

Sexual Harassment Complaint Procedure

I. Introduction/ Scope

The Board has established policies committing the district to the elimination of sexual harassment including sexual violence in district schools and activities, for adults and students. These procedures implement board policies JBA/GBN and GBN/JBA and state and federal laws addressing sexual harassment, including Title IX and ORS 342.704. All complaints about behavior that may violate the district's sexual harassment policy shall be promptly investigated and addressed in accordance with these procedures. Sexual harassment is strictly prohibited and shall not be tolerated. Appropriate corrective action will be taken by the district to stop the sexual harassment, prevent its recurrence and address its negative effects in the educational or employment setting.

The prohibition against sexual harassment includes harassment of students, staff members, Board members, or third parties¹ on or immediately adjacent to district property, 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. This procedure will be enforced before, during or after school hours on all school property and nondistrict property if the student or staff member is at any 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.

The procedure applies to off campus conduct that causes or threatens to cause a substantial and material disruption at school or other district property, or interferes with the rights of students or employees to be free from a hostile educational or employment environment. The procedure also applies to off duty conduct by employees which is incompatible with district job responsibilities.

II. What Is Sexual Harassment?

Sexual harassment of students, employees or third parties shall include, but is not limited to, unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct, 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 a factor in educational decisions affecting a student or in employment or assignment of employees; or

¹ "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.

3. The conduct or communication is so severe, persistent or pervasive that it has the purpose or effect of unreasonably interfering with a student's educational performance or with an employee's ability to perform job responsibilities; or creates an intimidating, offensive or hostile educational or working environment.

In determining whether the conduct or communication is "sufficiently severe, persistent or pervasive" as to create a hostile environment, the district will consider all relevant factors, including but not limited to whether the individual viewed the environment as hostile; whether it was reasonable to view the environment as hostile; the nature of the conduct; the frequency, duration and severity of the conduct; the age of the complainant; whether the alleged harasser was in a position of power over the student or employee subjected to the harassment; the number of individuals involved; the age of the alleged harasser; where the harassment occurred; and other incidents of sexual harassment at the school involving the same or other students, employees or third parties.

Conduct may be verbal, nonverbal or physical. Examples include:

- Verbal comments, such as unwelcome sexual advances, requests for sexual favors, derogatory remarks, talking about one's sexuality in front of others, spreading rumors about or rating others as to appearance, sexual activity or performance, obscene jokes, gender-based stereotyping, remarks based on a person's nonconformity with gender stereotypes;
- Nonverbal conduct, such as graffiti, display or distribution of sexually explicit drawings, pictures or written materials, text messages, or notes; and/or
- Physical conduct such as unwanted physical contact, sexual touching, fondling, sexual assault, and other forms of sexual violence.

The term "of a sexual nature" is broad and includes conduct or comments about sex (the physical act), based on gender (persons being male or female) or based on sex or gender stereotyping.

Sexual harassment can occur adult to student, student to adult, student to student, adult to adult, and by any person upon any other person, regardless of the sex, gender, sexual orientation or gender identity of those involved.

Examples of sexual harassment may include, but are not limited to:

- An employee's supervisor makes unwelcome sexual advances and the employee reasonably believes that accepting or rejecting that conduct will be used as a factor in employment decisions.
- An employee makes offensive or inappropriately suggestive comments or jokes.
- An employee displays inappropriate sexual or suggestive illustrations in the workplace or on school property.
- An employee stalks another employee.
- A school employee makes a student believe that he or she must submit to sexual conduct or sexual advances.
- A school employee makes a student believe that if the student rejects the employee's advances, it will be used as a factor in determining the student's grades.
- An employee cultivates a romantic or inappropriate social relationship with a student. Any sexual relationship between a student and a district employee is always prohibited.

- A student is repeatedly contacted by a former dating partner to the point that student is alarmed, and the student is reasonably afraid for student's own safety at school, which both students attend.
- A student is subjected to a sexual assault.

III. Consequences

Students who violate this policy are subject to discipline up to and including expulsion, counseling, sexual harassment awareness training, loss of privileges, and/or transfer to another school as appropriate. The age and maturity of the student(s) involved and other relevant factors will be considered in determining appropriate action.

Employees who violate this policy are subject to discipline up to and including dismissal, training, involuntary reassignment, and cancellation of contracts.

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 appropriate district official, and which may include cancellation of contracts or privileges and restrictions on facilities access. 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.

