

*Commitment, Excellence, Community*

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**NEWBERG PUBLIC SCHOOLS  
POLICY UPDATE COMMITTEE MEETING AGENDA**

**Tuesday February 21st, 2023 6:00 p.m.**

[ZOOM Link](#)

**WEBINAR ID: 862 7135 0126 WEBINAR PASSCODE: 158159**

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**1.0 CALL TO ORDER**

**2.0 ADDITIONS OR DELETIONS TO THE AGENDA**

**3.0 REPORTS & DISCUSSION ITEMS**

3.1 Policy Update-

Review the following policies:

GBN/JBA (Staff) – Sexual Harassment – Required

JBA/GBN (Student) – Sexual Harassment – Required

JFCF – Hazing, Harassment, Intimidation, Bullying, Menacing, Cyberbullying, Teen Dating Violence,  
Domestic Violence – Student. – Required

ACB – All Student Belong

**4.0 FUTURE BOARD MEETINGS**

**5.0 ANNOUNCEMENTS/OTHER**

**6.0 ADJOURNMENT**

[LINK to Policy Update Committee Mtg 2.21.2023](#) To listen to the meeting, call one of these numbers and follow the prompts:

1-253-215-8782 or 1-301-715-8592 Meeting ID: 862 7135 0126; Passcode: 158159

Or login via Zoom, using Meeting ID: 862 7135 0126; Passcode: 158159

## **Policy Updates- First Reading**

Policy Update is a quarterly subscription newsletter providing a brief discussion of current policy issues of concern to Oregon school districts. Sample policies reflecting these issues and changes in state and federal law, if applicable, are part of this newsletter.

### **SEXUAL HARRASSMENT**

(Policies that start with the letter G is staff centered)

#### **Summary**

The model policy GBN/JBA – Sexual Harassment and its administrative regulation has been updated to reflect House Bill 4150 (2018), and the temporary rules in OAR 581-021-0038 adopted by the State Board of Education June 21, 2018 which does the following: 1. Expands the required information to be provided for sexual harassment complaints; 2. Extends protections in district policies to a person on or immediately adjacent to district property, at any district-sponsored activities, utilizing district-provided transportation or district bus stops; and 3. Requires written notification, in plain language and easy to read, to complainant(s) to include: a. Rights of the complainant; b. Information on legal and disciplinary options, school services, outside services and privacy rights.

#### **Local District Responsibility**

If policy GBN/JBA is included in the board’s manual, consider updating and readopting.

#### **Policy(ies) and ARs Impacted by these Revisions**

GBN/JBA - Sexual Harassment - Required

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### **SEXUAL HARRASSMENT**

(Policies that start with the letter J is student centered)

#### **Summary**

The model policy JBA/GBN – Sexual Harassment and its administrative regulation has been updated to reflect House Bill 4150 (2018), and the temporary rules in OAR 581-021-0038 adopted by the State Board of Education June 21, 2018 which does the following: 1. Expands the required information to be provided for sexual harassment complaints; 2. Extends protections in district policies to a person on or immediately adjacent to district property, at any district-sponsored activities, utilizing district-provided transportation or district bus stops; and 3. Requires written notification, in plain language and easy to read, to complainant(s) to include: a. Rights of the complainant; b. Information on legal and disciplinary options, school services, outside services and privacy rights.

#### **Local District Responsibility**

If policy JBA/GBN is included in the board’s manual, consider updating and readopting.

## **Policy(ies) and ARs Impacted by these Revisions**

JBA/GBN – Sexual Harassment - Required

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HAZING, HARRASSMENT, INTIMIDATION, BULLYING, MENACING,  
CYBERBULLYING, TEEN DATING VIOLENCE, DOMESTIC VIOLENCE – STUDENT

### **Summary**

#### **Oregon law mandates that school districts adopt policies prohibiting harassment, intimidation or bullying and acts of cyberbullying**

The law requires school boards to include the following in district policies:

- A statement prohibiting harassment, intimidation or bullying, teen dating violence and acts of cyberbullying
- A definition of harassment, intimidation or bullying, teen dating violence and acts of cyberbullying
- A definition of protected class
- A description of the type of behavior expected from students
- A statement of the consequences and remedial action for persons who violate the policy
- Uniform procedure for reporting and prompt investigation of acts of harassment, intimidation or bullying, teen dating violence and acts of cyberbullying
- A review procedure for actions of a school responding/investigating a reported act of harassment, intimidation or bullying, teen dating violence and acts of cyberbullying
- A statement prohibiting reprisal or retaliation
- A statement of consequences and appropriate remedial action for a false accusation
- A statement of how the policy will be publicized
- An identification by job title of school and district officials responsible for policy implementation

- A statement that prevention training for acts of harassment, intimidation or bullying and acts of cyberbullying and domestic violence will be incorporated into training programs for students.

### **Local District Responsibility**

The Board should review the recommended changes to required policy – JFCF – Hazing, Harassment, Intimidation, Bullying, Menacing, Cyberbullying, Teen Dating Violence, Domestic Violence – Student, and adopt the changes.

### **Policy(ies) and ARs Impacted by these Revisions**

JFCF – Hazing, Harassment, Intimidation, Bullying, Menacing, Cyberbullying, Teen Dating Violence, Domestic Violence – Student - Required

# Newberg School District 29J

Code: GBN/JBA  
Adopted: 12/11/06  
Orig. Code: 3050

## 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, staff members, or third parties who are on or immediately adjacent to school grounds, at any district-sponsored activity, on any district-provided transportation or at any official district bus stop, by other students, staff members, 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 non-district property if the student or staff member 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 jurisdiction of the district or where the staff member is engaged in district business.

Sexual harassment of students and staff members 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 members;
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 a staff member's ability to perform job responsibilities; or creates an intimidating, offensive or hostile educational or working environment. Relevant factors to be considered shall 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, staff members or third parties.

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 students, staff members or third parties who has have knowledge of conduct in violation of this policy or feels they are a victim of sexual harassment must immediately report their concerns to the building principal,

Sexual Harassment – GBN/JBA

compliance officer or superintendent, who has overall responsibility for all investigations. Students may also report concerns to a teacher, counselor, or school nurse, who shall promptly notify the appropriate district official.

Upon receipt of a complaint by a student, student's parents, a staff member or a third party alleging behavior that may violate this policy, the district shall provide written notice as required by Oregon Revised Statute (ORS) 342.704(4) to the complainant.

The student and/or the student's parents, the staff member or the third party who initiated the complaint shall be notified that the investigation has been concluded and as to whether a violation of this policy was found to have occurred to the extent allowable under state and federal confidentiality laws.

