avoidance of financial detriment from students, parents or staff;
2. Any device, publication or any other item developed during the employee's paid time shall be district property;
3. Employees will not further personal gain through the use of confidential information gained in the course of or by reason of position or activities in any way;
4. No district employee may serve as a Board or budget committee member in the district;
5. An employee will not perform any duties related to an outside job during his/her regular working hours or during the additional time that he/she needs to fulfill the position's responsibilities; nor will an employee use any district facilities, equipment or materials in performing outside work;
6. If an employee authorizes a public contract, the employee may not have a direct beneficial financial interest in that public contract for two years after the date the contract was authorized.

If an employee has a potential or actual conflict of interest, the employee must notify his/her supervisor in writing of the nature of the conflict and request that the supervisor dispose of the matter giving rise to the conflict.

In order to avoid both potential and actual conflicts of interests, district employees must abide by the following rules when an employee's relative is seeking and/or holds a position with the district:

1. A district employee may not appoint, employ, promote, discharge, fire, or demote or advocate for such an employment decision for a relative, unless he/she complies with the conflict of interest requirements of ORS Chapter 244. This rule does not apply to employment decisions regarding unpaid volunteer position, unless it is a Board-related position.
2. A district employee may not participate as a public official in any interview, discussion, or debate regarding the appointment, employment, promotion, discharge, firing, or demotion of a relative. An employee may still serve as a reference, provide a recommendation, or perform other acts that are part of the normal job functions of the employee.
3. More than one member of an employee's family may be hired as a regular district employee. In accordance with Oregon law, however, the district may refuse to hire individuals, or may transfer current employees, in situations where an appointment would place one family member in a position of exercising supervisory, appointment or grievance adjustment authority over another member of the same family.

“Relative” means:

1. The employee's spouse<sup>1</sup>, parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law;
2. The spouse of the employee's parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law.

## **II. Gifts**

District employees must comply with the following rules involving gifts:

Employees are public officials and therefore will not solicit or accept a gift or gifts with an aggregate value in excess of \$50 from any single source in a calendar year that has a legislative or administrative interest in any matter subject to the decision or vote of the district employee. All gift-related provisions apply to the employee and their relatives. The \$50 gift limit applies separately to the employee, and to the employee's relatives, meaning that the employee and their relative can accept up to \$50 each from the same source/gift giver.

1. “Gift” means something of economic value given to an employee without valuable consideration of equivalent value, which is not extended to others who are not public officials on the same terms and conditions.

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<sup>1</sup>The term spouse includes domestic partner.

2. “Relative” means:
  - a. The employee’s spouse<sup>1</sup>, parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law;
  - b. The spouse of the employee’s parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law.

### **Determining the Source of Gifts**

Employees should not accept gifts in any amount without obtaining information from the gift giver as to who is the source of the gift. It is the employee’s personal responsibility to ensure that no single source provides gifts exceeding an aggregate value of \$50 in a calendar year, if the source has a legislative or administrative interest in any matter subject to the decision or vote of the district employee. If the giver does not have a legislative/administrative interest, the ethics rules on gifts do not apply and the employee need not keep track of it, although they are advised to do so anyway in case of a later dispute.

### **Determining Legislative and Administrative Interest**

A legislative or administrative interest means an economic interest distinct from that of the general public, in any action subject to the official decision of an employee.

A decision means an act that commits the district to a particular course of action within the employee’s scope of authority and that is connected to the source of the gift’s economic interest. A decision is not a recommendation or work performed in an advisory capacity. If a supervisor delegates the decision to a subordinate but retains responsibility as the final decision maker, both the subordinate and supervisor’s actions would be considered a “decision.”

### **Determining the Value of Gifts**

The fair market value of the merchandise, goods, or services received will be used to determine benefit or value.

“Fair market value” is the dollar amount goods or services would bring if offered for sale by a person who desired, but was not obligated, to sell and purchased by one who is willing, but not obligated, to buy. Any portion of the price that was donated to charity, however, does not count toward the fair market value of the gift if the employee does not claim the charitable contribution on personal tax returns. Below are acceptable ways to calculate the fair market value of a gift:

1. In calculating the per person cost at receptions or meals the payor of the employee’s admission or meal will include all costs other than any amount donated to a charity.

