

# OSBA Model Sample Policy

Code: AC-AR  
Adopted:

## Discrimination Complaint Procedure

Complaints regarding discrimination or harassment, on any basis protected by law, shall be processed in accordance with the following procedures:

Step 1: <sup>[1]</sup>Complaints may be oral or in writing and must be filed with the [principal]. Any staff member that receives an oral or written complaint shall report the complaint to the [principal].

The [principal] shall investigate and determine the action to be taken, if any, and reply in writing, to the complainant within [10] school days of receipt of the complaint.

Step 2: If the complainant wishes to appeal the decision of the [principal], the complainant may submit a written appeal to the superintendent [or designee] within [five] school days after receipt of the [principal]'s response to the complaint.

The superintendent [or designee] shall review the [principal]'s decision within [five] school days and may meet with all parties involved. The superintendent [or designee] will review the merits of the complaint and the [principal]'s decision. The superintendent [or designee] will respond in writing to the complainant within [10] school days.

Step 3: If the complainant is not satisfied with the decision of the superintendent [or designee], a written appeal may be filed with the Board within [five] school days of receipt of the superintendent's [or designee's] response to Step 2. The Board may decide to hear or deny the request for appeal at a Board meeting. ~~If the Board decides to hear the appeal, the Board may meet with the concerned parties and their representative [at the next regular or special Board meeting] [a Board meeting].~~ The Board's decision will be final and will address each allegation in the complaint and contain reasons for the Board's decision. A copy of the Board's final decision shall be sent to the complainant in writing or electronic form within [10] days of this meeting.

If the [principal] is the subject of the complaint, the individual may start at Step 2 and should file a complaint with the superintendent [or designee].

If the superintendent is the subject of the complaint, the complaint may start at Step 3 and should be referred to the Board chair. [The Board may refer the investigation to a third party.]

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<sup>1</sup> [For district information. The district's timeline established by each step of the district's complaint procedure must be within 30 days of the submission of the complaint at any step, unless the district and complainant have agreed in writing to a longer time period for that step. The district's complaint procedure should not exceed a total of 90 days from the initial filing of the complaint, regardless of the number of steps involved, unless the district and the complainant have agreed in writing to a longer time period. (OAR 581-002-0005)]

Complaints against the Board as a whole or against an individual Board member, may start at Step 3 and should be submitted to the Board chair and may be referred to district counsel. Complaints against the Board chair may start at Step 3 and be referred directly to the ~~[district counsel]~~ [Board vice chair]. The timelines established in each step of this procedure may be extended upon mutual consent of the district and the complainant in writing[, but will not be longer than 30 days from the date of the submission of the complaint at any step]. The overall timeline of this complaint procedure may be extended beyond 90 days from the initial filing of the complaint upon written mutual consent of the district and the complainant.

The complainant, if a person who resides in the district[, ] [or] a parent or guardian of a student who attends school in the district[ or a student,] is not satisfied after exhausting local complaint procedures, the district fails to render a written decision within 30 days of submission of the complaint at any step or fails to resolve the complaint within 90 days of the initialing filing of the complaint, may appeal<sup>2</sup> the district's final decision to the Deputy Superintendent of Public Instruction under Oregon Administrative Rules (OAR) 581-002-0001 – 581-002-0023.

#### **Charter Schools of which the District Board is a Sponsor**

~~[The district Board, [through its charter agreement with [name of charter school sponsored by the district board]] [through a board resolution] [through this administrative regulation], will review an appeal of a decision reached by the Board of [name of public charter school] on a complaint alleging violation of Oregon Revised Statute (ORS) 659.850 or Oregon Administrative Rule (OAR) 581-021-0045 or 581-021-0046 (Discrimination). A complainant may appeal will submit such appeal to the [superintendent] [Board chair] on behalf of the district Board within [30] days of receipt of the decision from the public charter school board. A final decision reached by this district Board may be appealed to the Oregon Department of Education under OAR 581-002-0001 – 581-002-0023.]~~

**OR**

~~[The district Board, [through its charter agreement with [name of public charter school sponsored by the district board]] [through a board resolution] [through this administrative regulation], will not review an appeal of a decision reached by the Board of the [name of public charter school] on a complaint alleging a violation of Oregon Revised Statute (ORS) 659.850 or Oregon Administrative Rule (OAR) 581-021-0045 or 581-021-0046 (Discrimination), for which the district Board has jurisdiction, and recognizes a decision reached by the Board of [name of public charter school] as the district Board's final decision. A final decision reached by this district Board may be appealed to the Oregon Department of Education under OAR 581-002-0001 – 581-002-0023.]~~

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<sup>2</sup> An appeal must meet the criteria found in OAR 581-002-0005(1)(a).

**DISCRIMINATION COMPLAINT FORM**

Name of Person Filing Complaint \_\_\_\_\_ Date \_\_\_\_\_ School or Activity \_\_\_\_\_

Student/Parent  Employee  Job applicant  Other  \_\_\_\_\_

Type of discrimination:

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Race                      | <input type="checkbox"/> Mental or physical disability | <input type="checkbox"/> Age  |
| <input type="checkbox"/> Color                     | <input type="checkbox"/> Marital status                | <input type="checkbox"/> Sexual orientation                             |
| <input type="checkbox"/> Religion                  | <input type="checkbox"/> Familial status               | <input type="checkbox"/> Pregnancy                                      |
| <input type="checkbox"/> Sex                       | <input type="checkbox"/> Economic status               | <input type="checkbox"/> Discriminatory use of a Native American mascot |
| <input type="checkbox"/> National or ethnic origin | <input type="checkbox"/> Veterans' status              | <input type="checkbox"/> Other _____                                    |

Specific complaint: (Please provide detailed information including names, dates, places, activities and results of the discussion.) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Who should we talk to and what evidence should we consider? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Suggested solution/resolution/outcome: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This complaint form should be mailed or submitted to the [principal].

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.

## OSBA Model Sample Policy

Code: BBF  
Adopted:

### Board Member Standards of Conduct

{Version 1}

Commented [JO1]: Cleaner version - I recommend adopting Version 1

Individual Board members and the Board as a public entity must comply with ethics laws for public officials.