Additionally, the district may report individuals in violation of this policy to law enforcement officials.

IV. Procedures for Incidents of Harassment Against Students

A. Reporting a Complaint

1. Any student who has knowledge of conduct in violation of this policy or feels they are a victim of sexual harassment is strongly encouraged to immediately report their concerns to the school administrator. Students may also report concerns to a teacher, counselor or other school employee, who will promptly notify the appropriate district official. An optional *Student Safety Reporting Form* is available at each school.

Students may also report concerns to the district Title IX Coordinator at titleixcoordinator@4j.lane.edu or may use the formal, district-level complaint form available on the district website at www.4j.lane.edu/contact/complaints.

2. Any district employee or third party who witnesses or has knowledge or belief of conduct that may be harassment toward a student shall intervene to attempt to stop an act and shall promptly report the conduct to the school administrator. If the school administrator is involved, the alternative reporting procedure shall be followed.
3. The administrator of each school is the school compliance official for that school. The school compliance official shall be responsible for posting required notices, receiving reports and complaints, providing written notice of rights to complainants, taking interim measures when appropriate, conducting appropriate investigations, implementing any corrective and remedial measures, and providing notice of outcome. In a particular case, the district Title IX Coordinator or Superintendent may designate, in writing, an official other than the school compliance officer to carry out these responsibilities.

4. The district Title IX Coordinator is the person designated by the Superintendent to coordinate compliance with Title IX, and to monitor and receive complaints of sexual harassment and discrimination against students. The Title IX Coordinator may be contacted by phone at 541-790-7606, by email at titleixcoordinator@4j.lane.edu, or by mail at 200 North Monroe Street, Eugene OR 97402.

B. District Actions Upon Receipt of Report — Students

The school or district compliance officer receiving the complaint shall:

1. Document the report.
2. By the end of the day, if possible, contact the parents or guardians of the student alleged to have been harassed. Inform them of the allegation and the process. Provide the student or the student's parents with the *Notice of Rights to Complainants of Sexual Harassment* available on the district website.
3. Contact the parents or guardians of the student accused of engaging in sexual harassment, or other responding party, to inform them of the allegation and process. When investigating an incident that is likely to lead to discipline, the contact must be made before the interview in an email or letter that describes the potential violation, the identities of the parties involved, the date and location of the alleged incident, the specific policy or code of conduct section violated, and the precise conduct allegedly constituting the potential violation.
4. Immediately notify the district Title IX Coordinator of: (1) complaints of a particularly egregious nature, such as stalking, sexual misconduct, or assault; or (2) complaints involving a district employee against a student. When a complaint involves the conduct of a district employee or third party against a student, the complaint shall be investigated at the district level and the Assistant Superintendent for Administrative Services shall also be notified.
5. When circumstances trigger the employee's mandatory reporting obligations under Oregon law, immediately make a child abuse report to Department of Human Services or law enforcement. The district will conduct its own investigation, even when another agency has initiated an investigation.
6. Take interim measures, as appropriate, before the conclusion of the investigation, to protect students and to address the impact of prohibited conduct. Interim measures may include schedule modifications, no contact agreements, academic supports, increased supervision, counseling and similar accommodations.
7. Promptly undertake or cause to be undertaken an appropriate investigation. The investigation will be completed within thirty (30) days from receipt of the complaint, unless impracticable. An investigation will generally include personal interviews with the person who is the target of the harassment, the person about whom the complaint is made, and others who may have knowledge of the incident, and may include other methods of gathering information.
8. Determine the facts, based on investigation, and whether the evidence substantiates a violation of district's policy. Reduce the investigation findings to writing.

In determining whether district policy has been violated, the district applies a preponderance of evidence standard, meaning that the evidence shows that it is more likely than not that the conduct occurred. The district will consider the age and level of understanding of the parties involved, the nature of the behavior, past incidents or patterns of behavior, the relationships between the parties, the context of the alleged conduct, and the credibility of witnesses.

C. District Actions Following Investigation — Students

1. If harassment is found to have occurred, the district will take appropriate and effective action to stop the sexual harassment, prevent its recurrence and address its negative effects in the educational or employment setting.

A student or other person found to have violated this policy will be provided appropriate corrective and/or disciplinary action.

Appropriate restorative action for the target of the harassment, such as follow up by administration, counseling, academic support, will be provided. As appropriate, the school compliance official shall also make and implement medium and long-range plans to identify and rectify problems in the school climate, such as reaffirming the district policy against sexual harassment.