For example, a person with a legislative or administrative interest buys a table for a charitable dinner at \$100 per person. If the cost of the meal was \$25 and the amount donated to charity was \$75, the benefit conferred on the employee is \$25. This example requires that the employee does not claim the charitable contribution on personal tax returns.

2. For receptions and meals with multiple attendees, but with no price established to attend, the source of the employee's meal or reception will use reasonable methods to determine the per person value or benefit conferred. The following examples are deemed reasonable methods of calculating value or benefit conferred:
  - a. The source divides the amount spent on food, beverage and other costs (other than charitable contributions) by the number of persons whom the payor reasonably expects to attend the reception or dinner;
  - b. The source divides the amount spent on food, beverage and other costs (other than charitable contributions) by the number of persons who actually attend the reception or dinner; or
  - c. The source calculates the actual amount spent on the employee.
3. Upon request by the employee, the source will give notice of the value of the merchandise, goods, or services received.
4. Attendance at receptions where the food or beverage is provided as an incidental part of the reception is permitted without regard to the fair market value of the food and beverage provided.

#### **Value of Unsolicited Tokens or Awards: Resale value**

Employees may accept unsolicited tokens or awards that are engraved or are otherwise personalized items. Such items are deemed to have a resale value under \$25 (even if the personalized item cost the source more than \$50), unless the personalized item is made from gold or some other valuable material that would have value over \$25 as a raw material.

#### **Entertainment**

Employees may not solicit or accept any gifts of entertainment over \$50 in value from any single source in a calendar year that has a legislative or administrative interest in any matter subject to the decision of the employee unless:

1. The entertainment is incidental to the main purpose of another event (i.e., a band playing at a reception). Entertainment that involves personal participation is not incidental to another event (such as a golf tournament at a conference); or
2. The employee is acting in their official capacity for a ceremonial purpose.

Entertainment is ceremonial when an employee appears at an entertainment event for a "ceremonial purpose" at the invitation of the source of the entertainment who requests the presence of the employee at a special occasion associated with the entertainment. Examples of an appearance by an employee at an entertainment event for a ceremonial purpose include: throwing the first pitch at a baseball game, appearing in a parade and ribbon cutting for an opening ceremony.

## Exceptions

The following are exceptions to the ethics rules on gifts that apply to employees:

1. Gifts from “relatives” are permitted in an unlimited amount; they are not considered gifts under the ethics rules;
2. Informational or program material, publications, or subscriptions related to the recipient’s performance of official duties;
3. Food, lodging, and travel generally count toward the \$50 aggregate amount per year from a single source with a legislative/administrative interest, with the following exceptions:
  - a. *Organized Planned Events*. Employees are permitted to accept payment for travel conducted in the employee’s official capacity, for certain limited purposes:
    - (1) Reasonable expenses (i.e., food, lodging, travel, fees) for attendance at a convention, fact-finding mission or trip, or other meeting do not count toward the \$50 aggregate amount IF:
      - (a) The employee is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the district; AND
        - i) The giver is a unit of a:
          - a) Federal, state, or local government;
          - b) An Oregon or federally recognized Native American Tribe; OR
          - c) Non-profit corporation.
        - (b) The employee is representing the district:
          - i) On an officially sanctioned trade-promotion or fact-finding mission; OR
          - ii) Officially designated negotiations or economic development activities where receipt of the expenses is approved in advance by the superintendent.
      - (2) The purpose of this exception is to allow employees to attend organized, planned events and engage with the members of organizations by speaking or answering questions, participating in panel discussions or otherwise formally discussing matters in their official capacity. This exception to the gift definition does not authorize private meals where the participants engage in discussion.
4. Food or beverage, consumed at a reception, meal, or meeting IF held by an organization and IF the employee is representing the district.