Board members will treat other Board members, the superintendent, staff and the public with dignity and courtesy and will provide an opportunity for all parties to be heard with due respect for their opinions.

Board members will recognize the superintendent as the chief executive officer to whom the Board has delegated administrative authority to establish regulations and oversee the implementation of Board policy.

~~A Board member has the right to express personal opinions. When expressing such opinions, a Board member expresses personal opinions in public, the Board member should clearly identify the opinions as personal.~~

A Board member will respect the privacy rights of individuals when dealing with confidential information gained through association with the district.

A Board member will keep information and documents discussed in executive session confidential.

~~A Board member will utilize social media websites judiciously by not posting or not post confidential information or documents about students, staff or district business online, including but not limited to, on social media.~~

Board members will treat fellow Board members, staff, students and the public with respect while posting online or to social media and will adhere to Oregon Public Meetings Laws, including when communicating with other Board members via websites or other electronic means.

~~A Board member is a mandatory reporter of child abuse. A Board member having reasonable cause to believe that any child with whom the Board member comes in contact with has suffered abuse or that any person with whom the Board member comes in contact with has abused a child shall immediately make an oral report by telephone or otherwise to the local Department of Human Services (DHS), to the designee of the department or to a local law enforcement within the county where the person making the report is located at the time of contact.~~

END OF POLICY

**Legal Reference(s):**

ORS 162.015 - 162.035  
ORS 162.405 - 162.425  
ORS 192.610 - 192.710  
ORS 244.040

ORS Chapter 244  
ORS 332.055  
ORS 419.005  
ORS 419.010

ORS 419.015  
ORS 419.020



## OSBA Model Sample Policy

Code: BBF  
Adopted:

### Board Member Standards of Conduct

(Version 2)

Commented [J01]: I recommend adopting Version 1 -- cleaner and easier to read

A Board member should:

1. Comply with ethics laws for public officials;
2. Understand that the Board sets the standards for the district through Board policy. Board members do not manage the district on a day-to-day basis;
3. Understand that the Board makes decisions as a team by a quorum vote of the Board. Individual Board members may not commit the Board to any action;
4. Respect the right of other Board members to have opinions and ideas which differ;
5. Recognize that decisions are made by a majority quorum vote and should be supported by all Board members. Such decisions should be supported by all Board members;
6. Make decisions only after the facts are presented and discussed;
7. Understand the chain of command and refer problems or complaints to the proper administrative office;
8. Recognize that the Board must comply with the Public Meetings Law and only has authority to make decisions at official, properly noticed Board meetings;
9. Insist that all Board and district business is ethical and honest;
10. Be open, fair and honest — no hidden agendas;
11. Understand that Board members will receive information that is confidential and cannot be shared;
12. Recognize that the superintendent is the Board's adviser employee and designated as the chief executive officer of the district;
13. Take action only after hearing the superintendent's recommendations;
14. Refuse to bring personal or family problems into Board considerations;
15. Give the district staff the respect and consideration due to skilled, professional employees;
16. Present personal criticism of district operations to the superintendent, when appropriate, not to district staff;

17. Respect the right of the public to attend and observe Board meetings;
18. Respect the right of the public to be informed about district decisions and school operations as allowed by law;
19. Remember that content discussed in executive session is confidential;
20. Use social media, websites, or other electronic communication judiciously, respectfully, and in a manner that does not violate Oregon's Public Meetings Laws;
21. When using ~~posting online or to social media websites~~, Board members will treat and refer to other Board members, staff, students and the public with respect, and will not post confidential information about students, staff or district business;
22. ~~Never post confidential information about students, staff or district business on any website.~~

~~23.22~~ A Board member is a mandatory reporter of child abuse. A Board member having reasonable cause to believe that any child with whom the Board member comes in contact with has suffered abuse or that any person with whom the Board member comes in contact with has abused a child shall immediately make an oral report by telephone or otherwise to the local Department of Human Services (DHS), to the designee of the department or to a local law enforcement within the county where the person making the report is located at the time of contact.

END OF POLICY

**Legal Reference(s):**

ORS 162.015 - 162.035  
ORS 162.405 - 162.425  
ORS 192.610 - 192.710

ORS Chapter 244  
ORS 332.055  
ORS 333.005

ORS 332.010  
ORS 332.015  
ORS 332.020

# OSBA Model Sample Policy

Code: BBFC  
Adopted:

## Reporting of Suspected Abuse of a Child

A Board member is a mandatory reporter of child abuse. A Board member having reasonable cause to believe that any child with whom the Board member comes in contact with has suffered abuse or that any person with whom the Board member comes in contact with has abused a child shall immediately notify the Oregon Department of Human Services (DHS) or local law enforcement pursuant to Oregon Revised Statute (ORS) 419B.015.

The Board member making a report of child abuse, as required by ORS 419B.010, shall make an oral report by telephone or otherwise to the local office of the Department of Human Services, to the designee of the department or to a law enforcement agency within the county where the Board member making the report is located at the time of the contact.

The report shall contain, if known: the names and addresses of the child and the parents of the child or other persons responsible for the care of the child; the child's age; the nature and extent of the abuse, including any evidence of previous abuse; the explanation given for the abuse; and any other information that the Board member making the report believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator.

END OF POLICY

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### Legal Reference(s):

ORS 332.107  
ORS 419B.005

ORS 419B.010  
ORS 419B.015

Senate Bill 415 (2019)



# OSBA Model Sample Policy

Code: BDC  
Adopted:

## Executive Sessions

The Board may meet in executive session to discuss subjects allowed by statute but may not take final action except for the expulsion of a student and matters pertaining to or examination of the confidential medical records of a student, including that student's educational program.

An executive session may be convened by order of the Board chair, upon request of three Board members or by common consent of the Board for a purpose authorized under Oregon Revised Statute (ORS) 192.660 during a regular, special or emergency meeting. The presiding officer will announce the executive session by identifying the authorization under ORS 192.660 for holding such session and by noting the subject of the executive session.