The initiation of a complaint in good faith about behavior that may violate this policy may not adversely affect the educational assignments or educational environment of a student complainant, any terms or conditions of employment or work environment of the staff member complainant or any terms or conditions of employment or of work or educational environment of a third-party 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 shall 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 shall be considered in determining appropriate action. Staff members 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 the 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 members 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 shall be made available upon request to all students, parents of students, staff members and third parties, posted on the district's website and published in student/parent and staff handbooks. The district's policy shall be posted on a sign in all district buildings. Such posting shall be by a sign of at least 8 ½" by 11".

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

END OF POLICY

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**Legal Reference(s):**

Sexual Harassment – GBN/JBA

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[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](#)

HB 4150 (2018)

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2012).

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2012).

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2012); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2017).

Bartsch v. Elkton School District, FDA-13-011 (March 27, 2014).

**Cross Reference(s):**

GBNA - Hazing/Harassment/Intimidation/Menacing/Bullying

Cyberbullying – Staff and Third Party

JBA/GBN - Sexual Harassment

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

# OSBA Model Sample Policy

Code: GBN/JBA

Adopted:

## Sexual Harassment

The district is committed to eliminating sexual harassment. Sexual harassment will not be tolerated in the district. All students, staff members and other persons are entitled to learn and work in an environment that is free of harassment. All staff members, students and third parties are subject to this policy. Any person may report sexual harassment.

The district processes complaints or reports of sexual harassment under Oregon Revised Statute (ORS) 342.700 et. al. and federal Title IX laws found in Title 34 C.F.R. Part 106. Individual complaints may require both of these procedures, and may involve additional complaint procedures.

### General Procedures

When information, a report or complaint regarding sexual harassment is received by the district, the district will review such information, report or complaint to determine which law applies and will follow the appropriate procedures. When the alleged conduct could meet both of the definitions in ORS Chapter 342 and Title IX, both complaint procedures should be processed simultaneously (*see* JBA/GBN-AR(1) - Sexual Harassment Complaint Procedure and JBA/GBN-AR(2) - Federal Law (Title IX) Sexual Harassment Complaint Procedure). The district may also need to use other complaint procedures when the alleged conduct could meet the definitions for other complaint procedures.

### OREGON DEFINITION AND PROCEDURES

#### Oregon Definition

Sexual harassment of students, staff members or third parties<sup>1</sup> shall include:

1. A demand or request for sexual favors in exchange for benefits;
2. Unwelcome conduct of a sexual nature that is physical, verbal, or nonverbal and that:
  - a. Interferes with a student's educational activity or program;
  - b. Interferes with a school or district staff member's ability to perform their job; or
  - c. Creates an intimidating, offensive or hostile environment.
3. Assault when sexual contact occurs without the student's, staff member's or third party's consent because the student, staff member or third party is under the influence of drugs or alcohol, is unconscious or is pressured through physical force, coercion or explicit or implied threats.

Sexual harassment does not include conduct that is necessary because of a job duty of a school or district staff member or because of a service required to be provided by a contractor, agent, or volunteer, if the conduct is not the product of sexual intent or a person finding another person, or another person's action, offensive because of that other person's sexual orientation or gender identity.

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<sup>1</sup> "Third party" means a person who is not a student or a school or district staff member and who is: 1) on or immediately adjacent to school grounds or district property; 2) At a school-sponsored activity or program; or 3) Off school grounds or district property if a student or a school or district staff member acts toward the person in a manner that creates a hostile environment for the person while on school or district property, or at a school- or district-sponsored activity.



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 sexual behaviors in front of others; or spreading rumors about or rating other students or others as to appearance, sexual activity or performance.

### Oregon Procedures

Reports and complaints of sexual harassment should be made to the following individual(s):

| Name                     | Position                                   | Phone               | Email                                 |
|--------------------------|--|---------------------|---------------------------------------|
| <u>Stephen Phillips</u>  | <u>Superintendent</u>                      | <u>503.554.5041</u> | <u>phillipss@newberg.k12.or.us</u>    |
| <u>Scott Linenberger</u> | <u>HR Director</u>                         | <u>503.554.5021</u> | <u>linenbergers@newberg.k12.or.us</u> |
| <u>Anthony Buckner</u>   | <u>Director of Special Programs</u>        | <u>503.554.5007</u> | <u>bucknera@newberg.k12.or.us</u>     |
| <u>Jillian Felizarta</u> | <u>Director of Teaching &amp; Learning</u> | <u>503.554.5037</u> | <u>felizartaj@newberg.k12.or.us</u>   |
| <u>Tami Erion</u>        | <u>Principal High School</u>               | <u>503.554.4449</u> | <u>eriont@newberg.k12.or.us</u>       |
| <u>Andrew DeBois</u>     | <u>Principal CVMS</u>                      | <u>503.554.4600</u> | <u>deboisa@newberg.k12.or.us</u>      |
| <u>Jennifer Bailey</u>   | <u>Principal MVMS</u>                      | <u>503.554.4504</u> | <u>baileyj@newberg.k12.or.us</u>      |
| <u>Chris Stevens</u>     | <u>Principal Catalyst</u>                  | <u>503.554.4410</u> | <u>stevensc@newberg.k12.or.us</u>     |
| <u>Emily Chadwick</u>    | <u>Principal Antonia Crater Elem</u>       | <u>503.554.4654</u> | <u>chadwicke@newberg.k12.or.us</u>    |
| <u>Tim Wright</u>        | <u>Principal Dundee Elem</u>               | <u>503.554.4854</u> | <u>wrightt@newberg.k12.or.us</u>      |
| <u>Nicole Love</u>       | <u>Principal Edwards Elem</u>              | <u>503.554.5054</u> | <u>loven@newberg.k12.or.us</u>        |
| <u>Brian Wood</u>        | <u>Principal Ewing Young Elem</u>          | <u>503.554.4754</u> | <u>woodb@newberg.k12.or.us</u>        |
| <u>Ashley Lee</u>        | <u>Principal Joan Austin Elem</u>          | <u>503.554.4554</u> | <u>leea@newberg.k12.or.us</u>         |
| <u>Tim Lauer</u>         | <u>Principal Mabel Rush Elem</u>           | <u>503.554.4454</u> | <u>lauert@newberg.k12.or.us</u>       |

This/These individual(s) is/are responsible for accepting and managing complaints of sexual harassment. Persons wishing to report should contact them using the above information. *See* JBA/GBN-AR(1) - Sexual Harassment Complaint Procedure.

### Response

Any staff member who becomes aware of behavior that may violate this policy shall report to a district official. The district official (with coordination involving the reporting staff member when appropriate) will take any action necessary to ensure the:

1. Student is protected and to promote a nonhostile learning environment;
2. Staff member is protected and to promote a nonhostile work environment; or
3. Third party who is subjected to the behavior is protected and to promote a nonhostile environment.

