

**BEND-LA PINE SCHOOLS**

Administrative School District No. 1

Deschutes County, Oregon

**ADMINISTRATIVE POLICY**

Name: Non-Discrimination

Section:

Code: AC-AP\*

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The district is committed to ensuring the right of every student and employee to a safe, positive, and productive learning and working environment, and it is the policy of the Board to comply fully with the requirements of Title VI, Title VII, Title IX, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act and all accompanying regulations as well as applicable state law. To that end, the district prohibits and will not tolerate discrimination, harassment (including sexual harassment), intimidation, bullying, cyberbullying, menacing, or hazing. The district also will not tolerate teen dating violence, sexual violence, and sexual conduct with a student by a district employee. All students, employees, and volunteers of the District are subject to this policy. This prohibition applies to all district programs, services and district-sponsored and approved activities or functions regardless of where the program, service, activity or function takes place. This prohibition also applies on district-provided transportation and at any official school bus stop, and to conduct occurring outside of district grounds and/or outside of school or work hours to the extent permissible under applicable law.

**Definitions**

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

“Discrimination” means any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation, either of which is based on status as a member of a protected class.

“Harassment, intimidation or bullying,” when directed at a student of the district, 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, at any official school bus stop, may be based on, but not limited to, the protected class status of a person, or that has the effect of:

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

“Harassment, intimidation or bullying,” when directed at a district employee, means any act that substantially interferes with an employee’s ability to perform the employee’s job functions, that takes place on or immediately adjacent to district grounds, at any district-sponsored activity, or on district-provided transportation, may be based on, but not limited to, the protected class status of a person, or that has the effect of:

- a. Physically harming the employee or damaging an employee’s property;
- b. Knowingly placing an employee in reasonable fear of physical harm to the employee or damage to the employee’s property;
- c. Creating a hostile working environment, including interfering with the psychological well being of an employee.

“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., 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, or permits another to be subject to wearing or carrying any obscene or physically burdensome article, assignment of pranks to be performed or other such activities intended to degrade or humiliate.

“Menacing” includes, but is not limited to, any act intended to place a district employee, student, or third party in fear of imminent serious physical injury.

“Protected Class” means a group of persons distinguished, or perceived to be distinguished, by race, color, religion, sex, sexual orientation, national origin, marital status, familial status, source of income, or disability.

“Sexual conduct” as defined by Oregon law is any verbal or physical or other conduct by a district employee that is sexual in nature; is directed toward a student of the district; has the effect of unreasonably interfering with a student’s educational performance; and creates an intimidating, hostile, or offensive educational environment.

The definition of sexual conduct does not include behavior that would be considered child abuse as outlined by Oregon law, JHFE-AP: Reporting of Suspected Child Abuse and JHFE-AR: Reporting of Suspected Child Abuse. In any situation in which a district employee or volunteer suspects a district employee of engaging in sexual conduct towards a student, but is uncertain as to whether the conduct meets the statutory definition of abuse of a child, the district employee or volunteer shall follow the reporting procedures set forth in ORS 339.372 and in JHFE-AP: Reporting of Suspected Child Abuse for abuse of a child. The District’s Title IX Coordinator must be informed immediately of all complaints alleging sexual conduct with a student by a district employee.

“Sexual harassment” of students by employees, other students, board members, or third parties, or of employees by students, other staff, board members, or third parties, includes:

- a. A demand of sexual favors in exchange for benefits; or
- b. Unwelcome conduct of a sexual nature that has the purpose or effect of unreasonably interfering with a student’s educational performance, a staff person’s ability to perform his or her job, or that creates an intimidating, offensive, or hostile educational or work environment.

Examples of sexual harassment may include, but not be limited to: physical touching or graffiti of a sexual nature, displaying or distribution of sexually explicit drawings, pictures, written materials or coded language, 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. Sexual violence is also a form of sexual harassment.

When determining whether a hostile environment exists, relevant factors to be considered will include, but not be limited to: whether the individual viewed the environment as hostile; was it reasonable for the individual 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 district employee 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 location involving the same or other students or employees. The District's Title IX Coordinator must be informed of all sexual harassment complaints.

"Sexual violence" means physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol, or because an intellectual or other disability prevents the victim from having the capacity to give consent. The district's Title IX Coordinator must be informed of all complaints alleging sexual violence.