The Board may hold an executive session:

1. To consider the employment of a public officer, employee, staff member or individual agent. (ORS 192.660(2)(a))
2. To consider the dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent who does not request an open hearing. (ORS 192.660(2)(b))
3. To conduct deliberations with persons designated by the governing body to carry on labor negotiations. (ORS 192.660(2)(d))
4. To conduct deliberations with persons designated by the governing body to negotiate real property transactions. (ORS 192.660(2)(e))
5. To consider information or records that are exempt by law from public inspection. (ORS 192.660(2)(f))
6. To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. (ORS 192.660(2)(h))
7. To review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing. (ORS 192.660(2)(i))
8. To consider matters relating to school safety or a plan that responds to safety threats made toward a school. (ORS 192.660(2)(k))
9. To review the expulsion of a minor student from a public elementary or secondary school. (ORS 332.061(1)(a))

10. To discuss matters pertaining to or examination of the confidential ~~medical records~~ of a student, ~~including that student's educational program.~~ (ORS 332.061(1)(b))

Members of the press may attend executive sessions except those matters pertaining to:

1. Deliberations with persons designated by the Board to carry on labor negotiations;
2. Hearings on the expulsion of a minor student or examination of the confidential ~~medical records~~ of a student ~~including that student's educational program;~~ and
3. Current litigation or litigation likely to be filed if the member of the news media is a party to the litigation or is an employee, agent or contractor of a news media organization that is a party to the litigation.

If an executive session is held pursuant to ORS 332.061, the following shall not be made public: the name of the minor student; the issue, including the student's confidential ~~medical records and educational program;~~ the discussion; and each Board member's vote on the issue.

Minutes shall be kept for all executive sessions.

Content discussed in executive sessions is confidential.

END OF POLICY

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**Legal Reference(s):**

ORS 192.610-660-192.710  
ORS 332.045

ORS 332.061

House Bill 2514 (2019)

# OSBA Model Sample Policy

Code: BDDG  
Adopted:

## Minutes of Board Meetings

The Board secretary will take written minutes of all Board meetings. The written minutes will be a true reflection of the matters discussed at the meeting and the views of the participants. The minutes will include, but not be limited to, the following information:

1. All members of the Board who were present;
2. All motions, proposals, resolutions, orders and measures proposed and their disposition;
3. The results of all votes and the vote of each member by name;
4. The substance of any discussion on any matter;
5. Any other information required by law.

All minutes shall be available to the public within a reasonable time. The public and patrons of the district may receive, upon request, copies of minutes from the [administration office]. A copy of the minutes of each regular and special Board meeting as they are drafted for approval will be distributed after such meeting to each Board member and administrator.

The district will maintain a hard copy<sup>1</sup> of the meeting minutes and make them available to staff and other interested patrons.

Minutes of executive sessions will be kept in accordance with the requirements of Oregon's Public Meetings Law with essentially the same level of detail as for public sessions. If disclosure of material in the executive session minutes would be inconsistent with the purpose for which executive session was held under Oregon Revised Statute (ORS) 192.660, the material may be withheld from disclosure.

If an executive session is held pursuant to ORS 332.061, the following shall not be made public: the name of the minor student; the issue, including a student's confidential ~~medical records and that student's educational program~~; the discussion; and each Board member's vote on the issue.

END OF POLICY

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### Legal Reference(s):

ORS 192.610 - 192.710

ORS 332.061

House Bill 2514 (2019)

Letter Opinion, Office of the OR Attorney General (Nov. 20, 1970).

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<sup>1</sup> Oregon Administrative Rule 166-400-0010(9)

## OSBA Model Sample Policy

Code: GBEDA  
Adopted:

### Drug and Alcohol Testing and Record Query - Transportation Personnel \*

(This policy is required if the district operates their own transportation services, or if any district staff is required to have a commercial driver's license (CDL).)

(Version 1)

Commented [SO1]: USE Version 1

In a continuing effort to prevent accidents and injuries resulting from the use of drugs and misuse of alcohol by drivers of commercial motor vehicles, the district shall establish a drug and alcohol misuse prevention program. The district's program shall meet the requirements of the Omnibus Transportation Employee Testing Act of 1991. The district or its transportation provider shall have an in-house drug and alcohol testing program or be a member of a consortium that provides testing that meets the federal regulations, and shall annually certify this information to the Oregon Department of Education (ODE). The district's program shall meet the requirements of the Omnibus Transportation Employee Testing Act of 1991. The district or its transportation provider shall comply with the reporting and pre-employment and annual query requirements of the Federal Motor Carrier Safety Administration (FMCSA).

The superintendent will develop administrative regulations as needed to implement the district's program including such provisions for pre-employment, reasonable suspicion, random, post-accident, return-to-duty and follow-up testing as may be necessary. The regulations will include training, education and other assistance to employees to promote a drug- and alcohol-free environment.

END OF POLICY

#### Legal Reference(s):

ORS 657.176  
ORS 825.415  
ORS 825.418

OAR 581-053-0220(3)(h)  
OAR 581-053-0230(9)(i)  
OAR 581-053-0420(4)(b)(B)(ii)  
OAR 581-053-0430(13),(14)

OAR 581-053-0531(12),(13)  
OAR 581-053-0615(2)(c)(D)(ii)  
OAR 581-053-0620(1)(d)

Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. §§ 31301-31317 (2012); 49 C.F.R. Parts 40, 382, 391-395 (2017).

# OSBA Model Sample Policy

Code: GBEA-AR  
Revised/Reviewed:

## Workplace Harassment Reporting and Procedure

Any district employee who believes they have been a victim of workplace harassment may file an oral or written report consistent with this administration regulation, may file a report through the Bureau of Labor and Industries' (BOLI) complaint resolution process, or under any other available law.

Additional information regarding the filing of a report may be obtained through the principal, compliance officer or superintendent.

A complaint alleging an unlawful employment practice as described in ORS 659A.030, 659A.082 or 659A.112 or section 4 of Senate Bill 479 (2019) must be filed no later than five years after the occurrence of the alleged unlawful employment practice.