This includes providing resources for support measures to the student, staff member or third party who was subjected to the behavior and taking any actions necessary to remove potential future impact on the student, staff member or third party, but are not retaliatory against the student, staff member or third party being harassed or the person who reported to the district official.

Any student or staff member who feels they are a victim of sexual harassment are encouraged to report their concerns to district officials, this includes officials such as the principal, compliance officer or superintendent. Students may also report concerns to a teacher, counselor or school nurse, who will promptly notify the appropriate district official.

## **Investigation**

All reports and complaints about behavior that may violate this policy shall be investigated. The district may use, but is not limited to, the following means for investigating incidents of possible harassment:

1. Interviews with those involved;
2. Interviews with witnesses;
3. Review of video surveillance;
4. Review of written communications, including electronic communications;
5. Review of any physical evidence; and
6. Use of third-party investigator.

The district will use a reasonable suspicion standard when determining whether a hostile environment exists. The district may take, but is not limited to, the following procedures and remedial action to address and stop sexual harassment:

1. Discipline of staff and students engaging in sexual harassment;
2. Removal of third parties engaged in sexual harassment;
3. Additional supervision in activities;
4. Additional controls for district electronic systems;
5. Trainings and education for staff and students; and
6. Increased notifications regarding district procedures and resources.

When a student or staff member is harassed by a third party, the district will consider the following:

1. Removing that third party's ability to contract or volunteer with the district, or be present on district property;
2. If the third party works for an entity that contracts with the district, communicating with the third party's employer;
3. If the third party is a student of another district or school, communicate information related to the incident to the other district or school;
4. Limiting attendance at district events; and
5. Providing for additional supervision, including law enforcement if necessary, at district events.

## **No Retaliation**

Retaliation against persons who initiate complaint or otherwise report sexual harassment or who participate in an investigation or other related activities is prohibited. The initiation of a complaint, reporting of behavior, or participation in an investigation, in good faith about behavior that may violate this policy may not adversely affect the:

1. Educational assignments or educational environment of a student or other person initiating the complaint, reporting the behavior, or participating in the investigation; or
2. Any terms or conditions of employment or of work or educational environment of a school or district staff member or other person initiating the complaint, reporting the behavior, or participating in the investigation.

Students who initiate a complaint or otherwise report harassment covered by the policy or who participate in an investigation may not be disciplined for violations of the district's drug and alcohol policies that occurred in connection with the reported prohibited conduct and that were discovered because of the report or investigation, unless the student gave another person alcohol or drugs without the person's knowledge and with the intent of causing the person to become incapacitated and vulnerable to the prohibited conduct.

## **Notice**

When a person<sup>2</sup> who may have been affected by this policy files a complaint or otherwise reports behavior that may violate the policy, the district shall provide written notification to the following:

1. Each reporting person;
2. If appropriate, any impacted person who is not a reporting person;
3. Each reported person; and
4. Where applicable, a parent or legal guardian of a reporting person, impacted person, or reported person.

The written notification must include<sup>3</sup>:

1. Name and contact information for all person designated by the district to receive complaints;
2. The rights of the person that the notification is going to;
3. Information about the internal complaint processes available through the school or district that the person who filed the complaint may pursue, including the person designated for the school or district for receiving complaints and any timelines.
4. Notice that civil and criminal remedies that are not provided by the school or district may be available to the person through the legal system and that those remedies may be subject to statutes of limitation;

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<sup>2</sup> Student, staff member, or third party, or if applicable, the student or third party's parent. If the person is a minor, the district should consider when to contact the person's parent.

<sup>3</sup> Remember confidentiality laws when providing any information.

5. Information about services available to the student or staff member through the school or district, including any counseling services, nursing services or peer advising;
6. Information about the privacy rights of the person and legally recognized exceptions to those rights for internal complaint processes and services available through the school or district;
7. Information about, and contact information for, services and resources that are available to the person, including but not limited to:
  - a. For the reporting person, state and community-based resources for persons who have experienced sexual harassment; or
  - b. For the reported persons, information about and contact information for state and community-based mental health services.
8. Notice that students who report about possible prohibited conduct and students who participate in an investigation under this policy may not be disciplined for violations of the district’s drug and alcohol policies that occurred in connection with the reported prohibited conduct and that were discovered as a result of a prohibited conduct report or investigation unless the student gave another person alcohol or drugs without the person’s knowledge and with the intent of causing the person to become incapacitated and vulnerable to the prohibited conduct; and
9. Prohibition of retaliation.

Notification, to the extent allowable under state and federal student confidentiality laws, must be provided when the investigation is initiated and concluded. The notification at the conclusion must include whether a violation of the policy was found to have occurred.

The notice must:

1. Be written in plain language that is easy to understand;
2. Use print that is of a color, size and font that allows the notification to be easily read; and
3. Be made available to students, students’ parents, staff members and member of the public at each office, at the district office and on the website of the school or district.

## **FEDERAL DEFINITION AND PROCEDURES**

### **Federal Definition**

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the district conditioning the provision of an aid, benefit, or service of the district on an individual’s participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district’s education program or activity<sup>4</sup>;
3. “Sexual assault”: an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;

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<sup>4</sup> “Education program or activity” includes locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs.” (Title 34 C.F.R. § 106.44(a))

4. “Dating violence”: violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship;
5. “Domestic Violence”: felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction; or
6. “Stalking”: engaging in a course of conduct directed at a specific person that would cause a reasonable person fear for the person’s own safety or the safety of others, or suffer substantial emotional distress.

This definition only applies to sex discrimination occurring against a person who is a subject of this policy in the United States. A district’s treatment of a complainant or a respondent in response to a formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX.

### **Federal Procedures**

The district will adopt and publish grievance procedures that provide for the prompt and equitable resolution of the student and employee complaints alleging any action that would be prohibited by this policy. *See JBA/GBN-AR(2) - Federal Law (Title IX) Sexual Harassment Complaint Procedure.*

### **Reporting**

Any person may report sexual harassment. This report may be made in person, by mail, by telephone, or by electronic mail, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. The report can be made at any time.

The Title IX Coordinator will coordinate the district’s efforts to comply with its responsibilities related to this AR. The district prominently will display the contact information for the Title IX Coordinator on the district website and in each handbook.

## Response

The district will promptly respond to information, allegations or reports of sexual harassment when there is actual knowledge of such harassment, even if a formal complaint has not been filed.<sup>5</sup> The district shall treat complainants and respondents equitably by providing supportive measures<sup>6</sup> to the complainant and by following a grievance procedure<sup>7</sup> prior to imposing any disciplinary sanctions or other actions that are not supportive measures against a respondent. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes, with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.<sup>8</sup>

If after an individualized safety and risk analysis, it is determined that there is an immediate threat to the physical health or safety of any person, an emergency removal of the respondent can take place.<sup>9</sup> The district must provide the respondent with notice and an opportunity to challenge the decision immediately following the removal. A non-student employee may also be placed on non-disciplinary administrative leave pending the grievance process.