“Reception” means a social gathering. Receptions are often held for the purpose of extending a ceremonial or formal welcome and may include private or public meetings during which guests are honored or welcomed. Food and beverages are often provided, but not as a plated, sit-down meal;

5. Food or beverage consumed by employee acting in an official capacity in the course of financial transactions between the public body and another entity described in ORS 244.020(6)(b)(I)(i);
6. Waiver or discount of registration expenses or materials provided to employee at a continuing education event that the employee may attend to satisfy a professional licensing requirement;
7. A gift received by the employee as part of the usual or customary practice of the employee's private business, employment or position as a volunteer that bears no relationship to the employee's district employment;
8. Reasonable expenses paid to employee for accompanying students on an educational trip.

### **Honoraria**

An employee may not solicit or receive, whether directly or indirectly, honoraria for the employee or relative of the employee if the honoraria are solicited or received in connection with the official duties of the employee.

The honoraria rules do not prohibit the solicitation or receipt of an honorarium or a certificate, plaque, commemorative token or other item with a value of \$50 or less; or the solicitation or receipt of an honorarium for services performed in relation to the private profession, occupation, avocation or expertise of the employee.

END OF POLICY

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### **Legal Reference(s):**

[ORS 244.010 to-244.400](#)  
[ORS 332.016](#)

[ORS 659A.309](#)

[OAR 199-005-0003 to-199-020-0020](#)  
[OAR 584-020-0040](#)

OR. ETHICS COMM'N, OR. GOV'T ETHICS LAW, A GUIDE FOR PUBLIC OFFICIALS.

### **Cross Reference(s):**

GBI - Gifts and Solicitations  
GCQA/GDQA - Nonschool Employment  
GCQAB - Tutoring for Pay  
KJ - Commercial Advertising/Merchandise Sales

# Mapleton School District 32

Code: **GBCBA**  
Adopted: 7/12/01  
Revised/Readopted: 12/18/13  
Orig. Code(s): GBCBA

## Alcohol/Controlled Substance Use

The following conduct is strictly prohibited and will subject an employee to immediate discipline, up to and including termination:

1. The buying, selling, transporting, possessing, providing or using of intoxicants, including alcohol, or any controlled substances as defined by law while on district property, during work hours (including meal periods), while assigned to extra duty or special projects, including those held after or in addition to regular school hours and while driving between work sites during the work day in either a district-supplied vehicle or a vehicle supplied by the employee;
2. Reporting for work under the influence of alcohol, intoxicants or any controlled substance. An individual is considered to be “under the influence of alcohol, intoxicants and/or a controlled substance” when, in the district’s determination, the controlled substance, alcohol or intoxicant is at a level that it may impair the individual’s ability to safely and/or efficiently perform assigned work or prevent the employee from presenting a positive role model to students.

If the district has reasonable grounds to believe that an employee is under the influence of intoxicants, including alcohol or any controlled substance, the district may require the employee submit to immediate testing by trained medical personnel. Refusal to submit immediately to such tests may result in disciplinary action, up to and including dismissal. “Reasonable grounds” may include, but are not limited to, such things as slurred speech, dilated pupils, peculiar odors and unsteady balance.

The district reserves the right, with prior notice and reasonable suspicion, to conduct searches on district property of employees and/or their personal property which is on the district’s premises.

The district also reserves the right with prior notice and reasonable suspicion, to conduct searches of district property, vehicles or equipment at any time. A refusal to submit to a search may result in disciplinary action, up to and including dismissal.

The administration will develop appropriate regulations, procedures, consent forms and such notifications as are needed for an orderly implementation of this policy.

END OF POLICY

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**Legal Reference(s):**

[ORS Chapter 475](#)  
[ORS 657.176](#)  
[ORS 659.225](#)  
[ORS 659.227](#)

[OAR 581-053-0015](#)  
[OAR 581-053-0545](#) (4)(c)(R,S,T)  
[OAR 581-053-0550](#) (5)(t,u,v)

[OAR 584-020-0040](#)  
[OAR 839-006-0200](#) to -0265

Controlled Substances Act, 21 U.S.C. 812, schedules I through V, 21 CFR 1308.11-1308.15 (2000).  
Americans with Disabilities Act of 1990, 42 U.S.C., Sections 12101-12213; 29 CFR Part 1630 (2000); 28 CFR Part 35 (2000).

