

# OSBA Model Sample Policy

Code: AC  
Adopted:

## Nondiscrimination

The district prohibits discrimination and harassment on any basis protected by law, including but not limited to, an individual's perceived or actual race<sup>1</sup>, color, religion, sex, sexual orientation, gender identity, national or ethnic origin, marital status, age, mental or physical disability, pregnancy, familial status, economic status, or veterans' status, or because of the perceived or actual race, color, religion, sex, sexual orientation, gender identity, national or ethnic origin, marital status, age, mental or physical disability, pregnancy, familial status, economic status, or veterans' status of any other persons with whom the individual associates.

The district prohibits discrimination and harassment in, but not limited to, employment, assignment and promotion of personnel; educational opportunities and services offered students; student assignment to schools and classes; student discipline; location and use of facilities; educational offerings and materials; and accommodating the public at public meetings.

The Board encourages staff to improve human relations within the schools, to respect all individuals and to establish channels through which patrons can communicate their concerns to the administration and the Board.

The Board designates the Superintendent as the civil rights coordinator.

The superintendent shall appoint individuals at the district to contact on issues concerning the Americans with Disabilities Act and Americans with Disabilities Act Amendments Act (ADA), Section 504 of the Rehabilitation Act, Titles VI and VII of the Civil Rights Act, Title IX of the Education Amendments, and other civil rights or discrimination issues, and notify students, parents, and staff with their names, office addresses, and phone numbers. The district will publish complaint procedures providing for prompt and equitable resolution of complaints from students, employees and the public, and such procedures will be available at the district's administrative office and available on the home page of the district's website.

The district prohibits retaliation and discrimination against an individual who has opposed any discrimination act or practice; because that person has filed a charge, testified, assisted or participated in an investigation, proceeding or hearing; and further prohibits anyone from coercing, intimidating, threatening or interfering with an individual for exercising any rights guaranteed under state and federal law.

END OF POLICY

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### Legal Reference(s):

[ORS 174.100](#)

[ORS 192.630](#)

[ORS 326.051\(1\)\(e\)](#)

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<sup>1</sup> Includes discriminatory use of a Native American mascot pursuant to OAR 581-021-0047. Race also includes physical characteristics that are historically associated with race, including but not limited to natural hair, hair texture, hair type and protective hairstyles as defined by ORS 659A.001 (as amended by House Bill 2935 (2021)).

[ORS 332.505](#)  
[ORS 408.230](#)  
[ORS 659.805](#)  
[ORS 659.815](#)  
[ORS 659.850 - 659.860](#)  
[ORS 659.865](#)  
[ORS 659A.001](#)  
[ORS 659A.003](#)  
[ORS 659A.006](#)

[ORS 659A.009](#)  
[ORS 659A.029](#)  
[ORS 659A.030](#)  
[ORS 659A.040](#)  
[ORS 659A.103 - 659A.145](#)  
[ORS 659A.230 - 659A.233](#)  
[ORS 659A.236](#)  
[ORS 659A.309](#)  
[ORS 659A.321](#)

[ORS 659A.409](#)  
[OAR 581-002-0001 – 002-0005](#)  
[OAR 581-021-0045](#)  
[OAR 581-021-0046](#)  
[OAR 581-021-0047](#)  
[OAR 581-022-2310](#)  
[OAR 581-022-2370](#)  
[OAR 839-003](#)

Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6107 (2018).

Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-633 (2018); 29 C.F.R Part 1626 (2019).

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12112 (2018); 29 C.F.R. Part 1630 (2019); 28 C.F.R. Part 35 (2019).

Equal Pay Act of 1963, 29 U.S.C. § 206(d) (2018).

Rehabilitation Act of 1973, 29 U.S.C. §§ 791, 793-794 (2018); 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 (2018); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2020).

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2018); 28 C.F.R. §§ 42.101-42.106 (2019).

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2018); 29 C.F.R. § 1601 (2019).

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 (2018); 29 C.F.R. Part 1630 (2019); 28 C.F.R. Part 35 (2019).

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, 38 U.S.C. § 4212 (2018).

Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. § 2000ff-1 (2018); 29 C.F.R. Part 1635 (2019).

~~[House Bill 2935 \(2021\)](#)~~

~~[House Bill 3041 \(2021\)](#)~~

# OSBA Model Sample Policy

Code: CBG  
Adopted:

## Evaluation of the Superintendent

The Board will formally evaluate the superintendent's job performance at least once each year. The evaluation will be based on the superintendent's ~~administrative~~ job description, any applicable standards of performance, Board policy and progress in attaining any goals for the year established by the superintendent and/or the Board.

Additional criteria for the evaluation, if any, will be developed at a public board meeting prior to conducting the evaluation. The superintendent will be notified of the additional criteria prior to the evaluation.

The Board's discussion and conferences with and about the superintendent and their performance will be conducted in an executive session, unless the superintendent requests a session open to the public. Such an executive session will not include a general evaluation of any district goal, objective or operation. Results of the evaluation will be written and placed in the superintendent's personnel file.

At the Board's discretion, it may notify the superintendent in writing of specific areas to be remedied, and the superintendent may be given an opportunity to correct the problem(s). Where the Board provided written notice pursuant to the prior sentence, if the Board determines the superintendent's performance remains unsatisfactory, the Board may dismiss or non-renew the superintendent pursuant to Board policy, the superintendent's employment contract and state law and rules. In those situations where the superintendent's employment contract includes an evaluation, dismissal or non-renewal provision, it shall take precedent over this policy.

END OF POLICY

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### Legal Reference(s):

[ORS 192.660\(2\), \(8\)](#)  
[ORS 332.107](#)  
[ORS 332.505](#)

~~[ORS 342.513](#)~~  
~~[ORS 342.815](#)~~

[OAR 581-022-2405](#)

Hanson v. Culver Sch. Dist. (FDAB 1975).

# OSBA Model Sample Policy

Code: CCG  
Adopted:

## Evaluation of Administrators

{Required Policy. OAR 581-022-2405 requires districts to “adopt and implement personnel policies which address...evaluation procedures.” Review any employment contracts before adopting to ensure there is no conflicting language. Many of the legal requirements in this policy apply only to those who meet the definition of administrator in ORS 342.815, but the district may have administrators that do not meet that definition (e.g., business manager, transportation supervisor).}

The superintendent will implement and supervise an evaluation system for administrators. The purpose of administrator evaluations is to assist an administrator with developing and strengthening professional abilities, to improve the instructional program and management of the school system, and for supervisors to make recommendations regarding their employment and/or salary status.

A formal evaluation will be conducted at least once each year.

The evaluation shall be conducted according to the following guidelines:

1. Evaluative criteria for each position will be in written form and made available to the administrator;
2. Evaluations will be made by the superintendent and/or a qualified, licensed designee;
3. Evaluations will be in writing and discussed with the administrator by the person who conducts the evaluation; and
4. The administrator being evaluated will have the right to attach a memorandum to the written evaluation, and have the right of appeal through established grievance procedures, if applicable.

An administrator’s evaluation shall use the following educational leadership-administrator standards<sup>1</sup> adopted by the State Board of Education.

1. Visionary leadership;
2. Instructional improvement;
3. Effective management;
4. Inclusive practice;
5. Ethical leadership; and
6. Socio-political context.

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<sup>1</sup> These standards are aligned with the Interstate School Leaders Licensure Consortium (ISLLC) and the Educational Leadership Constituents Council (ELCC) standards for Education Leadership.

Administrator evaluations shall be based on the core administrator standards adopted by the Oregon State Board of Education. The standards shall be customized based on collaborative efforts with the administrators and any exclusive bargaining representative of the administration.

Local evaluation and support systems established by the district for administrators must be designed to meet or exceed the requirements defined in the Oregon Framework for Teacher and Administrator Evaluation and Support Systems, including:

1. Four performance level ratings of effectiveness;
2. Consideration of multiple measures of administrator practice and responsibility which may include, but are not limited to:
  - a. Classroom-based assessments including observations, lesson plans and assignments;
  - b. Portfolios of evidence;
  - c. Supervisor reports; and
  - d. Self-reflections and assessments.
3. Consideration of evidence of student academic growth and learning based on multiple measures of student progress including performance data of students, schools and districts that is both formative and summative. Evidence may also include other indicators of student success;
4. A summative evaluation method for considering multiple measures of professional practice, professional responsibilities, and student learning and growth to determine the administrator's professional growth path;
5. Customized by the district, which may include individualized weighting and application of the standards.

An evaluation using the administrator standards must attempt to:

1. Strengthen the knowledge, skills, disposition and administrative practices of the administrator;
2. Refine the support, assistance and professional growth opportunities offered to the administrator, based on the individual needs of the administrator and the needs of the students, the school and the district;
3. Allow the administrator to establish a set of administrative practices and student learning objectives that are based on the individual circumstances of the administrator, including other assignments of the administrator;
4. Establish a formative growth process for each administrator that supports professional learning and collaboration with other teachers and administrators;
5. Use evaluation methods and professional development, support and other activities that are based on curricular standards and are targeted to the needs of the administrator; and
6. Address ways to help all educators strengthen their culturally responsive practices.

The superintendent shall regularly report to the Board on the implementation of the evaluation and support systems and educator effectiveness.

END OF POLICY

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**Legal Reference(s):**

[ORS 192.660\(2\),\(8\)](#)

[ORS 332.505](#)

[ORS 342.120](#)

[ORS 342.815](#)

[ORS 342.850](#)

[ORS 342.856](#)

[OAR 581-022-2405](#)

[OAR 581-022-2410](#)

[OAR 581-022-2420](#)

Hanson v. Culver Sch. Dist. (FDAB 1975).

# OSBA Model Sample Policy

Code: DJC  
Adopted:

D

## Bidding Requirements

(Version 1)

*(Delete this version and adopt proposed version.)*

The Board is the Local Contract Review Board (LCRB) for the district. All public contracts shall be invited in accordance with applicable competitive procurement provisions of the Oregon Revised Statutes and the adopted public contracting rules.

The Board, acting as its own LCRB, adopts<sup>{1}</sup> [the *Oregon Attorney General's Model Public Contract Rules*, Oregon Administrative Rule (OAR) Chapter 137, Divisions 046 through 049] [its own rules of procedure that will govern district purchasing. Consequently, the model rules adopted by the Attorney General shall not apply to the district. The district's rules may include portions of the *Oregon Attorney General's Model Public Contract Rules* OAR Chapter 137, Divisions 046 through 049] in effect at the time this policy is adopted.<sup>{2}</sup>

The district shall procure the construction manager/general contractor services in accordance with model rules the Attorney General adopts under Oregon Revised Statute (ORS) 279A.065(3).

Additionally, the Board may include as part of its rules portions of the Oregon Department of Administrative Services rules governing Public Contract Exemptions, OAR Chapter 125, Divisions 246-249 in effect at the time this policy is adopted.

The Board may make the written findings required by law for exemptions from competitive bidding. Such findings shall be maintained by the district and made available on request.

The district shall review its rules each time the Attorney General adopts a modification of the model rules, as required by ORS 279A.065(6)(b), to determine whether any modifications need to be made to district rules to ensure compliance with statutory changes. [Modifications will be made only following review by the district's legal counsel.] New rules, as necessary, shall be adopted by the Board. In the event it is unnecessary to adopt new rules, Board minutes will reflect that the review process was completed as required.

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<sup>1</sup> {Public Contracts shall be governed by ORS Chapter 279, 279A, 279B and 279C. Additionally, the Board may, as provided by ORS 279A.065, adopt the Oregon Attorney General's Model Public Contract Rules, OAR Chapter 137 governing purchasing/bid procedures. The Board may also adopt the Oregon Department of Administrative Services rules governing Public Contract Exemptions, OAR Chapter 125. The Board may adopt portions of those rules or adopt its own rules. A Board that has not established its own rules of procedure for public contracts is subject to the model rules (OAR Chapter 137) adopted by the Attorney General.}

<sup>2</sup> {If the Board does not establish its own rules of procedure as permitted under ORS 279A.065(5), the district is subject to the model rules adopted by the Attorney General, including all modifications to the model rules that the Attorney General may adopt.}

The Board, acting as the LCRB, may enact a resolution that authorizes the district to designate a public improvement as a community benefit contract per the requirements included in ORS 279C.300 to 279C.470.

Procurements for services estimated to be in excess of \$250,000 shall go through the cost analysis and feasibility process described in ORS 279B.

END OF POLICY

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**Legal Reference(s):**

ORS Chapters [279](#), [279A](#), [279B](#) and [OAR Chapter 125](#), Divisions 246-249  
[279C](#)

OR. DEP'T OF JUSTICE, OR. ATT'Y GENERAL'S PUBLIC CONTRACTS MANUAL.

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# OSBA Model Sample Policy

Code: DJC  
Adopted:

## Bidding Requirements

The Board is the Local Contract Review Board (LCRB) for the district. The LCRB has not adopted its own rules of procurement. Consequently, the *Oregon Attorney General's Model Public Contracting Rules*<sup>1</sup> shall apply to the district.<sup>2</sup>

END OF POLICY

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### Legal Reference(s):

[ORS Chapter 279](#)  
[ORS Chapter 279A](#)  
[ORS Chapter 279B](#)  
[ORS Chapter 279C](#)

[ORS 670.600](#)  
[OAR Chapter 125](#), Divisions 246 -  
249

[OAR Chapter 137](#), Divisions 045 -  
049  
[OAR 459-005-0020](#)

[OREGON PROCUREMENT MANUAL](#), Oregon Department of Administrative Services.

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<sup>1</sup> Oregon Administrative Rules (OAR) 137-045 - 049

<sup>2</sup> See ORS 279A.065(5).

# OSBA Model Sample Policy

Code: DJC  
Adopted:

D

## Bidding Requirements

(Version 2)

*(Delete this version and adopt proposed version.)*

The Board declares its intention to purchase competitively without prejudice and to seek maximum educational value for every dollar expended. All public contracts for goods or services shall be based upon applicable competitive procurement provisions of Oregon Revised Statutes and adopted public contracting rules except:

1. Contracts between contracting agencies or between contracting agencies and the federal government;
2. Insurance and services contracts as provided for under state law;
3. Contracts for the procurement or distribution of textbooks;
4. Energy savings performance contracts<sup>1</sup>;
5. Contracts made with qualified nonprofit agencies providing employment opportunities for disabled individuals;
6. Public improvement contracts exempted by the Local Contract Review Board (LCRB) upon findings that the award would not encourage favoritism or substantially diminish competition and would result in substantial cost savings and other substantial benefits to the district;
7. Special procurements exempted by the LCRB upon findings that the award would not encourage favoritism or substantially diminish competition and would result in substantial cost savings to the district;
8. Emergency contracts;
9. Any other public contract specifically exempted from the code by another provision or law.

The [Board] will serve as the LCRB for the district. All district purchasing shall be conducted in accordance with the [Board's] adopted rules<sup>{2}</sup>.

The Board acting as its own LCRB adopts<sup>{3}</sup> [the *Oregon Attorney General's Model Public Contract Rules* Oregon Administrative Rule (OAR) Chapter 137, Divisions 046 through 049,] [its own rules of

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<sup>1</sup> Attorney General rules may still apply.

<sup>2</sup> {The Board may contract with another public agency to serve as its LCRB.}

<sup>3</sup> {Purchases shall be governed by ORS Chapter 279, 279A, 279B and 279C. Additionally, the Board may, as provided by ORS 279, 279A.065, adopt the Oregon Attorney General's Model Public Contract Rules, OAR Chapter 137 governing purchasing/bid procedures. The Board may also adopt the Oregon Department of Administrative Services rules governing Public Contract Exemptions, OAR Chapter 125. The Board may adopt portions of those rules or adopt its own rules. A Board that creates its

procedure that will govern district purchasing. Consequently, the model rules adopted by the Attorney General shall not apply to the district. The district's rules may include portions of the *Oregon Attorney General's Model Public Contract Rules* OAR Chapter 137, Division 046 through 049,] in effect at the time this policy is adopted. These rules govern purchasing procedures, and other matters subject to public contracting provisions of law. {<sup>4</sup>}

The district shall procure the construction manager/general contractor services in accordance with model rules the Attorney General adopts under Oregon Revised Statute (ORS) 279A.065(3).

Additionally, the Board may include as part of its rules portions of the Oregon Department of Administrative Services rules governing Public Contract Exemptions, OAR Chapter 125, Divisions 246 through 249 in effect at the time this policy is adopted.

The Board, acting as the LCRB, may enact a resolution that authorizes the district to designate a public improvement as a community benefit contract per the requirements included in ORS 279C.300 to 279C.470.

The Board will make the written findings required by law for exemptions from competitive bidding. Such findings shall be maintained by the district and made available on request.

The district shall review its rules each time the Attorney General adopts a modification of the model rules, as required by ORS 279A.065(6)(b), to determine whether any modifications need to be made to district rules to ensure compliance with statutory changes. [Modifications will be made only following review by the district's legal counsel.] New rules, as necessary, will be adopted by the Board. In the event it is unnecessary to adopt new rules, Board minutes will reflect that the review process was completed as required.

Opportunity will be provided to all responsible suppliers to do business with the district. The [business manager] will develop and maintain lists of potential vendors for various types of materials, equipment and supplies. Such lists may be used to develop a mailing list for distribution of specifications and solicitations for bids or proposals. Any supplier may be included in the list upon request.

Procurements for services estimated to be in excess of \$250,000 shall go through the cost analysis and feasibility process described in ORS 279B.

Records of bids, proposals and specifications will be kept in the district administration office and will conform with Oregon Revised Statutes and applicable records retention provisions of the *Oregon Attorney General's Model Public Contract Rules*.

END OF POLICY

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own LCRB but has not established its own rules of procedure for public contracts is subject to the model rules (OAR Chapter 137) adopted by the Attorney General.}

<sup>4</sup> {If the Board does not establish its own rules of procedure as permitted under ORS 279A.065(5), the district is subject to the model rules adopted by the Attorney General, including all modifications to the model rules that the Attorney General may adopt.}

**Legal Reference(s):**

ORS Chapters [279](#), [279A](#), [279B](#) and [OAR Chapter 125](#), Divisions 246-249  
[279C](#)

OR. DEP'T OF JUSTICE, OR. ATT'Y GENERAL'S PUBLIC CONTRACTS MANUAL.

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# OSBA Model Sample Policy

Code: DJC-AR

Revised/Reviewed:

## Special Procurements and Exemptions from Competitive Bidding

*(Delete this version and consider updated version.)*

### **SPECIAL PROCUREMENTS**

The district shall submit a written request to the Board, acting as the Local Contract Review Board (LCRB), that describes the contracting procedure, the goods and services or class of goods and services that are the subject of the special procurement and circumstances that justify the use of a special procurement under the standards as follows: the special procurement is unlikely to encourage favoritism in the awarding of a public contract or to substantially diminish competition for public contracts and, (A) is reasonably expected to result in substantial cost savings to the district or to the public, or (B) otherwise substantially promote the public interest in a matter that could not practicably be realized by complying with requirements that are applicable under ORS 279B.055, 279B.060, 279B.065, 279B.070 or under any related rules. Public notice of the approval of a special procurement must be given in the same manner as provided in ORS 279B.055(4). If the district intends to award a contract through special procurements that calls for competition among prospective contractors, the district shall award the contract to the contractor it determines to be most advantageous to the district. When the LCRB approves a class special procurement the district may award contracts to acquire goods and services within the class of goods and services in accordance with the terms of the approval without making a subsequent request for a special procurement.

1. Brand Names or Products, “Or Equal,” Single Seller and Sole Source
  - a. The district may purchase brand names or products from a single seller or sole source without competitive bidding subject to the limitations of this rule.
  - b. Solicitation specifications for public contracts of the district shall not expressly or implicitly require any product of any particular manufacturer or seller except as expressly authorized in subsections c. and d. of this rule.
  - c. The district may specify a particular brand name or equal specification when the use of a brand name or equal specification is advantageous to the district, because the brand name describes the standard of quality, performance, functionality and other characteristics of the product needed by the district.
    - (1) The district is entitled to determine what constitutes a product that is equal or superior to the product specified, and any such determination is final;
    - (2) The district is not prohibited from specifying one or more comparable products as examples of the quality, performance, functionality or other characteristics of the product needed by the district;
    - (3) A brand name specification may be prepared and used only if the district determines for a solicitation or class of solicitations that only the identified brand name specification will meet the needs of the district based on one or more of the following written determinations:

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- (a) The use of a brand name specification is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; or
  - (b) Specification of the brand name, mark or product would result in cost savings to the district; or
  - (c) There is only one manufacturer or seller of the product of the quality, performance or functionality required; or
  - (d) The efficient utilization of existing goods requires the acquisition of compatible goods and services.
- d. The district may award a contract for goods or services without competition when the LCRB determines in writing that the goods or services, or the class of goods or services, are available from only one source. The determination of the source must be based upon written findings that shall include:
  - (1) A brief description of the contract or contracts to be covered, including contemplated future purchases;
  - (2) Description of the product or service to be purchased; and
  - (3) The reasons the district is seeking this procurement method, which shall include any of the following:
    - (a) That the efficient utilization of existing goods requires the acquisition of compatible goods or services; or
    - (b) That the goods or services required for the exchange of software or data with other public or private agencies are available from only one source; or
    - (c) That the goods or services are for use in a pilot or an experimental project; or
    - (d) To the extent reasonably practical, the contracting agency shall negotiate with the sole source to obtain contract terms advantageous to the contracting agency.
- e. The district may specify a product or service available from only one manufacturer but available through multiple sellers after complying with subsection c. above documenting the procurement file with the following information:
  - (1) If the total purchase is over \$10,000 but does not exceed \$150,000, and a comparable product or service is not available under an existing Mandatory Use Contract, the district must obtain informal competitive quotes, bids or proposals and document this process in the procurement file;
  - (2) If the purchase does not exceed \$150,000, and the supplies or services are not available under an existing price agreement for information technology with competing products or Mandatory Use Contract, the district must first request and obtain prior written authorization from the LCRB to proceed with the acquisition.
- f. If the district intends to make several purchases of brand name-specific supplies and services from a particular manufacturer or seller for a period not to exceed five years, the district must so state this in the procurement file and in the solicitation document, if any, or a public notice of a solicitation. If the total purchase amount is estimated to exceed \$150,000, this shall be stated in the advertisement for bids or proposals.

## Findings of Fact/Conclusion of Compliance with Law (OAR 125-247-0275)

The district shall submit a written request to the local contract review board that describes the contracting procedure, goods and services subject of the special procurement and the circumstances that justify the use of the special procurement.

- a. It is unlikely that this special procurement will encourage favoritism in the awarding of public contracts or substantially diminish competition for such contracts and is reasonably expected to result in substantial cost savings to the district which could not be realized under ORS 279B.055, 279B.060, 279B.065 or 279B.070 as required by ORS 279B.085(4).
- b. Public notice of the approval must be given in the same manner as provided in ORS 279B.055(4).
- c. This rule requires the districts to make a good faith effort to determine that no other sources are available for the specified products.
- d. The district maintains open lists from which vendors are contacted for quotations and utilizes electronic means of determining new vendors on an ongoing basis.
- e. The awarding of a contract as described in this special procurement should result in substantial cost savings by virtue of the ability to reduce solicitation costs when it is known that comparable products are not available, or when specifying another product solely to meet a competition requirement might lead to lower initial cost but longer lifetime cost.
- f. When the local review board approves a class special procurement the district may award contracts to acquire goods and services within the class of goods and services in accordance with the terms of the approval without making a subsequent request for procurement.

### 2. Advertising Contracts, Purchase of

- a. The district may purchase advertising in any media, regardless of a dollar amount, without competitive bidding.
- b. The Board acting as the LCRB of the district must use competitive methods whenever possible to achieve best value and must document in the procurement file the reasons why a competitive process was deemed impractical and the resulting contract must be in writing.
- c. If the anticipated purchase exceeds \$10,000 and a competitive method is used, the district must post notice on the OregonBuys.gov.

### Findings of Fact

The district traditionally purchases advertising in newspapers. The following findings relate primarily to newspapers and written publications; however, the district may also purchase advertising for student activities or educational programs in other media, such as radio or television, where these findings apply:

- a. By their nature, media sources are generally unique. Advertisements are placed in a particular source because of the specific audience that source serves;
- b. Competition to furnish advertising space in daily newspapers of general, trade or business circulation in the vicinity of the district is limited;
- c. Cost savings are difficult to quantify where the sources are unique and not interchangeable;
- d. Advertisements may be placed to satisfy legal notice or Board policy requirements;
- e. Other published advertisements or notices, such as routine public notices, personnel recruitment information, etc., are placed in one or more of the publications of general circulation in the local area and other publications, as appropriate;

- f. The communities served by the district rely upon its use of the local daily newspaper as a central source of news and information regarding district activities;
- g. It is unknown whether contracts for advertisements placed with radio, television or other broadcast media are going to result in cost savings if not placed for competitive bid or request for proposal (RFP). If possible savings could be obtained through competitive means, the district would attempt to obtain competitive quotes or bids, as appropriate.

### **Conclusion of Compliance with Law**

Due to limited competition and unique nature of sources, it is unlikely that this class special procurement will encourage favoritism in the awarding of public contracts or substantially diminish competition for such contracts. Further, any contracts awarded under this class special procurement would result in a cost savings available to the district where the district can achieve volume savings through contracts for advertising with a particular media source, or otherwise substantially promote the public interest.

### 3. Advertising Contracts, Sale of

The district may sell advertising for district publications and activities, regardless of a dollar amount, without competitive bidding, including school newspapers, yearbooks, athletic programs, drama or music programs and the like.

### **Findings of Fact**

Sales of advertising for student activities are generally other fund revenues, where student groups solicit advertisements from local businesses to help with the cost of the activity itself. A common example is the sale of advertising in school newspapers and yearbooks. The circulation of the newspaper and yearbook is limited to the students, teachers, parents and interested members of the community associated with the activities of that particular school. Due to the limited circulation and audience, the businesses that participate by purchasing advertising do so partly in the spirit of good will. Any business is welcome to place an advertisement in the school newspaper or yearbook; all it needs to do is to contact any district school department which publishes one. The district itself would not achieve any increased revenue to the General Fund by seeking competitive bids or proposals for such advertising. This holds true for other student activities, such as athletics, drama or music events and the like.

### **Conclusion of Compliance with Law**

These findings indicate that it is unlikely that this special procurement will encourage favoritism in the awarding of public contracts or substantially diminish competition for such contracts. Any business or individual who wishes to advertise in this manner may do so by simply contacting the student group responsible for the activity.

The sale of advertising for student activities such as school newspapers, yearbooks, athletic, drama or music programs would not benefit from competitive procurement. Such a requirement would place an unnecessary burden on the student group's activity and there is no financial advantage to the district in doing so. Consequently, the cost savings test is not an issue.



#### 4. Equipment Repair and Overhaul

a. The district may enter into a public contract for equipment repair or overhaul without competitive bidding, subject to the following conditions:

- (1) Service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing; or
- (2) Service or parts required are for sophisticated equipment for which specially trained personnel are required and such personnel are available from only one source; and
- (3) The purchase is made within the limits and pursuant to the methods in subsection b. of this rule.

b. The following limitations apply to this rule:

- (1) If the contract is less than or equal to \$150,000, the school or department shall submit in writing to the [superintendent] or designee the reasons why competitive bids or quotes are deemed to be impractical. The [superintendent] or designee will accordingly document in its procurement file and may enter directly into the contract;
- (2) If the school or department official thinks the contract may exceed \$150,000, they shall submit in writing to the [superintendent] or designee the reasons why competitive bidding is deemed to be impractical and a description of the cost savings to be obtained by a special procurement. The [superintendent] or designee may prepare a specific request for the anticipated contract to be obtained through special procurement procedures to submit to the LCRB for approval.

#### Findings of Fact

- a. The need for equipment repair or overhaul cannot be anticipated by district staff. If a piece of equipment is broken or not working properly, the district incurs cost of downtime, possible replacement equipment rental fees, staff time and other inconveniences or liabilities to its programs.
- b. Generally, there are a limited number of vendors who are able to perform repair or overhaul on a particular piece of equipment because of its make or manufacture. Sophisticated equipment may require specially trained personnel available from only one source. Often, a piece of equipment will have a partial warranty in place which will guarantee some savings to the district in the parts and/or labor needed to do the repair or overhaul. This warranty savings may only be achieved if the original manufacturer or provider of the equipment performs the necessary repair or overhaul.
- c. The dollar limits on the use of this special procurement procedure ensure that when the cost of the equipment repair or overhaul is expected to exceed \$150,000, the district will either seek formal competitive bids or, if that is not practical or cost effective, obtain a specific special procurement procedure from the LCRB to proceed with the purchase of the needed repair or overhaul.

#### Conclusion of Compliance with Law

It is unlikely that this special procurement procedure will encourage favoritism in the awarding of public contracts or substantially diminish competition for such contracts because the dollar limits incorporated into this special procurement when the anticipated costs exceed \$150,000, insure the district will seek formal competitive bids and proposals. If the formal process is not practical, the

district will obtain a specific exemption from the LCRB to proceed with the purchase of the needed repair or overhaul.

The awarding of public contracts under this special procurement will result in a cost savings to the district, as required by ORS 279B.085, because the district incurs direct and indirect costs from the moment equipment breaks down or becomes unusable. This special procurement only applies to equipment already owned by the district and does not provide for the purchase of new equipment. The district must be able to purchase necessary services and parts as quickly as possible in order to minimize equipment downtime and potential costs during that downtime.

## 5. Copyrighted Materials

The district may, without competitive bidding and regardless of a dollar amount, purchase copyrighted materials where there is only one known supplier available for such goods. Examples of copyrighted materials covered by this special procurement procedure may include, but are not necessarily limited to, newly adopted textbooks/instructional materials, workbooks, curriculum kits, reference materials, audio and visual media and non-mass-marketed software from a particular publisher or their designated distributor.

### **Findings of Fact**

- a. By their nature, copyrighted materials are protected for the use of a single owner. Copyrighted materials may not be duplicated by others without the copyright owner's permission or license. Copyrights are established and regulated under federal law.
- b. Often, copyrighted materials are produced by only one supplier who may be the owner of the copyright or their licensee. Textbooks/Instructional materials are examples of copyrighted materials that the district purchases through a sole source. Textbooks/Instructional materials are adopted through a statewide process under the authority of the Oregon Department of Education. A textbook/instructional material adoption defines the various materials which the district will purchase for use in its educational programs.

The district purchases its textbooks/instructional materials through the Northwest Textbook Depository. This practice enables the regional textbook depository to purchase and warehouse textbooks/instructional materials in conformance with adoptions made in the states of their region. The result is that savings are achieved through the depository's combined purchases on behalf of member districts. Freight costs for individual districts are reduced by the bulk purchases of the depository and the depository takes on the cost of stocking and warehousing enough to meet each member district's needs.

The system of textbook/instructional materials distribution enables the district to participate in the largest possible bulk purchasing activity of adopted textbooks/instructional materials in the region. This ensures a cost savings to the district. A savings that would be jeopardized if the district was to act as an individual purchaser.

### **Conclusion of Compliance with Law**

This special procurement will not encourage favoritism or substantially diminish competition in the awarding of public contracts. The production and distribution of copyrighted materials is controlled by the owner of the copyright and may only be permitted through a sole source. The district has no control over this.

The awarding of contracts pursuant to this special procurement will result in a cost savings to the district when it needs to purchase copyrighted materials and there is only one known supplier for such goods, or otherwise substantially promote the public interest.

6. Product Prequalification

- a. When specific design or performance specifications must be met or such specifications are impractical to create or reproduce for a type of product to be purchased, the district may specify a list of approved or qualified products by reference to the prequalified product(s) of particular manufacturers or vendors in accordance with the following product prequalification procedure:
  - (1) The district will make reasonable efforts to notify all known manufacturers and vendors of competing products of the district's intent to compile a list of prequalified products. The notice will explain the opportunity manufacturers and vendors of competing products will have to apply to have their product(s) included on the district's list of prequalified products. At its discretion, the district may provide notice by advertisement in a trade paper of general statewide circulation or other appropriate trade publication; or instead of advertising, the district may provide written notice to those manufacturers and vendors appearing on the appropriate list maintained by the district; and
  - (2) The district will accept manufacturer and vendor applications to include products in the district's list of prequalified products up to 15 calendar days prior to the initial advertisement for bids or proposals for the type of product to be purchased, unless otherwise specified in the advertisement or in the district's written notice.
- b. If the district denies an application for including a product on a list of prequalified products, the district shall promptly provide the applicant with a written notice of the denial and include the reason for denial. The applicant may submit a written appeal within seven calendar days to the district business manager to request review and reconsideration of the denial.

**Findings of Fact**

- a. There are occasions when the district needs to establish a list of prequalified products before it invites bids or proposals to furnish the products. The district may have a specific performance or design need, but it is impractical for the district to create a specification for the type of products to be purchased. An example is audiovisual equipment. There is a tremendous variety of audiovisual products offered in the market. The equipment technology is complex and constantly changing. It would be very burdensome and time consuming for the district to generate nonbrand name, generic performance specifications for such equipment every time it wants to make a purchase.