## Notice

The district shall provide notice to all applicants for admission and employment, students, parents or legal guardians, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the district of the following:

1. The name or title, office address, electronic mail address, and telephone number of the Title IX Coordinator(s);
2. That the district does not discriminate on the basis of sex in the education program or activity that it operates, as required by Title IX. This includes admissions and employment; and
3. The grievance procedure and process, how to file a formal complaint of sex discrimination or sexual harassment, and how the district will respond.

## No Retaliation

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<sup>5</sup> Title 34 C.F.R. § 106.44(a) Response cannot be deliberately indifferent. A recipient is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

<sup>6</sup> Title 34 C.F.R. § 106.44(a) Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the district's educational environment, or deter sexual harassment.<sup>6</sup> The district must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide supportive measures. (Title 34 C.F.R. § 99.30(a))

<sup>7</sup> This grievance procedure must meet the requirements of Title 34 C.F.R. § 106.45 (included in accompanying administrative regulation, *see* JBA/GBN-AR(2) - Federal Law (Title IX) Sexual Harassment Complaint Procedure).

<sup>8</sup> The Title IX Coordinator may also discuss that the Title IX Coordinator has the ability to file a formal complaint.

<sup>9</sup> The district may still have obligations under Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 or the American with Disabilities Act (ADA). (Title 34 C.F.R. § 106.44(c))

Neither the district or any person may retaliate<sup>10</sup> against an individual for reporting, testifying, providing evidence, being a complainant, otherwise participating or refusing to participate in any investigation or process in accordance with this procedure. The district must keep confidential the identity of parties and participating persons, except as disclosure is allowed under Family Educational Rights and Privacy Act (FERPA), as required by law, or to carry out the proceedings herein. Complaints of retaliation may be filed using these procedures.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding does not constitute retaliation.

### **Publication**

This policy shall be made available to students, parents of students and staff members. This policy shall be prominently published in the district student handbook and on the district website. This policy shall also be made available at each school office and at the district office. The district shall post this policy on a sign in all grade 6 through 12 schools, on a sign that is at least 8.5 inches by 11 inches in size. A copy of the policy will be made available to any person upon request.

END OF POLICY

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

[ORS 243.706](#)  
[ORS 332.107](#)  
[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 (2018).

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2018).

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2018); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2020).

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

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

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<sup>10</sup> Retaliation includes, but is not limited to, intimidation, threats, coercion, and discrimination.

# Newberg School District 29J

Code: JBA/GBN  
Adopted: 2/26/07  
Revised/Readopted: 11/05/18  
Orig. Code: 5295

## 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, staff members, or third parties who are on or immediately adjacent to school grounds, at any district-sponsored activity, on any district-provided transportation or at any official district bus stop, by other students, staff members, 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 non-district property if the student or staff member 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 jurisdiction of the district or where the staff member is engaged in district business.

Sexual harassment of students and staff members 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 members;
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 a staff member's ability to perform job responsibilities; or creates an intimidating, offensive or hostile educational or working environment. Relevant factors to be considered shall 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, staff members or third parties.

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 students, staff members or third parties who has have knowledge of conduct in violation of this policy or feels they are a victim of sexual harassment must immediately report their concerns to the building principal, compliance officer or superintendent, who has overall responsibility for all investigations. Students may also report concerns to a teacher, counselor, or school nurse, who shall promptly notify the appropriate district official.

Upon receipt of a complaint by a student, student's parents, a staff member or a third party alleging behavior that may violate this policy, the district shall provide written notice as required by Oregon Revised Statute (ORS) 342.704(4) to the complainant.

The student and/or the student's parents, the staff member or the third party who initiated the complaint shall be notified that the investigation has been concluded and as to whether a violation of this policy was found to have occurred to the extent allowable under state and federal confidentiality laws.

The initiation of a complaint in good faith about behavior that may violate this policy may not adversely affect the educational assignments or educational environment of a student complainant, any terms or conditions of employment or work environment of the staff member complainant or any terms or conditions of employment or of work or educational environment of a third-party 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 shall 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 shall be considered in determining appropriate action. Staff members 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 the 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 members 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 shall be made available upon request to all students, parents of students, staff members and third parties, posted on the district's website and published in student/parent and staff handbooks. The district's policy shall be posted on a sign in all district buildings. Such posting shall be by a sign of at least 8 ½" by 11".

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

END OF POLICY

**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](#)

HB 4150 (2018)

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2012).

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2012).

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2012); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2017).

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):**

GBN/JBA - Sexual Harassment

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

# OSBA Model Sample Policy

Code: JBA/GBN

Adopted:

## Sexual Harassment

The district is committed to eliminating sexual harassment. Sexual harassment will not be tolerated in the district. All students, staff members and other persons are entitled to learn and work in an environment that is free of harassment. All staff members, students and third parties are subject to this policy. Any person may report sexual harassment.

The district processes complaints or reports of sexual harassment under Oregon Revised Statute (ORS) 342.700 et. al. and federal Title IX laws found in Title 34 C.F.R. Part 106. Individual complaints may require both of these procedures, and may involve additional complaint procedures.

### General Procedures

When information, a report or complaint regarding sexual harassment is received by the district, the district will review such information, report or complaint to determine which law applies and will follow the appropriate procedures. When the alleged conduct could meet both of the definitions in ORS Chapter 342 and Title IX, both complaint procedures should be processed simultaneously (*see* JBA/GBN-AR(1) - Sexual Harassment Complaint Procedure and JBA/GBN-AR(2) - Federal Law (Title IX) Sexual Harassment Complaint Procedure). The district may also need to use other complaint procedures when the alleged conduct could meet the definitions for other complaint procedures.

### OREGON DEFINITION AND PROCEDURES

#### Oregon Definition

Sexual harassment of students, staff members or third parties<sup>1</sup> shall include:

1. A demand or request for sexual favors in exchange for benefits;
2. Unwelcome conduct of a sexual nature that is physical, verbal, or nonverbal and that:
  - a. Interferes with a student's educational activity or program;
  - b. Interferes with a school or district staff member's ability to perform their job; or
  - c. Creates an intimidating, offensive or hostile environment.
3. Assault when sexual contact occurs without the student's, staff member's or third party's consent because the student, staff member or third party is under the influence of drugs or alcohol, is unconscious or is pressured through physical force, coercion or explicit or implied threats.