All documentation related to workplace harassment complaints may become part of the personnel file of the employee who is the alleged harasser, as appropriate. Additionally, a copy of all workplace harassment reports, complaints, and documentation will be maintained by the district as a separate confidential file and stored in the district office.

### Investigation Procedure

The [position title(s)] [is] [are] responsible for investigating reports concerning workplace harassment. The investigator(s) shall be a neutral party having had no involvement in the report presented. If the alleged workplace harassment involves [position title(s)], the employee may report to [alternative position title(s)]. All reports of alleged workplace harassment behavior shall be investigated.

Commented [S01]: Superintendent

Commented [S02]: Superintendent

Commented [S03]: School Board Chair

The investigator shall:

1. Document the alleged, reported incident of workplace harassment;
2. Provide information about legal resources and counseling and support services, which may include district-provided assistance services available to the district employee;
3. Provide a copy of the district's Board policy GBEA - Workplace Harassment and this administrative regulation to the district employee; and
4. Complete the following steps:

Step 1 Promptly initiate an investigation. The investigator will arrange such meetings as may be necessary to discuss the issue with all concerned parties within [five] working days after receipt of the report. The parties will have an opportunity to submit evidence and a list of witnesses. All findings of the investigation, including the response of the alleged harasser, shall be reduced to writing. The investigator shall notify the complainant in writing that the

investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law.

[A copy of the report, complaint, or other documentation about the incident, and the date and details of notification to the complainant of the results of the investigation, together with any other documentation related to the workplace harassment incident, including disciplinary action taken or recommended, shall be forwarded to the [superintendent] [human resources office].]

Step 2 If a complainant is not satisfied with the decision at step 1, the complainant may submit a written appeal to the [superintendent] [or designee]. Such appeal must be filed within [10] working days after receipt of the step 1 decision. The [superintendent] [or designee] shall review the investigator's report and findings. The [superintendent] [or designee] will arrange such meetings with the complainant and other affected parties as deemed necessary by the [superintendent] [or designee] to discuss the appeal. The [superintendent] [or designee] shall provide a written decision to the complainant within [10] working days after receipt of the appeal.

[Step 3] If a complainant is not satisfied with the decision at Step 2, the complainant may submit a written appeal to the Board. Such appeal must be filed within [10] working days after receipt of the Step 2 decision. The Board will review the findings and conclusion of the [superintendent] [or designee] in a public meeting to determine what action is appropriate. Appropriate action may include, but is not limited to, holding a hearing, requesting additional information, and adopting the [superintendent's] [or designee's] decision as the district's final decision.

If the Board conducts a hearing, the complainant shall be given an opportunity to present the appeal at a Board meeting. The Board may hold the hearing in executive session if the subject matter qualifies under Oregon law. The parties involved may be asked to attend such hearing for the purposes of making further explanations and clarifying the issues. The Board shall decide, within [20] days, in open session what action, if any, is warranted. The Board shall provide a written decision to the complainant within [10] working days following completion of the hearing.

If the Board chooses not to hear the appeal, the [superintendent's] decision in Step 2 is final.]

Reports involving the superintendent should be referred to the Board chair on behalf of the Board. The Board chair will cause the information<sup>1</sup> required to be issued to the complainant as described in this administrative regulation. The Board chair shall present the complaint to the Board at a Board meeting. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. The Board may hold the hearing in executive session if the subject matter qualifies under Oregon law. The Board shall decide, within [30] days, in open session what action if any is warranted. The Board chair shall notify the

<sup>1</sup> Provide information about legal resources and counseling and support services, which may include district-provided assistance services available to the district employee, and a copy of the district's Board policy GBEA - Workplace Harassment and this administrative regulation to the district employee.

complainant in writing within [10] days that the investigation is concluded and if a violation of the policy was found to have occurred to the extent allowable by law.

**Follow-up Procedures**

The [position title] will follow up with the district employee of the alleged harassment once every three months for the calendar year following the date on which the [position title] received a report of harassment, to determine whether the alleged harassment has stopped or if the employee has experienced retaliation. The [position title] will document the record of this follow-up. The [position title] will continue follow-up in this manner until and unless the employee directs the [position title] in writing to stop.

Commented [S04]: Superintendent

Commented [S05]: Superintendent

Commented [S06]: Superintendent

Commented [S07]: Superintendent

Commented [S08]: Superintendent

**Other Reporting Options and Filing Information**

Nothing in this policy prevents an employee from filing a formal grievance in accordance with a collective bargaining agreement (CBA) or a formal complaint with BOLI or the Equal Employment Opportunity Commission (EEOC); or if applicable, the U.S. Department of Labor (USDOL) Civil Rights Center. Review the CBA for any provision that requires an employee to choose between the complaint procedure outlined in the CBA and filing a BOLI or EEOC complaint.

Nothing in Board policy GBEA - Workplace Harassment or this administrative regulation prevents any person from seeking remedy under any other available law, whether civil or criminal.

An employee or claimant must provide advance notice of claim against the employer as required by ORS 30.275.

**Filing a report with the U.S. Department of Labor (USDOL) Civil Rights Center.**

An employee whose agency receives federal financial assistance from the USDOL under the Workforce Innovation and Opportunity Act, Mine Safety and Health Administration, Occupational Safety and Health Administration, or Veterans' Employment and Training Service, may file a complaint with the state of Oregon Equal Opportunity Officer or directly through the USDOL Civil Rights Center. The complaint must be written, signed and filed within 180 days of when the alleged discrimination or harassment occurred.