**Cross Reference(s):**

GBEC - Drug-Free Workplace

## **Drug and Alcohol Testing - Transportation Personnel**

The district is committed to the establishment of a drug use and alcohol misuse prevention program that meets all applicable requirements of the Omnibus Transportation Employee Testing Act of 1991 (OTETA). The district or its transportation provider shall have an in-house drug and alcohol testing program or be a member of a consortium that provides testing that meets the federal regulations, and shall annually certify this information to the Oregon Department of Education.

Accordingly, all employees subject to commercial driver license (CDL) requirements shall be prohibited from:

1. The use of drugs, unless a written prescription from a licensed doctor or osteopath is provided, including a statement advising that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle;
2. The use of alcohol including:
  - a. While on duty;
  - b. Eight hours before driving, in accordance with Oregon Administrative Rules;
  - c. Eight hours following an accident;
  - d. Consumption resulting in prohibited levels of alcohol in the system.

"Drugs" as used in this policy refer to controlled substances covered by OTETA, including marijuana, cocaine, opiates, amphetamines and phencyclidine (PCP).

All covered individuals offered employment with the district and district employees transferring to positions subject to OTETA shall be required to submit to pre-employment drug testing. Additionally, covered employees will be subject to reasonable suspicion, random and post-accident alcohol and drug testing. Return-to-duty and follow-up testing may also be required. The district will also require preemployment alcohol testing in accordance with the following provisions:

1. All candidates for employment or transfer with the district and subject to OTETA requirements will be tested;
2. All tests will be conducted using the alcohol testing procedures of 49 C.F.R. Part 40;
3. Such tests must be conducted prior to the new or transferred employee's performance of safety-sensitive functions.

Pre-employment drug testing costs will be paid for by the employee and reimbursed by the district upon receipt of a negative test result. All drug and alcohol testing of employees, including reasonable suspicion,

random, post-accident, return-to-duty and follow-up testing costs, as applicable, will be paid for by the employee. The district will comply with collective bargaining agreement provisions. All offers of employment or transfer to covered positions with the district will be made contingent upon testing results. An individual who tests positive for drugs will not be hired or transferred<sup>1</sup>. The offer of employment or transfer will be immediately withdrawn.

An offer of employment or transfer will also be immediately withdrawn from any individual who refuses drug testing.

Covered employees who, under the district's reasonable suspicion, random, post-accident, return-to-duty or follow-up testing program, test positive for drugs or test with a breath alcohol content level of 0.02 or higher, will be subject to immediate disciplinary action up to and including dismissal in accordance with Board policy. Employees who refuse to comply with testing requirements will also be regarded as testing positive for drugs or testing with a breath alcohol content level of 0.02 or higher. Notification of available resources for evaluation and treatment will be made as required by law. Additionally, employees may be subject to CDL prohibitions and penalties under OTETA and applicable Federal Motor Carrier Safety Administration (FMCSA) regulations.

The district may, in its continuing effort to enhance safety, request a waiver of OTETA prohibitions against standing down an employee before the medical review officer (MRO) has completed the verification process as provided by 49 C.F.R. § 40.21(c). "Stand-down" means the practice of temporarily removing an employee from safety-sensitive functions based solely on a report from a laboratory to the MRO of a confirmed positive test for drugs, an adulterated test or a substituted test before the MRO has completed verification of the test results. The written waiver request will be directed to the appropriate Federal Motor Carrier Safety Administrator.

In accordance with the provisions of 49 C.F.R. § 40.21(c)(2), and in its ongoing effort to protect the interests of employees in fairness and confidentiality, the district will ensure:

1. The district's policy and administrative regulation are distributed to all covered employees;
2. No information about the confirmed positive, adulterated or substituted test results, or the reason for the employee's temporary removal from performing safety-sensitive functions, becomes available, directly or indirectly to others in the district or subsequently to another employer, other than the employee, the MRO and the designated district official;
3. All covered employees in a particular district job category are treated the same way with respect to "stand-down";
4. A covered employee will be subject to "stand-down" only with respect to the actual performance of safety-sensitive duties;

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<sup>1</sup>The district may elect to allow an individual who tests positive for drugs or tests with a breath alcohol content level of 0.02 or higher to reapply for district employment or transfer to a covered position at a later date. At that time, the individual will again be tested for the presence of drugs, if required by the district. A district employee considered for transfer to an OTETA-covered position who tests positive for drugs or tests with a breath alcohol content level of 0.02 or higher will be subject to all district policies and regulations including the district's Drug-Free Workplace policy.