Sexual harassment does not include conduct that is necessary because of a job duty of a school or district staff member or because of a service required to be provided by a contractor, agent, or volunteer, if the conduct is not the product of sexual intent or a person finding another person, or another person's action, offensive because of that other person's sexual orientation or gender identity.

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<sup>1</sup> "Third party" means a person who is not a student or a school or district staff member and who is: 1) on or immediately adjacent to school grounds or district property; 2) At a school-sponsored activity or program; or 3) Off school grounds or district property if a student or a school or district staff member acts toward the person in a manner that creates a hostile environment for the person while on school or district property, or at a school- or district-sponsored activity.

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 sexual behaviors in front of others; or spreading rumors about or rating other students or others as to appearance, sexual activity or performance.

### Oregon Procedures

Reports and complaints of sexual harassment should be made to the following individual(s):

| Name                     | Position                                   | Phone               | Email                                 |
|--------------------------|--|---------------------|---------------------------------------|
| <u>Stephen Phillips</u>  | <u>Superintendent</u>                      | <u>503.554.5041</u> | <u>phillipss@newberg.k12.or.us</u>    |
| <u>Scott Linenberger</u> | <u>HR Director</u>                         | <u>503.554.5021</u> | <u>linenbergers@newberg.k12.or.us</u> |
| <u>Anthony Buckner</u>   | <u>Director of Special Programs</u>        | <u>503.554.5007</u> | <u>bucknera@newberg.k12.or.us</u>     |
| <u>Jillian Felizarta</u> | <u>Director of Teaching &amp; Learning</u> | <u>503.554.5037</u> | <u>felizartaj@newberg.k12.or.us</u>   |
| <u>Tami Erion</u>        | <u>Principal High School</u>               | <u>503.554.4449</u> | <u>eriont@newberg.k12.or.us</u>       |
| <u>Andrew DeBois</u>     | <u>Principal CVMS</u>                      | <u>503.554.4600</u> | <u>deboisa@newberg.k12.or.us</u>      |
| <u>Jennifer Bailey</u>   | <u>Principal MVMS</u>                      | <u>503.554.4504</u> | <u>baileyj@newberg.k12.or.us</u>      |
| <u>Chris Stevens</u>     | <u>Principal Catalyst</u>                  | <u>503.554.4410</u> | <u>stevensc@newberg.k12.or.us</u>     |
| <u>Emily Chadwick</u>    | <u>Principal Antonia Crater Elem</u>       | <u>503.554.4654</u> | <u>chadwicke@newberg.k12.or.us</u>    |
| <u>Tim Wright</u>        | <u>Principal Dundee Elem</u>               | <u>503.554.4854</u> | <u>wrightt@newberg.k12.or.us</u>      |
| <u>Nicole Love</u>       | <u>Principal Edwards Elem</u>              | <u>503.554.5054</u> | <u>loven@newberg.k12.or.us</u>        |
| <u>Brian Wood</u>        | <u>Principal Ewing Young Elem</u>          | <u>503.554.4754</u> | <u>woodb@newberg.k12.or.us</u>        |
| <u>Ashley Lee</u>        | <u>Principal Joan Austin Elem</u>          | <u>503.554.4554</u> | <u>leea@newberg.k12.or.us</u>         |
| <u>Tim Lauer</u>         | <u>Principal Mabel Rush Elem</u>           | <u>503.554.4454</u> | <u>lauert@newberg.k12.or.us</u>       |

This/These individual(s) is/are responsible for accepting and managing complaints of sexual harassment. Persons wishing to report should contact them using the above information. *See* JBA/GBN-AR(1) - Sexual Harassment Complaint Procedure.

### Response

Any staff member who becomes aware of behavior that may violate this policy shall report to a district official. The district official (with coordination involving the reporting staff member when appropriate) will take any action necessary to ensure the:

1. Student is protected and to promote a nonhostile learning environment;
2. Staff member is protected and to promote a nonhostile work environment; or
3. Third party who is subjected to the behavior is protected and to promote a nonhostile environment.

This includes providing resources for support measures to the student, staff member or third party who was subjected to the behavior and taking any actions necessary to remove potential future impact on the student, staff member or third party, but are not retaliatory against the student, staff member or third party being harassed or the person who reported to the district official.

Any student or staff member who feels they are a victim of sexual harassment are encouraged to report their concerns to district officials, this includes officials such as the principal, compliance officer or superintendent. Students may also report concerns to a teacher, counselor or school nurse, who will promptly notify the appropriate district official.

## **Investigation**

All reports and complaints about behavior that may violate this policy shall be investigated. The district may use, but is not limited to, the following means for investigating incidents of possible harassment:

1. Interviews with those involved;
2. Interviews with witnesses;
3. Review of video surveillance;
4. Review of written communications, including electronic communications;
5. Review of any physical evidence; and
6. Use of third-party investigator.

The district will use a reasonable suspicion standard when determining whether a hostile environment exists. The district may take, but is not limited to, the following procedures and remedial action to address and stop sexual harassment:

7. Discipline of staff and students engaging in sexual harassment;
8. Removal of third parties engaged in sexual harassment;
9. Additional supervision in activities;
10. Additional controls for district electronic systems;
11. Trainings and education for staff and students; and
12. Increased notifications regarding district procedures and resources.

When a student or staff member is harassed by a third party, the district will consider the following:

13. Removing that third party's ability to contract or volunteer with the district, or be present on district property;
14. If the third party works for an entity that contracts with the district, communicating with the third party's employer;
15. If the third party is a student of another district or school, communicate information related to the incident to the other district or school;
16. Limiting attendance at district events; and
17. Providing for additional supervision, including law enforcement if necessary, at district events.

## **No Retaliation**

Retaliation against persons who initiate complaint or otherwise report sexual harassment or who participate in an investigation or other related activities is prohibited. The initiation of a complaint, reporting of behavior, or participation in an investigation, in good faith about behavior that may violate this policy may not adversely affect the:

18. Educational assignments or educational environment of a student or other person initiating the complaint, reporting the behavior, or participating in the investigation; or
19. Any terms or conditions of employment or of work or educational environment of a school or district staff member or other person initiating the complaint, reporting the behavior, or participating in the investigation.

Students who initiate a complaint or otherwise report harassment covered by the policy or who participate in an investigation may not be disciplined for violations of the district's drug and alcohol policies that occurred in connection with the reported prohibited conduct and that were discovered because of the report or investigation, unless the student gave another person alcohol or drugs without the person's knowledge and with the intent of causing the person to become incapacitated and vulnerable to the prohibited conduct.

## **Notice**

When a person<sup>2</sup> who may have been affected by this policy files a complaint or otherwise reports behavior that may violate the policy, the district shall provide written notification to the following:

20. Each reporting person;
21. If appropriate, any impacted person who is not a reporting person;
22. Each reported person; and
23. Where applicable, a parent or legal guardian of a reporting person, impacted person, or reported person.