Also, competition would be poorly served because bidders and proposers would not know in advance whether their offered product would meet the general specification substantially enough to be considered a responsive offer. The decision to make an award would be slow, because each product offered would have to be analyzed against the district's specification. Slowdown in the award process affects both bidders, who are asked to hold their bids open until award is made, and district programs, because staff are not able to order the equipment they need until the contract is awarded.

**D** In this case, it might be more cost effective and efficient for the district to prequalify products and establish a list of approved products before invitations to bid are sent out. The prequalification process can be done some time before the need for a new contract. Once the prequalified product list is established, the bidding and contract award process can go quickly and smoothly.

- b. A second occasion when prequalification of products will be useful is when the specific design or performance specifications for a product are so exacting that the district must have time to carefully consider what is offered in the market that may or may not meet the specifications and, if necessary, reconsider its options before issuing an invitation to bid.
- c. This rule sets out a process of prequalification which requires the use of advertisement or other appropriate means to notify vendors of competing products of their opportunity to submit items for prequalification. The district maintains vendor mailing lists which are open to all interested vendors. The district uses these lists routinely to notify vendors of its intentions to prequalify products or to invite bids on products.
- d. This includes a 15-day time limit between the closure of a prequalification list and a related invitation to bid. This time factor ensures that vendors have a reasonable time to apply to include their products on a prequalified product list.
- e. Subsection b., of this rule provides vendors with an appeal process to follow if their application for prequalification is denied.

### **Conclusion of Compliance with Law**

Where prequalification of products is appropriate, it is unlikely that this special procurement will encourage favoritism in the awarding of public contracts or diminish competition for such contracts. There are several safeguards in the rule to prevent this, including notice, advertising, time and appeal process requirements to ensure that vendors are given a fair and open opportunity to participate in the prequalification process.

The prequalification of products process is a time-consuming effort for the district. It is not a shortcut procurement method. The district would use this method only after balancing cost-saving considerations, such as the ability of the district to create or generate nonbrand name generic specifications for types of products or the need for lengthy product evaluation prior to a contract award. If the prequalification method is chosen, it will result in a cost savings to the district because the normal method of product selection is too cumbersome and costly to pursue, or otherwise substantially promote the public interest.

### **7. Requirements Contracts (Blanket Purchase Orders, Price Agreements)<sup>1</sup>**

- a. The business manager, on behalf of the district, may establish requirements contracts for the purposes of minimizing paperwork, achieving continuity of product, securing a source of

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<sup>1</sup> OregonBuys.gov allows authorized members to utilize the state's price agreement/contracts to purchase goods and services. Authorized OregonBuys members can legally attach to a state price agreement and forego the competitive bid process. Access to hundreds of competitive price contracts for a wide variety of goods and services: vehicles, computers, furniture, copiers, fax machines, travel, pharmaceuticals, office products, etc., is available. Counties, cities, schools, municipalities or their public corporate entities having local governing authority, a United States governmental agency or American Indian tribe or agency are eligible to participate.

supply, reducing inventory, combining district requirements for volume discounts, standardization among school and departments and reducing lead time for ordering.

- D**
- b. The district may enter into a requirements contract (also known as a blanket purchase order or price agreement) whereby it is agreed to purchase goods or services for an anticipated need at a predetermined price or price discount from a price list, provided the contract is led by a competitive procurement process pursuant to the requirements of the public contracting code and these rules.
  - c. Once a requirements contract is established, schools and departments may purchase the goods and services from the awarded contractor without first undertaking additional competitive solicitation.
  - d. School and departments shall use requirements contracts established by the district, unless otherwise specified in the contract, allowed by law or these rules or specifically authorized by the [superintendent] or designee.
  - e. Under the authority of ORS 279A.025 and 279B.085, the district may use the requirements contracts entered into by another Oregon public agency when:
    - (1) The original contract met the requirements of public contracting code; and
    - (2) The original contract allows other public agency usage of the contract; and
    - (3) The original public contracting agency concurs and this is documented by a written interagency agreement between the district and the agency.
  - f. The term of any district requirements contract, including renewals, shall not exceed five years unless otherwise permitted under the public contracting code.

### **Findings of Fact**

- a. This rule permits the district to enter into a requirements contract, in which the vendor agrees to provide specified goods and services over the term of the contract at the bid price or discount rate. A requirements contract is useful when the purchase of the goods or services are routine and repetitive. For example, school, office, custodial and facilities maintenance supplies are customarily purchased through requirements contracts.
- b. Requirements contracts are a common method of minimizing paperwork, achieving continuity of product, securing a source of supply, reducing inventory, obtaining volume discounts, standardizing usage among schools and departments and reducing lead time for ordering.
- c. The district establishes a requirements contract as a result of open competitive bidding or RFP processes, unless otherwise permitted under the public contracting code.
- d. The district limits the term of a requirements contract, including all renewal options, to a maximum of five years before competitive rebidding must be done, unless otherwise permitted under the public contracting code.
- e. The district may use the requirements contracts established by other public agencies, subject to certain conditions of state law, Board policy and administrative regulation.

### **Conclusion of Compliance with Law**

**E**

It is unlikely that this special procurement will result in favoritism in the awarding of public contracts or diminish competition for such contracts. The district will only enter into requirements contracts which result from open competitive bidding processes. This condition applies also to the use of requirements contracts established by other public contracting agencies.

The awarding of district requirements contracts will result in a cost savings to the district, or otherwise substantially promote the public interest. It would be costly and inefficient to make routine, repetitive purchases of goods and services through individual transactions. Also, the guaranteed volume of a requirements contract allows the district to get better prices from bidders.

8. Used Personal Property or Equipment, Purchase<sup>2</sup>

- a. Subject to the provisions of this rule, the district may purchase used property or equipment without obtaining competitive bids or quotes, if the district has determined that the purchase will result in cost savings to the district and will not diminish competition or encourage favoritism. “Used personal property or equipment” is property or equipment which has been placed in its intended use by a previous owner or user for a period of time recognized in the relevant trade or industry as qualifying the personal property or equipment as “used” at the time of district purchase. Used personal property or equipment generally does not include property or equipment if the district was the previous user, whether under a lease, as part of a demonstration, trial or pilot project or similar arrangement.
- b. For purchases of used personal property or equipment costing less than or equal to \$150,000, the district shall, where feasible, obtain three competitive quotes unless the district has determined and documented that a purchase without obtaining competitive quotes will result in cost savings to the district and will not diminish competition or encourage favoritism.
- c. For purchases of used personal property or equipment totaling \$150,000 or more, the district shall attempt to obtain three competitive quotes. The district will keep a written record of the source and amount of quotes received. If three quotes are not available, a written record must be made of the attempt to obtain quotes.

**Findings of Fact**

- a. The district is responsible to manage expenditures in the best interests of the public. Cost savings can be achieved through the procurement of used property and equipment. The district purchases used property and equipment when it meets the district’s needs and is cost effective. Considerations include type, quality, quantity and estimated useful life of the used item.
- b. Used equipment and property becomes available sporadically and without notice. Used equipment and property is generally sold on a first-come, first-served basis. When used property or equipment does become available, the district must be able to respond immediately in order to obtain the property or equipment.
- c. Some types of property or equipment may not be readily available in the new goods market. The district may have to look for used items to fill the need.
- d. Competition to provide used property and equipment may be very limited and inconsistent, depending on the type of product.
- e. The district maintains vendor lists which include information on whether a vendor provides used property or equipment. These lists are open to all vendors.

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<sup>2</sup> When contracting with another governmental entity, a district has a statutory exception under ORS 279A.025. The district may purchase state/federal surplus property through the Department of Administrative Services, State Services Division for Surplus Property. For more information on this program, contact DAS at 503-378-4714.

## Conclusion of Compliance with Law

**D** It is unlikely that this special procurement will encourage favoritism in the award of public contracts or substantially diminish competition for such contracts. The purchase of used property or equipment depends on an inconsistent, sporadic market. When a used item is available, there is often little competition available. Sources for used items of the type, quality and quantity required by the district are inconsistent. This rule requires the district to attempt to obtain and document quotes as appropriate to the dollar amount of the purchase. If the anticipated purchase is over \$150,000, the district will advertise its need.

The use of this special procurement will result in a cost savings to the district, or otherwise substantially promote the public interest. The cost of used equipment or property is generally substantially less than that of new. Savings of 20 percent to 50 percent are not uncommon. Used equipment can provide good value to the district and help ensure the continuation of district services and programs.

### 9. Information Technology Contracts

The district may enter into a contract to acquire information technology hardware and software without competitive bidding subject to the following conditions:

- a. If the contract amount does not exceed \$150,000, the district shall attempt to obtain three competitive quotes pursuant to the rules governing Intermediate Procurements. The district shall keep a written record of the sources of the quotes or proposals received. If three quotes or proposals are not reasonably available, fewer will suffice, but the district shall make a written record of the effort made to obtain the quotes or proposals.
- b. If the contract amount exceeds \$150,000, the district shall determine and use the best procurement method, pursuant to the public contracting code and these rules, and shall solicit written proposals in accordance with the requirements of the *Attorney General's Model Public Contract [and LCRB] Rules*. The district shall document the evaluation and award process, which will be part of the public record justifying the award;
- c. If the amount of the contract is estimated to exceed [\$150,000], the district shall provide proposers an opportunity to review the evaluation of their proposals before final selection is made.

### Findings of Fact

- a. Rapid changes in technology make it necessary for the district to be able to purchase needed computer equipment quickly.
- b. Pricing for high-technology equipment also changes rapidly. It is frequently possible to take advantage of frequent price changes in the marketplace in the purchase of computer equipment.
- c. There is generally sufficient competition among vendors of information technology hardware and software for district business.
- d. The district will follow rules governing special procurements and obtain at least three informally solicited quotes for purchases less than or equal to \$150,000.
- e. If the district requires a brand name or sole source product, the district will follow its rule governing Brand Names or Products, "Or Equal," Single Seller and Sole Source, Section 1. under Special Procurements, to procure it.

## Conclusion of Compliance with Law

It is unlikely that this special procurement will encourage favoritism in the award of district contracts or substantially diminish competition for district contracts. The purchase of information technology hardware and software will be made in accordance with other competitive bidding rules contained in this administrative regulation. If the anticipated purchase is over \$150,000, the district will advertise its need.

The use of this special procurement will result in a cost savings to the district, or otherwise substantially promote the public interest. Competition will be encouraged at all dollar levels of purchase of information technology hardware and software. This rule gives the district some flexibility in selecting the method of competitive procurement but requires adherence to the rule on brand name or sole source acquisitions if those situations occur.

### 10. Telecommunications Systems - Hardware and Software Contracts

- a. The district may enter into a contract to acquire telecommunications system hardware and software, without competitive bidding, subject to the following conditions:
  - (1) If the contract amount does not exceed \$150,000, the district shall attempt to obtain three competitive quotes pursuant to the rules governing Intermediate Procurements. The district shall keep a written record of the sources of the quotes or proposals received. If three quotes or proposals are not reasonably available, fewer will suffice, but the district shall make a written record of the effort made to obtain the quotes or proposals.
  - (2) If the contract amount exceeds \$150,000, the district shall determine and use the best procurement method, pursuant to the public contracting code and these rules and shall solicit written proposals in accordance with the requirements of Chapter 137, Divisions 047 and 049 of the *Attorney General's Model Public Contract [and LCRB] Rules*. The district shall document the evaluation and award process, which will be part of the public record justifying the award.
- b. The telecommunications solicitation authorized in subsection 10.a.(1) of these rules shall:
  - (1) State the contractual requirements in the solicitation document;
  - (2) State the evaluation criteria to be applied in awarding the contract and the role of any evaluation committee. Criteria that would be used to identify the proposal that best meets the district's needs may include, but are not limited to, cost, quality, service and support, compatibility, product or system reliability, vendor viability and financial stability, operating efficiency and expansion potential;
  - (3) State the provisions made for bidders or proposers to comment on any specifications which they feel limit competition.

### Findings of Fact

- a. Rapid changes in technology make it necessary for the district to be able to purchase needed telecommunications hardware and software quickly.
- b. Since deregulation, there is generally adequate competition among vendors of telecommunication hardware and software to allow the district to make competitive purchases.
- c. Pricing for telecommunications hardware and software also changes frequently. It is important for the district to take advantage of price competition in the marketplace.



- d. The district will follow procedures governing special procurements and document reasonable efforts to obtain at least three informally solicited quotes for purchases over \$10,000 but less than or equal to \$150,000.
- e. If a purchase of telecommunications hardware or software is expected to cost more than \$150,000, the district will use a formal competitive bidding or proposal process in accordance with these rules and the *Attorney General's Model Public Contract [and LCRB] Rules*.
- f. There are also times when the district needs to purchase specific items that are compatible with current equipment. On these occasions, the district will follow its rule governing Brand Names or Products, "Or Equal," Single Seller and Sole Source, Section 1. under Special Procurements, to make the purchase.

### **Conclusion of Compliance with Law**

It is unlikely that this special procurement will encourage favoritism in the awarding of public contracts or substantially diminish competition for such contracts. The purchase of telecommunications hardware and software will be made in accordance with other competitive bidding rules herein. If the anticipated purchase is over \$150,000, the district will advertise its need.

The use of this special procurement will result in a cost savings to the district, or otherwise substantially promote the public interest. Competition will be encouraged at all dollar levels of purchase of telecommunications hardware and software. This rule gives the district some flexibility in selecting the method of competitive procurement but requires adherence to the rule on brand name or sole source acquisitions if those situations occur.

## 11. Telecommunications Services

- a. The district shall secure the most competitive, cost-effective telecommunications services of the quality needed to meet all service performance requirements while minimizing administrative and service delivery costs. The district will use routine purchasing procedures whenever possible, but if necessary, the district can consider alternative procurement methods in accordance with this rule.

The district will generally follow the normal competitive procurement processes in obtaining telecommunications services. This process will only be used if necessary where there is a lack of sufficient competition to furnish needed services.

- b. In determining the appropriate procurement method for telecommunications services, the district shall comply with the requirements of ORS 291.038 and determine whether competition exists. In determining whether competition exists, the district may consider the following factors:
  - (1) The extent to which alternative providers exist in the relevant geographic and service market; the greater area of [Insert Name] County;
  - (2) The extent to which alternative services offered are comparable or substitutable in technology, service provided and performance. For example, if the district requires digital services, analog services are not comparable or substitutable. If the district requires fiber optic technology, then copper, microwave or satellite transmission technology may not be comparable or substitutable;
  - (3) The extent to which alternative providers can respond to the district's interest in consistency and continuity of services throughout its service area, volume discounts,

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equitable service for all users, centralized management and limiting district liability. For example, to be considered as the district's long-distance service provider, any long-distance service vendor must be able to meet, support and interface with the district's centralized automated billing requirements. The district must document for the record, its findings on these factors or any other factors used in determining whether competition exists. In developing its findings, the district may solicit the information either through informal telephone or written contacts or through a formal solicitation such as a RFP.

- c. If the district determines that competition does not exist in the area for the relevant service, the district may proceed to secure the service on a sole source basis, as described in the district's rule governing Brand Names or Products, "Or Equal," Single Seller and Sole Source, Section 1. under Special Procurements.

### Findings of Fact

- a. Since deregulation, there is generally adequate competition among vendors of telecommunication services to allow the district to make competitive procurements.
- b. Since there is competition, price competition exists in the marketplace. It is important for the district to take advantage of existing competition.
- c. The district will follow its rules governing special procurements and document reasonable efforts to obtain at least three informally solicited quotes for purchases less than or equal to \$150,000. The district shall keep a written record of the sources of the quotes or proposals received. If three quotes or proposals are not reasonably available, fewer will suffice, but the district shall make a written record of the effort made to obtain the quotes or proposals.
- d. If a purchase of service is expected to cost more than \$150,000, the district will use a formal competitive bidding or proposal process in accordance with these rules and the *Attorney General's Model Public Contract [and LCRB] Rules*.
- e. There may be occasions where there is limited competition that can furnish telecommunications services of the quality and extent required by district operations. In such instances, the district will follow this rule and also its rule governing Brand Names or Products, "Or Equal," Single Seller and Sole Source, Section 1. under Special Procurements, to procure needed services from the sole source.

### Conclusion of Compliance with Law

It is unlikely that this special procurement will encourage favoritism in the awarding of public contracts or substantially diminish competition for such contracts. Routinely, the purchase of telecommunications services will be made in accordance with other competitive bidding rules contained in this administrative regulation. If the anticipated purchase is over \$150,000, the district will advertise its need, issue a written solicitation document and invite written bids or proposals to be furnished in response.

There may be circumstances, however, where sufficient competition does not exist in the relevant geographic and service market area. In such cases, the district will follow this rule in determining whether sufficient competition exists to make a competitive procurement.

The use of this special procurement will result in a cost savings to the district, or otherwise substantially promote the public interest. Competition will be encouraged at all dollar levels of purchase of telecommunications hardware and software. This rule gives the district some flexibility

in selecting the method of competitive procurement but requires adherence to the rule on brand name or sole source acquisitions if those situations occur. The rule also states the steps to be taken to document situations where sufficient competition may not exist and a sole source purchase needs to be made.

12. Hazardous Material Removal; Oil Cleanup

- a. The district may enter into public contracts without competitive bidding, regardless of a dollar amount, when ordered to clean up oil or hazardous waste pursuant to the authority granted to the Oregon Department of Environmental Quality (DEQ) under ORS Chapter 466, especially ORS 466.605 through 466.680. In exercising its authority under this exemption, the district shall:
  - (1) To the extent reasonable under the circumstances, encourage competition by attempting to make informal solicitations or to obtain informal quotes from potential suppliers of goods and services;
  - (2) Make written findings describing the circumstances that require the cleanup or maintain a copy of the DEQ order for the cleanup;
  - (3) Record the measures taken under A.1. of this rule to encourage competition, the amount of the quotes or proposals obtained, if any, and the reason for selecting the contractor to whom award is made.
- b. The district shall not contract pursuant to this special procurement in the absence of an order from the DEQ to clean up a site which includes a time limit that would not allow the district to hire a contractor under normal competitive bidding procedures. Goods and services to perform other hazardous material removal or cleanup will be purchased in accordance with normal competitive bidding procedures as described in Board policy with this administrative regulation.

**Findings of Fact**

- a. When the DEQ orders a public agency to remove or clean up hazardous material or oil, the public agency must respond within a very short time, which is stated in the DEQ order. This time period does not generally allow the agency to take the time necessary to solicit written bids or proposals for the work to be performed. The district would be liable for any delay in responding to DEQ orders to perform hazardous material removal or cleanup.
- b. This exemption will not be used in those situations where there is no DEQ order to remedy the situation. Routine competitive procurement methods will be used where there is no DEQ order to act immediately. The district maintains open lists of vendors who are interested in providing hazardous material removal and cleanup services. Whenever it needs hazardous material removal or disposal, the district makes use of these lists to solicit quotes, bids or proposals as needed, in addition to advertising the procurement as required.
- c. Cost savings are achieved through this exemption because the district can be liable for DEQ penalties and fines if it does not timely remove hazardous materials or oil as ordered. There is also serious risk in these situations, that property damage or personal injury could result if the district is slow to act.

## Conclusions of Compliance with Law

It is unlikely that this special procurement will encourage favoritism in the awarding of public contracts or substantially diminish competition for such contracts as required by ORS 279B.085(3)(a). If it is under DEQ order to act immediately, the district will still attempt to obtain competitive quotes for the work to be performed as it has the ability and time to do so. Unless the district is faced with the quasi-emergency situation of a DEQ order to remove or clean up hazardous waste or oil, it will follow normal competitive procedures to obtain these services.

The award of public contracts pursuant to this special procurement will result in a cost savings to the district in these situations, as required by ORS 279B.085(3)(b), because the district must comply with the law and avoid and minimize risk to persons and property. Where possible, it will seek competitive quotes for the work to be performed and will award the contract to the lowest, responsive and responsible bidder.

### 13. Renegotiation of Existing Contracts with Incumbent Contractors

- a. The district may amend or renegotiate contracts with existing vendors, service providers or other parties subject to the limitations of this rule.
- b. The district has determined that [value engineering,] [specialized expertise required,] [public safety] [and technical complexity], generally do not apply to this special procurement procedure.
- c. The renegotiated contract falls within a current special procurement procedure, but if not the LCRB must approve a separate special procurement.
- d. The district may renegotiate certain terms, but they must not unreasonably alter the scope of the original contract.

### Findings of Fact

- a. The LCRB may amend contracts when it is in the best interest of the district. The [superintendent] and/or other designee, acting on behalf of the LCRB, may renegotiate certain provisions, including:
  - (1) Price;
  - (2) Term;
  - (3) Delivery and shipping;
  - (4) Order size;
  - (5) Substitution;
  - (6) Warranties;
  - (7) Online ordering systems;
  - (8) Price adjustments;
  - (9) Product availability;
  - (10) Product quality;
  - (11) Reporting requirements; or
  - (12) Discounts.

Any contract amendment will be supported by legal consideration when necessary to validate the amended provision.

- b. The amended terms must be within a reasonable scope of the original contract, but not fundamentally alter the agreement or nature of goods or services. Districts may, however, request functionally equivalent substitutes for goods or services in the original contract.
- c. The contract as a whole must be more favorable to the individual needs of the district to justify renegotiation. Cost may be a factor in determining what is a favorable change to the original contract, but the district may use factors other than cost that demonstrate that the amended contract is more favorable to the unique needs of the district.

### **Conclusion of Compliance with Law**

This special procurement will not encourage favoritism or substantially diminish competition in awarding public contracts because it already exists as a contract awarded in compliance with the district's special procurement and public contracting code.

The awarding of contracts under this special procurement will result in cost savings to the district when it needs to renew its original contract with vendors, service providers or other parties, or otherwise substantially promote the public interest.

### ***EXEMPTIONS FROM COMPETITIVE BIDDING***

All public contracts shall be based upon competitive bids or proposals, except the following:

1. Contracts which have been specifically exempted under ORS 279A.025 and 279C.335; and
2. Contracts covered by the class exemptions in the following set of rules developed pursuant to ORS 279C.335(2) and (5) and based on Oregon Administrative Rules, Chapter 137, Divisions 46 through 49.

The Board, acting as the Local Contract Review Board (LCRB) for the district, has made the findings required by ORS 279C.330, ORS 279C.335 and ORS 279C.345, and determined that awarding a contract under this exemption is unlikely to encourage favoritism or substantially diminish competition for the public contract and will likely result in a substantial cost savings and other substantial benefits to the district.

In approving a finding under this section, the local contract review board shall consider the type, cost and amount of the contract and, to the extent applicable to the particular public improvement contract or class of public improvement contracts, the following:

1. How many persons are available to bid;
2. The construction budget and the projected operating costs for the completed public improvements;
3. Public benefits that may result from granting the exemption;
4. Whether value engineering techniques may decrease the cost of the public improvement;
5. The cost and availability of specialized expertise that is necessary for the public improvement;
6. Any likely increases in public safety;

7. Whether granting the exemption may reduce risks to the district or the public that are related to the public improvement;
8. Whether granting the exemption will affect the sources of funding for the public improvement;
9. Whether granting the exemption will better enable the district to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement;
10. Whether granting the exemption will better enable the district to address the size and technical complexity of the public improvement;
11. Whether the public improvements involves new construction or renovates or remodels an existing structure;
12. Whether the public improvement will be occupied or unoccupied during construction;
13. Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions; and
14. Whether the district has or has retained under contract, and will use district personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the district will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract.

Only these findings are required for each class or individual contract exemption, unless the LCRB specifically excludes a finding or includes an additional finding.

Promulgation of these exemptions can only occur after public notification and a public hearing to receive testimony pertaining to the draft exemptions and findings, pursuant to ORS 279C.335.

1. Brand Names or Products, “Or Equal,” Single Seller and Sole Source
  - a. The district may purchase brand names or products from a single seller or sole source without competitive bidding subject to the limitations of this rule.
  - b. The district has determined that [value engineering,] [specialized expertise required,] [public safety] [and technical complexity], generally do not apply to this exemption.
  - c. Solicitation specifications for public contracts of the district shall not expressly or implicitly require any product of any particular manufacturer or seller except as expressly authorized in subsections d. and e. of this rule.
  - d. The district may specify a particular brand name, make or product suffixed by “or equal,” “or approved equal,” “or equivalent,” “or approved equivalent” or similar language if there is no other practical method of specification after documenting the procurement file with the following:
    - (1) A brief description of the solicitation(s) to be covered, including contemplated future purchases;
    - (2) Description of the brand name, mark or product to be specified; and
    - (3) A brand name specification may be prepared and used only if the district determines for a solicitation or class of solicitations that only the identified brand name specification

will meet the needs of the district based on one or more of the following written determinations:

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- (a) The use of the brand name specification is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; or
  - (b) Specification of the brand name, mark or product would result in substantial cost savings to the district; or
  - (c) There is only one manufacturer or seller of the product of the quality, performance or functionality required; or
  - (d) The efficient utilization of existing goods requires the acquisition of compatible goods and services.
- (4) The district shall make reasonable effort to notify all known suppliers of the specified product and invite such vendors to submit competitive bids or proposals.
- e. The district may purchase a particular product or service available from only one source, after documenting the procurement file with the district's findings of current market research to support the determination that the product is available from only one seller or source. The district's findings shall include:
- (1) A brief description of the contract or contracts to be covered, including contemplated future purchases;
  - (2) Description of the product or service to be purchased; and
  - (3) The reasons the district is seeking this procurement method, which shall include any of the following:
    - (a) That the efficient utilization of existing equipment, supplies or services requires the acquisition of compatible equipment, supplies or services; or
    - (b) That the goods or services required for the exchange of software or data with other public or private agencies are available for only one source; or
    - (c) That the goods or services are for use in a pilot or an experimental project; or
    - (d) Other findings that support the conclusion that the goods or services are available from only one source.
  - (4) To the extent reasonably practical, the contracting agency shall negotiate with the sole source to obtain contract terms advantageous to the contracting agency.
- f. The district may specify a product or service available from only one manufacturer but available through multiple sellers, after documenting the procurement file with the following information:
- (1) If the total purchase is over \$10,000 but does not exceed \$100,000, and a comparable product or service is not available under an existing state cooperative purchasing contract, competitive quotes shall be obtained by the district and retained in the procurement file; or
  - (2) If the amount of the purchase exceeds \$100,000, the product or service shall be obtained through competitive bidding unless a specific exemption is granted by the LCRB.

- g. If the district intends to make several purchases of the product of a particular manufacturer or seller for a period not to exceed five years, the district will so state in the solicitation file and in the solicitation document, if any. Such documentation shall be sufficient notice as to subsequent purchases. If the total purchase amount is estimated to exceed \$100,000, this shall be stated in the advertisement for bids or proposals.

### **Findings of Fact/Conclusion of Compliance with Law**

It is unlikely that this process will encourage favoritism in the award of public contracts or substantially diminish competition for such contracts, as required by ORS 279C.335 (2)(a).

This class exemption applies only to contracts under a limited dollar amount, and then, only after efforts to obtain competitive quotes are made, or other methods have been employed to ensure that competitive means are used if available. The district maintains open lists from which vendors are contracted for quotations. In addition, as required by ORS 279C.335 (2)(b) award of a public contract subject to the above described exemption should likely result in substantial cost savings or other substantial benefits to the district by virtue of the ability to reduce solicitation costs when it is known that comparable products are not available, or when specifying another product solely to meet a competition requirement might lead to lower initial cost but longer lifetime cost.

## 2. Product Prequalification

- a. When specific design or performance specifications must be met or such specifications are impractical to create or reproduce for a type of product to be purchased, the district may specify a list of approved or qualified products by reference to the prequalified product(s) of particular manufacturers or vendors in accordance with the following product prequalification procedure:
- (1) The district will make reasonable efforts to notify all known manufacturers and vendors of competing products of the district's intent to compile a list of prequalified products. The notice will explain the opportunity manufacturers and vendors of competing products will have to apply to have their product(s) included on the district's list of prequalified products. At its discretion, the district may provide notice by advertisement in a trade paper of general statewide circulation or other appropriate trade publication; or instead of advertising, the district may provide written notice to those manufacturers and vendors appearing on the appropriate list maintained by the district; and
  - (2) The district will accept manufacturer and vendor applications to include products in the district's list of prequalified products up to 15 calendar days prior to the initial advertisement for bids or proposals for the type of product to be purchased, unless otherwise specified in the advertisement or in the district's written notice.
- b. The district has determined that special expertise required, generally, does not apply to this rule.
- c. If the district denies an application for inclusion of a product on its list of prequalified products, the district shall promptly provide the applicant with a written notice of the denial and include the reason for denial. The applicant may submit a written appeal within [7] calendar days to the district business manager to request review and reconsideration of the denial.



## Findings of Fact

- D** a. There are occasions when the district needs to establish a list of prequalified products before it invites bids or proposals to furnish the products. The district may have a specific performance or design need, but it is impractical for the district to create a specification for the type of products to be purchased. An example is audiovisual equipment. There is a tremendous variety of audiovisual products offered in the market. The equipment technology is complex and constantly changing. It would be very burdensome and time consuming for the district to generate nonbrand name, generic performance specifications for such equipment every time it wants to make a purchase.

Also, competition would be poorly served because bidders and proposers would not know in advance whether their offered product would meet the general specification substantially enough to be considered a responsive offer. The decision to make an award would be slow, because each product offered would have to be analyzed against the district's specification. Slowdown in the award process affects both bidders, who are asked to hold their bids open until award is made, and district programs, because staff are not able to order the equipment they need until the contract is awarded.

In this case, it might be more cost effective and efficient for the district to prequalify products and establish a list of approved products before invitations to bid are sent out. The prequalification process can be done some time before the need for a new contract. Once the prequalified product list is established, the bidding and contract award process can go quickly and smoothly.

- b. A second occasion when prequalification of products will be useful is when the specific design or performance specifications for a product are so exacting that the district must have time to carefully consider what is offered in the market that may or may not meet the specifications and, if necessary, reconsider its options before issuing an invitation to bid.
- c. This rule sets out a process of prequalification which requires the use of advertisement or other appropriate means to notify vendors of competing products of their opportunity to submit items for prequalification. The district maintains vendor mailing lists which are open to all interested vendors. The district uses these lists routinely to notify vendors of its intentions to prequalify products or to invite bids on products.
- d. This includes a 15-day time limit between the closure of a prequalification list and a related invitation to bid. This time factor ensures that vendors have a reasonable time to apply to include their products on a prequalified product list.
- e. Subsection c. of this rule provides vendors with an appeal process to follow if their application for prequalification is denied.

## Conclusion of Compliance with Law

Where prequalification of products is appropriate, it is unlikely that this exemption will encourage favoritism in the awarding of public contracts or diminish competition for such contracts as required by ORS 279C.335(2)(a). There are several safeguards in the rule to prevent this, including notice, advertising, time and appeal process requirements to ensure that vendors are given a fair and open opportunity to participate in the prequalification process.

The prequalification of products process is a time-consuming effort for the district. It is not a shortcut procurement method. The district would use this method only after balancing cost-saving

considerations, such as the ability of the district to create or generate nonbrand name generic specifications for types of products or the need for lengthy product evaluation prior to a contract award. If the prequalification method is chosen, it will likely result in a substantial cost savings and other substantial benefits to the district as required by ORS 279C.335 (2)(b) because the normal method of product selection is too cumbersome and costly to pursue.

### 3. Requirements Contracts (Blanket Purchase Orders, Price)<sup>3</sup>

- a. The business manager, on behalf of the district, may establish requirements contracts for the purposes of minimizing paperwork, achieving continuity of product, securing a source of supply, reducing inventory, combining district requirements for volume discounts, standardization among schools and departments and reducing lead time for ordering.
- b. The district has determined that [value engineering,] [specialized expertise required] [and technical complexity,] generally, do not apply to this rule.
- c. The district may enter into a requirements contract (also known as a blanket purchase order or price agreement) whereby it is agreed to purchase goods or services for an anticipated need at a predetermined price or price discount from a price list, provided the contract is let by a competitive procurement process pursuant to the requirements of the public contracting code and these rules.
- d. Once a requirements contract is established, schools and departments may purchase the goods and services from the awarded contractor without first undertaking additional competitive solicitation.
- e. Schools and departments shall use requirements contracts established by the district, unless otherwise specified in the contract, allowed by law or these rules or specifically authorized by the [superintendent] or designee.
- f. Under the authority of ORS 279A.025 and 279C.335, the district may use the requirements contracts entered into by another Oregon public agency when:
  - (1) The original contract met the requirements of the public contracting code; and
  - (2) The original contract allows other public agency usage of the contract; and
  - (3) The original public contracting agency concurs, and this is documented by a written interagency agreement between the district and the agency.
- g. The term of any district requirements contract, including renewals, shall not exceed five years unless otherwise exempted pursuant to ORS 279C.335.