5. No adverse action affecting the employee's pay and benefits will be taken pending the completion of the MRO's verification process. This includes continuing to pay the employee during the period of the stand-down in the same way the district would have paid him/her had he/she not been stood down;
6. The verification process will commence no later than the time an employee is temporarily removed from the performance of safety-sensitive functions and that the period of "stand down" for any employee will not exceed five days, unless the district is informed in writing by the MRO that a longer period is needed to complete the verification process; and
7. In the event that the MRO verifies the test negative or cancels it:
  - a. The district will return the employee immediately to the performance of safety-sensitive duties;
  - b. The employee suffers no adverse personnel or financial consequences as a result; and
  - c. No individually identifiable record that the employee had a confirmed laboratory positive, adulterated or substituted test result is maintained. (The district will maintain a record of the test only as a negative or cancelled test.)

The district will not "stand down" employees in the absence of a waiver, or inconsistent with the terms of the waiver.

The district will establish a voluntary self-identification program consistent with OTETA requirements. Accordingly, an employee who admits to alcohol misuse or drug use will not be subject to certain referral, evaluation and treatment requirements, provided:

1. The admission is in accordance with the provisions of this policy;
2. The driver does not self-identify in order to avoid testing as required by OTETA;
3. The driver makes the admission prior to performing a safety-sensitive function (i.e., prior to reporting for duty);
4. The driver does not perform a safety-sensitive function until the district is satisfied that the employee has been evaluated and has successfully completed education or treatment in accordance with the district's self-identification program guidelines.

Adverse action on the part of the district against any employee making a voluntary admission of alcohol misuse or drug use consistent with the provisions of this policy is prohibited. The district is committed to providing sufficient opportunity for the employee to seek evaluation, education or treatment to establish control over his/her drug or alcohol problem.

Following successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert (i.e., employee assistance professional, substance abuse professional or qualified drug and alcohol counselor) the employee will be permitted to return to duty. The district will ensure that prior to the employee participating in a safety-sensitive function, he/she shall be required to undergo a return-to-duty testing with a result indicating a breath alcohol content level of less than 0.02 and/or a verified negative test result for drug use, as appropriate. The district may incorporate employee

monitoring and include non-OTETA follow-up testing as part of its return-to-duty procedures under the district's self-identification program.

END OF POLICY

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**Legal Reference(s):**

[ORS 657.176](#)

[OAR 581-053-0420\(4\)\(b\)\(B\)\(ii\)](#)

[OAR 581-053-0620\(1\)\(d\)](#)

[OAR 581-053-0220\(3\)\(h\)](#)

[OAR 581-053-0430\(13\),\(14\)](#)

[OAR 581-053-0531\(12\),\(13\)](#)

SB 193 (2013)

[OAR 581-053-0230\(9\)\(t\)](#)

[OAR 581-053-0615\(2\)\(c\)\(D\)\(ii\)](#)

Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. §§ 31301-31317; 49 C.F.R. Parts 40, 382, 391-395 (2006).

**Cross Reference(s):**

EEACA - School Bus Driver Examination and Training

G CBD/GDBD - Leaves and Absences

## **Sexual Harassment**

The Board is committed to the elimination of sexual harassment in district schools and activities. Sexual harassment is strictly prohibited and shall not be tolerated. This includes sexual harassment of students or staff by other students, staff, Board members or third parties. "Third parties" include, but are not limited to, school volunteers, parents, school visitors, service contractors or others engaged in district business, such as employees of businesses or organizations participating in cooperative work programs with the district and others not directly subject to district control at interdistrict and intradistrict athletic competitions or other school events. "District" includes district facilities, district premises and nondistrict property if the student or employee is at any district-sponsored, district-approved or district-related activity or function, such as field trips or athletic events where students are under the control of the district or where the employee is engaged in district business.

