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Confidentiality:

The professional responsibility of school counselors is to respect the right to privacy of those with whom they enter counseling relationships. Professional school counselors must keep abreast of and adhere to all laws, policies, and ethical standards pertaining to confidentiality. The counselor must not abridge this confidentiality except when there is a clear and imminent danger to the student and/or other persons, or when the counselor has obtained the consent of the student.

Responsibilities:

The professional school counselor's confidentiality responsibilities include:

1. Notifying students, parents, and staff in developmentally appropriate terms of the limits of confidentiality;
2. Seeking consultation with appropriate professionals (e.g., administrator, other counselors, or legal counsel) when considering disclosure of confidential information;
3. Maintaining and securing records necessary for providing professional services as required by laws, district procedures, and confidentiality guidelines. Student information stored and transmitted electronically is treated with the same care as traditional student records;
4. Making a reasonable effort to secure an appropriate physical space for delivery of services.

Testimony:

A certificated school counselor regularly employed and designated in such capacity by a public school is subject to the testimonial limitations set forth in ORS 40.245(1) and (2). A certificated school counselor shall not be examined in any civil action or proceeding as to any conversation between the counselor and a student which relates to the personal affairs of the student or family of the student, and which if disclosed would tend to damage or incriminate the student or family. A certificated school counselor also shall not, without the consent of the student, be examined as to any communication made by the student to the counselor in the official capacity of the counselor in any civil action or proceeding or a criminal action or proceeding in which such student is a party concerning the past use, abuse or sale of drugs, controlled substances or alcoholic liquor. Any violation of the privilege set forth in ORS 40.245 may result in the suspension of certification of the professional school counselor as provided in ORS 342.175, 342.177 and 342.180. However, in the event that the student's condition presents a clear and imminent danger to the student or to others, the counselor shall report this fact to an appropriate responsible authority or take such other emergency measures as the situation demands.

Subpoenas:

Any certificated school counselor who, in his or her capacity as an employee of the district, receives a subpoena to provide testimony in any civil, criminal, or administrative proceeding shall immediately consult with the principal of the school where the school counselor is employed. The school principal shall give a copy of the subpoena to the superintendent or designee. When the subpoena demands testimony from the school counselor concerning a specific student, the school principal shall determine whether the school counselor has information about the student the disclosure of which may be prohibited by law. The school shall then consult with either the superintendent or designee, or school legal representative, for guidance on the bounds of the school counselor's testimony.

Mandatory Child Abuse Reporting:

This policy shall not apply to a school counselor's responsibility to report and respond to cases of suspected child abuse.

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Legal References:

ORS 40.245  
ORS 326.565  
ORS 326.575  
ORS 336.187

OAR 581-022-0220  
OAR 581-022-1510  
OAR 581-022-1660

Family Educational Rights and Privacy Act, 20 USC Section 1232g; 34 CFR Part 99 (2000)

Cross References:

Policy JHFE  
Administrative Regulation JHFE-AR  
Administrative Regulation IJ-AR  
Administrative Regulation IJA-AR

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