### Findings of Fact

- a. This rule permits the district to enter into requirements contracts, in which the vendor agrees to provide specified goods and services over the term of the contract at the bid price or discount rate. A requirements contract is useful when the purchase of the goods or services are routine and repetitive. For example, school, building, office, custodial and facilities maintenance supplies are customarily purchased through requirements contracts.
- b. Requirements contracts are a common method of minimizing paperwork, achieving continuity of product, securing a source of supply, reducing inventory, obtaining volume discounts,

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<sup>3</sup> The OregonBuys.gov allows authorized members to utilize the state's price agreement/contracts to purchase goods and services. Authorized OregonBuys members can legally attach to a state price agreement and forego the competitive bid process. Access to hundreds of competitive price contracts for a wide variety of goods and services: vehicles, computers, furniture, copiers, fax machines, travel, pharmaceuticals, office products, etc., is available.

standardizing usage among schools, buildings and departments and reducing lead time for ordering.

- c. The district establishes requirements contracts as a result of open competitive bidding or RFP processes, unless otherwise exempted.
- d. The district limits the term of a requirements contract, including all renewal options, to a maximum of five years before competitive rebidding must be done, unless otherwise exempted.
- e. The district may use the requirements contracts established by other public agencies, subject to certain conditions of state law, Board policy and administrative regulation.

#### **Conclusion of Compliance with Law**

It is unlikely that this exemption will result in favoritism in the awarding of public contracts or diminish competition for such contracts, as required by ORS 279C.335(2)(a). The district will only enter into requirements contracts which result from open competitive bidding processes. This condition applies also to the use of requirements contracts established by other public contracting agencies.

The awarding of district requirements contracts will likely result in a substantial cost savings and other substantial benefits to the district, as required by ORS 279C.335(2)(b). It would be costly and inefficient to make routine, repetitive purchases of goods and services through individual transactions. Also, the guaranteed volume of a requirements contract allows the district to get better prices from bidders.

#### **4. Waiver of Bid Security Requirements (Public Improvement Contracts under \$100,000)**

The LCRB may, at its discretion, waive the bid security requirements of ORS 279C.390, if the amount of the contract for the public improvement is less than \$100,000. Although the bid security requirements of ORS 279C.390 are waived for public improvement contracts under \$100,000, the district may impose a bid or quote security requirements for projects under \$100,000, when deemed to be in the best interest of the district.

#### **Findings of Fact/Conclusion of Compliance with Law**

This rule allows the LCRB to waive bid security requirements for certain public improvement contracts. Waiver of the bid security is provided for by statute without a requirement for findings.

#### **5. Waiver of Performance and Payment Security Requirements (Public Improvement Contracts under \$100,000)**

The LCRB may, at its discretion, waive the performance/payment security requirements of ORS 279C.390 if the amount of the contract for the public improvement is less than \$100,000. Although the performance/payment security requirements of ORS 279C.390 are waived for public improvement contracts less than \$100,000, the district may impose a performance/payment security requirement for projects less than \$100,000 when deemed to be in the best interest of the district.

## **Findings of Fact/Conclusion of Compliance with Law**

This rule allows the LCRB to waive performance/payment security requirements for certain public improvement contracts. Waiver of the performance/payment security is provided for by statute without a requirement for findings.

### **6. Projects with Complex Systems or Components**

- a. For contracts for public improvements with significant components that are inherently complex and are also complex to procure through competitive bid, the district may, at its discretion, use RFP competitive procurement methods subject to the conditions described in ORS 279C.400 and conditions enumerated in this exemption.
- b. **Definitions.** For purposes of this exemption only: “Complex Systems” are defined as those systems which incorporate the procurement of materials or other components which are difficult, if not impossible, to create in an “equal” specifications basis for competitive bid. Examples of such systems include but are not limited to, contracts for supplying and installing computerized controls for building heating, venting, air conditioning systems; and contracts for artificial surface outdoor multipurpose athletic fields. “Significant” is intended to mean something more than de minimus, but not necessarily the majority of the project as determined by cost.

## **Finding of Fact/Conclusion of Compliance with the Law**

It is unlikely that this exemption will encourage favoritism in the awarding of the public contracts or substantially diminish competition for such contracts as required by ORS 279C.335(2)(a). Contracts for public improvements occasionally incorporate the procurement of systems, materials, or other components (complex systems) for which it is extremely difficult to design bid specifications. In these situations, utilization of a RFP process where each of the systems can be evaluated utilizing a number of factors, in addition to price, will likely result in substantial cost savings and other substantial benefits to the district as required by ORS 279C.335(2)(b).

ORS 279C.400 enumerates how RFP’s are to be used if authorized by the LCRB. These criteria, ensures that competitive means will be used, and selection will be fair and impartial. As a result, it is unlikely that this process will encourage favoritism in the awarding of public contracts or substantially diminish competition for such contracts as required by ORS 279C.335(2)(a). The awarding of contracts pursuant to this process will result in optimal value to the district based on selection by the district of the best competitive proposal that meets the stated evaluative criteria.

This class exemption is intended to be used for the types of procurements describe in the findings, where the specific system, materials or components represent a significant portion of the project. This class exemption is not intended to be used for construction manager/general contractor (CM/GC) projects or other methods of alternative procurement unless these projects meet the requirements of this class exemption. The CM/GC and others, not meeting the requirements of this class exemption, may still be procured by RFP, provided that a project or contract specific exemption is promulgated by the LCRB.

# OSBA Model Sample Administrative Regulation

Code: DJC-AR  
Revised/Reviewed:

## Exemptions from Competitive Bidding and Special Procurements

All public contracts shall be based upon competitive bids or proposals, except the following:

1. Contracts below threshold levels in accordance with ORS 279B.065 (small procurements for goods and services), 279B.070 (intermediate procurements for goods and services) and 279C.412 (intermediate procurements for public improvements);
2. Special procurements for goods and services in accordance with ORS 279B.085 and OAR 137-047-0285;<sup>1</sup>
3. Contracts which have been exempted under ORS 279A.025 and 279C.335; and
4. Any other contract exempted by law.

### SPECIAL PROCUREMENTS FOR GOODS AND SERVICES

To proceed with a special procurement, the district shall submit a written request to the Board, acting as the Local Contract Review Board (LCRB). This request shall describe the contracting procedure, the goods and services or class of goods and services that are the subject of the special procurement, and circumstances that justify the use of a special procurement.

The special procurement must be unlikely to encourage favoritism in the awarding of a public contract or to substantially diminish competition for public contracts; and (A) must be reasonably expected to result in substantial cost savings to the district or to the public; or (B) must substantially promote the public interest in a matter that could not practicably be realized by complying with requirements that are applicable under ORS 279B.055, 279B.060, 279B.065, 279B.070 or any related rules.

After LCRB approval, the district may proceed with a special procurement. Public notice of the approval of a special procurement must be given in the same manner as provided in ORS 279B.055(4). If the district intends to award a contract through special procurements that calls for competition among prospective contractors, the district shall award the contract to the contractor it determines to be most advantageous to the district.

When the LCRB approves a class special procurement the district may award contracts to acquire goods and services within the class of goods and services in accordance with the terms of the approval without making a subsequent request for a special procurement.

The following are additional considerations and requirements for specific types of special procurements. The request submitted to the LCRB should address these provisions and satisfy any requirements.

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<sup>1</sup> Procurement law for goods and services uses the term “special procurement.” Procurement law for public improvement contracts does not use the term “special procurement,” but a comparable exemption is allowed under ORS 279C.335.

## **Brand Names or Equal<sup>2</sup>**

1. “Brand name or equal specification” means a specification that uses one or more manufacturers’ names, makes, catalog numbers or similar identifying characteristics needed to meet the district’s requirements and that authorizes bidders or proposers to offer goods or services that are equivalent or superior to those named or described in the specification.
2. “Brand name specification” means a specification limited to one or more products, brand names, makes, manufacturer’s names, catalog numbers or similar identifying characteristics.”
3. “Specification” means any description of the physical or functional characteristics of, or of the nature of, goods or services to be procured by a contracting agency.<sup>3</sup>

A brand name or equal specification may be used when the use of a brand name or equal specification is advantageous to the district because the brand name describes the standard of quality, performance, functionality and other characteristics of the product needed by the district. The district is entitled to determine what constitutes a product that is equal or superior to the product specified, and any such determination is final. Nothing in the law or this administrative regulation may be construed as prohibiting the district from specifying one or more comparable products as examples of the quality, performance, functionality or other characteristics of the product needed by the contracting agency.

A brand name specification may be prepared and used only if the district determines for a solicitation or class of solicitations that only the identified brand name specification will meet the needs of the district based on one or more of the following written determinations:

1. That use of the brand name specification is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts;
2. That use of a brand name specification would result in substantial cost savings to the contracting agency;
3. That there is only one manufacturer or seller of the product of the quality, performance or functionality required; or
4. That efficient utilization of existing goods requires the acquisition of compatible goods or services.

## **Advertising Contracts, Purchase of<sup>4</sup>**

The district traditionally purchases advertising in newspapers, however, the district may also purchase advertising in other media, such as radio, television or the internet. Advertising contracts may be procured without competitive procurement based on findings of:

1. Advertisements are placed in a particular source because of the specific audience that source serves;

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<sup>2</sup> For additional guidance, see OAR 125-247-0691.

<sup>3</sup> Specification may include a description of any requirement for inspecting, testing or preparing goods or services for delivery.

<sup>4</sup> See OAR 125-247-0288(5) for additional guidance.

2. Competition to furnish advertising space in daily newspapers of general, trade or business circulation in the vicinity of the district is limited;
3. Cost savings are difficult to quantify where the sources are unique and not interchangeable;
4. Advertisements may be placed to satisfy legal notice or Board policy requirements;
5. Other published advertisements or notices, such as routine public notices, personnel recruitment information, etc., are placed in one or more of the publications of general circulation in the local area and other publications, as appropriate;
6. The communities served by the district rely upon its use of the local daily newspaper as a central source of news and information regarding district activities; or
7. It is unknown whether contracts for advertisements placed with radio, television, the internet or other media are going to result in cost savings if not placed for competitive bid or request for proposal (RFP). If possible, savings could be obtained through competitive means, the district would attempt to obtain competitive quotes or bids, as appropriate.

### **Advertising Contracts, Sale of**

The district may sell advertising for district publications and activities, regardless of a dollar amount, without competitive bidding, including school newspapers, yearbooks, athletic programs, drama or music programs and the like.

Sales of advertising for student activities are generally other fund revenues, where student groups solicit advertisements from local businesses to help with the cost of the activity itself. A common example is the sale of advertising in school newspapers and yearbooks. The district itself would not achieve any increased revenue to the General Fund by seeking competitive bids or proposals for such advertising. This holds true for other student activities, such as athletics, drama or music events and the like.

### **Equipment Repair and Overhaul<sup>5</sup>**

The district may enter into a public contract for equipment repair or overhaul without competitive bidding when competitive procurement is not practical. This may include when service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing, or service or parts required are for sophisticated equipment for which specially trained personnel are required and such personnel are available from only one source. The district will use a competitive procedure to the extent practicable.

If the repair or overhaul qualifies as an emergency, the district may use emergency procurement procedures.

### **Copyrighted Materials**

Contracts for the procurement or distribution of textbooks are exempt from public procurement requirements. Purchase of copyrighted materials available from only one source may be procured through

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<sup>5</sup> For additional guidance, see OAR 127-247-0288(6).

the sole source procedures. Requests for special procurement approval for the purchase of other copyrighted materials may be submitted to the LCRB with supporting information.

### **Used Personal Property or Equipment, Purchase<sup>6</sup>**

The district may purchase used property or equipment without obtaining competitive bids or quotes, if at the time of purchase, the LCRB has determined that the purchase will result in substantial cost savings to the district or promote the public interest and will unlikely diminish competition or encourage favoritism. “Used personal property or equipment” is property or equipment which has been placed in its intended use by a previous owner or user for a period of time recognized in the relevant trade or industry as qualifying the personal property or equipment as “used,” at the time of district purchase.

### **Information Technology and Telecommunication Contracts<sup>7</sup>**

The district may enter into a contract to acquire information technology hardware and software and services (including telecommunications) without competitive bidding if, the LCRB has determined that the purchase will result in substantial cost savings to the district or promote the public interest and will unlikely diminish competition or encourage favoritism.

### **Renegotiation of Existing Contracts with Incumbent Contractors**

The district may amend or renegotiate contracts with existing vendors, service providers or other parties in accordance with OAR 137-047-0800.

### **EXEMPTIONS FOR PUBLIC IMPROVEMENT CONTRACTS**

Oregon law<sup>8</sup> allows for exceptions to competitive bidding for public improvement contracts or classes of contracts when the LCRB approves findings that:

1. The exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts; and
2. Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the district.

In approving a finding, the LCRB shall consider the type, cost and amount of the contract and, to the extent applicable to the particular public improvement contract or class of public improvement contracts, the following:

1. How many persons are available to bid;

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<sup>6</sup> For additional guidance, see OAR 125-247-0288(10). When contracting with another governmental entity, a district has a statutory exception under ORS 279A.025. The district may purchase state/federal surplus property through the Department of Administrative Services, State Services Division for Surplus Property. For more information on this program, contact DAS at 503-378-4714.

<sup>7</sup> For additional guidance, see OAR 127-247-0185.

<sup>8</sup> See ORS 279C.335.



2. The construction budget and the projected operating costs for the completed public improvement;
3. Public benefits that may result from granting the exemption;
4. Whether value engineering techniques may decrease the cost of the public improvement;
5. The cost and availability of specialized expertise that is necessary for the public improvement;
6. Any likely increases in public safety;
7. Whether granting the exemption may reduce risks to the contracting agency, the state agency or the public that are related to the public improvement;
8. Whether granting the exemption will affect the sources of funding for the public improvement;
9. Whether granting the exemption will better enable the contracting agency to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement;
10. Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement;
11. Whether the public improvement involves new construction or renovates or remodels an existing structure;
12. Whether the public improvement will be occupied or unoccupied during construction;
13. Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions; and
14. Whether the contracting agency or state agency has, or has retained under contract, and will use contracting agency or state agency personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the contracting agency or state agency will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract.

In granting this exemption, the LCRB shall:

1. If appropriate, direct the use of alternative contracting methods that take account of market realities and modern practices and are consistent with the public policy of encouraging competition;
2. Require and approve or disapprove written findings by the district that support awarding a particular public improvement contract or a class of public improvement contracts, without the competitive bidding requirements. The findings must show that the exemption complies with the requirements outlined in this administrative regulation; and
3. If the procurement involves construction manager/general contractor services, require the district conduct the procurement in accordance with OAR 137-049-0690.

Notification of a proposed exemption under this section must be published in at least one trade newspaper of general statewide circulation a minimum of 14 days before the date on which the LCRB intends to take

action to approve or disapprove the exemption. The notice must state that in response to a written request, the district will hold a public hearing for the purpose of taking comments on the draft findings for an exemption from the competitive bidding requirement.<sup>9</sup> If a hearing is held, the district shall offer an opportunity for any interested party to appear and comments. If the district must act promptly because of circumstances beyond the district's control that do not constitute an emergency, notification of the proposed exemption may be published simultaneously with the district's solicitation of contractors, as long as responses to the solicitation are due at least five days after the agency intends to take action to approve or disapprove the proposed exemption.

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<sup>9</sup> The district may hold a hearing even if there is no written request.

# OSBA Model Sample Policy

Code: DJCA  
Adopted:

## Personal Services Contracts

*(Delete this policy. OSBA has moved personal services contract language to DJC.)*

The district may enter into personal services contracts with qualified professionals as provided by Oregon Revised Statute (ORS) 279A.055. "Personal services contracts," as used in this policy, means contracts for specialized skills, knowledge and resources in the application of highly technical or scientific expertise or the exercise of professional, artistic or management discretion or judgment. The district may enter into a personal services contract with a current district employee only when the individual meets independent contractor status in accordance with state, Public Employees Retirement System (PERS) and Internal Revenue Service (IRS) requirements.

Selection of a personal services contractor will be based primarily on qualifications and performance history, expertise, knowledge and creativity and the ability to exercise sound professional judgment.

All personal services contracts shall be based on demonstrated qualifications and competence to perform the required services, encourage competition, discourage favoritism and obtain services at a fair and reasonable price.

Contracts for personal services in excess of [\$150,000] shall require prior Board approval.

The superintendent will develop administrative regulations as necessary to implement this policy.

END OF POLICY

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### Legal Reference(s):

[ORS Chapters 279](#)

[ORS Chapters 279A, 279B and 279C](#)

[ORS 332.107](#)

[ORS 670.600](#)

[OAR 459-010-0030](#)

INTERNAL REVENUE SERVICE, PUBLICATION 1779: INDEPENDENT CONTRACTOR OR EMPLOYEE (Rev. 3-2012).

# OSBA Model Sample Policy

Code: DJCA-AR  
Revised/Reviewed:

## Personal Services Contracts

*(Delete this administrative regulation.)*

### 1. Personal Services Contracts Defined

- a. Personal services contracts include, but are not limited to a contract or member of a class of contracts, that the local contracting agency's Local Contract Review Board (LCRB) has designated as a personal services contract pursuant to Oregon Revised Statute (ORS) 279A.055. Personal services include, but are not limited to, the following:
  - (1) Contracts for services performed as an independent contractor in a professional capacity (e.g., services of an accountant, attorney, data processing consultant, etc.);
  - (2) Contracts for services as an artist in the performing or fine arts (e.g., photographer, painter, etc.);
  - (3) Contracts for services that are specialized, creative and research oriented;
  - (4) Contracts for services as a consultant;
  - (5) Contracts for educational consulting services.
- b. Personal services contracts may include: (1) public contracts for architectural, engineering or land surveying and related services; or (2) other public contracts for nonconstruction services.

### 2. Eligibility

The district will follow ORS 670.600, Public Employees Retirement System (PERS) rules Oregon Administrative Rule (OAR) 459-010-0030 and Internal Revenue Service (IRS) Ruling 87-41 in determining whether the individual or business entity qualifies as an independent contractor or is an employee of the district. A valid independent contractor must meet all eight of the following points:

- a. State requirements<sup>1</sup>:
  - (1) The contractor must be free from the direction and the control of the employer;
  - (2) The contractor must obtain required business licenses;
  - (3) The contractor must furnish necessary tools and equipment;
  - (4) The contractor has authority to hire and fire employees;
  - (5) The contractor is paid on completion of portions of projects or on a retainer basis;
  - (6) The construction contractor must be registered under ORS Chapter 701 (For more information call the Construction Contractors Board at 503-378-4621 in Salem.);
  - (7) The contractor must file appropriate business tax returns;
  - (8) The contractor must represent to the public that the labor or services are provided by an independent business.
- b. PERS requirements:

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<sup>1</sup> See ORS 670.600 for complete listing.

In determining whether an individual is an employee or independent contractor for PERS contribution purposes, the district will consider the following factors:

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- (1) Instructions. An employee must comply with instructions about when, where and how to work. Even if no instructions are given, the control factor is present if the employer has the right to control how the work results are achieved;
  - (2) Training. An employee may be trained to perform services in a particular manner. Independent contractors ordinarily use their own methods and receive no training from the purchasers of their services;
  - (3) Integration. An employee's services are usually integrated into the business operations because the services are important to the success or continuation of the business. This shows that the employee is subject to direction and control;
  - (4) Services rendered personally. An employee renders services personally. This shows that the employer is interested in the methods as well as the results;
  - (5) Hiring, supervising and paying assistants. An employee works for an employer who hires, supervises and pays workers. An independent contractor can hire, supervise and pay assistants under a contract that requires him/her to provide materials and labor and to be responsible only for the result;
  - (6) Continuing relationship. An employee generally has a continuing relationship with an employer. A continuing relationship may exist even if work is performed at recurring although irregular intervals;
  - (7) Set hours of work. An employee usually has set hours of work established by an employer. An independent contractor generally can set their own work hours;
  - (8) Full-time required. An employee may be required to work or be available full-time. This indicates control by the employer. An independent contractor can work when and for whom they choose;
  - (9) Doing work on employer's premises. An employee usually works on the premises of an employer, or works on a route or at a location designated by an employer;
  - (10) Order or sequence set. An employee may be required to perform services in the order or sequence set by an employer. This shows that the employee is subject to direction and control;
  - (11) Oral or written reports. An employee may be required to submit reports to an employer. This shows that the employer maintains a degree of control;
  - (12) Payment by hour, week, month. An employee is generally paid by the hour, week or month. An independent contractor is usually paid by the job or on a straight commission;
  - (13) Payment of business and/or traveling expenses. An employee's business and travel expenses are generally paid by an employer. This shows that the employee is subject to regulation and control;
  - (14) Furnishing of tools and materials. An employee is normally furnished significant tools, materials and other equipment by an employer;
  - (15) Significant investment. An independent contractor has a significant investment in the facilities they use in performing services for someone else;
  - (16) Realization of profit or loss. An independent contractor can make a profit or suffer a loss;
  - (17) Working for more than one employer at a time. An independent contractor is generally free to provide their services to two or more unrelated persons or firms at the same time;
  - (18) Making service available to general public. An independent contractor makes their services available to the general public;

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- (19) Right to discharge. An employee can be fired by an employer. An independent contractor cannot be fired so long as they produce a result that meets the specifications of the contract;
- (20) Right to terminate. An employee can quit their job at any time without incurring liability. An independent contractor usually agrees to complete a specific job and is responsible for its satisfactory completion, or is legally obligated to make good for failure to complete it.

c. IRS requirements:

Additionally, in determining employee or independent contract status for purposes of the Federal Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA) or for federal income tax withholding from wages, the district will consider:

- (1) Behavioral control. A worker is an employee when the district has the right to direct and control the worker;
- (2) Financial control. A worker is an independent contractor if they can realize a profit or incur a loss. The individual may also be an independent contractor if they are not reimbursed for some or all business expenses, especially if those expenses are high or if they have a significant investment in their work;
- (3) Relationship of the parties. Facts weighed by the district will include any written contracts describing the relationship the parties intended to create; the extent to which the worker is available to perform services for other similar businesses; whether the district provides the worker with employee-type benefits, such as insurance, vacation pay or sick pay; and the permanency of the relationship.

3. Personal Services Contracts - Procurement Requirements

- a. Contracts for personal services less than [\$25,000] within a 12-month period, shall, where practical, be based on written or verbal quotes or may be procured through direct negotiations with the contractor.
- b. Contracts for personal services greater than [\$25,000] that do not exceed [\$75,000] may be based on three written or verbal quotes, or response to a request for proposal (RFP) as deemed appropriate by the superintendent or designee.
- c. Contracts for personal services greater than [\$75,000] shall be based on written solicitations, request for qualifications, or the RFP process.
- d. The district may enter into a personal services contract when the amount of the services does not exceed [\$150,000] without obtaining quotes or utilizing the RFP process when only one contractor or sole source provides the services as follows:
  - (1) The superintendent or designee shall make the following written findings for inclusion in the contract file:
    - (a) That the efficient utilization of existing goods requires the acquisition of compatible goods or services;
    - (b) That the goods or services required for the exchange of software or data with other public or private agencies are available from only one source;
    - (c) That the goods or services are for use in a pilot or an experimental project; or
    - (d) Other findings that support the conclusion that the goods or services are available from only one source.

- e. If the cost of the services is more than [\$150,000], the district may award a contract on a sole source basis, only with Board approval and if prior to the award:

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- (1) Notice of the district's intent to contract for the services, including the general specifications of the intended contract, is advertised in at least one newspaper or trade journal of general circulation in the area where the services are to be performed;
  - (2) The advertised notice is published at least 14 days before award of contract to allow prospective contractors a reasonable opportunity to submit a protest of the district's intent to contract through the sole source process unless the superintendent gives prior written approval to reduce the number of days based on extraordinary circumstance that do not meet the criteria for an Emergency Procurement pursuant to OAR 137-047-0280; and
  - (3) The protest shall be submitted in writing to the district by the closing date and time of the advertisement notice. It shall state the reason the contract should be competitively solicited.

Protests shall be heard by the [Board], whose decision shall be final.

#### 4. ITB/RFP Requirements

- a. An invitation to bid (ITB) or RFP will be used as a formal competitive solicitation that describes the specific services to be performed within a defined period of time. The solicitation will set forth criteria and methods for screening, selecting and ranking the most qualified proposal(s). The solicitation document may result in contracts with more than one provider.
- b. The solicitation document must provide that the district is not responsible for any cost incurred while submitting proposals and that all proposers who respond do so at their own expense.
- c. The solicitation document must, at a minimum, address the following:
  - (1) Requirements for solicitation documents under ORS 279B.055(2) and 279B.060(2):
    - (a) A time and date by which the bids or proposals must be received and a place at which bids must be submitted, and may, in the sole discretion of the contracting agency, direct or permit the submission and receipt of bids or proposals by electronic means;
    - (b) The name and title of the person designated for receipt of bids or proposals and the person designated by the contracting agency as the contact person for the procurement, if different;
    - (c) A procurement description;
    - (d) A time, date and place that prequalified applications, if any, must be filed and the classes of work, if any, for which bidders must be prequalified in accordance with ORS 279B.120;
    - (e) A statement that the contracting agency may cancel the bid or procurement, or reject any of all bids in accordance with ORS 279B.100;
    - (f) A statement that "Contractors shall use recyclable products to the maximum extent economically feasible in the performance of the contract work set forth in this document." if the invitation to bid is issued by a state contracting agency;
    - (g) A statement that requires the contractor or subcontractor to possess an asbestos abatement license, if required under ORS 468A.710; and
    - (h) All contractual terms and conditions applicable to the procurement.

- (2) Requirements for solicitation documents under OAR 137-047-0255(2) and OAR 137-047-0260(2):

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(a) General Information

(i) Notice of any pre-offer conferences as follows:

- 1) The time, date and location of any pre-offer conferences;
- 2) Whether attendance at the conference will be mandatory or voluntary; and
- 3) A provision that provides that statements made by the contracting agency's representatives at the conference are not binding upon the contracting agency unless confirmed by written addendum.

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- (ii) The form and instructions for submission of proposals and any other special information, (e.g., whether proposals may be submitted by electronic means);
- (iii) The time, date and place of opening;
- (iv) The office where the solicitation document may be reviewed;
- (v) For bidders, a statement whether the bidder is a "resident bidder," as defined in ORS 279A.120(1);
- (vi) Contractor's certification of nondiscrimination in obtaining required subcontractors in accordance with ORS 279A.110(4); and
- (vii) How the contracting agency will notify proposers of addenda and how the contracting agency will make addenda available.

(b) Contracting Agency Need

The character of the goods and services the contracting agency is purchasing including, if applicable, a description of the acquisition, specifications, delivery or performance schedule, inspection and acceptance requirements.

(c) Bid/Proposal and Evaluation Process

- (i) The anticipated solicitation schedule, deadlines, protest process and evaluation process;
- (ii) The contracting agency shall set forth selection criteria in the solicitation document in accordance with the requirements of ORS 279B.060(2)(h)(E).
- (iii) If the contracting agency intends to award contracts to more than one proposer pursuant to OAR 137-047-0600(4)(d), the contracting agency must identify in the solicitation document the manner in which it will determine the number of contracts it will award.

(d) Applicable preferences described in ORS 279A.125(2) and 282.210.

(e) For contracting agencies subject to ORS 305.385, contractor's certification of compliance with the Oregon tax laws in accordance with ORS 305.385.

(f) All contract terms and conditions, including a provision indicating whether the contractor can assign the contract, delegate its duties, or subcontract the goods or services without prior written approval from the contracting agency.



d. Bids or proposals must be advertised at least once in a newspaper of general circulation in the area where the contract is to be performed and in as many additional issues and publications as may be necessary or desirable to achieve adequate competition unless the contracting agency uses electronic advertising.

e. Unless otherwise specified in rules adopted pursuant to ORS 279A.065, the LCRB will give notice at least seven days before the solicitation closing date.

f. All advertisements shall describe at minimum the requirements under OAR 137-047-0300(3):

- (1) Where, when, how and for how long the solicitation document may be obtained;
- (2) A general description of the goods or services to be acquired;
- (3) The interval between the first date of notice and closing, which will be at least seven days, unless a shorter period is in the public interest and it will not substantially affect competition;
- (4) The date that persons must file applications for prequalification if prequalification is a requirement and the class of goods or services is one for which persons must be prequalified;
- (5) The office where contract terms, conditions and specifications may be reviewed;
- (6) The name, title and address of the individual authorized by the contracting agency to receive offers;
- (7) The scheduled opening; and
- (8) Any other information the contracting agency deems appropriate.

## 5. Screening and Selection Procedures

a. The superintendent or designee shall review, score and rank all responsive proposals according to the evaluation criteria in the ITB or RFP and applicable law. The contracting agency will award the contract to the lowest responsible bidder or proposer or multiple responsible bidders or proposers in accordance with ORS 279B.055(10) and 279B.060(10), and OAR 137-047-0600.

b. To determine whether the bidder or proposer has met the standards of responsibility under ORS 279B.110(2) and OAR 137-047-0640(1)(c)(F), the LCRB will consider whether the bidder or proposer has:

- (1) Available the appropriate financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain the resources and expertise, necessary to indicate the capability of the bidder or proposer to meet all contractual responsibilities;
- (2) A satisfactory record of performance.<sup>2</sup> The contracting agency will document in the solicitation file its basis for determining that the offeror is not responsible because the offeror does not meet this requirement;

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<sup>2</sup> A contracting agency should review carefully the offeror's record of contract performance if the offeror is or recently has been materially deficient in contract performance. In reviewing the offeror's performance, the contracting agency should determine whether the offeror's deficient performance was expressly excused under the terms of the contract, or whether the offeror took appropriate corrective action. The contracting agency may review the offeror's performance on both private and public contracts.

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- (3) A satisfactory record of integrity.<sup>3</sup> The contracting agency will document its basis for determining that the offeror is not responsible because the offeror does not meet this requirement;
- (4) Qualified legally to contract with the contracting agency;
- (5) Supplied all necessary information in connection with the inquiry concerning responsibility. If an offeror fails to promptly supply information requested by the contracting agency concerning responsibility, the contracting agency shall base the determination of responsibility upon any available information, or may find the bidder or proposer not to be responsible; and
- (6) Not been debarred by the contracting agency under ORS 279B.130.

- c. Final ranking will be based on all information obtained during the evaluation process. Price will be considered, but will not necessarily govern selection of the contractor(s).
- d. Contracts entered into may be amended, provided the original contract allows for the particular amendment and the services to be provided under the amendment are included within or directly related to, the scope of the project or the scope of the services described in the solicitation document.

6. Documentation

Documentation providing evidence of competition shall be maintained by the district for all contracts entered into by the district.

7. Fingerprinting

If the scope of the work performed by a contractor(s) or their employee(s) may result in direct, unsupervised contact with students, they will be required to submit to fingerprinting and criminal records checks as required by law.

8. Payment

Payment will be made only upon completion of the performance of specific portions of the project or on the basis of an annual or periodic retainer as specified by the district in the personal services contract.

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<sup>3</sup> A contracting agency may determine that an offeror lacks integrity because of a lack of business ethics such as a violation of environmental laws or false certification made to the contracting agency. A contracting agency may find that an offeror is not responsible based on a lack of integrity of a person having influence or control over the offeror.

# OSBA Model Sample Policy

Code: EBBA  
Adopted:

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## First Aid\*\*

*(Recommend delete. Considering recent changes to the health services OAR 581-022-2220, several OSBA model policies have been revised. This content has been revised according to the OAR and reorganized into EBC.)*

In cases of sudden illness or injury to a student or staff member, first aid will be given by school staff. Further medical attention for a student is the responsibility of the student’s parent(s), or of someone the parent(s) designate in the case of an emergency. Each principal is charged with providing for the immediate care of ill or injured persons within their area of responsibility.

Staff members shall report self-administered first-aid treatment to an immediate supervisor.

In each district facility, procedures for handling health emergencies will be established and made known to staff. Each district facility and district vehicle will be equipped with appropriate first-aid supplies and equipment. All employees are expected to know where first-aid supplies and equipment are kept in their work areas.

Designated employees in each building shall hold current first-aid cards. In compliance with Oregon Administrative Rules, each school shall have, at a minimum, at least one staff member with a current first-aid card for every 60 students enrolled or an emergency response team per building. Such team shall consist of no less than six persons who hold current first-aid/CPR cards and who are trained annually in the district and building emergency plans. Names of the designated employees will be posted.

END OF POLICY

### Legal Reference(s):

[ORS 30.800](#)  
[OAR 437-002-0042](#)  
[OAR 437-002-0120 -0139](#)  
[OAR 437-002-0161](#)  
[OAR 437-002-0360](#)

[OAR 437-002-0377](#)  
[OAR 581-022-2050](#)  
[OAR 581-022-2220](#)  
[OAR 581-022-2225](#)  
[OAR 581-053-0003\(37\)](#)

[OAR 581-053-0220\(3\)\(B\)\(iii\)](#)  
[OAR 581-053-0320\(5\)\(b\)](#)  
[OAR 581-053-0420\(2\)\(f\)\(B\)](#)

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# OSBA Model Sample Policy

Code: EBBA  
Adopted:

## Student Health Services\*\*

Although the district's primary responsibility is to educate students, the students' health and general welfare is also an important Board responsibility. The Board believes school programs should be conducted in a manner that protects and enhances student and employee health and is consistent with good health practices. A health services plan shall be developed, implemented, and updated annually. The plan shall describe a health services program for all students at each facility that is owned or leased where students are present for regular programming.