2. If the investigation does not substantiate a violation of the district's sexual harassment policy, but does substantiate violation of another rule or policy, the school may take disciplinary action in accordance with the code of conduct.
3. The official conducting the investigation shall notify both parties in writing that the investigation is concluded, and whether a violation of the policy was found to have occurred.

The outcome notice to the complainant should identify any individual remedies offered to the complainant or any sanctions imposed on the responding party that directly relate to the complainant (such as whether the responding party has been ordered to stay away from the complainant). The notice may include other steps the school has taken or intends to take to eliminate the hostile environment if one was found.

V. Procedures for Incidents of Harassment Against Employees

A. Reporting a Complaint

1. Any district employee or other third party who feels they are a victim of sexual harassment must report their concerns immediately or as soon as possible. Employees are encouraged to make such report directly to their building administrator or supervisor. If the administrator or supervisor is involved, the alternative reporting procedure should be followed.

Employees may also report concerns to a Human Resources administrator, to the Assistant Superintendent for Administrative Services at eeo@4j.lane.edu or the Superintendent, who has overall responsibility for all investigations.

2. Complaints may be oral or in writing. A formal complaint form is available on the district website at www.4j.lane.edu/contact/complaints.

3. Any district employee or third party who witnesses or has knowledge or belief of conduct that may be harassment toward an employee or third party, shall promptly report the conduct to the employee's direct administrator or supervisor. If the administrator or supervisor is involved, the alternative reporting procedure should be followed.
4. The district Assistant Superintendent for Administrative Services is the person designated by the Superintendent to answer questions about, monitor and receive complaints of sexual harassment and discrimination against employees. The Assistant Superintendent may be contacted at 541-790-7660, by email at eeo@4j.lane.edu, or by mail at 200 North Monroe Street, Eugene OR 97402.

B. District Actions Upon Receipt of Report — District Employees

The administrator, supervisor or district compliance officer receiving the complaint shall:

1. Document the report.
2. Promptly notify the appropriate Human Resources administrator. The complaint shall be investigated in collaboration with a Human Resources administrator or other appropriate district official.
3. Promptly provide the employee a copy of the district's *Notice of Rights to Complainants of Sexual Harassment* available on the district website.
4. Take interim measures as appropriate, before the conclusion of the investigation, to protect the parties involved in the complaint process. Interim measures may include placing the accused on paid administrative leave, schedule modifications, no contact directives, and similar accommodations.
5. Promptly undertake or cause to be undertaken an appropriate investigation. The investigation will be completed within thirty (30) days from receipt of the complaint, unless impracticable. An investigation will generally include personal interviews with the person who is the target of the harassment, the person about whom the complaint is made, and others who may have knowledge of the incident, and may include other methods of gathering information.
6. Determine the facts, based on investigation, and whether the evidence substantiates a violation of district's policy. Reduce the investigation findings to writing.

The district applies a preponderance of evidence standard, meaning that the evidence shows that it is more likely than not that the conduct occurred. In determining whether the policy has been violated, the district will consider the facts and surrounding circumstances, the nature of the behavior, past incidents or patterns of behavior, the relationships between the parties, the context of the alleged conduct, and the credibility of witnesses.

C. District Action Following Investigation — District Employees

1. If harassment is found to have occurred, the district will take appropriate and effective action to stop the sexual harassment, prevent its recurrence and address its negative effects in the educational or employment setting.

An employee or other person found to have violated this policy will be provided appropriate corrective and/or disciplinary action.

Persons found to have been subjected to harassment will have appropriate district services made reasonably available to them. Depending on the circumstances, the district will also consider systemic measures, such as retraining or reaffirming the district policy against sexual harassment.

2. If the investigation does not substantiate a violation of the district's sexual harassment policy, but does substantiate violation of another rule, policy or standard of conduct, the district may take disciplinary action to address that violation.
3. The official conducting the investigation shall notify both parties in writing that the investigation is concluded, and whether a violation of the policy was found to have occurred.

The outcome notice to the complainant should identify any individual remedies offered to the complainant or any sanctions imposed on the responding party that directly relate to the complainant (such as whether the responding party has been ordered to stay away from the complainant). The notice may include other steps the school has taken or intends to take to eliminate the hostile environment if one was found.

VI. Other Considerations

A. Alternative Reporting Procedure

A person shall not be required to report prohibited conduct to the person alleged to have committed the conduct.