Sexual harassment of students and staff shall include, but is not limited to, unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal or physical conduct of a sexual nature when:

1. The conduct or communication has the purpose or effect of demanding sexual favors in exchange for benefits;
2. Submission to or rejection of the conduct or communication is used as the basis for educational decisions affecting a student or employment or assignment of staff;
3. The conduct or communication is so severe, persistent or pervasive that it has the purpose or effect of unreasonably interfering with a student's educational performance or with an employee's ability to perform his/her job; or creates an intimidating, offensive or hostile educational or working environment. Relevant factors to be considered will include, but not be limited to, did the individual view the environment as hostile; was it reasonable to view the environment as hostile; the nature of the conduct; how often the conduct occurred and how long it continued; age and sex of the complainant; whether the alleged harasser was in a position of power over the student or staff member subjected to the harassment; number of individuals involved; age of the alleged harasser; where the harassment occurred; and other incidents of sexual harassment at the school involving the same or other students or staff.

Examples of sexual harassment may include, but not be limited to, physical touching or graffiti of a sexual nature, displaying or distributing of sexually explicit drawings, pictures and written materials, sexual gestures or obscene jokes, touching oneself sexually or talking about one's sexuality in front of others or spreading rumors about or rating other students or others as to appearance, sexual activity or performance.

All complaints about behavior that may violate this policy shall be promptly investigated. Any student or employee who has knowledge of conduct in violation of this policy or feels he/she is a victim of sexual harassment must immediately report his/her concerns to the principal, compliance officer or superintendent, who has overall responsibility for all investigations. A student may also report concerns to a teacher, counselor or school nurse, who will promptly notify the appropriate district official. The student and the student's parents or staff member who initiated the complaint shall be notified of the findings of the investigation and, if appropriate, that remedial action has been taken.

The initiation of a complaint in good faith about behavior that may violate this policy shall not adversely affect the educational assignments or study environment of a student complainant or any terms or conditions of employment or work environment of the staff complainant. There shall be no retaliation by the district against any person who, in good faith, reports, files a complaint or otherwise participates in an investigation or inquiry of sexual harassment.

It is the intent of the Board that appropriate corrective action will be taken by the district to stop the sexual harassment, prevent its recurrence and address negative consequences. Students in violation of this policy shall be subject to discipline up to and including expulsion and/or counseling or sexual harassment awareness training, as appropriate. The age and maturity of the student(s) involved and other relevant factors will be considered in determining appropriate action. Employees in violation of this policy shall be subject to discipline, up to and including dismissal and/or additional sexual harassment awareness training, as appropriate. Other individuals 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.

Additionally, the district may report individuals in violation of this policy to law enforcement officials. Licensed staff, staff registered with the Teacher Standards and Practices Commission (TSPC) and those participating in practicum programs, as specified by Oregon Administrative Rules, shall be reported to TSPC.

The superintendent shall ensure appropriate periodic sexual harassment awareness training or information is provided to all supervisors, staff and students and that annually, the name and position of district officials responsible for accepting and managing sexual harassment complaints, business phone numbers, addresses or other necessary contact information is readily available. This policy as well as the complaint procedure will be made available to all students, parents of students and staff in student/parent and staff handbooks. The district's policy shall be posted in all schools. Such posting shall be by a sign of at least 8 1/2" by 11".

The superintendent will establish a process of reporting incidents of sexual harassment.

END OF POLICY

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**Legal Reference(s):**

[ORS 243.706](#)

[ORS 342.700](#)

[ORS 342.704](#)

[ORS 342.708](#)

[ORS 342.850](#)

[ORS 342.865](#)

[ORS 659.850](#)

[ORS 659A.006](#)

[ORS 659A.029](#)

[ORS 659A.030](#)

[OAR 581-021-0038](#)

[OAR 584-020-0040](#)

[OAR 584-020-0041](#)

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2006).

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2006).

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2006); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2006).

Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999).

Gebser v. Lago Vista Indep. Sch. Dist., 524 U.S. 274 (1998).