The district shall maintain a written prevention-oriented health services plan for all students. The health services plan will<sup>1</sup>:

1. Explain available health care space that is appropriately supervised and adequately equipped for providing health care and administering medication or first aid;
2. Refer to available communicable disease prevention and management plan that includes school-level protocols<sup>2</sup>;
3. Outline a district-to-school communication plan<sup>3</sup>;
4. Provide information about health screenings, including immunizations and TB certificate requirements;
5. Describe how services for all students, including those who are medically complex, medically fragile or nursing dependent, and those who have approved 504 plans, individual education program plans, and individualized health care plans or special health care needs are managed<sup>4</sup>;
6. Integrate school health services with school health education programs and coordinate with health and social service agencies, public and private;
7. Describe how hearing, vision and dental screenings are managed and/or verified for required students<sup>5</sup>;
8. Include a process to assess and determine a student's health services needs, including availability of a nurse to assess student nursing needs upon, during, and following enrollment with one or more

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<sup>1</sup> For exact language and complete requirement, see OAR 581-022-2220(1).

<sup>2</sup> For specific protocol content requirements, see OAR 581-022-2220(1)(b).

<sup>3</sup> For requirements of this plan see OAR 581-022-2220(1)(c).

<sup>4</sup> For more information regarding these requirements see ORS 336.201 and 339.869, OARs 581-021-0037, 581-015-2040, 581-015-2045, 851-045-0040 – 0060, and 851-047-0010 – 0030.

<sup>5</sup> For vision screening or eye examination or dental screening information see ORS 336.211 and 336.213.

new medical diagnose(s) impacting a student’s access to education, and implement a student’s individual health plan prior to attending school<sup>6</sup>;

9. Comply with OR-OSHA Bloodborne Pathogens Standards for all persons who are assigned to job tasks which may put them at risk for exposure to body fluids<sup>7</sup>;
10. Refer to adopted policy and procedures for medications in accordance with Oregon law<sup>8</sup>;
11. Include guidelines for the management of students who are medically complex, medically fragile, or nursing dependent as defined by ORS 336.201, including students with life-threatening food allergies and adrenal insufficiency while the student is in school, at a school-sponsored activity, under the supervision of school personnel, in before-school or after-school care programs on school-owned property, and in transit to or from school or school-sponsored activities<sup>9</sup>.

Any nurse(s) employed by the district and providing services to students on behalf of the district shall be licensed in Oregon to practice as a registered nurse or nurse practitioner or be a licensed practical nurse (LPN) in alignment with LPN supervision requirements of OAR 851-045-0050 – 0060.

A nurse employed by the district shall follow all applicable requirements of ORS Chapter 678 and OAR Chapter 851. This includes, but is not limited to, delegation in accordance with OAR 851-047, which includes performing a nursing assessment of a student prior to delegation, providing adequate supervision during the delegation, and evaluating the skills, ability and willingness of the delegee.<sup>10</sup>

A nurse employed by the district will function as an integral member of the instructional staff, serving as a resource person to teachers in securing appropriate information and materials on health-related topics.

The district provides a menstrual product dispenser with a variety of products in every student bathroom<sup>11</sup> which meets the requirements of law.

END OF POLICY

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**Legal Reference(s):**

[ORS 329.025](#)  
[ORS 332.107](#)  
[ORS 336.201](#)  
[ORS 336.204](#)

[ORS 336.211 – 336.214](#)  
[OAR 581-021-0017](#)  
[OAR 581-021-0031](#)  
[OAR 581-021-0587](#)

[OAR 581-021-0590](#)  
[OAR 581-022-2050](#)  
[OAR 581-022-2220](#)  
[OAR 581-022-2515](#)

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<sup>6</sup> For definitions for this policy see ORS 336.201.

<sup>7</sup> OAR 437-002-0360 lists various health and safety regulations that apply in the employment setting.

<sup>8</sup> Medication laws can be found in ORS 339.866 – 339.874 and OAR 581-021-0037; relevant Board policy includes JHCD/JHCDA - Medications.

<sup>9</sup> For guideline requirements see OAR 581-022-2220(1)(k).

<sup>10</sup> For additional delegation requirements see OAR [851-047-0030](#).

<sup>11</sup> “Student bathroom” means a bathroom that is accessible by students, including a gender-neutral bathroom, a bathroom designated for females, and a bathroom designated for males. (OAR 581-021-0587)

Every Student Succeeds Act, 20 U.S.C. § 7928 (2018).  
Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g (2018).

# OSBA Model Sample Policy

Code: EBBA-AR  
Revised/Reviewed:

## First Aid - Infection Control

*(Recommend delete in lieu of current OSHA requirements and training standards.)*

Health services information about the transmission of diseases including AIDS and HBV<sup>1</sup> focuses on “body fluids” as a possible carrier of organisms that can infect others. The term includes drainage from cuts and scrapes, vomit, urine, feces, respiratory secretions (nasal discharge), saliva, semen and blood. While any contact with the body fluids of another person represents a risk, the level of risk is very low. The risk is increased if the fluid comes in contact with a break in the skin of another individual. Generally, simple, consistent standards and procedures of cleanliness minimize risk.

The following procedures are precautionary measures against the transmission of diseases. Prudent actions are to be employed by all staff and students. These actions should focus primarily on steps that students and staff members can take to ensure their own well-being.

Those who administer first aid, provide physical care or may otherwise incur occupational exposure to blood or other potentially infectious materials as determined by the district will be specifically protected through the district’s Exposure Control Plan.

The following procedures are a review for all staff and students of appropriate hygienic and sanitation practices:

1. Standard precautions are to be followed at all times. Standard precautions require the assumption that staff and students approach infection control as if all direct contact with human blood and body fluids is known to be infectious for HIV, HBV and/or other bloodborne pathogens;
2. Whenever possible, students should be directed to care for their own minor bleeding injury. This includes encouraging students to apply their own band-aids. If assistance is required, band-aids may be applied after the caregiver removes their gloves, if the caregiver will not come into contact with blood or wound drainage;
3. Food and Drug Administration (FDA) approved gloves are required for all tasks in which an individual may come into contact with blood or other potentially infectious materials. Such tasks include cleaning body fluid spills, emptying trash cans, handling sharps/containers, handling contaminated broken glass, cleaning contaminated equipment and handling contaminated laundry/clothing. This also includes assisting with any minor wound care, treating bloody noses, handling clothes soiled by incontinence, diaper changing and cleaning up vomit;
4. Immediate, complete and effective hand washing with soap and running water of at least 30 seconds duration should follow any first aid or health care given to a student or contact with potentially infectious materials;

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<sup>1</sup> HIV - Human Immunodeficiency Virus; AIDS - Acquired Immune Deficiency Syndrome; HBV - Hepatitis B Virus

5. If exposure to blood or other potentially infectious materials occurs through coughing, any first-aid procedure, or through an open sore or break in the skin, thorough washing, preferably with germicidal soap, is necessary;
6. In the event hand-washing facilities are not readily available, thorough cleaning using an antiseptic cleanser and clean cloth/paper towels or antiseptic towelettes provided by the district as an alternative is necessary. In the event alternatives are used, hands must be washed with soap and running water as soon as feasible;
7. Contaminated work surfaces shall be decontaminated with an appropriate disinfectant after completion of procedures; immediately or as soon as feasible when surfaces are overtly contaminated or after any spill of blood or other potentially infectious materials; and at the end of the work shift if the surface may have become contaminated since the last cleaning. Clean surfaces with soap and water and then rinse with an Environmental Protection Agency (EPA) approved disinfectant<sup>[2]</sup> following labeling instructions for use, or a freshly made solution of one part bleach to nine parts water, and allow to air dry. These surfaces include equipment, counters, mats (including those used in physical education classes and athletic events), toys or changing tables;
8. An EPA-approved disinfectant must be used when cleaning fluids such as blood or vomit from the floor or other such contaminated surfaces;
9. Contaminated laundry such as clothing and towels must be placed and transported in bags and containers in accordance with the district's standard precautions. All such items must be laundered in hot or cold water and soap and placed in a dryer;
10. Needles, syringes, broken glassware and other sharp objects found on district property must not be picked up by students at any time, nor by staff without appropriate puncture-proof gloves or mechanical device such as a broom, brush and dust pan. Any such items found must be disposed of in closable puncture resistant, leakproof containers that are appropriately labeled or color-coded;
11. All wastebaskets used to dispose of potentially infectious materials must be lined with a plastic bag liner that is changed daily;
12. Gloves and repellent gowns, aprons or jackets are required for tasks in which exposure to blood or other potentially infectious materials can be reasonably anticipated to contaminate street clothing. Type and characteristics of such protective clothing will depend on the task. Such tasks may include diapering/toileting with gross contamination, assisting with wound care, sorting or bagging contaminated laundry/clothing and disposing of regulated waste with gross contamination;
13. Maximum protection with gloves, face and/or eye protection and gowns is required whenever splashes, spray, spatter or droplets of blood or other potentially infectious materials may be generated and eye, nose or mouth contamination can be reasonably anticipated. Such tasks may include feeding a student with a history of spitting or forceful vomiting and assisting with severe injury and wound with spurting blood;

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<sup>2</sup> [Disinfectants which can be used include Lysol, Purex, Clorox, Tough Act bathroom cleaner, Dow bathroom cleaner, Real Pine liquid cleaner, Pine Sol, Spic and Span, Tackle liquid, Comet and other products with EPA numbers. Other disinfectants as recommended by the Center for Disease Control may be used.]



14. If a first-aid situation occurs, students should report to a person in authority; staff should report to a supervisor.

### **Additional Precautions**

The following additional precautions should be applied in all school settings. These procedures will help prevent transmission of many infections in addition to HIV and HBV:

1. A sink with soap, hot and cold running water and disposable towels should be available close to the classroom;
2. Sharing of personal toilet articles, such as toothbrushes and razors, should not be permitted;
3. Skin lesions that may ooze blood or serum should be kept covered with a dressing;
4. Exchange of saliva by kissing on the mouth, by sharing items that have been mouthed and by putting fingers in others' mouths should be discouraged.

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# OSBA Model Sample Policy

Code: EBBAA  
Adopted:

## Infection Control and Bloodborne Pathogens

{Optional policy. The requirements regarding an Exposure Control Plan and infection control, but are not limited to, are outlined below.}

The Board recognizes that staff and students incur some risk of infection and illness each time they are exposed to blood or other potentially infectious materials. While the risk to staff and students of exposure to body fluids due to casual contact with individuals in the school environment is very low, the Board regards any such risk as serious.

Consequently, the Board directs adherence to standard precautions. Standard precautions require that staff and students approach infection control as if all direct contact with human blood and body fluids is known to be infectious for ~~HIV, AIDS, HBV<sup>1</sup> and/or other~~ bloodborne pathogens<sup>2</sup>.

The district shall develop an Exposure Control Plan ~~that includes infection control procedures, and procedures to minimize and eliminate exposure incidents to bloodborne pathogens~~ in accordance with the requirements in law<sup>3</sup>.

### ~~Infection Control~~

~~Staff and students shall receive an annual in-service that includes correct procedures for cleaning up body fluid spills and for personal cleanup, appropriate disposal, immunization and personal hygiene, as well as the location and a content review of first aid and clean up kits. Kits shall be available for each room in the building and in each district vehicle.~~

~~In addition to an annual in-service, staff and students on a regular basis will receive HIV, AIDS and HBV information.~~

~~The information shall emphasize infection—how infection is spread as well as how it is not spread.~~

### ~~Bloodborne Pathogens~~

The Exposure Control Plan shall be reviewed and updated at least annually and when necessary to reflect new or modified tasks and procedures which affect occupational exposure and to reflect new or revised employee positions with occupational exposure. The review and update shall also:

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<sup>1</sup> ~~HIV—Human Immunodeficiency Virus; AIDS—Acquired Immune Deficiency Syndrome; HBV—Hepatitis B Virus~~

<sup>2</sup> “Bloodborne pathogens” are pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, ~~H~~epatitis B virus (HBV) and ~~H~~uman ~~I~~mmunodeficiency ~~V~~irus (HIV). 29 CFR 1910.1030(b)

<sup>3</sup> See 29 CFR 1910.1030(c)(1) and OAR 437-002-1059 for more information about an Exposure Control Plan. {A template for an exposure control plan may be available from [Oregon OSHA](#).}

1. Reflect changes in technology that eliminate or reduce exposure to bloodborne pathogens;
2. Annually, document consideration and implementation of appropriate commercially available and effective safer medical devices designed to eliminate or minimize occupational exposure.

The plan shall include training followed by an offer of ~~immunization with H~~epatitis B vaccine and vaccination series for all staff who are required to provide first aid to students and/or for all staff who have occupational exposure as determined by the district. Training shall be provided at the time of initial assignment to tasks where occupational exposure may take place and at least annually<sup>[4]</sup> thereafter. Staff will receive the annual training<sup>5</sup> as well as the location and a content review of first-aid and clean-up kits. Kits shall be readily available<sup>6</sup> in close proximity<sup>7</sup> to all employees in the building and for district vehicles, including each bus<sup>8</sup>.

Personal protective equipment appropriate to job tasks shall be provided by the district. A post-exposure evaluation and follow-up shall be made available to any employee sustaining an occupational exposure.

The district recognizes that, ~~as required by Oregon Administrative Rule (OAR) 437-002-1030~~, employees who use medical sharps in the performance of their duties (e.g., administering injectable medicines to students, such as epinephrine and glucagon) must, at least annually, be provided with the opportunity to identify, evaluate and select engineering and work practice controls (e.g., sharps disposal containers, self-sheathing needles, safer medical devices, such as sharps with engineered sharps injury protections and needleless systems). The district will implement such work practice controls, as appropriate. The district will document the solicitation of input from such staff in the plan.

Documentation, including a sharps injury log, will be maintained ~~as required by OAR 437-002-1030(3) and 437-002-1035~~ in accordance with law<sup>9</sup>.

The Exposure Control Plan will be accessible to employees in accordance with law<sup>10</sup>.

Students will be instructed in safe practices to prevent transmission of bloodborne pathogens in accordance with Oregon Health Standards.

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<sup>4</sup> [Annual training for all employees shall be provided within one year of their previous training. (29 CFR 1910.1030(g)(2)(iv))]

<sup>5</sup> See 29 CFR 1910.1030(g)(2) for information about training requirements.

<sup>6</sup> OAR 437-002-0161(2) First-Aid Supplies. (a) The employer shall provide first-aid supplies based upon the intended use and types of injuries that could occur at the place of employment. The first-aid supplies shall be available in close proximity to all employees. Either bulk pack or unit pack supplies are acceptable. (b) "In proximity" is defined as that which is available nearby to ensure prompt treatment in the event of need.

<sup>7</sup> "In proximity" is defined as that which is available nearby to ensure prompt treatment in the event of need. (OAR 437-002-0161(1)(b))

<sup>8</sup> Emergency equipment for buses, includes, but is not limited to, body fluid cleanup and first-aid kits. (OAR 581-053-0240(23); OAR 581-053-0640)

<sup>9</sup> See OAR 437-002-1030(3) and OAR 437-002-1035.

<sup>10</sup> See 29 CFR 1910.1020(e) for requirements on providing access.

The district will cooperate with [the Oregon Department of Education] [the Oregon Health Authority, Public Health Division,] [the local health department] [the education service district] in delivering HIV, AIDS and HBV education.

END OF POLICY

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**Legal Reference(s):**

[ORS 332.107](#)

[OAR 437-002-0161](#)

[OAR 437-002-0360](#)

~~OAR 437-002-0377~~

[OAR 437-002-1030](#)

[OAR 437-002-1035](#)

[OAR 581-022-2050](#)

[OAR 581-022-2220](#)

[OAR 581-053-0240\(23\)](#)

[OAR 581-053-0250\(1\)](#)

[OAR 581-053-0640\(2\)](#)

~~OAR 581-053-0517(13)(c),(e)~~

Occupational Safety and Health Standards, Bloodborne Pathogens, 29 C.F.R. §§ 1910.1020, 1910.1030.

# OSBA Model Sample Policy

Code: EBBB

Adopted:

## Injury/ or Illness Reports

{Required policy. ORS 339.309 requires a district school board establish policy for reporting incidents, e.g., injury.}

All injuries/ or illnesses<sup>1</sup>, sustained by the employee while in the actual performance of the duty of the employee, occurring on district premises, in district vehicles, at a district-sponsored activity or involving staff members who may be elsewhere on district business will be reported immediately to a supervisor. All accidents involving employees, students, visiting public or district property will be reported immediately to a supervisor.

A written report will be submitted within 24 hours to the district's safety officer. Reports will cover property damage as well as personal injury.

In the event of a work-related<sup>2</sup> illness or injury to an employee resulting in overnight in-patient hospitalization for medical treatment<sup>3</sup> other than first aid, loss of an eye, amputation or avulsion<sup>4</sup> the district safety officer shall report the incident to the Oregon Occupational Safety and Health Division (OR-OSHA). ~~This report will be made~~ within 24 hours after notification to the district of an illness or injury. Fatalities or catastrophes<sup>5</sup> shall be reported<sup>6</sup> to OSHA within eight hours.

**ALL** injuries/ or illnesses sustained by an employee, while in the actual performance of the duty of the employee or by a student or visiting public and accidents involving district property, employees, students or visiting public will be promptly investigated. As a result of the investigation any corrective measures needed will be acted upon.

The district safety officer will maintain records ~~and reports on serious~~ on injuries/, illnesses, ~~including and~~ accidents involving district property, ~~or~~ employees, students or visiting publics, ~~and periodic statistical~~

<sup>1</sup> The Oregon Occupational Safety and Health Division provides: "Injury or illness" means an abnormal condition or disorder. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, skin disease, respiratory disorder, or poisoning (record injuries and illnesses only if they are new, work-related cases that meet one or more of the recording criteria). (OAR 437-001-0015(39))

<sup>2</sup> An injury or illness is work related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a preexisting ~~condition~~ injury or illness. (OAR 437-001-0700(6))

<sup>3</sup> "Medical treatment" ~~includes managing or caring for~~ is the management or care of a patient ~~for the purpose of~~ to combatting disease or disorder. The following are not considered medical treatment: visits to a ~~doctor~~ physician or other licensed health care professional solely for observation or counseling; diagnostic procedures, such as x-rays and blood tests, including administering prescription medications ~~used~~ solely for diagnostic purposes; ~~and~~ or any procedure that can be labeled first aid according to OAR 437-001-0700(8)(d)(A)(iii).

<sup>4</sup> Amputations and avulsions are only required to be reported if they result in bone loss. (OAR 437-001-0704(4))

<sup>5</sup> A "eCatastrophe" is an accident in which two or more employees are fatally injured, or three or more employees are admitted to a hospital or an equivalent medical facility. (OAR 437-001-0015(11))

<sup>6</sup> Reporting must be done in person or by telephone. (OAR 437-001-0704(3))

~~reports on the number and types of injuries/illnesses occurring in the district, as well as on the measures being taken to prevent such injuries/illnesses in the future.~~

~~The records will include monthly reporting information and an analysis of the data and trends will be conducted at least annually.~~ These records will include prevention measures taken, reporting information, periodic statistical reports on the number and types of injuries, illnesses and accidents occurring in the district, and monthly and annual analyses of accident data. Such reports will be submitted to the superintendent ~~for review [annually<sup>7</sup>].~~

END OF POLICY

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**Legal Reference(s):**

[ORS 339.309](#)

[OAR 437-001-0700](#)

[OAR 437-002-0360](#)

[OAR 437-001-0704](#)

[OAR 437-002-0377](#)

[OAR 437-001-0015](#)

[OAR 437-001-0760](#)

[OAR 581-022-2225](#)

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<sup>7</sup> ~~[Annual reporting is required, but may occur more often.]~~

# OSBA Model Sample Policy

Code: EBC  
Adopted:

## Emergency Plan and First Aid\*\*

The district will maintain a comprehensive safety program for all employees and students. This program will include a plan for responding to emergency situations. The superintendent will consult with community and county agencies while developing this plan. The district's emergency plan will meet any requirements of the State Board of Education.

Copies of the emergency plan will be available in every school office and other strategic locations throughout the district. Parents or guardians will be informed of the district's plan.

In each district facility, procedures for handling health emergencies will be established and made known to staff. Each district facility and district vehicle will be equipped with appropriate first-aid supplies and equipment. All employees are expected to know where first-aid supplies and equipment are kept in their work areas.

Each school in the district shall have, at a minimum, at least one staff member with a current first-aid/CPR/AED card for every 60 students enrolled and who are trained annually on the district and building emergency plans. Emergency planning will include the presence of at least one staff member with a current first-aid/CPR/AED card for every 60 students for school-sponsored activities where students are present.

The district shall provide instruction to staff and students in the emergency plan and safety program.

END OF POLICY

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### Legal Reference(s):

[ORS 30.800](#)

[ORS 192.660\(2\)\(k\)](#)

[ORS 332.107](#)

[ORS 433.260](#)

[ORS 433.441](#)

[OAR 437-002-0042](#)

[OAR 437-002-0120 - 0139](#)

[OAR 437-002-0161](#)

[OAR 437-002-0360](#)

[OAR 437-002-0377](#)

[OAR 581-022-2030\(3\)\(c\)](#)

[OAR 581-022-2220](#)

[OAR 581-022-2225](#)

[OAR 581-053-0003\(40\)](#)

[OAR 581-053-0220\(3\)\(e\)\(B\)\(iii\)](#)

[OAR 581-053-0320\(5\)\(b\)](#)

[OAR 581-053-0420\(2\)\(f\)\(B\)](#)

Every Student Succeeds Act, 20 U.S.C. § 7928 (2018).

Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g (2018).

# OSBA Model Sample Policy

Code: EBC/EBCA

Adopted:

D

## Emergency Procedures and Disaster Plans

*(Delete this double coded policy and consider EBC.)*

The superintendent will develop and maintain a plan specifying procedures to be used in such emergencies as disorderly conduct, unlawful assembly, disturbances at school activities, natural disasters, fire, illness or injury of a student or staff member, and safety threats on district property. The superintendent will consult with community and county agencies while developing this plan.

The district's Emergency Procedures Plan will meet the standards of the State Board of Education.

Copies of the Emergency Procedures Plan will be available in every school office and other strategic locations throughout the district. Parents will be informed of the district's plan for the care of students during an emergency situation. The Board may use Oregon Revised Statute (ORS) 192.660(2)(k) to conduct an executive session to consider matters related to school safety or a plan that responds to safety threats made toward a school in the district.

[In the case of long-term disruption to district operations as a result of a pandemic flu, declared public health emergency or other catastrophe, the district emergency plan shall at a minimum include the following:

1. Who is in charge of the district plan;
2. What steps the district will take to stop the spread of disease;
3. How sick students will be identified;
4. Transportation plan for sick students;
5. Disease containment measures for the district;
6. Communication plan for staff, students and parents;
7. Continuing education plan for students;
8. Procedures for dealing with student privacy rights;
9. Employee leave procedures during a pandemic flu or other catastrophe;
10. Employee pay and benefit plan and procedures;



- 11. Facility utilization by other agencies procedures;
- 12. Business operations plan for offsite operation or alternative measures.]

END OF POLICY

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**Legal Reference(s):**

[ORS 192.660\(2\)\(k\)](#)  
[ORS 332.107](#)  
[ORS 433.260](#)

[ORS 433.441](#)  
[OAR 437-002-0161](#)

[OAR 581-022-2030\(3\)\(c\)](#)  
[OAR 581-022-2220](#)  
[OAR 581-022-2225](#)

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# OSBA Model Sample Policy

Code: EBCA

Adopted:

## Safety Threats\*\*

“Safety threat action” means a lockdown, lockout, shelter in place or evacuation that: (a) is initiated by a school in response to a safety threat; and (b) is not a planned drill.

When a school or the district initiates a safety threat action, the school or district shall issue an electronic communication as expeditiously as possible and not later than 24 hours after initiation of the safety threat action. The communication will be issued in culturally appropriate languages to effectively communicate with parents and guardians of students attending the school at which the safety threat action occurred.

The communication must include:

1. A general description of the issue that caused the safety threat action to be taken;
2. The duration of time the safety threat action was taken, from when the action was initiated until when it concluded;
3. Actions taken by the school or district to resolve the situation that caused the safety threat action and actions taken to protect student safety; and
4. An explanation of how the situation was resolved.

The communication shall be provided in a manner which communicates relevant facts and details as may be necessary or useful for parents and guardians to understand any potential threats to student safety, and to assist parents and guardians in helping students understand and mentally process the incident and any resulting trauma.

A communication will also be issued to employees of the school at which the safety threat action occurred, and must include the same information as above and any additional information as may be permitted by relevant confidentiality and privacy requirements.

The Board may use Oregon Revised Statute (ORS) 192.660(2)(k) to conduct an executive session to consider matters related to school safety or a plan that responds to safety threats made toward a school in the district.

END OF POLICY

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### Legal Reference(s):

[ORS 192.660\(2\)\(k\)](#)

[ORS 332.107](#)

[ORS 339.324](#)

# OSBA Model Sample Policy

Code: **GBEBA**

Adopted:

D

## Staff - HIV, AIDS, and HBV

*(Recommend delete: the requirement for this policy was found in OAR 581-022-2220 which has since been revised in lieu of a new requirement for a Communicable Disease Plan.)*

The district will strictly adhere in its policies and procedures, to Oregon law and Oregon Administrative Rules as they relate to staff infected with HIV, AIDS, or HBV<sup>1</sup>.

The district recognizes a staff member has no obligation under any circumstance to report a condition to the district, and the staff member has a right to continue working. If the staff member reports a condition to the district, strict adherence to written guidelines outlined by the staff member shall be followed. These guidelines shall identify who may have the information, who will give the information, how the information will be given, and where and when the information will be given. All such information will be held in confidence in accordance with Oregon law.

Accommodations for a staff member infected with HIV, AIDS, or HBV shall be the same as with any other illness.

END OF POLICY

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### Legal Reference(s):

[ORS 243.650](#)  
[ORS 342.850\(8\)](#)  
[ORS 433.008](#)  
[ORS 433.045](#)

[ORS 433.260](#)  
[OAR 333-017-0000](#)  
[OAR 333-018-0000](#)

[OAR 333-018-0005](#)  
[OAR 581-022-2220](#)

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<sup>1</sup> HIV - Human Immunodeficiency Virus; AIDS - Acquired Immune Deficiency Syndrome; HBV - Hepatitis B Virus

# OSBA Model Sample Policy

Code: GBN/JBA

Adopted:

## Sexual Harassment

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

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

### General Procedures

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

### OREGON DEFINITION AND PROCEDURES

#### Oregon Definition

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

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

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

<sup>2</sup> "Without consent" means an act performed: (a) without the knowing, voluntary and clear agreement by all parties to participate in the specific act; or (b) when a person who is a party to the act is incapacitated by drugs or alcohol; unconscious; or pressured through physical force, coercion or explicit or implied threats to participate in the act.

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

Examples of sexual harassment may include, but not be limited to, physical touching or graffiti of a sexual nature; displaying or distributing of sexually explicit drawings; pictures and written materials; sexual gestures or obscene jokes; touching oneself sexually or talking about one's sexual behaviors in front of others; or spreading rumors about or rating other students or others as to appearance, sexual activity or performance.

### Oregon Procedures

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

Name	Position	Phone	Email
<u>Sue Wilson</u>	<u>Superintendent</u>	<u>541-268-4322</u>	<a href="mailto:swilson@mapleton.k12.or.us">swilson@mapleton.k12.or.us</a>

This individual is responsible for accepting and managing complaints of sexual harassment. Persons wishing to report should contact them using the above information. This person is also designated as the Title IX coordinator.

### Response

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

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

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

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

### Investigation

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

1. Interviews with those involved;
2. Interviews with witnesses;

3. Review of video surveillance;
4. Review of written communications, including electronic communications;
5. Review of any physical evidence; and
6. Use of third-party investigator.

The district will use a reasonable person standard when determining whether a hostile environment exists. A hostile environment exists if a reasonable person with similar characteristics and under similar circumstances would consider the conduct to be so severe as to create a hostile environment.

The district may take, but is not limited to, the following procedures and remedial action to address and stop sexual harassment:

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

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

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

### **No Retaliation**

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

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

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

## Notice

When a person<sup>3</sup> who may have been affected by this policy files a complaint or otherwise reports behavior that may violate the policy, the district shall provide written notification to the following:

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

The written notification must include<sup>4</sup>:

1. Name and contact information for all person designated by the district to receive complaints;
2. The rights of the person that the notification is going to;
3. Information about the internal complaint processes available through the school or district that the person who filed the complaint may pursue, including the person designated for the school or district for receiving complaints and any timelines;
4. Notice that civil and criminal remedies that are not provided by the school or district may be available to the person through the legal system and that those remedies may be subject to statutes of limitation;
5. Information about services available to the student or staff member through the school or district, including any counseling services, nursing services or peer advising;
6. Information about the privacy rights of the person and legally recognized exceptions to those rights for internal complaint processes and services available through the school or district;
7. Information about, and contact information for, services and resources that are available to the person, including but not limited to:
  - a. For the reporting person, state and community-based resources for persons who have experienced sexual harassment; or
  - b. For the reported persons, information about and contact information for state and community-based mental health services.
8. Notice that students who report about possible prohibited conduct and students who participate in an investigation under this policy may not be disciplined for violations of the district’s drug and alcohol

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<sup>3</sup> Student, staff member, or third party, or if applicable, the student or third party’s parent. If the person is a minor, the district should consider when to contact the person’s parent.

<sup>4</sup> Remember confidentiality laws when providing any information.

policies that occurred in connection with the reported prohibited conduct and that were discovered as a result of a prohibited conduct report or investigation unless the student gave another person alcohol or drugs without the person’s knowledge and with the intent of causing the person to become incapacitated and vulnerable to the prohibited conduct; and

9. Prohibition of retaliation.

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

The notice must:

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

### **Oregon Department of Education (ODE) Support**

The ODE will provide technical assistance and training upon request.

### **FEDERAL DEFINITION AND PROCEDURES**

#### **Federal Definition**

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

1. An employee of the district conditioning the provision of an aid, benefit, or service of the district on an individual’s participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district’s education program or activity<sup>5</sup>;
3. “Sexual assault”: an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
4. “Dating violence”: violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship;
5. “Domestic violence”: felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or

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<sup>5</sup> “Education program or activity” includes locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs.” (Title 34 C.F.R. § 106.44(a))



youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction; or

6. "Stalking": engaging in a course of conduct directed at a specific person that would cause a reasonable person fear for the person's own safety or the safety of others, or suffer substantial emotional distress.

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

## **Federal Procedures**

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

## **Reporting**

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

Superintendent is designated as the Title IX coordinator. The Title IX coordinator will coordinate the district's efforts to comply with its responsibilities related to this AR. The district prominently will display the contact information for the Title IX coordinator on the district website and in each handbook.

## **Response**

The district will promptly respond to information, allegations or reports of sexual harassment when there is actual knowledge of such harassment, even if a formal complaint has not been filed.<sup>6</sup> The district shall treat complainants and respondents equitably by providing supportive measures<sup>7</sup> to the complainant and by following a grievance procedure<sup>8</sup> prior to imposing any disciplinary sanctions or other actions that are not supportive measures against a respondent. The Title IX coordinator is responsible for coordinating the effective implementation of supportive measures.

The Title IX coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes, with respect to supportive measures, inform the complainant

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<sup>6</sup> (Title 34 C.F.R. § 106.44(a)) Response cannot be deliberately indifferent. A recipient is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

<sup>7</sup> (Title 34 C.F.R. § 106.44(a)) Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the district's educational environment, or deter sexual harassment.<sup>7</sup> The district must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide supportive measures. (Title 34 C.F.R. § 99.30(a))

<sup>8</sup> This grievance procedure must meet the requirements of Title 34 C.F.R. § 106.45 (included in accompanying administrative regulation, *see* GBN/JBA-AR(2) - Federal Law (Title IX) Sexual Harassment Complaint Procedure).

of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.<sup>9</sup>

If after an individualized safety and risk analysis, it is determined that there is an immediate threat to the physical health or safety of any person, an emergency removal of the respondent can take place.<sup>10</sup> The district must provide the respondent with notice and an opportunity to challenge the decision immediately following the removal. A non-student employee may also be placed on non-disciplinary administrative leave pending the grievance process.