"Teen dating violence" means 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 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. The district's Title IX Coordinator must be informed of all complaints alleging teen dating violence.

"Third parties" include, but are not limited to: coaches, district volunteers, parents, visitors, services contractors or others engaged in district business, such as employees of businesses or other organizations participating in cooperative work programs with the district and others not directly subject to district control at inter-district and intra-district athletic competitions or other district events.

### **Complaint Procedures**

The Superintendent will publish complaint procedures providing for prompt and equitable resolution of complaints alleging a violation of this policy, and providing for thorough investigation of such complaints by a neutral party with no conflict(s) of interest related to the complaint. The complaint procedures must ensure that the district takes prompt and effective action calculated to end conduct prohibited under this policy, prevent its recurrence, and, as appropriate, remedy its effects. The complaint procedures will also protect due process and collective bargaining agreement rights of the accused.

Any district employee who witnesses or has reliable information that a student has been subjected to discrimination, harassment (including, but not limited to, sexual harassment), bullying, intimidation, hazing, menacing, sexual violence, teen dating violence, or sexual conduct with an employee in violation of this policy must immediately report his/her concerns to the building principal, Superintendent, or designee. Failure to make such a report may subject the employee to remedial action, up to and including dismissal. A student or volunteer who witnesses or has information that a student has been the subject of discrimination, harassment, bullying, intimidation, hazing, menacing, sexual violence, teen dating violence, or sexual conduct with an employee in violation of this policy should report the act to a district employee. A report by a student or volunteer may be made anonymously.

Individuals may also be referred to law enforcement officials if the alleged conduct is potentially criminal in nature. Staff may be reported to Teacher Standards and Practices Commission, as provided by OAR 584-020-0041.

In addition to a complaint filed under this policy, complainants may file a simultaneous criminal complaint if the alleged behavior is potentially criminal in nature. Direct complaints related to educational programs and services may be made to the U.S. Department of Education, Office for Civil Rights. Direct complaints related to employment may be filed with the Oregon Bureau of Labor and Industries, Civil Rights Division, or the U.S. Department of Labor, Equal Employment Opportunities Commission. The district will conduct an independent investigation of an alleged violation of this policy regardless of whether the complaint has

been referred to an outside agency. If the complaint alleges discrimination, and the complainant is not satisfied after exhausting local complaint procedures, or 90 days has elapsed, whichever occurs first, he or she may appeal in writing to the Oregon Department of Education per OAR 581-021-0049.

### **Corrective Action / Discipline**

If a complaint is substantiated, the district will take steps to prevent recurrence of the behavior. Students whose behavior is found to be in violation of this policy and students who intentionally make a false report regarding a violation of this policy will 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 of a student 15 years of age or older who has been suspended or expelled at least twice for menacing another student or employee, causing willful damage of or injury to district property or for the use of threats, intimidation, harassment or coercion. Employees whose behavior is found to be in violation of this policy and employees who intentionally make a false report regarding a 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.

The complainant shall be notified of the findings of the investigation and, if appropriate, that remedial action has been taken.

### **Retaliation Prohibited**

The initiation of a complaint in good faith about behavior that might 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 an employee 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 involving an alleged violation of this policy.

### **Distribution & Training**

The Superintendent shall be responsible for ensuring that this policy is implemented, and that notice of this policy is provided at least annually to students, staff, and third parties through staff training, student handbook(s), recruitment materials, employment applications, and the district's website. Employees will receive periodic training regarding this policy and the district's procedures for processing a complaint alleging a violation of this policy. The Superintendent shall ensure that students in grades 7-12 receive age-appropriate education regarding teen dating violence. All district schools serving grade 6-12 students and all district administrative building(s) shall post this policy on its school bulletin board(s) on a sign measuring no less than 8.5 by 11 inches in size. Each school will post the title and contact information of the person responsible for receiving reports of a violation of this policy. The district will provide a copy of this policy, as well as a description of records subject to disclosure if a complaint is substantiated, to employees at the time of hire.

Reviewed: 12/12/16, 6/4/18

Approved: 6/8/18

\* This Administrative Policy is intended to consolidate the following administrative policies:

- AC-AP: Non-Discrimination
- JBAA / GBNA-AP: Sexual Harassment
- JBA / GBN-AP: Harassment / Intimidation / Bullying / Cyberbullying
- JHFF-AP: Reporting Requirements Regarding Sexual Conduct with Students