**Cross Reference(s):**

GBNA - Hazing/Harassment/Intimidation/Bullying/Menacing – Staff

JBA/GBN - Sexual Harassment

JFCF - Hazing/Harassment/Intimidation/Menacing/Bullying/Cyberbullying/Teen Dating Violence – Student

**Hazing/Harassment/Intimidation/Bullying/Menacing – Staff**

The Board is committed to providing a positive and productive learning and working environment. Hazing, Harassment, intimidation, menacing or bullying and acts of cyberbullying by students, staff or third parties is strictly prohibited and shall not be tolerated in the district. Retaliation against any person who reports, is thought to have reported, files a complaint or otherwise participates in an investigation or inquiry is also strictly prohibited.

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.

Individuals may also be referred to law enforcement officials. Licensed staff will be reported to Teacher Standards and Practices Commission, as provided by 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 students, staff and third parties.

END OF POLICY

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**Legal Reference(s):**

[ORS 163.190](#)

[ORS 163.197\(2\)](#)

[ORS 166.065](#)

[ORS 166.155 to -166.165](#)

[ORS 332.072](#)

[ORS 332.107](#)

[ORS 659A.030](#)

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2006).

**Cross Reference(s):**

GBN/JBA - Sexual Harassment

JFCM - Threats of Violence

## **Personal Communication Devices and Social Media - Staff**

Staff possession or use of personal communication devices on district property, in district facilities during the work day and while the staff is on duty in attendance at district-sponsored activities may be permitted subject to the limitations set forth in this policy and consistent with any additional school rules as may be established by the superintendent. At no time, whether on duty or off duty, will a personal communication device be used in a manner that interferes with staff duty and responsibility for the supervision of students.

A “personal communication device” is a device, not issued by the district, which emits an audible signal, vibrates, displays a message or otherwise summons or delivers a communication to the possessor of the device. These devices include, but are not limited to, walkie talkies, long- or short-range portable radios, portable scanning devices, cellular telephones, pagers, personal digital assistants (PDAs), laptop computers and similar devices with wireless capability. This also includes other digital audio and video devices such as, but not limited to, iPods, radios and TV.

Personal cellular telephones/pagers and other digital audio and video devices shall be silenced during instructional or class time, while on duty or at any other time where such use of the device would cause a disruption of school activities or interfere with work assignment. Cellular telephones which have the capability to take photographs or video shall not be used for such purposes while on district property or while a staff member is on duty in district-sponsored activities, unless as expressly authorized by the principal or designee. Laptop computers and PDAs brought to school will be restricted to classroom or instructional-related activities only. The district will not be liable for loss or damage to personal communication devices brought to district property and district-sponsored activities.

Staff members, while on duty and off duty, will utilize social network sites (e.g., Facebook, MySpace and Twitter), public websites and blogs, judiciously by not posting confidential information about students, staff or district business. Staff members, while on duty and off duty, will treat fellow employees, students and the public with respect while posting in order to prevent substantial disruption in school. Communication with students using personal communication devices will be appropriate and professional. Communication with students using personal communication devices regarding non-school-related matters is prohibited during work hours and strongly discouraged at all other times. If communicating with students electronically regarding school-related matters, staff should use district e-mail using mailing lists to a group of students rather than individual students. Texting students during work hours is discouraged. Texting students while off duty is strongly discouraged.

Exceptions to the prohibitions set forth in this policy may be made for health, safety or emergency reasons with superintendent or designee approval.

Staff are subject to disciplinary action up to and including dismissal for using a personal communication device in any manner that is illegal or violates the terms of this policy. Staff actions on social network sites, public websites, blogs and other social media, while on or off duty, which disrupt the school

environment, are subject to disciplinary action up to and including dismissal. A “disruption” for purposes of this policy includes but is not limited to, one or more parent threatens to remove their children from a particular class or particular school, actual withdrawal of a student or students from a particular class or particular school and/or a threatened or actual negative impact on the learning environment. The taking, disseminating, transferring or sharing of obscene, pornographic or otherwise illegal images or photographs, whether by electronic data transfer or otherwise (commonly called texting, sexting, emailing etc.) may constitute a crime under state and/or federal law. Any person taking, disseminating, transferring or sharing obscene, pornographic or otherwise illegal images or photographs, will be reported to law enforcement and/or other appropriate state or federal agencies.

The superintendent shall ensure that this policy is available to all employees.