## **Notice**

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

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

## **No Retaliation**

Neither the district or any person may retaliate<sup>11</sup> against an individual for reporting, testifying, providing evidence, being a complainant, otherwise participating or refusing to participate in any investigation or process in accordance with this procedure. The district must keep confidential the identity of parties and participating persons, except as disclosure is allowed under Family Educational Rights and Privacy Act (FERPA), as required by law, or to carry out the proceedings herein. Complaints of retaliation may be filed using these procedures.

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

## **Publication**

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

END OF POLICY

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<sup>9</sup> The Title IX coordinator may also discuss that the Title IX coordinator has the ability to file a formal complaint.

<sup>10</sup> The district may still have obligations under Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 or the American with Disabilities Act (ADA). (Title 34 C.F.R. § 106.44(c))

<sup>11</sup> Retaliation includes, but is not limited to, intimidation, threats, coercion, and discrimination.

**Legal Reference(s):**

[ORS 243.706](#)  
[ORS 332.107](#)  
[ORS 342.700](#)  
[ORS 342.704](#)  
[ORS 342.708](#)

[ORS 342.850](#)  
[ORS 342.865](#)  
[ORS 659.850](#)  
[ORS 659A.006](#)  
[ORS 659A.029](#)

[ORS 659A.030](#)  
[OAR 581-021-0038](#)  
[OAR 584-020-0040](#)  
[OAR 584-020-0041](#)

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

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

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

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

# OSBA Model Sample Policy

Code: GBNAB/JHFE

Adopted:

## Suspected Abuse of a Child Reporting Requirements\*\*

Any district employee who has reasonable cause to believe that **any child** with whom the employee has come in contact has suffered abuse<sup>1</sup> shall ~~orally report or cause an oral report~~ immediately ~~by telephone or otherwise to the local office of~~ make a report to the Oregon Department of Human Services (DHS) ~~or its designee~~ through the centralized child abuse reporting system<sup>[2]</sup> or to ~~the~~ a law enforcement agency within the county where the person making the report is located at the time of the contact ~~pursuant to Oregon Revised Statute (ORS) 419B.010~~. Any district employee who has reasonable cause to believe that **any person**<sup>3</sup> with whom the employee is in contact has abused a child shall immediately report ~~or cause a report to be made~~ in the same manner described above ~~to DHS or its designee or to the law enforcement agency within the county where the person making the report is located at the time of the contact pursuant to ORS 419B.010~~.

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

Abuse of a child by district employees, contractors<sup>4</sup>, agents<sup>5</sup>, volunteers<sup>6</sup>, or students is prohibited and will not be tolerated. All district employees, contractors, agents, volunteers and students are subject to this policy and the accompanying administrative regulations.

Any district employee who has reasonable cause to believe that another district employee, contractor, agent, volunteer or student has engaged in abuse, or that a student has been subjected to abuse by another district employee, contractor, agent, volunteer or student shall immediately report such to ~~the Oregon Department of Human Services (DHS) or its designee~~ through its centralized child abuse reporting system or ~~the local~~ to a law enforcement agency ~~pursuant to ORS 419B.015~~, and to ~~the~~ a designated licensed administrator.

<sup>1</sup> Includes the neglect of a child; abuse is defined in ORS 419B.005.

<sup>2</sup> [How to report abuse or neglect: [Oregon DHS](#). Call 855-503-SAFE (7233)]

<sup>3</sup> "Person" could include adult, student or other child.

<sup>4</sup> "Contractor" means a person providing services to the district under a contract in a manner that requires the person to have direct, unsupervised contact with students.

<sup>5</sup> "Agent" means a person acting as an agent for the district in a manner that requires the person to have direct, unsupervised contact with students.

<sup>6</sup> "Volunteer" means a person acting as a volunteer for the district in a manner that requires the person to have direct, unsupervised contact with students.

The district will designate a licensed administrator and an alternate licensed administrator, in the event that the designated licensed administrator is the suspected abuser, for each school building to receive reports of suspected abuse of a child by district employees, contractors, agents, volunteers or students.

If the superintendent is the alleged perpetrator the report shall be submitted to the School Principal who shall also report to the Board chair.

The district will post the names and contact information of the designees for each school building, in the respective school, designated to receive reports of suspected abuse and the procedures in GBNAB/JHFE-AR(1) - Reporting of Suspected Abuse of a Child the designee will follow upon receipt of a report, the contact information for making a report to ~~local~~ law enforcement ~~and~~ or the ~~local~~ centralized child abuse reporting system of DHS ~~office or its designee~~, and a statement that this duty to report suspected abuse is in addition to the requirements of reporting to a designated licensed administrator.

When a designee receives a report of suspected abuse, the designee will follow procedure established by the district and set forth in administrative regulation GBNAB/JHFE-AR(1) - Reporting of Suspected Abuse of a Child. All such reports of suspected abuse will be reported to a law enforcement agency or DHS ~~or its designee~~, for investigation, and the agency will complete an investigation regardless of any changes in the relationship or duties of the person who is the alleged abuser.

When there is reasonable cause to support a report, a district employee suspected of abuse shall be placed on paid administrative leave pending an investigation and the district will take necessary actions to ensure the student's safety. When there is reasonable cause to support a report, a district contractor, agent or volunteer suspected of abuse shall be removed from providing services to the district and the district will take necessary actions to ensure the student's safety.

The district will notify the person, as allowed by state and federal law, who was subjected to the suspected abuse about any actions taken by the district as a result of the report.

A substantiated report of abuse by an employee shall be documented in the employee's personnel file. A substantiated report of abuse by a student shall be documented in the student's education record.

The initiation of a report in good faith, pursuant to this policy, may not adversely affect any terms or conditions of employment or the work environment of the person initiating the report or who may have been subjected to abuse. If a student initiates a report of suspected abuse of a child by a district employee, contractor, agent, volunteer or student, in good faith, the student will not be disciplined by the district or any district employee, contractor, agent or volunteer. Intentionally making a false report of abuse of a child is a Class A violation.

The district shall provide information and training each school year to district employees on the prevention and identification of abuse, the obligations of district employees under ORS 339.388 and ORS 419B.005 - 419B.050 and as directed by Board policy to report suspected abuse of a child, and appropriate electronic communications with students. The district shall make available each school year the training described above to contractors, agents, volunteers, and parents and legal guardians of students attending district-operated schools, and will be made available separately from the training provided to district employees. The district shall provide each school year information on the prevention and identification of abuse, the obligations of district employees under Board policy to report abuse, and appropriate electronic communications with students to contractors, agents and volunteers. The district shall make available each school year training that is designed to prevent abuse to students attending district-operated schools.

The district shall provide to a district employee at the time of hire, or to a contractor, agent, or volunteer at the time of beginning service for the district, the following:

1. A description of conduct that may constitute abuse;
2. A description of the investigatory process and possible consequences if a report of suspected abuse is substantiated; and
3. A description of the prohibitions imposed on district employees, contractors, and agents when they attempt to obtain a new job, as provided under ORS 339.378.

Nothing in this policy prevents the district from disclosing information required by law or providing the routine transmission of administrative and personnel files pursuant to law.

The district shall make available to students, district employees, contractors, agents, and volunteers a policy of appropriate electronic communications with students.

Any electronic communications with students by a contractor, agent or volunteer for the district will be appropriate and only when directed by district administration. When communicating with students electronically regarding school-related matters, contractors, agents or volunteers shall use district e-mail, using mailing lists and/or other internet messaging approved by the district to a group of students rather than individual students or as directed by district administration. Texting or electronically communicating with a student through contact information gained as a contractor, agent or volunteer for the district is strongly discouraged.

The superintendent shall develop administrative regulations as are necessary to implement this policy and to comply with state law.

END OF POLICY

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**Legal Reference(s):**

[ORS 339.370 - 339.400](#)  
[ORS 418.257 - 418.259](#)

[ORS 419B.005 - 419B.050](#)

[OAR 581-022-2205](#)

Greene v. Camreta, 588 F.3d 1011 (9th Cir. 2009), vacated in part by, remanded by Camreta v. Greene, 131 S. Ct. 2020 (U.S. 2011); vacated in part, remanded by Greene v. Camreta 661 F.3d 1201 (9th Cir. 2011).

~~[Senate Bill 51 \(2021\)](#)~~

# OSBA Model Sample Policy

Code: GBNAB/JHFE-AR(1)

Revised/Reviewed:

## Reporting of Suspected Abuse of a Child

### Reporting

Any district employee having reasonable cause to believe that **any child** with whom the employee comes in contact has suffered abuse<sup>1</sup> shall ~~orally make a report or cause an oral report~~ immediately ~~by telephone or otherwise to the local office of the~~ to the Oregon Department of Human Services (DHS) ~~or its designee~~ through the centralized child abuse reporting system<sup>2</sup> or to a law enforcement agency within the county where the person making the report is at the time of their contact. Any district employee who has reasonable cause to believe that **any person**<sup>3</sup> with whom the employee is in contact has abused a child shall immediately report ~~or cause a report to be made~~ in the same manner ~~to DHS or its designee or to the law enforcement agency within the county where the person making the report is located at the time of the contact pursuant to ORS 419B.010.~~

Any district employee who has reasonable cause to believe that another district employee, contractor, agent, volunteer or student has engaged in abuse, or that a student has been subjected to abuse by another district employee, contractor, agent, volunteer or student shall immediately report such to ~~the DHS or its designee~~ through its centralized child abuse reporting system ~~or the local~~ to a law enforcement agency ~~pursuant to ORS 419B.015,~~ and to ~~the~~ a designated licensed administrator or alternate licensed administrator for their school building.

~~If known, t~~The report shall ~~must~~ contain, if known, the names and addresses of the child and the parents of the child or other persons responsible for the child's care, the child's age, the nature and extent of the suspected abuse, including any evidence of previous abuse, the explanation given for the suspected abuse, any other information that the person making the report believes might be helpful in establishing the possible cause of the suspected abuse and the identity of a possible perpetrator.

If the superintendent is the alleged abuser the report shall be submitted to the School Principal who shall refer the report to the Board chair.

A written record of the abuse report shall be made by the employee reporting the suspected abuse of a student and will include: name and position of the person making the report; name of the student; name and position of any witness; description of the nature and extent of the abuse, including any information which could be helpful in establishing cause of abuse and identity of the abuser; description of how the report was made (i.e., phone or other method); name of the agency and individual who took the report; date and time that the report was made; and name of district administrator who received a copy of the written report.

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<sup>1</sup> Includes the neglect of a child; abuse is defined in ORS 419B.005.

<sup>2</sup> How to report abuse or neglect: [Oregon DHS](#). Call 855-503-SAFE (7233)

<sup>3</sup> "Person" could include adult, student or other child.



The written record of the abuse report shall not be placed in the student’s educational record. A copy of the written report shall be retained by the employee making the report and a copy shall be provided to the designee that received the report.

When the designee receives a report of suspected abuse of a child by a district employee, and there is reasonable cause to support the report, the district shall place the district employee on paid administrative leave<sup>4</sup> and take necessary actions to ensure the student’s safety. The employee shall remain on leave until DHS or law enforcement determines that the report is substantiated and the district takes the appropriate employment action, or cannot be substantiated or is not a report of abuse and the district determines that either 1) an employment policy was violated and the district will take appropriate employment action against the employee, or 2) an employment policy has not been violated and no action is required by the district against the employee.

When the designee receives a report of suspected abuse by a contractor, agent or volunteer, the district may prohibit the contractor, agent or volunteer from providing services to the district. If the district determines there is reasonable cause to support the report of suspected abuse, the district shall prohibit the contractor agent or volunteer from providing services. The district may reinstate the contractor, agent or volunteer, and such reinstatement may not occur until such time as a report of suspected abuse has been investigated<sup>5</sup> and a determination has been made by law enforcement or DHS that the report is unsubstantiated.

The written record of each reported incident of abuse of a child, action taken by the district and any findings as a result of the report shall be maintained by the district.

If, following the investigation, the district decides to take an employment action, the district will inform the district employee of the employment action to be taken and provide information about the appropriate appeal process. The employee may appeal the employment action taken through the appeal process provided by the applicable collective bargaining agreement.

If the district is notified that the employee decided not to appeal the employment action or if the determination of an appeal sustained the employment action, a record of the findings of the substantiated report and the employment action taken by the district will be placed in the records on the school employee maintained by the district. Such records created are confidential and not public records as defined in Oregon Revised Statute (ORS) 192.311, however the district may use the record as a basis for providing information required to be disclosed about a district employee under ORS 339.378(1). The district will notify the employee that information about substantiated reports may be disclosed to a potential employer.

## Definitions

1. Oregon law ~~recognizes these and other types of abuse~~ defines “abuse” in ORS 419B.005(1):
  - ~~Physical;~~
  - ~~Neglect;~~
  - ~~Mental injury;~~

<sup>4</sup> The district employee cannot be required to use any accrued leave during the imposed paid administrative leave.

<sup>5</sup> The district will investigate all reports of suspected abuse, unless otherwise requested by DHS ~~or its designee~~ or law enforcement pursuant to law.



~~Threat of harm;~~  
~~Sexual abuse and sexual exploitation.~~

7.2. “Child” means an unmarried person who is under 18 years of age or is ~~under 21 years of age and residing in or receiving care or services at a child-caring agency~~ a child in care, as defined in ORS 418.257.

8.3. A “substantiated report” means a report of abuse that a law enforcement agency or DHS determines is founded.

### Confidentiality of Records

The name, address and other identifying information about the employee who made the report are confidential and are not accessible for public inspection.

Upon request from law enforcement or DHS the district shall immediately provide requested documents or materials to the extent allowed by state and federal law.

### Failure to Comply

Any district employee who fails to report a suspected abuse of a child as provided by this policy and the prescribed Oregon law commits a violation punishable by law. A district employee who fails to comply with the confidentiality of records requirements commits a violation punishable by the prescribed law. If an employee fails to report suspected abuse of a child or fails to maintain confidentiality of records as required by ~~this policy~~ or this administrative regulation, the employee will be disciplined up to and including dismissal.

### Cooperation with Investigator

The district staff shall make every effort in suspected abuse of a child cases to cooperate with investigating officials as follows:

1. Any investigation of abuse of a child will be directed by the DHS or law enforcement officials as required by law. DHS or law enforcement officials wishing to interview a student shall present themselves at the school office and contact the school administrator unless the school administrator is the subject of the investigation. When an administrator is notified that the DHS or law enforcement would like to interview a student at school, the administrator must request that the investigating official fill out the appropriate form (See GBNAB/JHFE-AR(2) – Abuse of a Child Investigations Conducted on District Premises). The administrator or designee should not deny the interview based on the investigator’s refusal to sign the form. If the student is to be interviewed at the school, the administrator or designee shall make a private space available. The administrator or designee of the school may, at the discretion of the investigator, be present to facilitate the interview. If the investigating official does not have adequate identification the administrator shall refuse access to the student.

Law enforcement officials wishing to remove a student from the premises shall present themselves at the office and contact the administrator or designee. The law enforcement official shall sign the student out in accordance with district procedures;

2. When the subject matter of the interview or investigation is identified to be related to suspected abuse of a child, district employees shall not notify parents or anyone else other than DHS or law enforcement agency and any school employee necessary to enable the investigation;
3. The administrator or designee shall advise the investigator of any conditions of disability prior to any interview with the affected child;
4. District employees are not authorized to reveal anything that transpires during an investigation in which the employee participates, nor shall the information become part of the student's education records, except that the employee may testify at any subsequent trial resulting from the investigation and may be interviewed by the respective litigants prior to any such trial.

Nothing prevents the district from conducting its own investigation, unless another agency requests to lead the investigation or requests the district to suspend their investigation, or taking an employment action based on information available to the district before an investigation conducted by another agency is completed. The district will cooperate with agencies assigned to conduct such investigations.

# OSBA Model Sample Policy

Code: GBNAB/JHFE-AR(2)  
Revised/Reviewed:

## Abuse of a Child Investigations Conducted on District Premises

The Department of Human Services (DHS) or a law enforcement agency has the authority to conduct an investigation of a report of child abuse on school premises according to Oregon Revised Statute (ORS) 419B.045. The school administrator must be notified that the investigation is to take place, unless the administrator is a subject of the investigation. The investigator is not required to reveal information about the investigation to the school as a condition of conducting the investigation.

After the investigator provides adequate identification, school staff shall allow access to the child and provide a private space for conducting the interview. The investigator shall be advised by a school administrator or a school staff member of a child's relevant disabling conditions, if any, prior to any interview with the child. The school administrator or designee may, at the investigator's discretion, be present to facilitate the investigation.

School staff may only notify DHS, the law enforcement agency or school employees that are necessary to enable the investigation. School staff may not notify any other persons, including the child's parent(s) or guardian(s).

\_\_\_\_\_  
Investigator Name (Printed)

\_\_\_\_\_  
Name of Agency

\_\_\_\_\_  
Name of Worker's/Investigator's Supervisor

\_\_\_\_\_  
Supervisor Contact Information

\_\_\_\_\_  
Investigator Position and Badge or ID Number

\_\_\_\_\_  
Student Name

\_\_\_\_\_  
School

\_\_\_\_\_  
Investigator Signature

\_\_\_\_\_  
Date

Investigator refused to sign. District staff should not deny entry based on refusal to sign.

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**FOR COMPLETION BY DISTRICT STAFF**

- Student not available for interview
- Student refused to be interviewed
- Administrator participated in interview

\_\_\_\_\_  
Name of Administrator Notified

\_\_\_\_\_  
Name of Office Staff Involved

\_\_\_\_\_  
Name of Participating Administrator

This form should be placed in a separate secure file and not in the student's file.

# OSBA Model Sample Policy

Code: GCDA/GDDA

Adopted:

**D**

## Criminal Records Checks and Fingerprinting \*

*(Delete and see new version of this required model policy.)*

In a continuing effort to ensure the safety and welfare of students and staff, the district shall require all newly hired[ full-time and part-time] employees<sup>1</sup> not requiring licensure under Oregon Revised Statute (ORS) 342.223 to submit to a criminal records check and fingerprinting as required by law. Other individuals, as determined by the district, that will have direct, unsupervised contact with students shall submit to criminal records checks and/or fingerprinting as established by Board policy and as required by law.

“Direct, unsupervised contact with students” means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision.

Pursuant to state law, a criminal records check or fingerprint-based criminal records checks shall be required of the following individuals<sup>2</sup>:

1. All individuals employed as or by a contractor[, whether employed part-time or full-time,] and considered by the district to have direct, unsupervised contact with students;
2. Any community college faculty member providing instruction at the site of an early childhood education program, at a school site as part of an early childhood program or at a grade K through 12 school site during the regular school day;
3. Any individual who is an employee of a public charter school and not requiring licensure under ORS 342.223; and
4. [<sup>3</sup>]Any individual considered for volunteer service with the district who is allowed to have direct, unsupervised contact with students.

The district will provide the written notice about the requirements of fingerprinting and criminal records checks through means such as staff handbooks, employment applications, contracts or [volunteer] forms.

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<sup>1</sup> Any individual hired within the last three months. A subject individual does not include an employee hired within the last three months if the district has evidence on file that meets the definition in Oregon Administrative Rule (OAR) 581-021-0510(11)(b).

<sup>2</sup> Subject individuals and requirements are further outlined in GCDA/GDDA-AR – Criminal Records Checks and Fingerprinting.

<sup>3</sup> [If the district allows volunteer service and the volunteers have direct, unsupervised contact with students, this policy language is required, and districts are required to conduct criminal records checks on these volunteers.]

[The district shall require a fingerprint-based criminal records check for volunteers allowed direct, unsupervised contact with students, in the following positions<sup>4</sup>:

1. [Head coach;]
2. [Assistant coach;]
3. [Overnight chaperone;]
4. [Volunteers transporting students, other than their own, in a private vehicle off district property for a district-sponsored activity] [;] [.]
5. [List of other positions subject to this fingerprinting, if any.] ]

The procedure for processing fingerprint collection is further outlined in GCDA/GDDA-AR – Criminal Records Checks and Fingerprinting.

A subject individual shall be subject to the collection of fingerprint information, only after the offer of employment or contract from the district and may be charged a fee by the district. A subject individual may request the fee be withheld from the amount otherwise due the individual.

The district [shall] [shall not] begin the employment of a subject individual or terms of a district contractor [on a probationary basis pending] [before] the return and disposition of the required criminal records checks.

When the district is notified of a subject individual who has been convicted of any crimes prohibiting employment or contract the individual will not be employed or contracted, or if employed will be terminated. When the district is notified of a subject individual who knowingly made a false statement as to the conviction of any crime, the individual [may] [will not] be employed or contracted with by the district, or if employed by the district [may] [will] be terminated. A subject individual who fails to disclose the presence of convictions that would not otherwise prohibit employment or contract with the district as provided by law [may] [will not] be employed or contracted with by the district.

The district's use of criminal history must be relevant to the specific requirements of the position, services or employment.

[The service of a volunteer allowed to have direct, unsupervised contact with students [may] [will not] begin [on a probationary basis pending] [before] the return and disposition of a criminal records check.]

[The service of a volunteer into a position identified by the district as requiring a fingerprint-based criminal records check [may] [will not] begin [on a probationary basis pending] [before] the return and disposition of a state and national criminal records check based on fingerprints.]

[A volunteer who knowingly made a false statement or has a conviction of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another

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<sup>4</sup> [If the district requires fingerprinting for certain volunteer positions, the district is required to list those volunteer positions in board policy. The bracketed language is only possible examples; modify to identify the positions in the district that require such fingerprinting.]

jurisdiction or in Oregon under a different statutory name or number [may] [will] result in immediate termination from the ability to volunteer in the district.]

The superintendent shall develop administrative regulations as necessary to meet the requirements of law.

### Appeals

A subject individual may appeal a determination from ODE that prevents employment or eligibility to contract with the district to the Superintendent of Public Instruction as a contested case under ORS 183.413 – 183.470.

A volunteer may appeal a determination from a fingerprint-based criminal records checks by ODE that prevents the ability to volunteer with the district to the Superintendent of Public Instruction as a contested case under ORS 183.413 – 183.470.

END OF POLICY

#### Legal Reference(s):

[ORS 181A.180](#)  
[ORS 181A.230](#)  
[ORS 326.603](#)  
[ORS 326.607](#)

[ORS 332.107](#)  
[ORS 336.631](#)  
[ORS 342.143](#)  
[ORS 342.223](#)

[OAR 414-061-0010 – 061-0030](#)  
[OAR 581-021-0510 – 021-0512](#)  
[OAR 581-022-2430](#)  
[OAR 584-050-0012](#)

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

E

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E

# OSBA Model Sample Policy

Code: GCDA/GDDA  
Adopted:

## **Criminal Records Checks and Fingerprinting \***

In a continuing effort to ensure the safety and welfare of students and staff, the district shall require certain individuals to submit to a criminal records check and fingerprinting as required by law. This includes employees, contractors, volunteers and others.

### **Requirements for Employees not Licensed, Certified or Registered by the Teachers Standards Practices Commission (TSPC)**

All newly hired employees<sup>1</sup> not identified under Oregon Revised Statutes (ORS) 342.223<sup>2</sup> are required to submit to a criminal records check and fingerprinting as required by law. A newly hired employee is not subject to fingerprinting if the district has evidence on file that the person successfully completed a state and national criminal records check for a previous employer that was a school district<sup>3</sup> or private school, and has not resided outside the state between the two periods of employment.

An individual shall be subject to the collection of fingerprint information, only after the offer of employment from the district. Fees associated with criminal records checks and fingerprinting for individuals applying for employment with the district and not requiring licensure shall be paid by the district.

The district may<sup>4</sup> begin the employment of an individual on a probationary basis pending the return and disposition of the required criminal records checks.

When the criminal records check indicates an individual has been convicted of any crimes<sup>5</sup> prohibiting employment, the individual will not be employed, or if employed will be terminated. When the criminal records check indicates an individual has knowingly made a false statement as to the conviction of any crime, the individual will not be employed by the district, or if employed by the district will be terminated. An individual who fails to disclose the presence of convictions that would not otherwise prohibit employment or contract with the district as provided by law may be employed by the district. Employment termination shall remove the individual from any district policies, collective bargaining provisions

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<sup>1</sup> Any individual hired within the last three months. This does not include an employee hired within the last three months if the district has evidence on file that meets the definition in Oregon Administrative Rule (OAR) 581-021-0510(11)(b).

<sup>2</sup> ORS 342.223 includes teachers, administrators, personnel specialist, school nurses, persons participating in supervised clinical practice experience, practicum or internship as a teacher, administrator or personnel specialist. See statute for details.

<sup>3</sup> As is defined in OAR 581-021-0510(9); includes school districts, the Oregon School for the Deaf, and educational program under the Youth Corrections Education Program, public charter schools and ESDs.

<sup>4</sup> Decisions regarding which employees may begin before the return of the required criminal records checks must be made in a nondiscriminatory manner.

<sup>5</sup> See OAR 581-021-0511(8).

regarding dismissal procedures and appeals and the provisions of Accountability for Schools for the 21st Century Law.

### **Requirements for TSPC Licensed, Certified or Registered Individuals**

1. Any individual who is applying for a license as a teacher, administrator or personnel specialist is subject to a criminal records check and fingerprinting, unless the individual has submitted to such a check through the Teacher Standards and Practices Commission (TSPC) within the previous three years, or has remained continuously licensed by or registered with TSPC for a different license or registration for which the individual has already submitted to a criminal records check and fingerprinting.
2. Any individual who is applying for an initial certificate under ORS 342.475 as a school nurse shall submit to a criminal records check and fingerprinting with TSPC.
3. Any individual who is applying for a registration as a public charter school teacher or administrator with TSPC shall submit to a criminal records check and fingerprinting with TSPC.
4. Any individual applying for reinstatement of an Oregon license or registration as a teacher, administrator or personnel specialist, or a certificate as a school nurse with the TSPC, whose license, registration or certificate has lapsed for at least three years, shall submit to a criminal records check and fingerprinting with TSPC.
5. Any individual registering with the TSPC for student teaching, practicum or internship as a teacher, administrator or personnel specialist, if the individual does not hold a current license issued by TSPC and has not submitted to a criminal records check by TSPC within the previous three years for student teaching, practicum or internship as a teacher, administrator or personnel specialist, shall be required to submit to a criminal records check and fingerprinting with TSPC.

### **Requirements for Contractors**

All individuals employed as or by a contractor and considered by the district to have direct, unsupervised contact with students<sup>6</sup> or unsupervised access to children are required to submit to a criminal records check and a fingerprint-based criminal records check.

The superintendent will identify contractors who are subject to such requirements.

A contractor or an employee of a contractor required to submit to a criminal records check and fingerprinting in accordance with law and Board policy will be terminated from contract status, or withdrawal of offer of contract will be made by the district upon:

1. Refusal to consent to a criminal records check and fingerprinting; or

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<sup>6</sup> “Direct, unsupervised contact with students” means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision. (OAR 581-021-0510)



2. Notification<sup>7</sup> from the Superintendent of Public Instruction that the individual has a conviction of any crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number.

A subject individual will be terminated from contract status upon notification from the Superintendent of Public Instruction that the individual has knowingly made a false statement as to the conviction of any crime.

### **Requirements for Volunteers**

The district shall require a fingerprint-based criminal records check for volunteers allowed direct, unsupervised contact with students, in the following positions:

1. Head coach;
2. Assistant coach;
3. Overnight chaperone;
4. Volunteers transporting students, other than their own, in a private vehicle off district property for a district-sponsored activity;

The service of a volunteer into a position identified by the district as requiring a fingerprint-based criminal records check may begin on a probationary basis pending the return and disposition of a state and national criminal records check based on fingerprints.

Volunteers allowed by the district into a position designated by the district to have direct, unsupervised contact with students shall submit to an in-state criminal records check.

The service of a volunteer allowed to have direct, unsupervised contact with students may begin on a probationary basis pending the return and disposition of a criminal records check.

A volunteer that is not likely to have direct, unsupervised contact with students, as determined by the district, will be required to submit to an in-state criminal records check.

A volunteer who knowingly made a false statement on a district volunteer application form or has a conviction of a crime listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number will result in immediate termination from the ability to volunteer in the district.

Fees associated with a required fingerprinting for volunteers shall be paid by the district. Fees associated with required non-fingerprinting criminal records checks for volunteers shall be paid by the district.

A volunteer who refuses to submit, when required, to a criminal records check or a fingerprint-based criminal records check in accordance with law and Board policy will be denied such ability to volunteer in the district.

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<sup>7</sup> Prior to making a determination that results in this notification and opportunity for a hearing, the Superintendent of Public Instruction may cause an investigation pursuant to OAR 581-021-0511; involved parties shall cooperate with the investigation pursuant to law.

## **Requirements for Others**

Any community college faculty member providing instruction at the site of an early childhood education program, at a school site as part of an early childhood program or at a grade K through 12 school site during the regular school day is required to submit to a criminal records check and a fingerprint-based criminal records check.

Any individual who is an employee of a public charter school and not identified under ORS 342.223 is required to submit to a criminal records check and a fingerprint-based criminal records check.

## **Notification**

The district will provide written notice about the requirements of fingerprinting and criminal records checks through means such as staff handbooks, employment applications, contracts or volunteer forms.

The district will provide the following notification to individuals subject to criminal records checks and fingerprinting:

1. Such criminal records checks and fingerprinting are required by law or Board policy;
2. All employment or contract offers or the ability to volunteer are contingent upon the results of such checks;
3. A refusal to consent to a required criminal records check and fingerprinting shall result in immediate termination from employment, or contract status or the ability to volunteer in the district;
4. A determination by the Oregon Department of Education (ODE) which affects an individual's eligibility to be employed, or contracted with, by the district may be appealed to the Superintendent of Public Instruction under ORS 183.413 – 183.470;
5. An individual determined to have knowingly made a false statement as to the conviction of any crime on district employment applications, contracts, or ODE forms (written or electronic) will result in immediate termination from employment or contract status;
6. An individual determined to have been convicted of any crime that would prohibit employment or contract will be immediately terminated from employment or contract status;
7. A volunteer candidate who knowingly made a false statement or has a conviction of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number will result in immediate termination from the ability to volunteer in the district. The district will remove the volunteer from the position allowing direct, unsupervised contact with students.

## **Processing and Reporting Procedures**

Immediately following an offer and acceptance of employment or contract, an individual subject to criminal records checks and fingerprinting shall complete the appropriate forms authorizing such checks and report to an authorized fingerprinter as directed by the district. The district shall send such authorization, any collection of fingerprint information, and the request to ODE pursuant to law.

Fingerprints may be collected by one of the following:

R4/04/24 | SL

Criminal Records Checks and Fingerprinting \* – GCDA/GDDA

1. Employing district staff;
2. Contracted agent of employing district;
3. Local or state law enforcement agency; or
4. Statewide vendor identified by the Oregon Department of Administrative Services.

To ensure the integrity of the fingerprinting collection and prevent any compromise of the process, the district will provide the name of the individual to be fingerprinted to the authorized fingerprinter.

The authorized fingerprinter will obtain the necessary identification and fingerprinting and notify ODE of the results. ODE will then review and notify the district of said results as well as the identity of any individual it believes has knowingly made a false statement as to conviction of a crime or has a conviction of a crime prohibiting employment, or contract or volunteering.

A copy of the fingerprinting results will be kept by the district. The district's use of criminal history must be relevant to the specific requirements of the position, services or employment.

END OF POLICY

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**Legal Reference(s):**

[ORS 181A.180](#)  
[ORS 181A.230](#)  
[ORS 326.603](#)  
[ORS 326.607](#)  
[ORS 332.107](#)

[ORS 336.631](#)  
[ORS 342.143](#)  
[ORS 342.223](#)  
[OAR 414-061-0010 – 061-0030](#)  
[OAR 581-021-0510 – 021-0512](#)

[OAR 581-022-2430](#)  
[OAR 584-050-0012](#)  
[OAR 584-050-0100](#)

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

# OSBA Model Sample Policy

Code: GCDA/GDDA-AR  
Revised/Reviewed:

## Criminal Records Checks and Fingerprinting

*(Delete in lieu of the new version of required model policy GCDA/GDDA.)*

### Requirements

1. Any individual newly hired employee<sup>1</sup>[, whether full-time or part-time,] and not requiring licensure under Oregon Revised Statute (ORS) 342.223 as a teacher, administrator, personnel specialist or school nurse, shall submit to a criminal records check and fingerprinting.
2. Any individual applying for reinstatement of an Oregon license with the Teacher Standards and Practices Commission (TSPC) that has lapsed for more than three years shall be required to undergo a criminal records check and fingerprinting with TSPC.
3. Any individual registering with the TSPC for student teaching, practicum or internship as a teacher, administrator or personnel specialist shall be required to submit to a criminal records check and fingerprinting with TSPC.
4. Any individual hired as or by a contractor<sup>2</sup>[, whether part-time or full-time,] into a position having direct, unsupervised contact with students as determined by the district shall be required to submit to a criminal records check and fingerprinting.

The superintendent will identify contractors who are subject to such requirements.