The written notification must include<sup>3</sup>:

24. Name and contact information for all person designated by the district to receive complaints;
25. The rights of the person that the notification is going to;
26. Information about the internal complaint processes available through the school or district that the person who filed the complaint may pursue, including the person designated for the school or district for receiving complaints and any timelines.
27. Notice that civil and criminal remedies that are not provided by the school or district may be available to the person through the legal system and that those remedies may be subject to statutes of limitation;

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<sup>2</sup> Student, staff member, or third party, or if applicable, the student or third party's parent. If the person is a minor, the district should consider when to contact the person's parent.

<sup>3</sup> Remember confidentiality laws when providing any information.

28. Information about services available to the student or staff member through the school or district, including any counseling services, nursing services or peer advising;
29. Information about the privacy rights of the person and legally recognized exceptions to those rights for internal complaint processes and services available through the school or district;
30. Information about, and contact information for, services and resources that are available to the person, including but not limited to:
  - a. For the reporting person, state and community-based resources for persons who have experienced sexual harassment; or
  - b. For the reported persons, information about and contact information for state and community-based mental health services.
31. Notice that students who report about possible prohibited conduct and students who participate in an investigation under this policy may not be disciplined for violations of the district’s drug and alcohol policies that occurred in connection with the reported prohibited conduct and that were discovered as a result of a prohibited conduct report or investigation unless the student gave another person alcohol or drugs without the person’s knowledge and with the intent of causing the person to become incapacitated and vulnerable to the prohibited conduct; and
32. Prohibition of retaliation.

Notification, to the extent allowable under state and federal student confidentiality laws, must be provided when the investigation is initiated and concluded. The notification at the conclusion must include whether a violation of the policy was found to have occurred.

The notice must:

33. Be written in plain language that is easy to understand;
34. Use print that is of a color, size and font that allows the notification to be easily read; and
35. Be made available to students, students’ parents, staff members and member of the public at each office, at the district office and on the website of the school or district.

## **FEDERAL DEFINITION AND PROCEDURES**

### **Federal Definition**

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

36. An employee of the district conditioning the provision of an aid, benefit, or service of the district on an individual’s participation in unwelcome sexual conduct;
37. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district’s education program or activity<sup>4</sup>;
38. “Sexual assault”: an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;

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<sup>4</sup> “Education program or activity” includes locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs.” (Title 34 C.F.R. § 106.44(a))

39. “Dating violence”: violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship;
40. “Domestic Violence”: felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction; or
41. “Stalking”: engaging in a course of conduct directed at a specific person that would cause a reasonable person fear for the person’s own safety or the safety of others, or suffer substantial emotional distress.

This definition only applies to sex discrimination occurring against a person who is a subject of this policy in the United States. A district’s treatment of a complainant or a respondent in response to a formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX.

### **Federal Procedures**

The district will adopt and publish grievance procedures that provide for the prompt and equitable resolution of the student and employee complaints alleging any action that would be prohibited by this policy. *See* JBA/GBN-AR(2) - Federal Law (Title IX) Sexual Harassment Complaint Procedure.

### **Reporting**

Any person may report sexual harassment. This report may be made in person, by mail, by telephone, or by electronic mail, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. The report can be made at any time.

The Title IX Coordinator will coordinate the district’s efforts to comply with its responsibilities related to this AR. The district prominently will display the contact information for the Title IX Coordinator on the district website and in each handbook.



## Response

The district will promptly respond to information, allegations or reports of sexual harassment when there is actual knowledge of such harassment, even if a formal complaint has not been filed.<sup>5</sup> The district shall treat complainants and respondents equitably by providing supportive measures<sup>6</sup> to the complainant and by following a grievance procedure<sup>7</sup> prior to imposing any disciplinary sanctions or other actions that are not supportive measures against a respondent. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes, with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.<sup>8</sup>

If after an individualized safety and risk analysis, it is determined that there is an immediate threat to the physical health or safety of any person, an emergency removal of the respondent can take place.<sup>9</sup> The district must provide the respondent with notice and an opportunity to challenge the decision immediately following the removal. A non-student employee may also be placed on non-disciplinary administrative leave pending the grievance process.

## Notice

The district shall provide notice to all applicants for admission and employment, students, parents or legal guardians, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the district of the following:

42. The name or title, office address, electronic mail address, and telephone number of the Title IX Coordinator(s);
43. That the district does not discriminate on the basis of sex in the education program or activity that it operates, as required by Title IX. This includes admissions and employment; and
44. The grievance procedure and process, how to file a formal complaint of sex discrimination or sexual harassment, and how the district will respond.

## No Retaliation

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<sup>5</sup> Title 34 C.F.R. § 106.44(a) Response cannot be deliberately indifferent. A recipient is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

<sup>6</sup> Title 34 C.F.R. § 106.44(a) Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the district's educational environment, or deter sexual harassment.<sup>6</sup> The district must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide supportive measures. (Title 34 C.F.R. § 99.30(a))

<sup>7</sup> This grievance procedure must meet the requirements of Title 34 C.F.R. § 106.45 (included in accompanying administrative regulation, *see* JBA/GBN-AR(2) - Federal Law (Title IX) Sexual Harassment Complaint Procedure).

<sup>8</sup> The Title IX Coordinator may also discuss that the Title IX Coordinator has the ability to file a formal complaint.

<sup>9</sup> The district may still have obligations under Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 or the American with Disabilities Act (ADA). (Title 34 C.F.R. § 106.44(c))

Neither the district or any person may retaliate<sup>10</sup> against an individual for reporting, testifying, providing evidence, being a complainant, otherwise participating or refusing to participate in any investigation or process in accordance with this procedure. The district must keep confidential the identity of parties and participating persons, except as disclosure is allowed under Family Educational Rights and Privacy Act (FERPA), as required by law, or to carry out the proceedings herein. Complaints of retaliation may be filed using these procedures.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding does not constitute retaliation.

## Publication

This policy shall be made available to students, parents of students and staff members. This policy shall be prominently published in the district student handbook and on the district website. This policy shall also be made available at each school office and at the district office. The district shall post this policy on a sign in all grade 6 through 12 schools, on a sign that is at least 8.5 inches by 11 inches in size. A copy of the policy will be made available to any person upon request.

END OF POLICY

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## Legal Reference(s):

[ORS 243.706](#)  
[ORS 332.107](#)  
[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 (2018).

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2018).

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2018); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2020).

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

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

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<sup>10</sup> Retaliation includes, but is not limited to, intimidation, threats, coercion, and discrimination.