END OF POLICY

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**Legal Reference(s):**

[ORS 167.057](#)  
[ORS 163.432](#)  
[ORS 163.433](#)  
[ORS 163.684](#)  
[ORS 163.686](#)

[ORS 163.687](#)  
[ORS 163.688](#)  
[ORS 163.689](#)  
[ORS 163.693](#)

[ORS 163.700](#)  
[ORS 326.011](#)  
[ORS 326.051](#)  
[ORS 332.072](#)  
[ORS 332.107](#)

U.S. CONST. amend. XVIII, § 1466A

U.S. CONST. amend. XVIII, § 1470

U.S. CONST. amend. XX, § 7906

U.S. CONST. amend. XX, § 6777

Copyrights, Title 17, as amended, United States Code; 19 CFR Part 133 (2001).

Melzer v. Bd. Of Educ., City of New York, 336 F.3d 185 (2d Cir. 2003).

Ross v. Springfield Sch. Dist., No. FDA 80-1, aff'd, 56 Or. App. 197, rev'd and remanded, 294 Or. 357 (1982), order on remand (1983), aff'd, 71 Or. App. 111 (1984), rev'd and remanded, 300 Or. 507 (1986), order on second remand (1987), revised order on second remand (1988).

**Cross Reference(s):**

JHFF - Reporting Requirements Regarding Sexual Conduct with Students

## Reporting Requirements Regarding Sexual Conduct with Students

Sexual conduct by district/school employees as defined by Oregon law will not be tolerated. All district employees are subject to this policy.

*“Sexual conduct” as defined by Oregon law is any verbal or physical or other conduct by a school employee that is sexual in nature; directed toward a kindergarten through grade 12 student; unreasonably interferes with a student’s educational performance; and creates an intimidating, hostile or offensive educational environment. The definition for sexual conduct does not include behavior that would be considered child abuse as outlined by Oregon law and district Board policy JHFE and JHFE-AR - Reporting of Suspected Abuse of a Child.*

Any district/school employee who has reasonable cause to believe that another district/school employee or volunteer has engaged in sexual conduct with a student must immediately notify his/her immediate supervisor.

When the district receives a report of suspected sexual conduct by a district employee, the district may decide to place the employee on paid administrative leave or in a position that does not involve direct, unsupervised contact with students while conducting an investigation. An investigation is a detailed inquiry into the factual allegations of a report of suspected sexual conduct that is based on interviews with the complainant, witnesses, the district employee or student who is the subject of the report. If the subject of the report is a school employee, the investigation must meet any negotiated standards of an employment contract or agreement.

If, following the investigation, the report is substantiated, the district will inform the employee that the report has been substantiated and provide information regarding the appeal process. The employee may appeal the district’s decision through the appeal process provided by the district’s collective bargaining agreement. A volunteer may appeal the district’s decision through the district’s complaint procedure. A substantiated report is one that: a) an educational provider has reasonable cause to believe is founded based on the available evidence after conducting an investigation; and b) involves conduct that the educational provider determines is sufficiently serious to be documented in the employee’s personnel file.

If the employee decides not to appeal the determination or if the determination is sustained after an appeal, a record of the substantiated report will be placed in the employee’s personnel file. The employee will be notified that this information may be disclosed to a potential employer.

The district will post in each school building the name and contact information of the person designated to receive sexual conduct reports, as well as the procedures the superintendent will follow upon receipt of a report. When the superintendent takes action on the report, the person who initiated the report must be notified.

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 complainant. If a student initiates a report of suspected sexual conduct by a district employee in good faith, the student will not be disciplined by the Board or any district employee.

The district will provide annual training to district employees, parents and students regarding the prevention and identification of sexual conduct. The district will provide to employees at the time of hire a description of conduct that may constitute sexual conduct and a description of records subject to disclosure if a sexual conduct report is substantiated.

Educational providers shall follow hiring and reporting procedures as outlined in ORS 339.374 for all district employees.

END OF POLICY

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**Legal Reference(s):**

[ORS 339.370 to-339.400](#)  
[ORS 418.746 to-418.751](#)  
[ORS 419B.005 to-419B.045](#)

**Cross Reference(s):**

GCAB - Personal Communication Devices and Social Media - Staff  
JHFE - Reporting of Suspected Abuse of a Child