5. Any community college faculty member providing instruction at the site of an early childhood education program, a school site as part of an early childhood program or at a grade K through 12 school site during the regular school day, shall be required to undergo a criminal records check and fingerprinting.
6. Any individual who is an employee of a public charter school not requiring licensure under ORS 342.223 shall be required to undergo a criminal records check and fingerprinting.
7. <sup>{3}</sup>A volunteer allowed by the district into a position that has direct, unsupervised contact with students shall undergo an in-state criminal records check.

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<sup>1</sup> Any individual hired within the last three months. A subject individual does not include an employee hired within the last three months if the district has evidence on file that meets the definition in Oregon Administrative Rule (OAR) 581-021-0510(11)(b).

<sup>2</sup> A person hired as or by a contractor and their employees may not be required to submit to fingerprinting until the contractor has been offered a contract by the district.

<sup>3</sup> {If the district allows volunteers to have direct, unsupervised contact with students, districts are required to conduct criminal records checks on these volunteers. Choose the bracketed language options in 7, 8 and/or 9 of this policy that aligns with district practice. If the district allows volunteers to have direct, unsupervised contact with students the presented language is required. Align policy ICC – Volunteers with chosen language here.}

8. [A volunteer allowed to have direct, unsupervised contact with students, into a volunteer position identified in Board policy<sup>4</sup> by the district as requiring a fingerprint-based criminal records check, shall undergo a state and national criminal records check based on fingerprints.]
9. [A volunteer that is not likely to have direct, unsupervised contact with students [will] [will not] be required to undergo an in-state criminal records check.]

### Exceptions

A newly hired employee<sup>5</sup> is not subject to fingerprinting if:

1. The district has evidence on file that the person successfully completed a state and national criminal records check for a previous employer that was a school district or private school, and has not resided outside the state between the two periods of employment; or
2. {<sup>6</sup>}The Oregon Department of Education (ODE) determines the person:
  - a. Submitted to a criminal records check for the person's immediately previous employer, the employer is a school district or private school and the person has not lived outside this state between the two periods of employment;
  - b. Submitted to a criminal records check conducted by TSPC within the previous three years; or
  - c. Remained continuously licensed or registered with the TSPC.

### Notification

1. The district will provide the following notification to individuals subject to criminal records checks and/or fingerprinting:
  - a. Such criminal records checks and/or fingerprinting are required by law or Board policy;
  - b. Any action resulting from such checks completed by the ODE that impact employment, contract or volunteering may be appealed as a contested case to ODE;
  - c. All employment or contract offers [or the ability to volunteer] are contingent upon the results of such checks;
  - d. A refusal to consent to a required criminal records check and/or fingerprinting shall result in immediate termination from employment[,] [or] contract status[ or the ability to volunteer in the district];
  - e. An individual determined to have knowingly made a false statement as to the conviction of any crime on district employment applications, contracts[,] [or] ODE forms [(written or electronic)] [may][will] result in immediate termination from employment or contract status;
  - f. An individual determined to have been convicted of any crime that would prohibit employment or contract will be immediately terminated from employment or contract status[;]
  - g. [A volunteer candidate who knowingly made a false statement or has a conviction of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number [may] [will] result in immediate termination from the ability to volunteer in the district.] [The district [may] [will] remove the volunteer from the position allowing direct, unsupervised contact with students.]

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<sup>4</sup> See policy GCDA/GDDA – Criminal Records Checks and Fingerprinting.

<sup>5</sup> Any individual hired within the last three months.

<sup>6</sup> {This revision to TSPC rules sunsets July 1, 2024.}

2. The district will provide the written notice described above through means such as staff handbooks, employment applications, contracts or [volunteer] forms.

### **Processing and Reporting Procedures**

1. Immediately following an offer and acceptance of employment or contract, an individual subject to criminal records checks and/or fingerprinting shall complete the appropriate forms authorizing such checks and report to an authorized fingerprinter as directed by the district. The district shall send such authorization, any collection of fingerprint information, and the request to ODE pursuant to law.
2. Fingerprints may be collected by one of the following:
  - a. Employing district staff;
  - b. Contracted agent of employing district; or
  - c. Local or state law enforcement agency.
3. To ensure the integrity of the fingerprinting collection and prevent any compromise of the process, the district will provide the name of the individual to be fingerprinted to the authorized fingerprinter.
4. The authorized fingerprinter will obtain the necessary identification and fingerprinting and notify ODE of the results. ODE will then review and notify the district of said results as well as the identity of any individual it believes has knowingly made a false statement as to conviction of a crime, has knowingly made a false statement as to conviction of any crime or has a conviction of a crime prohibiting employment[,] [or] contract[ or volunteering].
5. A copy of the fingerprinting results will be kept by the district.

### **Fees**

1. Fees associated with criminal records checks and/or fingerprinting for individuals applying for employment with the district and not requiring licensure, including persons hired as or by contractors<sup>7</sup>, shall be paid by the [individual] [district].
2. [An individual offered a contract or employment by the district may, only upon request, request that the amount of the fee be withheld from the amount otherwise due the individual in accordance with Oregon law.]
3. Fees associated with required criminal records checks for volunteers shall be paid by the [individual] [district].
4. [Fees associated with a required fingerprinting for volunteers shall be paid by the [individual] [district].]

### **Termination of Employment or Withdrawal of Employment/Contract Offer/Volunteer Status**

1. A subject individual required to submit to a criminal records check and/or fingerprinting in accordance with law and/or Board policy will be terminated from employment or contract status, or withdrawal of offer of employment or contract will be made by the district upon:
  - a. Refusal to consent to a criminal records check and/or fingerprinting; or

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<sup>7</sup> A person hired as or by a contractor and their employees may not be required to submit to fingerprinting until the contractor has been offered a contract by the district.

- b. Notification<sup>8</sup> from the Superintendent of Public Instruction that the employee has a conviction of any crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number.
2. A subject individual [may] [will] be terminated from employment or contract status upon notification from the Superintendent of Public Instruction that the employee has knowingly made a false statement as to the conviction of any crime.
3. Employment termination shall remove the individual from any district policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of Accountability for Schools for the 21st Century Law.
4. [A volunteer who refuses to submit, when required, to a criminal records check or a fingerprint-based criminal records check in accordance with law and/or Board policy will be denied such ability to volunteer in the district.]
5. [If the district has been notified by the Superintendent of Public Instruction that a volunteer knowingly made a false statement or has a conviction for any crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number, the individual [will] [may] be denied the ability to volunteer.]
6. [A volunteer who knowingly makes a false statement, as determined by the district, on a district volunteer application form [will] [may] be denied the ability to volunteer in the district.]

### Appeals

A subject individual may appeal a determination from ODE that prevents employment or eligibility to contract with the district to the Superintendent of Public Instruction as a contested case under ORS 183.413 – 183.470.

A volunteer may appeal a determination from a fingerprint-based criminal records checks by ODE that prevents the ability to volunteer with the district to the Superintendent of Public Instruction as a contested case under ORS 183.413 – 183.470.

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<sup>8</sup> Prior to making a determination that results in this notification and opportunity for a hearing, the Superintendent of Public Instruction may cause an investigation pursuant to OAR 581-021-0511; involved parties shall cooperate with the investigation pursuant to law.

# OSBA Model Sample Policy

Code: IGBAF

Adopted:

## Special Education - Individualized Education Program (IEP)\*\*

An individualized education program (IEP) shall be developed and implemented for each student with disabilities in the district, kindergarten through 21 years of age, including those who attend a public charter school located in the district, are placed in or referred to a private school or facility by the district; or receive related services from the district. The district is responsible for initiating and conducting the meetings to develop, review and revise the IEP of a student with disabilities. The district will ensure that one or both parents are present at each meeting or are afforded the opportunity to participate and are given a copy of the IEP. A meeting to develop an IEP shall be held within 30 calendar days of a determination that the student needs special education and related services, once every 365 days thereafter and when considering a change in the IEP or placement.

If a student is to be placed or referred to a private school or facility or attends a private or parochial school, the district will ensure that a representative of the private school or facility attends the IEP meeting. If the representative of the private school or facility is unable to attend the IEP meeting, the district shall use other methods to ensure participation including but not limited to, individual or conference telephone calls or individual meetings.

END OF POLICY

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### Legal Reference(s):

[ORS 343.068](#)

[ORS 343.151](#)

[ORS 343.155](#)

[ORS 343.321 - 343.333](#)

[OAR 581-015-2000](#)

[OAR 581-015-2190](#)

[OAR 581-015-2195](#)

[OAR 581-015-2200](#)

[OAR 581-015-2205](#)

[OAR 581-015-2210](#)

[OAR 581-015-2215](#)

[OAR 581-015-2220](#)

[OAR 581-015-2225](#)

[OAR 581-015-2229](#)

[OAR 581-015-2230](#)

[OAR 581-015-2235](#)

[OAR 581-015-2055](#)

[OAR 581-015-2600](#)

[OAR 581-015-2065](#)

[OAR 581-015-2265](#)

Assistance to States for the Education of Children with Disabilities, 34 C.F.R. §§ 300.5 - 300.6, 300.22 - 300.24, 300.34, 300.43, 300.105 - 106, 300.112, 320.325, 300.328, 300.501 (2012).



# OSBA Model Sample Policy

Code: IGBAF-AR

Revised/Reviewed:

## Special Education - Individualized Education Program (IEP)\*\*/\*

### 1. General IEP Information

- a. The district ensures that an IEP is in effect for each eligible student:
  - (1) Before special education and related services are provided to a student;
  - (2) At the beginning of each school year for each student with a disability for whom the district is responsible; and
  - (3) Before the district implements all the special education and related services, including program modifications, supports and/or supplementary aids and services, as identified on the IEP.
- b. The district uses:
  - (1) The Oregon standard IEP; or
  - (2) An IEP form that has been approved by the Oregon Department of Education.
- c. The district develops and implements all provisions of the IEP as soon as possible following the IEP meeting.
- d. The IEP will be accessible to each of the student's regular education teacher(s), the student's special education teacher(s) and the student's related services provider(s) and other service provider(s). This includes all district employees assigned to work with a student with specialized needs to assist with the educational, behavioral, medical, health or disability-related support needs of the student.
- e. The district takes steps to ensure that parent(s) are present at each IEP meeting or have the opportunity to participate through other means.
- f. The district ensures that each teacher and service provider is informed of:
  - (1) Their specific responsibilities for implementing the IEP specific accommodations, modifications and/or supports that must be provided for, or on behalf of the student; and
  - (2) Their responsibility to fully implement the IEP including any amendments the district and parents agreed to make between annual reviews.
- b. The district takes whatever action is necessary to ensure that parents understand the proceedings of the IEP team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.
- g. The district provides a copy of the IEP to the parents at no cost.

### 2. IEP Meetings

- a. The district conducts IEP meetings within 30 calendar days of the determination that the student is eligible for special education and related services.
- b. The district convenes IEP meetings for each eligible student periodically, but not less than once per year.

- c. At IEP meetings, the team reviews and revises the IEP to address any lack of expected progress toward annual goals and in the general curriculum, new evaluation data or new information from the parent(s), the student's anticipated needs, or the need to address other matters.
- d. Between annual IEP meetings, the district and the parent(s) may amend or modify the student's current IEP without convening an IEP team meeting using the procedures in the Agreement to Amend or Modify IEP subsection.
- e. When the parent(s) requests a meeting, the district will either schedule a meeting within a reasonable time or provide timely written prior notice of the district's refusal to hold a meeting.
- f. If an agency other than the district fails to provide agreed upon transition services contained in the IEP, the district convenes an IEP meeting to plan alternative strategies to meet the transition objectives and, if necessary, to revise the IEP.

### 3. IEP Team Members

- a. The district's IEP team members include the following:
  - (1) The student's parent(s);
  - (2) The student, if the purpose of the IEP meeting is to consider the student's postsecondary goals and transition services (beginning for IEPs in effect at age 16), or for younger students, when appropriate;
  - (3) At least one of the student's special education teachers or, if appropriate, at least one of the student's special education providers;
  - (4) At least one of the student's regular education teachers if the student is or may be participating in the regular education environment. If the student has more than one regular education teacher, the district will determine which teacher or teachers will participate;
  - (5) A representative of the district (who may also be another member of the team) who is qualified to provide or supervise the provision of special education and is knowledgeable about district resources. The representative of the district will have the authority to commit district resources and be able to ensure that all services identified in the IEP can be delivered;
  - (6) An individual, who may also be another member of the team, who can interpret the instructional implications of the evaluation results; and
  - (7) At the discretion of the parent or district, other persons who have knowledge or special expertise regarding the student.
- b. Student participation:
  - (1) Whenever appropriate, the student with a disability is a member of the team.
  - (2) If the purpose of the IEP meeting includes consideration of postsecondary goals and transition services for the student, the district includes the student in the IEP team meeting.
  - (3) If the purpose of the IEP meeting includes consideration of postsecondary goals and transition services for the student, and the student does not attend the meeting, the district will take other steps to consider the student's preferences and interests in developing the IEP.
- c. Participation by other agencies:

- (1) With parent or adult student written consent, and where appropriate, the district invites a representative of any other agency that is likely to be responsible for providing or paying for transition services if the purpose of the IEP meeting includes the consideration of transition services (beginning at age 16, or younger if appropriate); and
- (2) If the district refers or places a student in an education service district, state-operated program, private school or other educational program, IEP team membership includes a representative from the appropriate agencies. Participation may consist of attending the meeting, conference call or participating through other means.

d. Participation by other employees:

All district employees assigned to work with a student with specialized needs to assist the student with educational, behavioral, medical, health or disability-related support needs of the student must be consulted with when the IEP for the student is being developed, reviewed or revised. This includes being invited to, and compensated for attending, meetings regarding the student's IEP and other meetings regarding the student, when the decisions made and issues discussed are related to the responsibilities of the employee to support the student or when the employee has unique information about the student's needs and present level of performance.

4. Agreement for Nonattendance and Excusal

- a. The district and the parent may consent to excuse an IEP team member from attending an IEP meeting, in whole or in part, when the meeting involves a discussion or modification of team member's area of curriculum or service. The district designates specific individuals to authorize excusal of IEP team members.
- b. If excusing an IEP team member whose area is to be discussed at an IEP meeting, the district ensures:
  - (1) The parent and the district consent in writing to the excusal;
  - (2) The team member submits written input to the parents and other members of the IEP team before the meeting; and
  - (3) The parent is informed of all information related to the excusal in the parent's native language or other mode of communication according to consent requirements.

5. IEP Content

- a. In developing the IEP, the district considers the student's strengths, the parent's concerns, the results of the initial or most recent evaluation, and the academic, developmental and functional needs of the student.
- b. The district ensures that IEPs for each eligible student includes:
  - (1) A statement of the student's present levels of academic achievement and functional performance that:
    - (a) Includes a description of how the disability affects the progress and involvement in the general education curriculum;
    - (b) Describes the results of any evaluations conducted, including functional and developmental information;
    - (c) Is written in language that is understood by all IEP team members, including parents;

- (d) Is clearly linked to each annual goal statement;
  - (e) Includes a description of benchmarks or short-term objectives for children with disabilities who take alternative assessments aligned to alternate achievement standards.
- (2) A statement of measurable annual goals, including academic and functional goals, or for students whose performance is measured by alternate assessments aligned to alternate achievement standard, statements of measurable goals and short-term objectives. The goals and, if appropriate, objectives:
- (a) Meet the student’s needs that are present because of the disability, or because of behavior that interferes with the student’s ability to learn, or impedes the learning of other students;
  - (b) Enable the student to be involved in and progress in the general curriculum, as appropriate; and
  - (c) Clearly describe the anticipated outcomes, including intermediate steps, if appropriate, that serve as a measure of progress toward the goal.
- (3) A statement of the special education services, related services, supplementary aids and services that the district provides to the student:
- (a) The district bases special education and related services, modifications and supports on peer-reviewed research to the extent practicable to assist students in advancing toward goals, progressing in the general curriculum and participating with other students (including those without disabilities), in academic, nonacademic and extracurricular activities.
  - (b) Each statement of special education services, related or supplementary services, aids, modifications or supports includes a description of the inclusive dates, amount or frequency, location and who is responsible for implementation.
- (4) A statement of the extent, if any, to which the student will not participate with nondisabled students in regular academic, nonacademic and extracurricular activities.
- (5) A statement of any individual modifications and accommodations in the administration of state or districtwide assessments of student achievement.
- (a) A student will not be exempt from participation in state or districtwide assessment because of a disability unless the parent requests an exemption;
  - (b) If the IEP team determines that the student will take the alternate assessment instead of the regular statewide or a districtwide assessment, a statement of why the student cannot participate in the regular assessment and why the alternate assessment is appropriate for the student.
- (6) A statement describing how the district will measure student’s progress toward completion of the annual goals and when periodic reports on the student’s progress toward the annual goals will be provided.

## ~~6. Individualized COVID-19 Recovery Services<sup>†</sup>~~

~~Individualized COVID-19 Recovery Services are defined as those services determined necessary for eligible students based on the unique needs that arise from their disability due to the impact of the COVID-19 pandemic, which may include but are not limited to:~~

- ~~· Special education and related services;~~
- ~~· Supplementary aides and services;~~
- ~~· Additional or intensified instruction;~~
- ~~· Social-emotional learning support; and~~
- ~~· Peer or adult support.~~

~~The IEP team for each eligible student shall consider the need for Individualized COVID-19 Recovery Services at least at each initial IEP meeting and each regularly scheduled annual review meeting.~~

- ~~· IEP teams shall consider the impact COVID-19 on the eligible student's ability to engage in their education, develop and re-establish social connections with peers and school personnel, and adapt to the structure of in-person learning.~~
- ~~· For initial IEPs, IEP teams shall also review the impact of COVID-19 on the eligible student's initial evaluation timeline and eligibility determination in considering the need for Individualized COVID-19 Recovery Services.~~
- ~~· For annual reviews, IEP teams shall also consider the impact of COVID-19 on the implementation of the eligible student's IEP considering the need for Individualized COVID-19 Recovery Services.~~

~~Any member of the IEP team, including parents and eligible students, may request that the IEP team meet to review the need for Individualized COVID-19 Recovery Services at any time.~~

- ~~· IEP teams are not required to meet more than once annually to consider the need for Individualized COVID-19 Recovery Services unless updated information indicates the eligible student's circumstances have changed or there is reason to suspect that the eligible student may need any additions or modifications to their Individualized COVID-19 Recovery Services.~~
- ~~· IEP teams that considered the need for Individualized COVID-19 Recovery Services at an initial IEP or annual review meeting on or after June 24, 2021 shall review the need for Individualized COVID-19 Recovery Services at the next annual review, but are not required to do so before then unless the eligible student's circumstances have changed or there is reason to suspect that the eligible student may need any additions or modifications to their Individualized COVID-19 Recovery Services.~~

~~When Individualized COVID-19 Recovery Services are recommended, the eligible student's IEP must be updated to reflect the recommendation.~~

~~The district or program shall provide written notice to the parents of each eligible student regarding the opportunity for the IEP team to meet to consider Individualized COVID-19 Recovery Services.~~

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<sup>†</sup>The requirements of this section are in effect until July 1, 2023 unless extended by the State Board of Education.

~~After each determination is made, the district or program shall provide written notice to the parent and/or adult student with a disability regarding the determination of need for Individualized COVID-19 Recovery Services. This notice shall include the following documentation:~~

- ~~— A statement of the Individualized COVID-19 Recovery Services recommended based on the meaningful input of all IEP team members, including parents and eligible students, as appropriate;~~
- ~~— The projected dates for initiation and duration of Individualized COVID-19 Recovery Services~~
- ~~— The anticipated frequency, amount, location, and provider of the services described in item a. above and whether these services are being provided within the standard instructional day for the eligible student.~~

~~If the district and parent hold an IEP meeting to discuss the need for Individualized COVID-19 Recovery Services and do not reach an agreement regarding such services, the district and parent may request a Facilitated IEP meeting. If the district and the parent choose to participate in a Facilitated IEP meeting, the district shall notify ODE.~~

~~Nothing in this section shall affect or otherwise alter a parent's right to seek mediation under OAR 581-015-2335, request a due process hearing under OAR 581-015-2345, a complaint under OAR 581-015-2030, or other parental rights under the procedural safeguards.~~

~~Nothing in this section relieves the district of its duty to create an appropriate IEP for every eligible student, regardless of whether the eligible student requires Individualized COVID-19 Recovery Services.~~

#### 29.6. Agreement to Amend or Modify IEP

Between annual IEP meetings, the district and the parent may agree to make changes in the student's current IEP without holding an IEP meeting. These changes require a signed, written agreement between the district and the parent.

- a. The district and the parent record any amendments, revisions or modifications on the student's current IEP. If additional IEP pages are required these pages must be attached to the existing IEP.
- b. The district files a complete copy of the IEP with the student's education records and informs the student's IEP team and any teachers or service providers of the changes.
- c. The district provides the parent prior written notice of any changes in the IEP and upon request, provides the parent with a revised copy of the IEP with the changes incorporated.

#### 30.7. IEP Team Considerations and Special Factors

- a. In developing, reviewing and revising the IEP, the IEP team considers:
  - (1) The strengths of the student and concerns of the parent for enhancing the education of the student;
  - (2) The results of the initial or most recent evaluation of the student;
  - (3) As appropriate, the results of the student's performance on any general state or districtwide assessments;
  - (4) The academic, developmental and functional needs of the child.

- b. In developing, reviewing and revising the student’s IEP, the IEP team considers the following special factors:
- (1) The communication needs of the student; and
  - (2) The need for assistive technology services and/or devices.
- c. As appropriate, the IEP team also considers the following special factors:
- (1) For a student whose behavior impedes their learning or that of others, strategies, positive behavioral intervention and supports to address that behavior;
  - (2) For a student with limited English proficiency, the language needs of the student as those needs relate to the IEP;
  - (3) For a student who is blind or visually impaired, instruction in Braille and the use of Braille unless the IEP team determines (after an evaluation of reading and writing skills, needs and media, including evaluation of future needs for instruction in Braille or the use of Braille, appropriate reading and writing), that instruction in Braille or the use of Braille is not appropriate;
  - (4) For a student who is deaf or hard of hearing, the student’s language and communication needs, including opportunities for direct communication with peers and professional personnel in the student’s language and communication mode, academic level and full range of needs, including opportunities for direct instruction in the student’s language and communication mode;
  - (5) If a student is deaf, deafblind, or hard of hearing, the district will provide information about relevant services and placements offered by the school district, the education service district, regional programs, and the Oregon School for the Deaf; and
  - (6) A statement of any device or service needed for the student to receive a free appropriate public education (FAPE).
- d. In addition to the above IEP contents, the IEP for each eligible student of transition age includes:
- (1) Beginning not later than the first IEP in effect when the student turns 16, or as early as 14 or younger, if determined appropriate by the IEP team (including parent(s)), and updated annually thereafter, the IEP must include:
    - (a) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training education, employment, and where appropriate, independent living skills; and
    - (b) The transition services (including courses of study) needed to assist the student in reaching those goals.

Regarding employment planning, the parent shall be provided information about and opportunities to experience employment services provided by Oregon Vocational Rehabilitation or the Oregon Office of Developmental Disability Services. These services must be provided in a competitive integrated employment setting, as defined by Oregon Administrative Rule (OAR) 411-345-0020. Information about these services shall also be provided to the parent by the district at each annual review for IEPs to be in effect when the child turns 16, or as early as 14 or younger, if determined appropriate by the IEP team (including parent(s)).



- (2) At least one year before a student reaches the age of majority (student reaches the age of 18, or has married or been emancipated, whichever occurs first), a statement that the district has informed the student that all procedural rights will transfer at the age of majority; and
  - (3) If identified transition service providers, other than the district, fail to provide any of the services identified on the IEP, the district will initiate an IEP meeting as soon as possible to address alternative strategies and revise the IEP if necessary.
- e. To promote self-determination and independence, the district shall provide the student and the student's parents with information and training resources regarding supported decision-making as a less restrictive alternative to guardianship, and with information and resources regarding strategies to remain engaged in the student's secondary education and post-school outcomes. The district shall provide this information at each IEP meeting that includes discussion of post-secondary education goals and transition services.

### 31.8. Incarcerated Youth

- a. For students with disabilities who are convicted as adults, incarcerated in adult correctional facilities and otherwise entitled to FAPE, the following IEP requirements do not apply:
  - (1) Participation of students with disabilities in state and districtwide assessment; and
  - (2) Transition planning and transition services, for students whose eligibility will end because of their age before they will be eligible to be released from an adult correctional facility based on consideration of their sentence and eligibility for early release.
- b. The IEP team may modify the student's IEP, if the state has demonstrated a bona fide security or other compelling interest that cannot be otherwise accommodated.

### 32.9. Extended School Year Services

- a. The district makes extended school year (ESY) services available to all students for whom the IEP team has determined that such services are necessary to provide FAPE.
- b. ESY services are:
  - (1) Provided to a student with a disability in addition to the services provided during the typical school year;
  - (2) Identified in the student's IEP; and
  - (3) Provided at no cost to the parent.
- c. The district does not limit consideration of ESY services to particular categories of disability or unilaterally limit the type, amount or duration of service.
- d. The district provides ESY services to maintain the student's skills or behavior, but not to teach new skills or behaviors.
- e. The district's criteria for determining the need for extended school year services include:
  - (1) Regression (a significant loss of skills or behaviors) and recoupment time based on documented evidence; or
  - (2) If no documented evidence, on predictions according to the professional judgment of the team.



- f. “Regression” means significant loss of skills or behaviors in any area specified on the IEP as a result of an interruption in education services.
- g. “Recoupment” means the recovery of skills or behaviors specified on the IEP to a level demonstrated before the interruption of education services.

### 33.10. Assistive Technology

- a. The district ensures that assistive technology devices or assistive technology services, or both, are made available if they are identified as part of the student’s IEP. These services and/or devices may be part of the student’s special education, related services or supplementary aids and services.
- b. On a case-by-case basis, the district permits the use of district-purchased assistive technology devices in the student’s home or in other settings if the student’s IEP team determines that the student needs access to those devices to receive FAPE. In these situations, district policy will govern liability and transfer of the device when the student ceases to attend the district.

### 34.11. Transfer Students

- a. In state:

If a student with a disability (who had an IEP that was in effect in a previous district in Oregon) transfers into the district and enrolls in a district school within the same school year, the district (in consultation with the student’s parents) provides FAPE to the student (including services comparable to those described in the student’s IEP from the previous district), until the district either:

- (1) Adopts the student’s IEP from the previous district; or
- (2) Develops, adopts and implements a new IEP for the student in accordance with all of the IEP provisions.

- b. Out of state:

If a student transfers into the district with a current IEP from a district in another state, the district, in consultation with the student’s parents, will provide FAPE to the student, including services comparable to those described in the student’s IEP from the previous district, until the district:

- (1) Conducts an initial evaluation (if determined necessary by the district to determine Oregon eligibility) with parent consent and determines whether the student meets eligibility criteria described in the OARs.
- (2) If the student is eligible under Oregon criteria, the district develops, adopts and implements a new IEP for the student using the Oregon Standard IEP or an approved alternate IEP.
- (3) If the student does not meet Oregon eligibility criteria, the district provides prior written notice to the parents explaining that the student does not meet Oregon eligibility criteria and specifying the date when special education services will be terminated.

### 35.12. Abbreviated School Day

“Abbreviated school day” means any school day during which a student with a disability receives instruction or educational services for fewer hours than the majority of other students who are in the same grade within the student’s resident school district.

“Abbreviated school day program” means an education program:

- a. In which a school district restricts access for a student with a disability to hours of instruction or educational services to less than the number of hours of instruction or educational services that are provided to the majority of other students who are in the same grade within the student’s resident school district; and
- b. That results in a student with a disability having an abbreviated school day for more than 10 school days per school year.

Abbreviated school day programs are only allowed when all requirements in state law are met.<sup>2</sup>

Informed and written consent from the parent or foster parent is necessary prior to implementing an abbreviated school day program. A parent or a foster parent may, at any time, revoke consent for the placement of a student on an abbreviated school day program. Revoking consent or objecting to an abbreviated school day program shall be in writing.

Abbreviated school day programs limitations do not apply to students who are exempt per ORS 343.331.

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<sup>2</sup> See ORS 343.324.

# OSBA Model Sample Policy

Code: IGBAG  
Adopted:

## Special Education - Procedural Safeguards\*\*

### Procedural Safeguards – General

A district ensures that students with disabilities and their families are afforded their procedural safeguards related to:

1. Access to students' educational records;
2. Parent and adult student participation in special education decisions;
3. Transfer of rights to students who have reached the age of majority;
4. Prior written notice of proposed district actions;
5. Consent for evaluation and for initial placement in special education<sup>1</sup>;
6. Independent educational evaluation;
7. Dispute resolution through mediation, state complaint investigation, resolution sessions and due process hearings;
8. Discipline procedures and protections for students with disabilities, including placements related to discipline;
9. Placement of students during the pendency of due process hearings;
10. Placement of students by their parents in private schools;
11. Civil actions; and
12. Attorney's fees.

### Procedural Safeguards Notice

The district provides to parents a copy of the *Procedural Safeguards Notice*, published by the Oregon Department of Education, at least once per year and upon initial referral or parent request for special

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<sup>1</sup> If, at any time subsequent to the initial provision of special and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the district: 1) may not continue to provide special education and related services to the child, but must provide prior written notice before ceasing the provision of special education and related services; 2) may not use mediation or due process procedures to obtain an agreement or ruling that the services may be provided to the child; 3) the district will not be considered to be in violation of the requirement to make a free appropriate public education (FAPE) available to the child because of the failure to provide the child with further special education and related services; and 4) the district is not required to convene an individualized education program (IEP) team meeting or develop an IEP for the child for further provision of special education or related services.

education evaluation and when the parent requests a copy. The district also gives a copy to the student at least a year before the student's 18th birthday or upon learning that the student is considered emancipated.

The district provides the *Procedural Safeguards Notice* in the parent's native language or other mode of communication unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the district takes steps to ensure that the notice is translated orally or by other means understandable to the parent and that the parent understands the content of the notice. The district maintains written evidence that it meets these requirements.

### **Parent or Adult Student Meeting Participation**

1. The district provides parents or adult students an opportunity to participate in meetings with respect to the identification, evaluation, IEP and educational placement of the student, and the provision of a **free appropriate public education (FAPE)** to the student.
2. The district provides parents or adult students written notice of any meeting sufficiently in advance to ensure an opportunity to attend. The written notice:
  - a. States the purpose, time and place of the meeting and who is invited to attend;
  - b. Advises that parents or adult students may invite other individuals who they believe have knowledge or special expertise regarding the student;
  - c. Advises that the team may proceed with the meeting even if the parents are not in attendance;
  - d. Advises the parents or adult students who to contact before the meeting to provide information if they are unable to attend; and
  - e. Indicates if one of the meeting's purposes is to consider transition services or transition services needs. If so:
    - (1) Indicates that the student will be invited; and
    - (2) If considering transition services, identifies any agencies invited to send a representative (with parent or adult student consent).
3. The district takes steps to ensure that one or both parents of a child with a disability are present at each IEP or placement meeting or are afforded the opportunity to participate, including:
  - a. Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
  - b. Scheduling the meeting at a mutually agreed upon time and place.
4. If neither parent can attend, the district will use other methods to ensure an opportunity to participate, including, but not limited to, individual or conference phone calls or home visits.
5. The district may conduct an evaluation planning or eligibility meeting without the parent or adult student if the district provided meeting notice to the parent or adult student sufficiently in advance to ensure an opportunity to attend.

### **Access to Records**

A parent is entitled at any reasonable time to examine all of the records of the district pertaining to the identification, evaluation and educational placement of their child and the provision of FAPE to their child. Records must be provided without undue delay, which may not exceed 10 business days, as defined

in ORS 192.311, from the date of the request for the records. Records may be redacted only to the extent necessary to protect personally identifiable information of other children unless disclosure is authorized by law or court order.

END OF POLICY

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**Legal Reference(s):**

[ORS 343.155](#)

[ORS 343.165](#)

[ORS 343.173](#)

[ORS 343.177](#)

[ORS 343.181](#)

[OAR 581-001-0005](#)

[OAR 581-015-2000](#)

[OAR 581-015-2030](#)

[OAR 581-015-2090](#)

[OAR 581-015-2095](#)

[OAR 581-015-2190](#)

[OAR 581-015-2195](#)

[OAR 581-015-2305](#)

[OAR 581-015-2310](#)

[OAR 581-015-2325](#)

[OAR 581-015-2330](#)

[OAR 581-015-2345](#)

[OAR 581-015-2360](#)

[OAR 581-015-2385](#)

Assistance to States for the Education of Children with Disabilities, 34 C.F.R. §§ 300.300, 300.500 - 300.505, 300.515, 300.517.

# OSBA Model Sample Policy

Code: JBA  
Adopted:

## Section 504 – Students\*\* (Version 1)

The district recognizes its responsibility to provide a free, appropriate public education to students with disabilities under Section 504 of the Rehabilitation Act of 1973. Accordingly, no otherwise qualified individual with disabilities shall, solely by reason of a disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any district program or activity or those provided by the district through contractual or other arrangements. District aids, benefits and services will afford qualified students with disabilities equal opportunity to obtain the same result, gain the same benefit or reach the same level of achievement as students without disabilities in the most integrated setting appropriate to the student’s needs. Programs and activities shall be accessible to and usable by individuals with disabilities as prescribed by law.