[Name of District]  
[Address] | [Phone]

**WORKPLACE HARASSMENT REPORTING OR COMPLAINT FORM**

Name of person making report/complainant: \_\_\_\_\_

Position of person making report/complainant: \_\_\_\_\_

Date of complaint: \_\_\_\_\_

Name of alleged harasser: \_\_\_\_\_

Date and place of incident or incidents: \_\_\_\_\_

Description of alleged misconduct: \_\_\_\_\_

Name of witnesses (if any): \_\_\_\_\_

Evidence of workplace harassment, i.e., letters, photos, etc. (attach evidence if possible): \_\_\_\_\_

Any other information: \_\_\_\_\_

I agree that all of the information on this form is accurate and true to the best of my knowledge.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



[Name of District]  
[Address] | [Phone]

**WITNESS DISCLOSURE FORM**

Name of Witness: \_\_\_\_\_

Position of Witness: \_\_\_\_\_

Date of Testimony/Interview: \_\_\_\_\_

Description of Instance Witnessed: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Any Other Information: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I agree that all the information on this form is accurate and true to the best of my knowledge.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

# OSBA Model Sample Policy

Code: GBEA  
Adopted:

## Workplace Harassment \*

Workplace harassment is prohibited and shall not be tolerated. This includes workplace harassment that occurs between district employees or between a district employee and the district in the workplace or at a work-related event that is off district premises and coordinated by or through the district, or between a district and a district employee off district premises. Elected school board members, volunteers and interns are subject to this policy.

Any district employee who believes they have been a victim of workplace harassment may file a report with the district employee designated in the administrative regulation GBEA-AR - Workplace Harassment Reporting and Procedure, may file a report through the Bureau of Labor and Industries' (BOLI) complaint resolution process or under any other available law. The reporting of such information is voluntary. The district employee making the report is advised to document any incidents of workplace harassment.

“Workplace harassment” means conduct that constitutes discrimination prohibited by Oregon Revised Statute (ORS) 659A.030 (discrimination in employment based on race, color, religion, sex, sexual orientation, national origin, marital status, age, or expunged juvenile record), including conduct that constitutes sexual assault<sup>1</sup> or that constitutes conduct prohibited by ORS 659A.082 (discrimination against person in uniformed service) or 659A.112 (discrimination in employment based on disability).

The district, upon receipt of a report from a district employee who believes they are a victim of workplace harassment, shall provide information about legal resources and counseling and support services, including any available employee assistance services. The district employee receiving the report, whether a supervisor of the employer or the district employee designated to receive reports, is advised to document any incidents of workplace harassment, and shall provide a copy of this policy and accompanying administrative regulation to the victim upon their disclosure about alleged workplace harassment.

All incidents of behavior that may violate this policy shall be promptly investigated.

Any person who reports workplace harassment has the right to be protected from retaliation.

The district may not require or coerce a district employee to enter into a nondisclosure<sup>2</sup> or nondisparagement<sup>3</sup> agreement.

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<sup>1</sup> “Sexual assault” means unwanted conduct of a sexual nature that is inflicted upon a person or compelled through the use of physical force, manipulation, threat or intimidation.

<sup>2</sup> A “nondisclosure” agreement or provision prevents either party from disclosing the contents of or circumstances surrounding the agreement.

<sup>3</sup> A “nondisparagement” agreement or provision prevents either party from making disparaging statements about the other party.

The district may not enter into an agreement with an employee or prospective employee, as a condition of employment, continued employment, promotion, compensation, or the receipt of benefits, that contains a nondisclosure provision, a nondisparagement provision or any other provision that has the purpose or effect of preventing the employee from disclosing or discussing workplace harassment that occurred between district employees or between a district employee and the district, in the workplace or at a work-related event that is off district premises and coordinated by or through the district, or between a district employee and employer off district premises.

The district may enter into a settlement agreement, separation or severance agreement that includes one or more of the following provisions only when a district employee claiming to be aggrieved by workplace harassment requests to enter into the agreement: 1) a nondisclosure or nondisparagement provision; 2) a provision that prevents disclosure of factual information relating to the claim of workplace harassment; or 3) a no-rehire provision that prohibits the employee from seeking reemployment with the district as a term or condition of the agreement. The agreement must provide the district employee at least seven days after signing the agreement to revoke it.

If the district determines in good faith that an employee has engaged in workplace harassment, the district may enter into a settlement, separation or severance agreement that includes one or more of the provisions described in the previous paragraph.

It is the intent of the Board that appropriate corrective action will be taken by the district to stop workplace harassment, prevent its recurrence and address negative consequences. Staff members in violation of this policy shall be subject to discipline, up to and including dismissal and/or additional workplace harassment awareness training, as appropriate. Other individuals (e.g., board members, witnesses, and volunteers) 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.

The district shall make this policy available to all district employees and shall be made a part of district orientation materials provided and copied to new district employees at the time of hire.

The superintendent will establish a process of reporting incidents of workplace harassment and the prompt investigation.

END OF POLICY

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**Legal Reference(s):**

<u>ORS 659A.001</u>	<u>ORS 659A.082</u>	<u>OAR 584-020-0040</u>
<u>ORS 659A.003</u>	<u>ORS 659A.112</u>	<u>OAR 584-020-0041</u>
<u>ORS 659A.006</u>	<u>ORS 659A.820</u>	
<u>ORS 659A.029</u>	<u>ORS 659A.875</u>	Senate Bill 479 (2019)
<u>ORS 659A.030</u>	<u>ORS 659A.885</u>	

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 (2018); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2019).

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

# OSBA Model Sample Policy

Code: GBA  
Adopted:

## Equal Employment Opportunity

Equal employment opportunity and treatment shall be practiced by the district regardless of race, color, religion, sex, sexual orientation<sup>1</sup>, national origin, marital status, pregnancy, childbirth or a related medical condition<sup>2</sup>, age, veterans' status<sup>3</sup>, service in uniformed service, familial status, genetic information, an individual's juvenile record that has been expunged, and disability<sup>4</sup> if the employee, with or without reasonable accommodation, is able to perform the essential functions of the position.

The superintendent will appoint an employee to serve as the officer in charge of compliance with the Americans with Disabilities Act of 1990, the Americans with Disabilities Act Amendments Act of 2008 (ADA), and Section 504 of the Rehabilitation Act of 1973. The superintendent will also designate a Title IX coordinator to comply with the requirements of Title IX of the Education Amendments of 1972. The Title IX coordinator will investigate complaints communicated to the district alleging noncompliance with Title IX. The name, address and telephone number of the Title IX coordinator will be provided to all students and employees.

The superintendent will develop other specific recruiting, interviewing and evaluation procedures as are necessary to implement this policy.