**Hazing/Harassment/Intimidation/Menacing/Dating Violence/Domestic  
Violence/Bullying/Cyberbullying – Student**

The Board is committed to providing a positive and productive learning and working environment. Hazing, harassment, dating violence, including teen dating violence, domestic violence, intimidation, menacing, bullying, and acts of cyberbullying, is unacceptable behavior by students and strictly prohibited. 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. False charges shall also be regarded as a serious offense and will result in disciplinary action or other appropriate sanctions. The District shall incorporate into staff training and into age-appropriate student education information related to the prevention of, and appropriate response to, acts of hazing, harassment, intimidation, menacing, dating violence, including teen dating violence, bullying, domestic violence and acts of cyberbullying.

Students whose behavior is found to be in violation of this policy shall be subject to discipline, up to and including expulsion. The district may also file a request with the Oregon Department of Transportation to suspend the driving privileges or the right to apply for driving privileges of a student 15 years of age or older who has been suspended at least twice or expelled for assaulting or menacing another student, staff or third party, willful damage or injury to district property, or for the use of threats, intimidation, harassment or coercion against another student, staff or third party. Students may also be referred to law enforcement officials.

The superintendent shall develop administrative regulations to implement this policy.

END OF POLICY

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**Legal Reference(s):**

[ORS 163.190](#)  
[ORS 166.065](#)  
[ORS 166.155 to -166.165](#)  
[ORS 174.100\(6\)](#)  
[ORS 332.072](#)

[ORS 332.107](#)  
[ORS 339.240](#)  
[ORS 339.250](#)  
[ORS 339.254](#)  
[ORS 339.351 to -339.366](#)

[OAR 581-021-0045](#)  
[OAR 581-021-0046](#)  
[OAR 581-021-0055](#)  
[OAR 581-022-1140](#)

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

**Cross Reference(s):**

GBN/JBA - Sexual Harassment  
JBA/GBN - Sexual Harassment  
JFCM - Threats of Violence

# OSBA Model Sample Policy

Code: JFCF

Adopted:

## [Hazing, ]Harassment, Intimidation, Bullying, [Menacing, ]Cyberbullying, Teen Dating Violence, or Domestic Violence – Student

~~(Version 2)~~

The Board, in its commitment to providing a safe, positive, and productive learning environment for all students, will consult with parents/guardians, employees, volunteers, students, administrators, and community representatives in developing this policy in compliance with applicable Oregon law.

[Hazing,] [h]arassment, intimidation or bullying[, menacing], and acts of cyberbullying by students, staff, or third parties toward students is strictly prohibited in the district. Teen dating violence is unacceptable behavior and prohibited. Each student has the right to a safe learning environment.

Retaliation against any person who is a victim of, who reports, is thought to have reported, or files a complaint about an act of [hazing,] harassment, intimidation or bullying, [menacing,] an act of cyberbullying, or teen dating violence, or otherwise participates in an investigation or inquiry is strictly prohibited. A person who engages in retaliatory behavior will be subject to consequences and appropriate remedial action. False charges shall also be regarded as a serious offense and will result in consequences and appropriate remedial action.

Students whose behavior is found to be in violation of this policy will be subject to consequences and appropriate remedial action which may include discipline, up to and including expulsion.

Staff whose behavior is found to be in violation of this policy will be subject to consequences and appropriate remedial action which may include 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 the Board.

Students, staff, or third parties may also be referred to law enforcement officials.

The [principal and the] superintendent [are] [is] responsible for ensuring that this policy is implemented.

### Definitions

“District” includes district facilities, district premises, and nondistrict property if the student 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 jurisdiction of the district.

“Third parties” include, but are not limited to, coaches, 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.

[“Hazing” includes, but is not limited to, any act that recklessly or intentionally endangers the mental health, physical health or safety of a student for the purpose of initiation or as a condition or precondition of attaining membership in, or affiliation with, any district-sponsored activity or grade level attainment[.] [(i.e., personal servitude, sexual stimulation/sexual assault, forced consumption of any drink, alcoholic beverage, drug or controlled substance, forced exposure to the elements, forced prolonged exclusion from social contact, sleep deprivation or any other forced activity that could adversely affect the mental or physical health or safety of a student);] [requires, encourages, authorizes or permits another to be subject to wearing or carrying any obscene or physically burdensome article; or assignment of pranks to be performed or other such activities intended to degrade or humiliate.] It is not a defense against hazing that the student subjected to hazing consented to or appeared to consent to the hazing.]

“Harassment, intimidation or bullying” means any act that substantially interferes with a student’s educational benefits, opportunities or performance, that takes place on or immediately adjacent to district grounds, at any district-sponsored activity, on district-provided transportation, or at any official district bus stop, that may be based on, but not limited to, the protected class status of a person, and having the effect of:

1. Physically harming a student or damaging a student’s property;
2. Knowingly placing a student in reasonable fear of physical harm to the student or damage to the student’s property; or
3. Creating a hostile educational environment including interfering with the psychological well-being of the student.

“Protected class” means a group of persons distinguished, or perceived to be distinguished, by race, color, religion, sex, sexual orientation<sup>+</sup>, gender identity, national origin, marital status, familial status, source of income, or disability.

“Teen dating violence” means:

1. A pattern of behavior in which a person uses or threatens to use physical, mental, or emotional abuse to control another person who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age; or
2. Behavior by which a person uses or threatens to use sexual violence against another person who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age.

“Domestic violence” means abuse between family and/or household members, as those terms are described in ORS 107.705.

“Cyberbullying” is the use of any electronic communication device to harass, intimidate or bully.

“Retaliation” means any acts of, including but not limited to, [hazing, ]harassment, intimidation or bullying,[ menacing,], or cyberbullying toward the victim, a person in response to an actual or apparent

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<sup>+</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 behaviors differs from that traditionally associated with the individual’s sex at birth.

reporting of, or participation in the investigation of, [hazing,] harassment, intimidation or bullying,[ menacing,] teen dating violence, acts of cyberbullying, or retaliation.

[“Menacing” includes, any act intended to place a district employee, student, or third party in fear of imminent serious physical injury.]

## **Reporting**

The [employee position title<sup>2</sup>] will take reports and conduct a prompt investigation of any reported acts of [hazing,] harassment, intimidation or bullying,[ menacing,] cyberbullying, or teen dating violence. Any employee who has knowledge of conduct in violation of this policy shall immediately report concerns to the [employee position title] who has overall responsibility for all investigations. Any employee who has knowledge of incidents of teen dating violence that took place on district property, at a district-sponsored activity, or in a vehicle used for district-provided transportation shall immediately report the incident to the [employee position title]. Failure of an employee to report any act of [hazing,] harassment, intimidation or bullying[, menacing], cyberbullying, or teen dating violence to the [employee position title] may be subject to remedial action, up to and including dismissal. Remedial action may not be based solely on an anonymous report.