A qualified individual with disabilities under Section 504 is an individual who has a physical or mental impairment<sup>1</sup> that substantially limits one or more major life activities<sup>2</sup>; has a record of such an impairment; or is regarded as having such an impairment.

In compliance with the provisions of Section 504, the district will:

1. Provide written assurance of nondiscrimination in accordance with application procedures whenever the district receives federal money;
2. Designate an employee to coordinate compliance with Section 504;
3. Provide procedures to resolve complaints of discrimination under Section 504;
4. Provide notice to students, parents, employees, including those with vision or hearing impairments, of the district’s policy and compliance with law assuring nondiscrimination in admission or access to, or treatment, in district programs, activities or employment. Notice will be included in student/parent and staff handbooks and other materials as appropriate;
5. Annually identify and locate all students in the district, with disabilities, and who qualify for Section 504 but who are not receiving a free appropriate public education (FAPE)<sup>3</sup>;

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<sup>1</sup> Impairments which may substantially limit major life activities, and without regard for the ameliorative effects of medication or aids/devices include, but are not limited to, chronic asthma and severe allergies, blindness or visual impairment, cancer, diabetes, deafness or hearing impairment, heart disease, mental illness and conditions which may be episodic or in remission.

<sup>2</sup> “Major life activities,” as defined by the Americans with Disabilities Act Amendments Act of 2008, includes caring for one’s self, walking, seeing, hearing, speaking, breathing, working, performing manual tasks, learning, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, communicating; and major bodily functions, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

<sup>3</sup> “Appropriate education” (34 C.F.R. § 104.33) means the provision of regular or special education and related aids and services that are designed to meet the student’s individual educational needs as adequately as the needs of persons without disabilities

6. Ensure that tests and other evaluation materials have been validated, are administered by trained personnel, are tailored to assess educational need and are not based on IQ scores, and reflect what the tests purport to measure;
7. Provide nonacademic and extracurricular services<sup>4</sup> and activities in such a manner as to afford students with disabilities an equal opportunity for participation in such services and activities;
8. Annually notify students with disabilities and their parents or guardians of the district's responsibilities under Section 504, including those with limited proficiency in English and those with vision or hearing impairments;
9. Provide parents or guardians with procedural safeguards, including notification of their right:
  - a. To be notified in writing of any decisions made by the district concerning the identification, evaluation or educational placement of their student pursuant to Section 504[. The district will request parental consent prior to conducting an evaluation of the student];
  - b. To examine, copy and request amendments of the student's educational records;
  - c. To request an impartial hearing, with opportunity for participation by the student's parents or guardian and representation by counsel regarding district decisions concerning identification, evaluation or educational placement of their student. A review procedure will be provided.

Students identified as qualified individuals with disabilities under Section 504 shall be placed in the regular educational environment unless it is demonstrated by the district that the education of the student with the use of related aids and services in such a placement cannot be achieved satisfactorily. All placement decisions will be made by an evaluation team comprised of persons designated by the superintendent or designee, knowledgeable about the student, the meaning of the evaluation data and placement options.

Students will be reevaluated periodically, but no less than every three years. Additionally, before implementing discipline that constitutes a significant change in the placement (i.e., expulsion, serial suspensions which exceed 10 school days in a school year, a series of suspensions each of which is 10 or fewer school days in duration but that creates a pattern of exclusion), the district shall conduct a reevaluation of the student to determine whether the misconduct in question is caused by the student's disability and, if so, whether the student's current educational placement is appropriate.

If it is determined that the misconduct of the student is caused by the disability, the district's team will continue the evaluation, following the requirements of Section 504 and the Americans with Disabilities Act of 1990 and Americans with Disabilities Act Amendments Act of 2008 (ADA) for evaluation and placement to determine whether the student's current educational placement is appropriate. Due process procedures that meet the requirements of the Individuals with Disabilities Education Act (IDEA) may be used to meet the procedural safeguards of law. If it is determined that the misconduct is not caused by the

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are met and are based upon adherence to appropriate procedural requirements of 34 C.F.R. §§ 104.34, 104.35 and 104.36 concerning educational setting, evaluation and placement and procedural safeguards.

<sup>4</sup> Nonacademic and extracurricular services and activities may include, but are not limited to, counseling services, transportation, health services, athletics, intramurals, clubs or organization activities, referrals to agencies which provide assistance to persons with disabilities and employment of students, including both employment by the district and assistance by the district in making available outside employment.

student's disability, the student may be excluded from school in the same manner as are similarly situated students who do not have disabilities.

A student identified as a qualified individual with disabilities under Section 504, who is also covered by the IDEA, will be disciplined in accordance with Board policy JGDA - Discipline of Students with Disabilities and accompanying administrative regulation.

A reevaluation will also be required before any other significant change in placement (i.e., transferring a student to alternative education, graduation from high school, significantly changing the composition of the student's class schedule, such as from regular education to the resource room).

END OF POLICY

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**Legal Reference(s):**

[ORS 192.630](#)

[ORS 326.051\(1\)\(e\)](#)

[ORS 343.068](#)

[ORS 659.850](#)

[ORS 659.865](#)

[ORS 659A.103](#)

[ORS 659A.109](#)

[OAR 581-015-2030](#)

[OAR 581-021-0045](#)

[OAR 581-021-0046](#)

[OAR 581-021-0049](#)

[OAR 581-022-2310](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2017); 28 C.F.R. Part 35 (2017).

Rehabilitation Act of 1973, 29 U.S.C. §§ 791, 793-794 (2012).

Americans with Disabilities Amendments Act of 2008.

Nondiscrimination on the Basis of Handicap in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 104 (2017).



# OSBA Model Sample Policy

Code: JGAB  
Adopted:

## Use of Restraint or Seclusion\*\*

The Board is dedicated to the development and application of best practices within the district's public educational/behavioral programs. The Board establishes this policy and its administrative regulation to define the circumstances that must exist and the requirements that must be met prior to, during, and after the use of restraint or seclusion as an intervention with district students.

The use of the following types of restraint on a student in the district is prohibited:

1. Chemical restraint.
2. Mechanical restraint.
3. Prone restraint.
4. Supine restraint.
5. Any restraint that involves the intentional and nonincidental use of a solid object<sup>1</sup>, including a wall or the floor, to impede a student's movement, unless the restraint is necessary to prevent an imminent life-threatening injury or to gain control of a weapon.
6. Any restraint that places, or creates a risk of placing, pressure on a student's mouth, neck or throat.
7. Any restraint that places, or creates a risk of placing, pressure on a student's mouth, unless the restraint is necessary for the purpose of extracting a body part from a bite.
8. Any restraint that impedes, or creates a risk of impeding, breathing.
9. Any restraint that involves the intentional placement of the hands, feet, elbow, knee or any object on a student's neck, throat, genitals or other intimate parts.
10. Any restraint that causes pressure to be placed, or creates a risk of causing pressure to be placed, on the stomach or back by a knee, foot or elbow bone.
11. Any action designed for the primary purpose of inflicting pain.

The use of a seclusion cell is prohibited.

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<sup>1</sup> The use of a solid object, including furniture, a wall, or the floor, by district staff performing a restraint is not prohibited if the object is used for the staff's own stability or support while performing the restraint and not as a mechanism to apply pressure directly to the student's body.

Restraint or seclusion may not be used for discipline, punishment, retaliation or convenience of staff, contractors or volunteers of the district.

Restraint may be imposed on a student in the district only under the following circumstances:

1. The student’s behavior imposes a reasonable risk of imminent and substantial physical or bodily injury to the student or others; and
2. Less restrictive interventions would not be effective.

Seclusion may be used on a student in the district only under the following circumstances:

1. The student’s behavior imposes a reasonable risk of imminent and serious bodily injury to the student or others; and
2. Less restrictive interventions would not be effective.

If restraint or seclusion is used on a student, by trained staff or other staff available in the case of an emergency when trained staff are not immediately available due to the unforeseeable nature of the emergency, e.g., teacher, administrator, or volunteer, it will be used only for as long as the student’s behavior poses a reasonable risk of imminent and substantial physical or bodily injury to the student or others and less restrictive interventions would not be effective. Students will be continuously monitored by staff for the duration of the restraint or seclusion.

## Definitions

1. “Restraint” means the restriction of a student’s actions or movements by holding the student or using pressure or other means.

“Restraint” does not include:

- a. Holding a student’s hand or arm to escort the student safely and without the use of force from one area to another;
- b. Assisting a student to complete a task if the student does not resist the physical contact; or
- c. Providing reasonable intervention with the minimal exertion of force necessary if the intervention does not include a restraint prohibited under Oregon Revised Statute (ORS) 339.288 and the intervention is necessary to:

- (1) Break up a physical fight;
- (2) Interrupt a student’s impulsive behavior that threatens the student’s immediate safety, including running in front of a vehicle or climbing on unsafe structures or objects; or
- (3) Effectively protect oneself or another from an assault, injury or sexual contact with the minimum physical contact necessary for protection.

2. “Seclusion” means the involuntary confinement of a student alone in a room from which the student is physically prevented from leaving. Seclusion includes, but is not limited to, the involuntary confinement of a student alone in a room with a closed door, whether the door is locked or unlocked.

“Seclusion” does not include the removal of a student for a short period of time to provide the student with an opportunity to regain self-control if the student is in a setting from which the student is not physically prevented from leaving, or a student being left alone in a room with a closed door

for a brief period of time if the student is left alone for a purpose that is unrelated to the student's behavior.

3. "Seclusion cell" means a freestanding, self-contained unit that is used to isolate the student from other students or physically prevent a student from leaving the unit or cause the student to believe that the student is physically prevented from leaving the unit.
4. "Serious bodily injury" means any significant impairment of the physical condition of a person, as determined by qualified medical personnel, whether self-inflicted or inflicted by someone else.
5. "Substantial physical or bodily injury" means any impairment of the physical condition of a person that requires some form of medical treatment.
6. "Mechanical restraint" means a device used to restrict the movement of a student or the movement or normal function of a portion of the body of a student.

"Mechanical restraint" does not include:

- a. A protective or stabilizing device ordered by a licensed physician; or
  - b. A vehicle safety restraint when used as intended during the transport of a student in a moving vehicle.
7. "Chemical restraint" means a drug or medication that is used on a student to control behavior or restrict freedom of movement that is not prescribed by a licensed physician or other qualified health professional acting under the professional's scope of practice for standard treatment of the student's medical or psychiatric condition; and administered as prescribed by a licensed physician or other qualified health professional acting under the professional's scope of practice.
  8. "Prone restraint" means a restraint in which a student is held face down on the floor.
  9. "Supine restraint" means a restraint in which a student is held face up on the floor.

Any student being restrained or secluded within the district whether in an emergency or as a part of a plan shall be constantly monitored by staff for the duration of the intervention. Any room used for seclusion of a student must meet the standards as outlined in Oregon Administrative Rule (OAR) 581-021-0568.

The district shall only utilize ~~the {<sup>2</sup>}~~ a training program ~~of for~~ restraint or seclusion ~~for use~~ to train staff and use in the district. ~~As required by state regulation, the selected program shall be one which has been approved by the Oregon Department of Education (ODE) and include, but not limited to, positive behavior support, conflict prevention, de-escalation and crisis response techniques. Any program selected by the district must be in compliance with state and federal law with respect to the use of restraint and seclusion.~~

The district shall preserve, and may not destroy, any records related to an incident of restraint or seclusion, including an audio or video recording. The records must be preserved in the original format and without alteration in accordance with law.

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<sup>2</sup> ~~{The district must identify the program utilized for training.}~~

An annual review of the use of restraint and seclusion during the preceding school year shall be completed and submitted to ODE to ensure compliance with district policies and procedures.

The results of the review and annual report shall be documented and shall include at a minimum:

1. The total number of incidents involving restraint;
2. The total number of incidents involving seclusion;
3. The total number of seclusions in a locked room;
4. The total number of students placed in restraint;
5. The total number of students placed in seclusion;
6. The total number of incidents that resulted in injuries or death to students or staff as a result of the use of restraint or seclusion;
7. The total number of students placed in restraint or seclusion more than 10 times in a school year and an explanation of what steps have been taken by the district to decrease the use of restraint and seclusion for each student;
8. The total number of restraint or seclusion incidents carried out by untrained individuals;
9. The demographic characteristics<sup>3</sup> of all students upon whom restraint or seclusion was imposed;
10. The total number of rooms available for use by the district for seclusion of a student and a description of the dimensions and design of the rooms.

This annual report shall be made available to the public at the district's main office and on the district's website, and to the Board. At least once each school year the parents and guardians of students of the district shall be notified about how to access the report.

The district shall investigate all complaints regarding the use of restraint and/or seclusion practices according to the procedures outlined in Board policy KL - Public Complaints and KL-AR - Public Complaint Procedure. The complaint procedure is available at the district's administrative office and is available on the home page of the district's website.

The complainant, whether an organization or an individual, may appeal a district's final decision to the Oregon Department of Education pursuant to OAR 581-002-0001 - 581-002-0023.

The superintendent shall develop administrative regulations to carry out the requirements set forth in this policy and to meet any additional requirements established by law related to the use, reporting, and written documentation of the use of restraint or seclusion by district staff. A staff member who violates this policy or its administrative regulation may be subject to discipline, up to and including dismissal.

END OF POLICY

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<sup>3</sup> Including race, ethnicity, gender, disability status, migrant status, English proficiency and status as economically disadvantaged, unless the demographic information would reveal personally identifiable information about an individual student.

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**Legal Reference(s):**

[ORS 161.205](#)  
[ORS 339.250](#)  
[ORS 339.285](#)  
[ORS 339.288](#)  
[ORS 339.291](#)  
[ORS 339.294](#)  
[ORS 339.297](#)

[ORS 339.300](#)  
[ORS 339.303](#)  
  
[OAR 581-021-0061](#)  
[OAR 581-021-0550](#)  
[OAR 581-021-0553](#)  
[OAR 581-021-0556](#)

[OAR 581-021-0563](#)  
[OAR 581-021-0566](#)  
[OAR 581-021-0568](#)  
[OAR 581-021-0569](#)  
[OAR 581-021-0570](#)  
[OAR 581-022-2267](#)  
[OAR 581-022-2370](#)

# OSBA Model Sample Policy

Code: JGAB-AR

Revised/Reviewed:

## Use of Restraint or Seclusion\*\*

### Procedure

1. If restraint or seclusion continues for more than 30 minutes, school staff will attempt to immediately notify parents or guardians verbally or electronically.
2. Following an incident involving the use of restraint or seclusion, school staff will provide parents or guardians of the student the following:
  - a. Verbal or electronic notice of the incident by the end of the school day when the incident occurred.
  - b. Written documentation of the incident within 24 hours that provides:
    - (1) A description of the restraint or seclusion including:
      - (a) The date of the restraint or seclusion;
      - (b) The times the restraint or seclusion began and ended; and
      - (c) The location of the incident.
    - (2) A description of the student's activity that prompted the use of restraint or seclusion;
    - (3) The efforts used to de-escalate the situation and the alternatives to restraint or seclusion that were attempted;
    - (4) The names of staff of the district who administered the restraint or seclusion;
    - (5) A description of the training status of the staff of the district who administered the restraint or seclusion, including any information that may need to be provided to the parent or guardian. ~~and~~
  - c. Timely notification of a debriefing meeting to be held and of the parent's or guardian's right to attend the meeting.
  - d. Immediate<sup>1</sup>, written notification of the existence of any records<sup>{2}</sup> related to an incident of restraint or seclusion (including photos or audio or video recording).
3. If the restraint or seclusion was administered by a person without training, the administrator will ensure written notice is issued to the parent or guardian of the student ~~that~~ which includes notice of the lack of training; and the reason ~~why a person without training administered the~~ restraint or seclusion was administered by a person without training. The administrator will ensure written notice of the same to the superintendent.

<sup>1</sup> "Immediate" means to act as soon as possible without undue delay, but in no case later than within 24 hours of the incident. (OAR 581-021-0556 (2)(e))

<sup>2</sup> {Such records shall be maintained in accordance with ORS 339.294(9).}

4. An administrator will be notified as soon as practicable whenever restraint or seclusion has been used.
5. If restraint or seclusion continues for more than 30 minutes the student must be provided with adequate access to bathroom and water every 30 minutes. If restraint or seclusion continues for more than 30 minutes, every 15 minutes after the first 30 minutes, an administrator for the district must provide written authorization for the continuation of the restraint or seclusion, including providing documentation for the reason the restraint or seclusion must be continued. Whenever restraint or seclusion extends beyond 30 minutes, staff of the district will immediately attempt to verbally or electronically notify a parent or guardian.
6. A district Restraint and/or Seclusion Incident Report must be completed and copies provided to those attending the debriefing meeting for review and comment. The completed Restraint and/or Seclusion Incident Report Form shall include the following:
  - a. Name of the student;
  - b. Name of staff member(s) administering the restraint or seclusion;
  - c. Date of the restraint or seclusion and the time the restraint or seclusion began and ended;
  - d. Location of the restraint or seclusion;
  - e. A description of the restraint or seclusion;
  - f. A description of the student's activity immediately preceding the behavior that prompted the use of restraint or seclusion;
  - g. A description of the behavior that prompted the use of restraint or seclusion;
  - h. Efforts to de-escalate the situation and alternatives to restraint or seclusion that were attempted;
  - i. Information documenting parent or guardian contact and notification.
7. A documented debriefing meeting must be held within two school days after the use of restraint or seclusion<sup>3</sup>. The parent or guardian of the student must be invited to attend the meeting<sup>3</sup>, and the meeting will include staff members involved in the intervention **must be included in the meeting** and any other appropriate personnel. The debriefing team shall include an administrator. At the debriefing meeting, the district shall review, in its entirety, any audio or video recording<sup>4</sup> preserved as a record of the incident involving restraint or seclusion in accordance with law. Written notes shall be taken and a copy of the written notes shall be provided to the parent or guardian of the student.

The parent or guardian has the right to request another meeting in the event they were unable to attend the debriefing meeting scheduled to be held within two school days of the incident.

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<sup>3</sup> "Meeting" means the debriefing meeting at which the audio or video recording will be viewed. (OAR 581-021-0556(9))

<sup>4</sup> To the extent practicable without altering the meaning of the record, the district shall segregate or redact from such a record any personally identifiable information of other students before disclosure to the student's parent or guardian. If the district is unable to segregate or redact personally identifiable information of other students without altering the meaning of the record, the district shall disclose the record to the student's parent or guardian in its original format and without any alteration. "Disclose" means to inform the student's parent or guardian that the record exists; that the record in its original format and without alteration will be available for review by the parent or guardian privately and in the debriefing meeting; and that a copy of the record will be provided to the student's parent or guardian upon request in its original and unaltered format except to the extent that the redaction is needed to protect the personally identifiable information of another student. (ORS 339.294; OAR 581-021-0556(10))

8. If serious bodily injury or death of a student occurs in relation to the use of restraint or seclusion:
  - a. Oral notification of the incident must be provided immediately to a parent or guardian of the student and to the Oregon Department of Human Services (DHS); and
  - b. ~~Written~~ Written notification of the incident must be provided to ~~the Department of Human Services~~ DHS within 24 hours of the incident.
9. If serious bodily injury or death of a staff member occurs in relation to the use of restraint or seclusion, written notification of the incident must be provided within 24 hours of the incident to the superintendent, to the Superintendent of Public Instruction ~~within 24 hours of the incident, or~~ and, if applicable, to the union representative for the affected person, ~~if applicable~~.
10. The district ~~will~~ shall maintain a record of each incident in which injuries or death occurs in relation to the use of restraint or seclusion.
11. The district, upon request from DHS regarding an investigation of an incident of restraint or seclusion as suspected child abuse, shall disclose any records preserved to DHS or its designee which are deemed relevant to the subject investigation, in its original format and without any alteration.

**Restraint and/or seclusion as a part of a behavioral support plan in the student’s Individual Education Program (IEP) or Section 504 plan.**

1. Parent participation in the plan is required.
2. The IEP team that develops the behavioral support plan shall include knowledgeable and trained staff, including a behavioral specialist and a district representative who is familiar with the restraint and seclusion training practices adopted by the district.
3. Prior to the implementation of any behavioral support plan that includes restraint and/or seclusion, a functional behavioral assessment must be completed. The assessment plan must include an individual threshold for reviewing the plan.
4. [When a behavior support plan includes restraint or seclusion the parents [will] [may] be provided a copy of the district Use of Restraint or Seclusion policy at the time the plan is developed.]
5. If a student is involved in five incidents in a school year, the team, including a parent or guardian of the student, will form for the purpose of reviewing and revising the student’s behavior plan and ensuring the provision of any necessary behavioral supports.

**Use of restraint and/or seclusion in an emergency by school administrator, staff or volunteer to maintain order or prevent a student from harming themselves, other students or school staff.**

Use of restraint and/or seclusion under these circumstances with a student who does not have restraint and/or seclusion as a part of their IEP or Section 504 plan, is subject to all of the requirements established by Board policy and this administrative regulation with the exception of those specific to plans developed in an IEP or 504 plan.



# OSBA Model Sample Policy

Code: JHC  
Adopted:

## Student Health Services and Requirements\*\*

*(Delete in lieu of new board policy using code EBBA - Student Health Services\*\*)*

Although the district's primary responsibility is to educate students, the students' health and general welfare is also an important Board responsibility. The Board believes school programs should be conducted in a manner that protects and enhances student and employee health and is consistent with good health practices.

[The district shall staff nursing services appropriate for students with medical needs and prevention-oriented health services per applicable requirements of Oregon Revised Statutes (ORS) 336.201 and Oregon Administrative Rule (OAR) 581-022-2220.]

The district shall provide:

1. One registered nurse or school nurse for every 125 medically fragile students;
2. One registered nurse or school nurse or one licensed practical nurse under the supervision of a registered nurse or school nurse for each nursing-dependent student; and
3. One registered nurse or school nurse for every 225 medically complex students.

The district may use the most cost effective means available to meet the above requirements.

[The nurse(s) employed by the district shall be licensed to practice as a registered nurse or nurse practitioner in Oregon and will function as an integral member of the instructional staff, serving as a resource person to teachers in securing appropriate information and materials on health-related topics.]

[Any nurse(s) providing services on behalf of the district shall follow all applicable requirements of ORS Chapter 678 and OAR Chapter 851. This includes, but is not limited to, delegation in accordance with OAR 851-047, which includes performing a nursing assessment of the patient prior to delegation, providing adequate supervision during the delegation, and evaluating the skills, ability and willingness of the delegee.<sup>1</sup>]

The district shall maintain a prevention-oriented health services program which provides:

1. Pertinent health information on the students, as required by Oregon statutes or rules;
2. Health appraisal to include screening for possible vision or hearing problems;
3. Health counseling for students and parents, when appropriate;

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<sup>1</sup> For additional delegation requirements, see OAR [851-047-0030](#).

4. Health care and first-aid assistance that are appropriately supervised and isolate the sick or injured child from the student body;
5. Control and prevention of communicable diseases as required by Oregon Health Authority, Public Health Division, and the county health department;
6. Assistance for students in taking prescription and/or nonprescription medication according to established district procedures;
7. Services for students who are medically fragile or have special health care needs;
8. Integration of school health services with school health education programs.

The Board directs its district health staff to coordinate with health personnel from other public agencies in matters pertaining to health instruction or the general health of students and employees.

In accordance with the requirements of federal law, the district recognizes its responsibility to notify parents in advance of any nonemergency, invasive physical examination<sup>2</sup> or screening that is required as condition of attendance; administered and scheduled by the school in advance; and not necessary to protect the immediate health and safety of the student, or of other students. Notification will be provided at least annually at the beginning of the school year or when enrolling students for the first time in school and will include the specific or approximate dates during the school year when such activities are scheduled or expected to be scheduled.

Procedures shall be developed and implemented to carry out this policy. All district employees will be apprised of their responsibilities in this area. Parents shall have the opportunity to request their students be exempt from participation in vision or hearing screening. The district will abide by those requests.

END OF POLICY

**Legal Reference(s):**

[ORS 329.025](#)  
[ORS 336.201](#)

[ORS 336.211](#)  
[OR 581-022-2050](#)

[OAR 581-022-2220](#)  
[OAR 581-022-2225](#)

Protection of Pupil Rights, 20 U.S.C. § 1232h (2018); Student Rights in Research, Experimental Programs and Testing, 34 C.F.R. Part 98 (2022).

Every Student Succeeds Act, 20 U.S.C. § 7928 (2018).

Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g (2018).

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<sup>2</sup> The term “invasive physical examination,” as defined by law, means any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injection into the body, but does not include a hearing, vision or scoliosis screening. The term does not include any physical examination or screening that is permitted or required by state law, including physical examinations or screenings that are permitted without parental notification.

# OSBA Model Sample Policy

Code: JHCC  
Adopted:

D

## Communicable Diseases - Students

*(Recommend delete: the requirement for this policy was found in OAR 581-022-2220, which has since been revised and requirement removed in lieu of a new requirement for a Communicable Disease Plan. Refer to policy GBEB and GBEB-AR.)*

The district shall provide reasonable protection against the risk of exposure to communicable disease for students. Reasonable protection from communicable disease is generally attained through immunization, exclusion or other measures as provided by Oregon law, by the local health department or in the *Communicable Disease Guidance* published by the Oregon Department of Education (ODE) and the Oregon Health Authority (OHA). Services will be provided to students as required by law. A student will not attend school while in a communicable stage of a restrictable disease or when an administrator has reason to suspect that any susceptible student has or has been exposed to any disease for which the student is required to be excluded in accordance with law and per administrative regulation JHCC-AR - Communicable Diseases - Students. If the disease is a reportable disease, the administrator will report the occurrence to the local health department. The administrator will also take whatever reasonable steps it considers necessary to organize and operate its programs in a way which both furthers the education and protects the health of students and others.

The district may, for the protection of both the student who has a restrictable disease and the exposed student, provide an educational program in an alternative setting.

The district will include, as a part of its emergency plan, a description of the actions to be taken by district personnel in the case of a declared public health emergency or other catastrophe that disrupts district operations.

The district shall protect the confidentiality of each student's health condition and record to the extent possible and consistent with federal and state law. In cases when a restrictable or reportable disease is diagnosed and confirmed for a student, the administrator shall inform the appropriate employees with a legitimate educational interest to protect against the risk of exposure.

The superintendent will develop administrative regulations necessary to implement this policy.

END OF POLICY

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### Legal Reference(s):

[ORS 431.150 - 431.157](#)  
[ORS 433.001 - 433.526](#)  
[OAR 333-018](#)

[OAR 333-019-0010](#)  
[OAR 333-019-0014](#)  
[OAR 437-002-0360](#)

[OAR 437-002-0377](#)  
[OAR 581-022-2220](#)

OREGON DEPARTMENT OF EDUCATION and OREGON HEALTH AUTHORITY, *Communicable Disease Guidance* (2020). Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (2018); Family Educational Rights and Privacy, 34 C.F.R. Part 99 (2019).

# OSBA Model Sample Policy

Code: JHCC-AR  
Adopted:

D

## Communicable Diseases – Student

*(Recommend delete: the requirement for this AR was found in OAR 581-022-2220, which has since been revised and requirement removed in lieu of a new requirement for a Communicable Disease Plan.)*

In accordance with state law, administrative rule, the local health authority and the *Communicable Disease Guidance*, the procedures established below will be followed.

1. “Restrictable diseases” are defined by rule and include but are not limited to COVID-19<sup>1</sup>, chickenpox, diphtheria, hepatitis A, hepatitis E, measles, mumps, pertussis, rubella, Salmonella enterica serotype Typhi infection, scabies, Shiga-toxigenic Escherichia coli (STEC) infection, shigellosis and infectious tuberculosis, and may include a communicable stage of hepatitis B infection if, in the opinion of the local health officer, the person poses an unusually high risk to others (e.g., a child that exhibits uncontrollable biting or spitting). Restrictable disease also includes any other communicable disease identified in an order issued by the Oregon Health Authority or the local public health officer as posing a danger to the public’s health. A disease is considered to be a restrictable disease if it is listed in Oregon Administrative Rule (OAR) 333-019-0010, or it has been designated to be a restrictable disease by the local public health administrator after determining that it poses a danger to the public’s health.
2. “Susceptible” for a child means lacking documentation of immunization required under OAR 333-050-0050.
3. “Reportable disease” means a disease or condition, the reporting of which enables a public health authority to take action to protect or to benefit the public health.

### Restrictable Diseases

1. A student of the district will not attend a district school or facility while in a communicable stage of a restrictable disease, including a communicable stage of COVID-19<sup>2</sup>, unless authorized to do so under Oregon law. When an administrator has reason to suspect any child has a restrictable disease, the administrator shall send the student home.
2. An administrator shall exclude a susceptible child from school if the administrator has reason to suspect that the student has been exposed to measles, mumps, rubella, diphtheria, pertussis, hepatitis A, or hepatitis B, unless the local health officer determines that exclusion is not necessary to protect the public’s health. The administrator may request the local health officer to make a determination as allowed by law. If the disease is reportable, the administrator will report the occurrence to the local health department.

<sup>1</sup> Added per OAR 333-019-1000(2).

<sup>2</sup> “Communicable stage of COVID-19” means having a positive presumptive or confirmed test of COVID-19.

3. An administrator shall exclude a student if the administrator has been notified by a local public health administrator or local public health officer that the student has had a substantial exposure to an individual with COVID-19 and exclusion is deemed necessary by same.
4. A student will be excluded in such instances until such time as the student or the parent or guardian of the student presents a certificate from a physician, a physician assistant licensed under Oregon Revised Statute (ORS) 677.505 - 677.525, a nurse practitioner licensed under ORS 678.375 - 678.390, local health department nurse or school nurse stating that the student does not have or is not a carrier of any restrictable diseases.
5. The district may, for the protection of both the student who has a restrictable disease and the exposed student, provide an educational program in an alternative setting. A student may remain in an alternative educational setting until such time as a certificate from a physician, physician assistant, nurse practitioner, local health department nurse or school nurse states that the student does not have or is not a carrier of any restrictable disease, or until such time as a local public health administrator states that the disease is no longer communicable to others or that adequate precautions have been taken to minimize the risk of transmission. A restrictable disease exclusion for chickenpox, scabies, staphylococcal skin infections, streptococcal infections, diarrhea or vomiting may be removed by a school nurse or health care provider.
6. More stringent exclusion standards for students from school may be adopted by the local health department.
7. The district's emergency preparedness plan shall address the district's plan with respect to a declared public health emergency at the local or state level.

### **Reportable Diseases Notification**

1. All employees shall comply with all reporting measures adopted by the district and with all rules set forth by the Oregon Health Authority, Public Health Division and the local health department.
2. An administrator may seek confirmation and assistance from the local health officer to determine the appropriate district response when the administrator is notified that a student or an employee has been exposed to a restrictable disease that is also a reportable disease.
3. An administrator shall determine other persons who may be informed of a student's communicable disease when a legitimate educational interest exists or for health and safety reasons in accordance with law.

### **Education**

1. The administrator or designee shall seek information from the district's school nurse or other appropriate health officials regarding the health needs/hazards of all students and the impact on the educational needs of a student diagnosed with a restrictable disease or exposed to a restrictable disease.
2. The administrator or designee shall, utilizing information obtained above, determine an educational program for such a student and implement the program in an appropriate (i.e., regular or alternative) setting.

3. The administrator or designee shall review the appropriateness of the educational program and the educational setting of each individual student diagnosed with a restrictable disease.

### **Equipment and Training**

1. The administrator or designee shall, on a case-by-case basis, determine what equipment and/or supplies are necessary in a particular classroom or other setting in order to prevent disease transmission.
2. The administrator or designee shall consult with the district's school nurse or other appropriate health officials to provide special training in the methods of protection from disease transmission.
3. All district personnel will be instructed annually to use the proper precautions pertaining to blood and body fluid exposure per the Occupational Safety and Health Administration (OSHA). [(See policy EBBAA).]

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# OSBA Model Sample Policy

Code: JHCCA  
Adopted:

## Students - HIV, HBV and AIDS\*\*

*(Recommend delete: the requirement for this policy was found in OAR 581-022-2220, which has since been revised in lieu of a new requirement for a Communicable Disease Plan.)*

The district will adhere strictly in policies and procedures to the Oregon Revised Statutes and the Oregon Administrative Rules as they relate to a student infected with HIV or HBV or diagnosed with AIDS<sup>1</sup>.

The district recognizes a parent (student) has no obligation to inform the district of an HIV, HBV or AIDS condition, and that the student has a right to attend school. If the district is informed of such a student, written guidelines shall be requested of the parent (student). These guidelines shall include who may have the information, who will give the information, how the information will be given and where and when the information will be given.