END OF POLICY

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### Legal Reference(s):

ORS 174.100  
~~ORS 192.630~~  
~~ORS 243.672~~  
ORS 326.051  
ORS 332.505  
ORS 342.934  
ORS 408.225  
ORS 408.230  
ORS 408.235

~~ORS 652.210 - 652.220~~  
ORS 659.850  
ORS 659.870  
ORS 659A.003  
ORS 659A.006  
ORS 659A.009  
ORS 659A.029  
ORS 659A.030  
~~ORS 659A.040~~

~~ORS 659A.082~~  
ORS 659A.109  
~~ORS 659A.112~~  
ORS 659A.142  
ORS 659A.145  
ORS 659A.233  
ORS 659A.236  
ORS 659A.309  
ORS 659A.321

<sup>1</sup> "Sexual orientation" means an individual's actual or perceived heterosexuality, homosexuality, bisexuality or gender identity, regardless of whether the individual's gender identity, appearance, expression or behavior differs from that traditionally associated within the individual's sex at birth.

<sup>2</sup> This unlawful employment practice related to pregnancy, childbirth or a related medical condition as described in House Bill 2341 (2019) (added to ORS 659A) applies to employers who employ six or more persons.

<sup>3</sup> The district grants a preference in hiring and promotion to veterans and disabled veterans. A veteran is eligible to use the preference any time when applying for a position at any time after discharge or release from service in the Armed Forces of the United States.

<sup>4</sup> This unlawful employment practice related to disability as described in ORS 659A.112 applies to employers who employ six or more persons (ORS 659A.106).

ORS 659A.409  
ORS 659A.805  
ORS 659A.820

OAR 839-003-0000  
OAR 839-006-0435  
OAR 839-006-0440  
OAR 839-006-0450  
OAR 839-006-0455  
OAR 839-006-0460

OAR 839-006-0465

House Bill 2341 (2019)  
Senate Bill 479 (2019)

OAR 581-021-0045  
OAR 581-022-2405

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2012).  
Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et. seq. (2012).  
Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634 (2012\*); 29 C.F.R Part 1626 (2016\*).  
Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6107 (2012).  
Equal Pay Act of 1963, 29 U.S.C. § 206(d) (2012\*).\*  
Rehabilitation Act of 1973, 29 U.S.C. §§ 503, 791, 793-794 (2012); 34 C.F.R. Part 104 (2019).  
Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683, 1701, 1703-1705, 1720 (2012\*); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2016\*).  
Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2016\*); 28 C.F.R. Part 35 (2016\*).\*  
Wygant v. Jackson Bd. of Educ., 476 U.S. 267 (1989).  
Americans with Disabilities Act Amendments Act of 2008, 42 U.S.C. §§ 12101-12133 (2012).  
The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (2012\*).\*  
Title II of the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. § 2000ff-1 (2012).  
Chevron USA Inc. v. Echazabal, 553 U.S. 736 (2002).

# OSBA Model Sample Policy

Code: EEA  
Adopted:

## Student Transportation Services \*

(Even if the district contracts for student transportation services, this is a required policy.)

School transportation services will be provided for students to and from school [and for] [transporting students to and from curricular and extracurricular activities sponsored by the district] ~~[transporting from one school or facility to another]~~ [school-sponsored field trips that are extensions of classroom learning experiences]. Transportation will be provided for homeless students to and from the student's school of origin<sup>1</sup> as required by the Every Student Succeeds Act of 2015 (ESSA). These services shall be provided throughout the regularly scheduled year and during the regular school day as determined by the [Board].

[Elementary students [in grades K-8] who live more than one mile from school will be transported. Secondary students [in grades 9-12] who live more than one and one-half miles from school will be transported. Mileage exceptions for health, safety or disability will be made in accordance with the district's approved supplemental plan.]

OR

~~[Students living within specified attendance boundaries shall receive transportation services to their respective schools. In addition, students, including those receiving special education, may be eligible for transportation for health or safety reasons.]~~

Miles from school will be determined by the [transportation supervisor] in accordance with Oregon Administrative Rule (OAR) 581-023-0040(1)(e).

[The district may use Type 10 School Activity Vehicles to transport students from home to school, school to home and from district-sponsored activities.]

The district may also provide transportation using federal funds<sup>2</sup> or through cooperative agreements with local victims assistance units for a student to attend a safe district school<sup>3</sup> out of the student's attendance area for any student who is a victim of a violent criminal offense occurring in or on the grounds of the school the student attends or the student attends a school identified as persistently dangerous. If there are no other schools within the district a student may transfer to, the district may establish a cooperative agreement with other districts in the area for a transfer. Transportation for students who transfer for such purposes will be provided in accordance with the agreement.

<sup>1</sup> "School of origin" means the school that a student attended when permanently housed or the school in which the student was last enrolled.

When the student has completed the final grade served by the school of origin, the term "school of origin" shall include the designated receiving school at the next grade level for all feeder schools.

<sup>2</sup> "Federal funds" means funds available through Title IV, Part A, and Title V, Part A.

<sup>3</sup> If there is not another school in the district to which students can transfer, districts are encouraged, but not required, to explore other appropriate options, i.e., an agreement with a neighboring district.

Students attending any private, parochial or public charter school under the compulsory school attendance laws will, where the private, parochial or public charter school is along or near the bus route, be provided equally the riding privileges given to public school students.

Transportation will be provided for students whose parent or guardian voluntarily placed the child outside the child's home with a public or private agency and who is living in a licensed, certified or approved substitute care program, and whose residency is established pursuant to Oregon Revised Statute (ORS) 339.134.

Preschool students with disabilities who have transportation as a related service and children from birth to age three who are enrolled in an eligible program shall be provided home to school transportation.

A seat that fully supports each person and meets the minimum standards and specifications of law will be provided at all times. A person who weighs 40 pounds or less must be properly secured with a child safety system that meets the minimum standards and specifications established by the Oregon Department of Transportation under Oregon Revised Statute (ORS) 815.055. A person over 40 pounds or who has reached the upper weight limit for the forward-facing car seat must use a booster seat until he/she is four feet nine inches tall or age eight and the adult belt properly fits.<sup>4</sup> A person who is taller than four feet nine inches or eight years of age or older must be properly secured with a safety belt or harness that meets the requirements under ORS 815.055. In accordance with ORS 811.210 and 811.215 vehicles in excess of 10,000 pounds used for student transportation are exempt from statutory requirements unless they have been equipped with lap belts. Vehicles in excess of 10,000 pounds that have been equipped with lap belts must meet child car seat requirements as set forth in law.