Any student who has knowledge of conduct in violation of this policy or feels they have been subjected to an act of [hazing,] harassment, intimidation or bullying,[ menacing,] or cyberbullying or feel they have been a victim of teen dating violence in violation of this policy, is encouraged to immediately report concerns to the [employee position title] who has overall responsibility for all investigations. Any volunteer who has knowledge of conduct in violation of this policy is encouraged to immediately report concerns to the [employee position title]. A report made by a student or volunteer may be made anonymously. A student or volunteer may also report concerns to a teacher or counselor who will be responsible for notifying the appropriate district official.

Reports against the principal shall be filed with the superintendent. Reports against the superintendent shall be filed with the Board chair.

The person who makes the report shall be notified when the investigation has been completed and, as appropriate, the findings of the investigation and any remedial action that has been taken. The person who made the report may request that the [superintendent] review the actions taken in the initial investigation, in accordance with [administrative regulations] [district complaint procedures].

## **Notification to Parents or Guardians**

The [employee position title] shall notify the parents or guardians of a student who was subject to an act of harassment, intimidation, bullying or cyberbullying, and the parents or guardians of a student who may have conducted an act of harassment, intimidation, bullying or cyberbullying.

The notification must occur with involvement and consideration of the needs and concerns of the student who was the subject to an act of harassment, intimidation, bullying or cyberbullying. The notification is not required if the [employee position title] reasonably believes notification could endanger the student

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<sup>2</sup> [Required by ORS 339.356(2)(g). Other bracketed language regarding hazing and menacing exceeds the requirements of ORS 339.356 and is under Board authority ORS 332.107.]

who was subjected to an act of harassment, intimidation, bullying or cyberbullying or if all of the following occur:

1. The student who was subjected to an act of harassment, intimidation, bullying, or cyberbullying requests that notification not be provided to the student's parents or guardians.
2. The [employee position title] determines that notification is not in the best interest of the student who was subjected to an act of harassment, intimidation, bullying, or cyberbullying; and
3. The [employee position title] informs the student that federal law may require the student's parents and guardians to have access to the student's education record, including any requests of nondisclosure (from item 1 above).

If the [employee position title] determines the notification is not in the best interest of the student, they must inform the student of that determination prior to providing notification.

When notification is provided, the notification must occur:

1. Within a reasonable period of time; or
2. Promptly, for acts that caused physical harm to the student.

### **Training and Education**

The district shall incorporate into existing training programs for students, information related to the prevention of, and the appropriate response to, acts of harassment, intimidation or bullying, and acts of cyberbullying and this policy.

The district shall incorporate age-appropriate education about teen dating violence and domestic violence into new or existing training programs for students in grades 7 through 12.

The district shall incorporate into existing training programs for staff information related to the prevention of, and the appropriate response to, acts of harassment, intimidation or bullying, teen dating violence, domestic violence, and acts of cyberbullying and this policy.

### **Notice**

The superintendent shall be responsible for ensuring annual notice of this policy is provided in a student or staff handbook, school and district's website, and school and district office [ and the development of administrative regulations, including reporting and investigative procedures]. [ Complaint procedures, as established by the district, shall be followed.]

Domestic violence posters provided by the Oregon Department of Education (ODE) shall be posted in clearly visible locations on school campuses in accordance with rules adopted by ODE.

END OF POLICY

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

R7/18/19 10/05/21 | RS

[Hazing, ]Harassment, Intimidation, Bullying, [Menacing, ]Cyberbullying, Teen Dating Violence, or Domestic Violence – Student\*\* – JFCF

[\[ORS 163.190\]](#)  
[\[ORS 163.197\]](#)  
[ORS 107.705](#)  
[ORS 166.065](#)  
[ORS 166.155 - 166.165](#)  
[ORS 174.100](#)

[ORS 332.072](#)  
[ORS 332.107](#)  
[ORS 339.240](#)  
[ORS 339.250](#)  
[ORS 339.351 - 339.368](#)  
[OAR 581-021-0045](#)

[OAR 581-021-0046](#)  
[OAR 581-021-0055](#)  
[OAR 581-022-2310](#)  
[OAR 581-022-2370](#)  
House Bill 2631 (2021)  
House Bill 3041 (2021)

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (~~2012~~2018).



# Newberg School District 29J

Code:                   ACB  
Adopted:               12/08/20  
Orig. Code:            ACB

## All Students Belong

All students are entitled to a high quality educational experience, free from discrimination or harassment based on perceived race, color, religion, gender identity, sexual orientation, disability or national origin.

All employees are entitled to work in an environment that is free from discrimination or harassment based on perceived race, color, religion, gender identity, sexual orientation, disability or national origin.

All visitors are entitled to participate in an environment that is free from discrimination or harassment based on perceived race, color, religion, gender identity, sexual orientation, disability or national origin.

“Bias incident” means a person’s hostile expression of animus toward another person, relating to the other person’s perceived race, color, religion, gender identity, sexual orientation, disability or national origin, of which criminal investigation or prosecution is impossible or inappropriate. Bias incidents may include derogatory language or behavior directed at or about any of the preceding demographic groups.

“Symbol of hate” means a symbol, image, or object that expresses animus on the basis of race, color, religion, gender identity, sexual orientation, disability or national origin including, the noose, swastika, or confederate flag<sup>1</sup>, and whose display:

1. Is reasonably likely to cause a substantial disruption of or material interference with school activities; or
2. Is reasonably likely to interfere with the rights of students by denying them full access to the services, activities, and opportunities offered by a school.

The district prohibits the use or display of any symbols of hate on district grounds or in any district- or school-sponsored program, service, school or activity that is funded in whole or in part by monies appropriated by the Oregon Legislative Assembly, except where used in teaching curriculum that is aligned to the Oregon State Standards.

In responding to the use of any symbols of hate, the district will use non-disciplinary remedial action whenever appropriate.

The district prohibits retaliation against an individual 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.

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<sup>1</sup> While commonly referred to as the “confederate flag,” the official name of the prohibited flag is the Battle Flag of the Armies of Northern Virginia.

Nothing in this policy is intended to interfere with the lawful use of district facilities pursuant to a lease or license.

The district will use administrative regulation ACB-AR - Bias Incident Complaint Procedure to process reports or complaints of bias incidents.

END OF POLICY

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**Legal Reference(s):**

[ORS 659.850](#)  
[ORS 659.852](#)

[OAR 581-002-0005](#)  
[OAR 581-022-2312](#)

[OAR 581-022-2370](#)

*Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969).

*Dariano v. Morgan Hill Unified Sch. Dist.*, 767 F.3d 764 (9th Cir. 2014).

*State v. Robertson*, 293 Or. 402 (1982).