If the complainant is a district employee with a concern about the employee's supervisor, the complaint may instead be filed with the Assistant Superintendent for Administrative Services at eeo@4j.lane.edu, with a Human Resources administrator, or with the Superintendent's office.

If a complaint by or on behalf of a student involves a school administrator, the complaint should be filed directly with the district Title IX Coordinator at titleixcoordinator@4j.lane.edu. If the complaint involves the Title IX Coordinator, it should be filed directly with the Superintendent.

If the complaint involves the Superintendent, the complaint should be filed with the school board. If the complaint involves a school board member or the board as a whole, the complaint should be filed with the board chair. If the complaint involves the board chair, the complaint shall be filed directly with the school board vice chair. The mailing address and telephone number is: 200 North Monroe Street, Eugene OR 97402, 541-790-7706.

B. No Conflict of Interest

A person free of actual or reasonably perceived conflicts of interest and biases for or against a party must lead the investigation. If a specific complaint could involve a conflict, the compliance officer should consult with district legal counsel.

C. Notice of Rights to Complainants of Sexual Harassment

The *Notice of Rights to Complainants of Sexual Harassment* shall include:

1. The rights of the student, student's parents, employee, person or person's parents who filed the complaint;
2. Information about the internal complaint processes available through the school or district that the complainant may pursue;
3. Notice that civil and criminal remedies that are not provided by the school or district may be available to the complainant through the legal system and that those remedies may be subject to statutes of limitation;
4. Information about services available to the complainant through the school or district including any counseling services, nursing services or peer advising;
5. Information about the privacy rights of the complainant and legally recognized exceptions to those rights for internal complaint processes and services available through the school or district; and
6. Information about, and contact information for, state and community-based services and resources that are available to persons who have experienced sexual harassment.

D. No Retaliation

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

E. Criminal Investigation

If a criminal investigation has been started, the district should proceed with its investigation unless, after conferring with law enforcement, it is determined that proceeding would impede the criminal investigation. When possible, the district investigator should be present for witness interviews by law enforcement. If the district's internal investigation has been suspended pending a criminal investigation, the district's internal investigation will resume (a) after law enforcement has finished gathering its evidence, or (b) at the direction of the district compliance official or legal counsel. Investigations are expected to proceed without undue delay.

VII. Confidentiality

District employees with knowledge of conduct in violation of this policy must report the same to the appropriate compliance official and cannot promise confidentiality.

When a student complainant reports harassment but requests confidentiality or requests that an investigation not be pursued, the school or district compliance officer will explain that the request for confidentiality may limit the district's ability to investigate the allegation or take corrective action, and also that the district prohibits retaliation and will take strong responsive action if retaliation occurs. If the complainant continues to request that an investigation not be pursued, or that the complainant's identity not be disclosed, the district will need to determine whether or not it can honor such a request while still providing a safe and nondiscriminatory environment. Even when the district's ability to respond fully to an individual allegation is limited, such as when honoring a student's request for confidentiality, the district will use other available, reasonable means to investigate and respond to the harassment.

Complainants shall be informed by the school or district compliance official that due process requirements may require that the district release all of the information about the complaint to the accused, so the identity of the complainant may not remain confidential.

Records created or provided as a result of a complaint will be kept confidential, except as necessary to comply with district policy and procedures or law.

VIII. Appeal

If a complainant or respondent is dissatisfied with the district's action or inaction in resolving a complaint brought pursuant to these procedures, they may appeal by filing a complaint with the superintendent's office using the complaint form available on the district website or from the superintendent's office.

The formal complaint process in district administrative rule KL-AR shall apply. The Superintendent has discretion to consider the appeal at Step 2 – Superintendent Level – in appropriate cases. Additionally, the timelines in KL-AR may be modified by the Superintendent when necessary to complete a thorough review.

These procedures shall not preclude the application of available grievance procedures in a collective bargaining agreement.

IX. Concurrent Claims and Remedies

The district encourages complainants to follow the internal district procedures provided by this administrative rule. However, the use of this procedure does not deny the right of any person to simultaneously report or pursue other administrative, civil or criminal remedies, which may include filing a complaint with agencies including the Oregon Department of Education, the Office for Civil Rights of the U.S. Department of Education, or the Oregon Bureau of Labor and Industries. Civil and criminal remedies not provided by the school or school district may be available through the legal system and such remedies may be subject to statutes of limitation.