School buses carrying students will be considered extensions of the school experience. All students using school transportation will abide by the code of conduct posted in each school bus [or school activity vehicle]. Violations of such code, as well as other conduct which is improper or which jeopardizes the safety of self or others, will be reported by the school bus [or vehicle] driver to [the supervisor]. [The transportation supervisor] will, as soon as possible, inform the appropriate principal of such occurrence. Violators may be denied use of transportation for a period of time as deemed proper by the principal [and/or] transportation supervisor.

The [principal] or designee shall ensure transportation officials and drivers receive notification of students having special medical or behavioral protocols identified in student records.

Appropriate training related to specific protocols, including confidentiality requirements, will be provided to drivers.

Aides or assistants that ride a school bus shall receive training on emergency procedures and their role in the safe transportation of all students on the bus.

The school bus [or vehicle] driver will be responsible for the school bus [or vehicle] at all times from departure until return. The driver will not participate in any activities that might impair his/her driving abilities.

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<sup>4</sup> "Proper fit" means the lap belt of the safety belt or safety harness is positioned low across the thighs and the shoulder belt is positioned over the collarbone and away from the neck.

The district will comply with all state and federal laws and regulations pertaining to school bus transportation.

END OF POLICY

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**Legal Reference(s):**

<u>ORS 327.006</u>	<u>ORS 815.080</u>	<u>OAR 581-053-0040</u>
<u>ORS 327.033</u>	<u>ORS 820.100 - 820.190</u>	<u>OAR 581-053-0053</u>
<u>ORS 327.043</u>		<u>OAR 581-053-0060</u>
<u>ORS 332.405</u>	<u>OAR 581-021-0050 - 0075</u>	<u>OAR 581-053-0070</u>
<u>ORS 332.415</u>	<u>OAR 581-022-2345</u>	<u>OAR 581-053-0210</u>
<u>ORS 339.240 - 339.250</u>	<u>OAR 581-023-0040</u>	<u>OAR 581-053-0220</u>
<u>ORS 343.155 - 343.246</u>	<u>OAR 581-053-0002</u>	<u>OAR 581-053-0230</u>
<u>ORS 343.533</u>	<u>OAR 581-053-0003</u>	<u>OAR 581-053-0240</u>
<u>ORS 811.210</u>	<u>OAR 581-053-0004</u>	<u>OAR 735-102-0010</u>
<u>ORS 811.215</u>	<u>OAR 581-053-0010</u>	
<u>ORS 815.055</u>	<u>OAR 581-053-0031</u>	<u>Senate Bill 905 (2019)</u>

Every Student Succeeds Act of 2015, 20 U.S.C. §§ 6315, 7912 (2012~~3~~).

McKinney-Vento Homeless Assistance Act, 42 U.S.C. §§ 11431-11435 (2012).



## OSBA Model Sample Policy

Code: ECACB  
Adopted:

**Commented [J01]:** We did have a request for a 3<sup>rd</sup> party to use a drone to photograph an event by the SWC. Therefore, we should have a policy addressing drone use on campus - even though we don't have a drone program

### Unmanned Aircraft System (UAS) a.k.a. Drone

Any employee, volunteer, or representative of the district operating an unmanned aircraft system (UAS) shall do so in accordance with this policy, and all applicable Federal Aviation Administration (FAA) and Oregon Department of Aviation (ODA) regulations and local laws.

An "unmanned aircraft system" (UAS) means an unmanned flying machine, commonly known as a drone, and its associated elements, including communication links and the components that control the machine.

A small unmanned aircraft, as defined by law, may be operated by the district. A small unmanned aircraft must weigh less than 55 pounds, including the weight of anything attached to or carried by the aircraft and must be registered through the FAA and ODA. The district will register as a user of such with ODA.

Publicly supported kindergarten through grade 12 school programs and publicly supported entities that support K-12 schools or after school K-12 programs are exempt from the requirement to pay the ODA registration fee.

[The district recognizes the academic value of student operation of a UAS as one component of curricula pertaining to principles of flight, aerodynamics, and airplane design and construction, which, and can also serve as an academic tool in other areas such as television, film production, or the arts in general.]  
Therefore, in compliance with the Federal Aviation Administration Modernization and Reform Act of 2012, Section 336, students may operate a UAS as part of a course requirement, as long as that student does not receive compensation directly or incidentally from such operation. District staff teaching a class that allows use of a UAS may provide limited assistance to a student operating a UAS, provided the student maintains operational control of the model aircraft such that the staff member's manipulation of the model aircraft's controls is incidental and secondary to the student's. The staff member's de minimis participation must be limited to the student's operation of the UAS as part of the course.

Prior to operating a UAS, the district will review all airspace, certification, registration, and other requirements. When operating in the National Airspace System (NAS), the supervisor (instructor/teacher) of the educational UAS shall hold a current pilot certification described in 14 C.F.R. Part 107 or have a Certificate of Authorization as described in 49 U.S.C. § 44801, so any student(s) can fly under their direct supervision, and to be in compliance with current FAA regulations. District staff will not operate more than one UAS at the same time.

District employees shall work with administrators to ensure that proper insurance, registration with both the FAA and ODA, reporting to ODA, FAA, and authorization from district administration are in place prior to adoption of curriculum that allows operation of a UAS use as a part of the district's curriculum.

<sup>1</sup> <http://www.faa.gov/uas/learnmore>

A UAS shall be operated in accordance with the policies of the Oregon School Activities Association (OSAA)<sup>2</sup> at OSAA sanctioned events.

A student in violation of this policy may be subject to disciplinary action, up to and including suspension and/or expulsion.

A staff member in violation of this policy may be subject to disciplinary action, up to and including dismissal.

All data gathered by the district as part of a UAS operation will belong to the district. The data gathering by the district will follow appropriate state and federal laws. Retention of such data will follow state and federal laws.

The superintendent shall develop procedures<sup>3</sup> for the implementation of this policy. The district shall post a copy of this policy, associated procedures, and a copy of Oregon Revised Statute (ORS) 192.345 on the district's website.

The district will report accidents involving a UAS to FAA no later than 10 calendar days after the accident when it involves:

1. Serious injury to any person or any loss of consciousness; or
2. Damage to any property, other than the small UAS, unless the cost of repair (including materials and labor) does not exceed \$500, or the fair market value of the property does not exceed \$500 in the event of total loss.

#### [Third Party Use

Third party use of a UAS on district property or at district-sponsored events or activities on district property for any purpose is prohibited, unless granted permission from the [superintendent or designee].

If permission is granted by the [superintendent or designee], the third party operating a UAS will comply with all FAA and ODA registration and use regulations and shall provide the following to the district:

1. Proof of insurance that meets the liability limits established by the district,
2. Appropriate proof of UAS registration and authorization (including a certificate identified in 14 C.F.R. Part 107 or a Certificate of Authorization described in 49 U.S.C. § 44801) issued by the FAA, and proof of user registration with ODA when required<sup>4</sup>, and

<sup>2</sup> <http://www.osaa.org/governance/faq/faq-osaa-167>; <http://www.osaa.org/governance/handbook>

<sup>3</sup> Procedures must include the length of time data will be retained by the district, specifications for third party storage of data, including handling, security and access to the data by the third party, a policy on disclosure of data through intergovernmental agreements.

<sup>4</sup> A public body, as defined in ORS 174.103, operating an unmanned aircraft system must register as a user with ODA (ORS 837.260)

3. A signed agreement holding the district harmless from any claims of harm to individuals or damage to property ]

END OF POLICY

**Legal Reference(s):**

ORS 164.885  
ORS 174.109  
ORS 192.345

ORS 837.300 - 837.390  
ORS 837.995

OAR 738-080-0015 - ~~ORR-0045~~  
~~Senate Bill 381 (2019)~~

~~Federal Aviation Administration Modernization and Reform Act of 2012, P.L. 112-95 § 236 (2012).~~

~~Federal Aviation Administration - Educational Use of Unmanned Aircraft Systems (UAS) Memorandum, May 4, 2016.~~

~~Federal Aviation Administration Reauthorization Act of 2017, 49 U.S.C. §§ 44801-44810 (2017).~~

~~Small Unmanned Aircraft Systems, 14 C.F.R. Part 107 (2015).~~

~~Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g (2012).~~

~~OREGON SCHOOL ACTIVITIES ASSOCIATION HANDBOOK #37.~~

## OSBA Model Sample Policy

Code: GBEDA  
Adopted:

### Drug and Alcohol Testing and Record Query - Transportation Personnel \*

(This policy is required if the district operates their own transportation services, or any district staff that is required to have a commercial driver's license (CDL).)

(Version 2)

Commented [SO1]: Use Version 1

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

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

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

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

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

1. All candidates for employment or transfer with the district and subject to the OTETA requirements will be tested;
2. All tests will be conducted using the alcohol testing procedures of 49 C.F.R. Part 40.

3. Such tests must be conducted prior to the new or transferred employee's performance of safety-sensitive functions ]

Pre-employment [alcohol and] drug testing costs will be paid for by the [employee] [district]. All drug and alcohol testing of employees, including reasonable suspicion, random, post-accident, return-to-duty and follow-up testing costs, as applicable, will be paid for by the [employee] [district]. A fee associated with a pre-employment query requested by the district from FMCSA will be paid by the district and reimbursement sought from the individual. The district will comply with collective bargaining agreement provisions.

All offers of employment or transfer to covered positions with the district will be made contingent upon testing results and information obtained from a query with FMCSA. An individual who tests positive for drugs [or tests with a breath alcohol content level of 0.02 or higher] will not be hired or transferred. The offer of employment or transfer will be immediately withdrawn.<sup>1</sup>

An offer of employment or transfer will also be immediately withdrawn from any individual who refuses [alcohol and] drug testing and/or refuses to give consent for a query with FMCSA.

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

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

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

1. The district's policy and administrative regulation are distributed to all covered employees.

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

2. No information about the confirmed positive, adulterated or substituted test results, or the reason for the employee's temporary removal from performing safety-sensitive functions, becomes available directly or indirectly to others in the district or subsequently to another employer, other than the employee, the MRO and the designated district official.
3. All covered employees in a particular district job category are treated the same way with respect to "stand-down";
4. A covered employee will be subject to "stand-down" only with respect to the actual performance of safety-sensitive duties.
5. No adverse action affecting the employee's pay and benefits will be taken pending the completion of the MRO's verification process. This includes continuing to pay the employee during the period of the stand-down in the same way the district would have paid him/her/they had he/she/they not been stood down.
6. The verification process will commence no later than the time an employee is temporarily removed from the performance of safety-sensitive functions and that the period of "stand down" for any employee will not exceed five days, unless the district is informed in writing by the MRO that a longer period is needed to complete the verification process, and
7. In the event that the MRO verifies the test negative or cancels it
  - a. The district will return the employee immediately to the performance of safety-sensitive duties.
  - b. The employee suffers no adverse personnel or financial consequences as a result, and
  - c. No individually identifiable record that the employee had a confirmed laboratory positive, adulterated or substituted test result is maintained. (The district will maintain a record of the test only as a negative or cancelled test.)

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

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

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

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

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

END OF POLICY

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**Legal Reference(s):**

ORS 657.176  
ORS 825.415  
ORS 825.418

OAR 581-053-0220(3)(h)  
OAR 581-053-0230(9)(t)  
OAR 581-053-0420(4)(b)(B)(ii)  
OAR 581-053-0430(13),(14)

OAR 581-053-0531(12),(13)  
OAR 581-053-0615(2)(c)(D)(ii)  
OAR 581-053-0620(1)(d)

Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. §§ 31301-31317 (2012), 49 C.F.R. Parts 40, 382, 391-395 (2017).