When informed of the infection, and with written permission from the parent (student), the district will develop procedures for formulating an evaluation team. The team shall address the nature, duration and severity of risk as well as any modification of activities. The team shall continue to monitor the student's condition. The district will make reasonable accommodations to allow students living with HIV infection to participate in school-sponsored physical activities.

Notification of alternative education programs shall be made to the parent or eligible student, if an HIV, HBV or AIDS student withdraws from school.

[The district may also develop procedures for rumor control, infection control, student accommodations and public relations/media.]

END OF POLICY

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### Legal Reference(s):

[ORS 326.565](#)  
[ORS 326.575](#)  
[ORS 332.061](#)  
[ORS 336.187](#)  
[ORS 336.615 to -336.665](#)

[ORS 339.030](#)  
[ORS 339.250](#)  
[ORS 433.008](#)  
[ORS 433.045](#)  
[OAR 333-018-0000](#)

[OAR 333-018-0005](#)  
[OAR 581-022-2060](#)  
[OAR 581-022-2220](#)

OREGON DEPARTMENT OF EDUCATION and OREGON HEALTH AUTHORITY, *Communicable Disease Guidance* (2017).  
Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (2012); Family Educational Rights and Privacy, 34 C.F.R. Part 99 (2017).

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<sup>1</sup> HIV - Human Immunodeficiency Virus; HBV - Hepatitis B Virus; AIDS - Acquired Immune Deficiency Syndrome

# OSBA Model Sample Policy

Code: JHCCF  
Adopted:

D

## Pediculosis (Head Lice)

(Version 1)

*(Delete this version and use the only remaining version.)*

The Board recognizes that district programs should be conducted in a manner that protects and enhances student and employee health and is consistent with recognized health practices. Consequently, in order to prevent the spread of pediculosis (head lice) in the school setting, district staff shall institute guidelines for classrooms that will assist in the prevention of and the spread of head lice. A student with a suspected case of lice shall be referred to the school nurse or administrator for an assessment. A student found with live lice or nits (lice eggs) will be excluded from school attendance. The district recognizes that the Oregon Health Authority, Public Health Division, no longer requires exclusion of a student for the presence of nits and allows the discretion of the district. A student excluded from school will be readmitted after an assessment by designated personnel to confirm no live lice or nits are present, and may be subject to periodic checks.

Successful treatment of head lice requires a coordinated approach and may involve the use of anti-lice products, combing and implementation of preventative measures recommended by health authorities. Treatment information will be provided by the district to parents of students found to have contracted head lice. It is the district's intent to encourage elimination of the current infestation and to prevent a repeat episode.

The superintendent will develop administrative regulations, as necessary, to implement this policy.

END OF POLICY

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### Legal Reference(s):

[ORS 433.255](#)  
[ORS 433.260](#)

[OAR 333-019-0010](#)  
[OAR 437-002-0360](#)

[OAR 581-022-2220](#)

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# OSBA Model Sample Policy

Code: JHCCF  
Adopted:

## Pediculosis (Head Lice)

(Version 3)

~~(A student with nits and/or infested with live lice will be allowed to remain in school.)~~

A student with a suspected case of head lice may be referred to designated trained staff for a screening. The screening will be done in a confidential manner by trained personnel.

School personnel will notify the parent or guardian of a student found with head lice and may provide information on ~~appropriate~~ treatment. The student will be allowed to remain in school.

~~The suggested school measures for head lice control, as provided in *Head Lice Guidance* published by the Oregon Department of Education and the Oregon Health Authority, Public Health Division,<sup>1</sup> shall be followed.~~

Suggested school measures for head lice provided in [Communicable Disease Guidance for Schools](#) issued by the Oregon Department of Education and Oregon Health Authority will be consulted.

END OF POLICY

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### Legal Reference(s):

[ORS 332.107](#)

~~NATIONAL ASSOCIATION OF SCHOOL NURSES, *Pediculosis Management in the School Setting*, (POSITION STATEMENT REVISED 2016).~~

~~THE AMERICAN ACADEMY OF PEDIATRICS, (MAY, 2015).~~

~~CENTERS FOR DISEASE CONTROL AND PREVENTION, (2015).~~

~~OREGON DEPARTMENT OF EDUCATION, *Head Lice Guidance*.~~

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<sup>1</sup>~~[http://www.oregon.gov/ode/students\\_and\\_family/healthsafety/Pages/Student\\_Health\\_Conditions.aspx](http://www.oregon.gov/ode/students_and_family/healthsafety/Pages/Student_Health_Conditions.aspx)~~

# OSBA Model Sample Policy

Code: JHCCF

Adopted:

D

## Pediculosis (Head Lice)

(Version 2)

*(Delete this version and use the only remaining version.)*

A student with a suspected case of head lice will be referred to the school nurse or administrator for assessment. A student found with live lice may be excluded from school. A parent of the student will be notified and treatment will be requested. [ Students with a severe infestation<sup>1</sup> will be excluded immediately until treated.] [A student excluded from school that has been treated will be readmitted after an assessment by designated personnel.] The student may be subject to periodic checks.

The successful treatment of head lice requires a coordinated approach and may involve the use of anti-lice products, combing and implementation of preventative measures recommended by health authorities. Treatment information will be provided by the district to the parents of students found to have contracted head lice.

The superintendent will develop administrative regulations, as necessary, to implement this policy.

END OF POLICY

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### Legal Reference(s):

[ORS 433.255](#)  
[ORS 433.260](#)

[OAR 333-019-0010](#)  
[OAR 437-002-0360](#)

[OAR 581-022-2220](#)

National Association of School Nurses, Pediculosis Management in the School Setting: Position Statement Revised 2011.  
American Academy of Pediatrics: Position Statement on Head Lice 8-1-2012.  
Centers for Disease Control and Prevention Head Lice Information for Schools 2011.

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<sup>1</sup> Ten or more live lice are present on the student upon assessment by designated personnel.

# OSBA Model Sample Policy

Code: JHCCF-AR  
Revised/Reviewed:

D

## Pediculosis (Head Lice)

(Version 1)

*(Delete. OSBA no longer recommends and AR to accompany JHCCF.)*

A student found to have contracted head lice will be subject to the following procedures:

1. Suggested school measures for head lice control, as provided in *Communicable Disease*<sup>1</sup> issued through the Oregon Department of Education;
2. Periodic head lice checks of students are not recommended; however, screening recommendations are as follows:
  - a. [Criteria for screening an individual for lice are:
    - (1) Persistent itching or scratching;
    - (2) Known exposure to sibling or other close contact with head lice (e.g., seat mate in classroom, locker partners, overnight sleep activities, scouts, etc.); or
    - (3) Self (student or parent) referral.
  - b. Three nonrelated cases of head lice in a classroom within 10 consecutive school days requires that all students in the classroom be screened by the following school day;
  - c. If there is infestation among three percent of the entire student population within 10 consecutive school days, there should be a screening of all students in the school within one week. Multiple cases from a single household count as one case for purposes of calculating the percent of students infested.]
3. Students found to have contracted head lice will be excluded from school (Oregon Administrative Rule (OAR) 333-019-0010);
4. Treatment information, district policy requirements and admittance provisions will be provided to the parent. A parent will be advised to:
  - a. Use a lice-killing agent that a health care provider, school nurse or local health authority has recommended on all family members who have symptoms of infestation;
  - b. Follow the personal and household cleaning instructions provided by the district, health care provider or local health authority, as appropriate; and
  - c. Remove all nits after treatment.
5. Following treatment, the student may be readmitted to school. A parent must either accompany the student to school for admittance or provide a signed statement that treatment has been initiated;

<sup>1</sup> <http://www.oregon.gov/ode/students-and-family/healthsafety/Documents/commdisease.pdf>

6. The student will be subject to screening by designated personnel to determine the treatment's effectiveness. The student will be readmitted to school or denied admittance, as appropriate. The absence of live lice or nits is required for admittance. In the event the student is not readmitted to school, parents will be notified;
7. A student who has been readmitted to school will be subject to follow-up screening by designated personnel;
8. The parent should contact the local health department in the event additional assistance and/or information is needed regarding the treatment of the student, other family members, close contacts and the home environment (e.g., bedding, linens, grooming equipment, etc.);
9. A student with chronic head lice may be referred for follow-up to the school's nurse or local health department, as appropriate;
10. A parent who identifies head lice on their student(s) at home should complete treatment prior to the readmission of the student, as required above. A parent is also encouraged to notify the school of the student's condition so that appropriate preventative measures may be implemented at school.

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# OSBA Model Sample Policy

Code: JHCCF-AR

Revised/Reviewed:

D

## Pediculosis (Head Lice)

(Version 2)

*(Delete. OSBA no longer recommends and AR to accompany JHCCF.)*

Suggested school measures for head lice control, as provided in *Communicable Disease*<sup>1</sup> issued through the Oregon Department of Education will be followed.

1. Periodic head lice checks of students are not recommended; however, screening recommendations are as follows:
  - a. Criteria for screening an individual for lice are:
    - (1) Persistent itching or scratching;
    - (2) Known exposure to sibling or other close contact with head lice (e.g., seat mate in classroom, locker partners, overnight sleep activities, scouts, etc.); or
    - (3) Self (student or parent) referral.
  - b. Three nonrelated cases of head lice in a classroom within 10 consecutive school days requires that all students in the classroom be screened by the following school day;
  - c. If there is infestation among three percent of the entire student population within 10 consecutive school days, there should be a screening of all students in the school within one week. Multiple cases from a single household count as one case for purposes of calculating the percentage of students infested.
2. Treatment information, district policy requirements and admittance provisions will be provided to a parent. A parent will be advised to:
  - a. Use a lice-killing agent that a health care provider, school nurse or local health authority has recommended on all family members who demonstrate symptoms of infestation; and
  - b. Follow the personal and household cleaning instructions provided by the district, health care provider or local health authority, as appropriate.
3. Following treatment, the student may be readmitted to school. A parent must either accompany the student to school for admittance or provide a signed statement that treatment has been initiated.
4. The student will be subject to screening by designated personnel to determine the treatment's effectiveness. The student will be readmitted to school or denied admittance, as appropriate.
5. A student who has been readmitted to school will be subject to follow-up screening by designated personnel.

---

<sup>1</sup> <http://www.oregon.gov/ode/students-and-family/healthsafety/Documents/commdisease.pdf>

6. The parent should contact the local health department in the event additional assistance and/or information is needed regarding the treatment of the student, other family members, close contacts and the home environment (e.g., bedding, linens, grooming equipment, etc.).
7. A student with chronic head lice may be referred for follow-up to the school's nurse or local health department, as appropriate.
8. A parent who identifies head lice on a student(s) at home should complete treatment prior to the readmission of the student, as required above. A parent is also encouraged to notify the school of the student's condition so that appropriate preventative measures may be implemented at school.

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Watch for information coming soon for a **Policy Update webinar.**

**Summer Board Conference**

August 9–11, 2024  
Salem, OR

**Annual Convention**

Nov. 7-9, 2024  
Portland, OR

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- BCBA-AR – Student Representative(s) on the Board, Optional, *New*
- CB – Superintendent, Highly Recommended
- CBC – Superintendent’s Contract, Optional
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- DJC-AR – Exemptions from Competitive Bidding and Special Procurements, Optional, *New*
- DJCA – Personal Service Contracts, Delete
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- GBEB – Communicable Diseases in Schools, Highly Recommended
- GBEB-AR – Communicable Diseases in Schools, Highly Recommended
- GBEBA – Staff – HIV, AIDS, and HBV, Delete
- GBN/JBA – Sexual Harassment, Required
- GBNAB/JHFE – Suspected Abuse of a Child Reporting Requirements\*\*, Required
- GBNAB/JHFE-AR(1) – Reporting of Suspected Abuse of a Child, Required
- GBNAB/JHFE-AR(2) – Abuse of a Child Investigations Conducted on District Premises, Highly Recommended, (no updates)
- GCDA/GDDA – Criminal Records Checks and Fingerprinting \*, Delete
- GCDA/GDDA – Criminal Records Checks and Fingerprinting \*, Required, *New*
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- IGBAF – Special Education – Individualized Education Program (IEP)\*\*, Required
- IGBAF-AR – Special Education: Individualized Education Program (IEP)\*\*/\*, Required

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**Emielle Nischik**

Acting Executive Director

**Haley Percell**

Interim Deputy Executive Director, Chief Legal Officer

**Michael Miller**

Interim Director of Legal Services

**Amy Williams**, Attorney

**Tonya Brady**, Attorney

**Callen Sterling**, Attorney

**Brian Kernan**, Attorney

**Kara Parker**, Attorney

**Spencer Lewis**

Director of Policy Services

**Rick Stucky**

Policy Services Specialist

**Leslie Fisher**

Policy Services Specialist

**Colleen Allen**

Senior Policy Services Assistant

**Jean Chiappisi**

Policy Services Assistant

If you have questions regarding this publication or OSBA, please call our offices:

503-588-2800 or 800-578-6722

This publication is designed to provide accurate and authoritative information regarding the subject matter covered. It is furnished with the understanding that policies should be reviewed by the district’s legal counsel.

IGBAG – Special Education – Procedural Safeguards\*\*, Required  
JBA/GBN – Sexual Harassment, Required  
JBAA – Section 504 – Students\*\*, *Version 1 and 2*, Highly Recommended  
JBAA-AR – Section 504 – Students\*\*/\*, Highly Recommended  
JEA – Compulsory Attendance\*\*, Highly Recommended  
JEA-AR – Compulsory Attendance Notices[ and Citations]\*\*, Highly Recommended  
JGA – Corporal Punishment\*\*, Optional  
JGAB – Use of Restraint or Seclusion\*\*, Required  
JGAB-AR – Use of Restraint or Seclusion\*\*, Required  
JH – Student Welfare\*\*, Optional  
JHC – Student Health Services and Requirements\*\*, Delete (in lieu of new EBBA)  
JHCA/JHCB – Immunization and School Sports Participation\*\*, Highly Recommended  
JHCC – Communicable Diseases - Students, Delete  
JHCC-AR – Communicable Diseases - Students, Delete  
JHCCA – Students - HIV, HBV and AIDS\*\*, Delete  
JHCCF – Pediculosis (Head Lice), *Version 1*, Delete  
JHCCF – Pediculosis (Head Lice), *Version 2*, Delete  
JHCCF – Pediculosis (Head Lice), was *Version 3*, now stand-alone, Optional  
JHCCF-AR – Pediculosis (Head Lice), *Version 1*, Delete  
JHCCF-AR – Pediculosis (Head Lice), *Version 2*, Delete  
JHFE/GBNAB – Suspected Abuse of a Child Reporting Requirements\*\*, Required  
JHFE/GBNAB-AR(1) – Reporting of Suspected Abuse of a Child, Required  
JHFE/GBNAB-AR(2) – Abuse of a Child Investigations Conducted on District Premises,  
Highly Recommended, (no updates)  
KBA-AR – Public Records Request, Highly Recommended

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## **CIVIL RIGHTS COORDINATOR**

### **Summary**

[House Bill 2281](#) (2023), effective January 1, 2024, requires a district school board to designate one or more civil rights coordinators for the district. According to HB 2281, the civil rights coordinator may be an employee of the district or the district may contract with an ESD for the services of a civil rights coordinator.

HB 2281, Section 1 (see page 2 of the bill specifically) outlines the minimum responsibilities of a civil rights coordinator. Of note is the requirement to comply with rules adopted by the State Board of Education so OSBA is watching for news about these rules. Additionally, the bill includes use of the term “discrimination” which is defined further by ORS 659.850 and is used in the new bill. The bill further outlines a requirement for the Department of Education to make training available annually for these coordinators.

Finally, ORS 659.855, which allows the Superintendent of Public Instruction to sanction a public elementary or secondary school program if found in noncompliance with ORS 659.850 and 659.852, has been updated to include noncompliance with ORS 332.505(2) – Civil Rights Coordinator.

The bill can be read in its entirety with the link provided above.

There is no current requirement for language to be added to board policy or administrative regulation. The district may choose to add the proposed language to policy AC – Nondiscrimination. Oregon Administrative Rules from the Oregon State Board of Education are anticipated later this year, which will likely prompt another update to policy.



The district should consider posting notice of the designated civil rights coordinator and contact information together with the notice of nondiscrimination (and other notices) on the district’s website.

**Collective Bargaining Impact**

None

**Local District Responsibility**

Review the recommendations for policy changes and present them to the board for adoption.

**Policy(ies) and AR(s) Impacted by these Revisions**

AC – Nondiscrimination, Required

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**STUDENT REPRESENTATIVE(S) ON THE BOARD**

**Summary**

The practice of installing student representative(s) on local school boards has increased, and therefore a desire for more policy and administrative regulation options has been voiced. OSBA policy services staff present the model policy and administrative regulation published herein as options for establishing a student representative on a local school board. Oregon does not mandate a student representative, it is up to local decision makers.

**Collective Bargaining Impact**

None

**Local District Responsibility**

Review the proposed policy and/or administrative regulation to determine whether it is appropriate for the board. The policy requires adoption by the board to enact and the administrative regulation may be submitted to the board for their review. A policy and administrative regulation is recommended, although not required.

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

BCBA – Student Representative(s) on the Board, Optional  
BCBA-AR – Student Representative(s) on the Board, Optional, *New*

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**SUPERINTENDENT’S CONTRACT**

**Summary**

With the passage of [Senate Bill 283](#) (2023), the law was revised regarding superintendent contracts to remove mention of laws relevant to education service district boards added by Senate Bill 1521 in 2022 to ORS 332.505.

**Collective Bargaining Impact**

None

**Local District Responsibility**

Update policies with the recommended revisions if they are present in the board’s policy manual and submit to the board for readoption.

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

CB – Superintendent, Highly Recommended  
CBC – Superintendent’s Contract, Optional

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**EVALUATION OF THE SUPERINTENDENT AND ADMINISTRATOR(S)**

**Summary**

There are not significant changes to policy on evaluation of the superintendent and administrators. However, it has been included in this update as a reminder to the board to review policy on evaluation of the superintendent to ensure current practice and contract language align, and for the superintendent to review administrator contract language with the same lens. If needed, revise policy language if different terms now apply.

**Collective Bargaining Impact**

None

**Local District Responsibility**

If the board has adopted a version of required policy CBG – Evaluation of the Superintendent or CCG – Evaluation of Administrators (as listed herein), take time to review the superintendent and administrator contracts to ensure there is not conflicting language adopted in board policy regarding the regularity of an evaluation. Revise board policy as needed and readopt.

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

CBG – Evaluation of the Superintendent, Required  
CCG – Evaluation of Administrators, Required

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**PROCUREMENTS**

**Summary**

OSBA recommends deleting the current versions of DJC – Bidding Requirements, DJC-AR – Exemptions from Competitive Bidding and Special Procurements, DJCA – Personal Service Contracts and DJCA-AR – Personal Service Contracts, and replacing them with the new proposed versions of DJC and DJC-AR. The proposed DJC outlines the procurement requirements for Small Procurement, Intermediate Procurement, Regular Procurement, Emergency Procurement, Sole-Source Procurement and Personal Services Contracts.

Additionally, the proposed policy DJC – Bidding Requirements, reflects the new amounts for the procurement levels passed in House Bill 1047 (2023) and went into effect January 1, 2024. The policy also defines “public improvements” for purposes of the procurement levels, defines “community benefit contract” and the “Construction Manager/General Contractor procurement.”

The proposed administrative regulation, DJC-AR – Exemptions from Competitive Bidding and Special Procurements, has been updated and continues to provide guidance for procurements which are exempt from competitive bidding or are special procurements.

**Collective Bargaining Impact**

None

## **Local District Responsibility**

Revise and readopt highly recommended policy DJC – Bidding Requirements and consider whether to also add optional DJC-AR – Exemptions from Competitive Bidding and Special Procurements.

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

DJC – Bidding Requirements (*Versions 1 & 2*), Delete

DJC – Bidding Requirements, Highly recommended, *New*

DJC-AR – Exemptions from Competitive Bidding and Special Procurements, Delete

DJC-AR – Exemptions from Competitive Bidding and Special Procurements, Optional, *New*

DJCA – Personal Service Contracts, Delete

DJCA-AR – Personal Service Contracts, Delete

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## **HEALTH SERVICES**

### **Summary**

The State Board of Education adopted revisions to Oregon Administrative Rule (OAR) 581-022-2220 on health services. The changes result in a requirement to develop “a written prevention-oriented health services plan for all students” (OAR 581-022-2220(1)). The plan requirements include a variety of topics, including but not limited to, plan for health care space, communicable disease prevention, communication strategies, health screenings, and hearing, vision and dental screenings.

As a result of these changes there is a list of policies and administrative regulations (AR’s), included herein, which have been revised. Recommendations may include to delete or rescind policy or AR, recoding, and reassigning some policy content to a new section or policy of the policy manual.

The entire rule can be accessed here: [OAR 581-022-2220](#). Reach out to the Oregon Department of Education with additional questions regarding plan requirements and/or implementation.

ODE [resources](#) and [School Health Services](#) include tools to support some requirements.

### **Collective Bargaining Impact**

Review any terms and conditions of an applicable agreement.

### **Local District Responsibility**

Review the recommendations regarding board policy changes and make decisions regarding same. Any policy revisions or recommendation to rescind a policy should be submitted to the board for action. An AR may be submitted to the board for review for either removing or keeping and revising as recommended.

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

EBBA – First Aid\*\*, Delete

EBBA – Student Health Services\*\*, Highly Recommended, *New*

EBBA-AR – First Aid - Infection Control, Delete

EBBAA – Infection Control and Bloodborne Pathogens, Optional

EBBB – Injury or Illness Reports, Required

GBEB – Communicable Diseases in Schools, Highly Recommended

GBEB-AR – Communicable Diseases in Schools, Highly Recommended

GBEBA – Staff – HIV, AIDS, and HBV, Delete

JH – Student Welfare\*\*, Optional

JHC – Student Health Services and Requirements\*\*, Delete (in lieu of new EBBA)

JHCA/JHCB – Immunization and School Sports Participation\*\*, Highly Recommended

JHCC – Communicable Diseases - Students, Delete

JHCC-AR – Communicable Diseases - Students, Delete

JHCCA – Students - HIV, HBV and AIDS\*\*, Delete

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## **EMERGENCY PROCEDURES, FIRST AID and SAFETY THREATS**

### **Summary**

[House Bill 3584](#) was passed in the 2023 legislative session. The bill requires districts to adopt policy language about using electronic communication to notify parents, guardians and employees within 24 hours of a safety threat action that was not a drill. The bill states the communication should be “provided in a manner that communicates relevant facts and details as necessary and useful.” (HB 3584, Section 1., (3)(b)) More detail can be found by reading the entire bill.

This update includes a revision of other policies identified herein, resulting from recommendations on reorganization and may include recoding and/or reassigning content to a different policy or policy section.

### **Collective Bargaining Impact**

None

### **District Responsibility**

Review the recommendations regarding board policy changes and make decisions regarding new and updated policy. Any policy revisions, additions or recommendation to rescind a policy should be submitted to the board for action.

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

EBC/EBCA – Emergency Procedures and Disaster Plans, Delete

EBC – Emergency Plan and First Aid\*\*, Highly Recommended, *New*

EBCA – Safety Threats\*\*, Required, *New*

EBCB – Emergency Procedure Drills and Instruction, Highly Recommended

## **SEXUAL HARASSMENT DEFINITION**

### **Summary**

House Bill 2280 (2023 Legislature) modified the definition of sexual harassment affecting schools and has since been followed up with new rule revisions. The revised definition changes the meaning of assault within the sexual harassment context and adds a section describing the meaning of “without consent,” which is also a new definition added to the law. When considering these recommended revisions, please review the designated names and positions listed for receiving such reports and amend as needed.

### **Collective Bargaining Impact**

None

### **Local District Responsibility**

Review recommended changes and board-adopt revisions to required policy GBN/JBA (JBA/GBN) – Sexual Harassment, in the board’s policy manual.

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

GBN/JBA – Sexual Harassment, Required

JBA/GBN – Sexual Harassment, Required

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## **REPORTING CHILD ABUSE**

### **Summary**

The Oregon Department of Human Services (DHS) reports the purpose of Senate Bill 231 (2023) was to align state law with the agency’s current process for receiving child abuse reporting, through a centralized child abuse reporting system established by DHS. Reports must still be submitted to DHS as directed or to a law enforcement agency.

The form found in **GBNAB/JHFE-AR(2) (JHFE/GBNAB-AR(2))** – Abuse of a Child Investigations Conducted on District Premises, is included for convenience and reference; **no updates were made.**

### **Collective Bargaining Impact**

None

### **Local District Responsibility**

The district should recommend board adoption of revised policy and reissue an updated administrative regulation to the board for review.

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

BBF – Board Member Standards of Conduct (*Version 1 or 2*), Highly Recommended  
BBFC – Reporting of Suspected Abuse of a Child, Optional  
GBNAB/JHFE – Suspected Abuse of a Child Reporting Requirements\*\*, Required  
GBNAB/JHFE-AR(1) – Reporting of Suspected Abuse of a Child, Required  
GBNAB/JHFE-AR(2) – Abuse of a Child Investigations Conducted on District Premises, Highly Recommended, (no updates)  
JHFE/GBNAB – Suspected Abuse of a Child Reporting Requirements\*\*, Required  
JHFE/GBNAB-AR(1) – Reporting of Suspected Abuse of a Child, Required  
JHFE/GBNAB-AR(2) – Abuse of a Child Investigations Conducted on District Premises, Highly Recommended, (no updates)

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## **FINGERPRINTING**

### **Summary**

Newly revised rules regarding fingerprint collection offer the addition of a statewide vendor identified by DAS as an authorized fingerprint collector and removed the option for volunteers to appeal to ODE on a fitness determination issued by ODE. The other resulting changes come from a decision to have a stand-alone board policy.

### **Collective Bargaining Impact**

None

### **Local District Responsibility**

Review the recommended changes and issue them to the board for re adoption. To clean up duplicate language, a new version of model policy GCDA/GDDA – Criminal Records Checks and Fingerprinting \* has been developed and eliminates the need for an administrative regulation. Consider a complete delete/rescind of the old policy version and adopt the revised version to implement new policy language for GCDA/GDDA, before adopting, refer to the board’s existing version for direction on choosing brackets in the new version; make changes to reflect current practices as needed.

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

GCDA/GDDA – Criminal Records Checks and Fingerprinting \*, Delete  
GCDA/GDDA – Criminal Records Checks and Fingerprinting \*, Required, *New*  
GCDA/GDDA-AR – Criminal Records Checks and Fingerprinting, Delete

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## **SPECIAL EDUCATION and ABBREVIATED SCHOOL DAY**

### **Summary**

Board policy IGBAG – Special Education – Procedural Safeguards\*\* and administrative regulations IGBAF-AR – Special Education – Individualized Education Program (IEP)\*\*/\* and JBAA-AR – Section 504 – Students\*\*/\* are being updated.

Changes in IGBAF-AR – Special Education: Individualized Education Program (IEP)\*\*/\* and JBAA-AR – Section 504 – Students\*\*/\* are due to the passage of Senate Bill 756 (2023) which requires district employees who are assigned to work with students who are on an IEP or 504 Plan, be invited to attend the student’s IEP meeting or 504 Plan meeting. The section

of the administrative regulation (AR) “Individualized COVID-19 Recovery Services” is deleted since the provision has sunset (see OAR 581-015-2229). IGBAF-AR is also updated to include information regarding abbreviated school days.

Changes in Board policy IGBAG are due to the passage of SB 758 (2023) to add language to the Independent Educational Evaluations section stating parents are entitled to examine their student’s record pertaining to identification, evaluation and educational placement, and the provisions of a free appropriate public education (FAPE) and setting a 10 business day timeline.

The legal references to IGBAF – Special Education – Individualized Education Program (IEP\*\*) and JBAA – Section 504 – Students\*\* (version 1 and 2) are updated to add references to the new laws.

### **Collective Bargaining Impact**

Consider impact of requirement that certain staff be allowed to attend IEP and 504 meetings and be compensated for attendance.

### **District Responsibility**

Revise and readopt required Board policy IGBAG – Special Education – Procedural Safeguards\*\*; revise required administrative regulations IGBAF-AR – Special Education – Individualized Education Program (IEP)\*\*/\* and JBAA-AR – Section 504 – Students\*\*/\* if present in the board’s policy manual. Also, update the legal references to IGBAF – Special Education – Individualized Education Program (IEP)\*\* and JBAA – Section 504 – Students\*\* as noted in the documents attached.

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

IGBAF – Special Education – Individualized Education Program (IEP)\*\*, Required  
IGBAF-AR – Special Education: Individualized Education Program (IEP)\*\*/\*, Required  
IGBAG – Special Education – Procedural Safeguards\*\*, Required  
JBAA – Section 504 – Students\*\*, *Version 1 and 2*, Highly Recommended  
JBAA-AR – Section 504 – Students\*\*/\*, Highly Recommended

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## **COMPULSORY ATTENDANCE AND HOMESCHOOL REQUIREMENTS**

### **Summary**

School districts are still required to monitor for nonenrollment and irregular attendance issues and to send related notices in accordance with ORS 339.080, however, as the Oregon Department of Education has recently noticed, citations for compulsory attendance are no longer issued.

However, after collaboration with their ESD about which entity will be responsible for tracking whether any students who are homeschooled have registered with the ESD or are complying with ORS 339.035, a district may choose to issue a citation. After discussion with the ESD, if the district will be responsible for tracking such students, the district may choose to add bracketed language in JEA-AR – Compulsory Attendance Notices[ and Citations]\*\*, regarding their actions concerning citations related to violation of homeschool statute (ORS 339.035) for registration and testing. A school district or ESD superintendent may issue a citation for violations of ORS 339.035. Before doing so, there must be specific notice given, as provided by law, and proposed model language is included in JEA-AR.

Additionally, a violation of compulsory attendance law is no longer a Class C violation, however violation of ORS 163.577 (1)(c) (failing to supervise a child) is still a Class A violation.

The model policy and administrative regulation have been revised and updated to reflect changes.

ODE staff anticipates some upcoming changes to the Uniform Citation Form and will communicate as soon as it is available.

### **Collective Bargaining Impact**

None

### **Local District Responsibility**

If the district has highly recommended policy JEA – Compulsory Attendance\*\*, review and adopt revised and updated language resulting from changes to rules, and suggested revisions to highly recommended JEA-AR – Compulsory Attendance Notices[ and Citations]\*\* may be made and issued to the board for review.

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

JEA – Compulsory Attendance\*\*, Highly Recommended

JEA-AR – Compulsory Attendance Notices[ and Citations]\*\*, Highly Recommended

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## **RESTRAINT OR SECLUSION RECORD AND CORPORAL PUNISHMENT**

### **Summary**

The procedures for responding to an incident of restraint or seclusion are found in ORS 339.294 and were amended by [Senate Bill 1024](#) (2023; see Section 3 which begins on page 5 of the SB). These amended procedures are represented in the recommended changes to model administrative regulation, JGAB-AR – Use of Restraint or Seclusion\*\* and policy JGAB – Use of Restraint or Seclusion\*\*. There are several changes to highlight of which two are: 1) addition of immediate notice to the parent or guardian of any existing record, including audio or video, of the incident (which will be preserved in the original format without alternation), and 2) such record shall be reviewed at the debriefing meeting, to which parents shall be invited.

Additional information regarding the preservation and disclosure of such records, which have record retention and disclosure implications, are outlined in the new [SB](#), subsection 9 and 10.

The changes are a result of the adopted language from the bill and related, revised OARs recently adopted by the State Board.

A change to ORS 161.205 on issues of corporal punishment was put into effect by Senate Bill 577; also effective now.

### **Collective Bargaining Impact**

None



## Local District Responsibility

The district's responsibility is to update the current board policies and administrative regulation (AR) and comply with the new procedural requirements related to incidents of use of restraint or seclusion. The revised AR should be implemented and submitted to the board for review; recommended policy revisions should be submitted to the board for review and readoption.

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

JGA – Corporal Punishment\*\*, Optional

JGAB – Use of Restraint or Seclusion\*\*, Required

JGAB-AR – Use of Restraint or Seclusion\*\*, Required

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## HEAD LICE (PEDICULOSIS)

### Summary

Guidance on exclusion of students found with head lice has changed in recent years. There is now a consensus from other agencies, i.e., National Association of School Nurses<sup>i</sup>, Center for Disease Control and Prevention<sup>ii</sup>, Oregon School Nurses Association, which recommends against excluding students with head lice or nits from the classroom. Additionally, a rule, originally found in an Oregon Health Authority rule (OAR 333-019-0010), which allowed schools to create exclusionary practices for head lice, has since been repealed. Refer to [Communicable Disease Guidance for Schools](#) published by Oregon Health Authority and Oregon Department of Education for instructions on management.

As a result, OSBA is removing versions 1 and 2 of its model policy JHCCF – Pediculosis (Head Lice) and administrative regulations, leaving only what was a third version of the policy JHCCF – Pediculosis (Head Lice), which keeps a student in the classroom. See the *Communicable Disease Guidance for Schools* for more information.

<sup>1</sup> NASN – [Head Lice Management in Schools](#)

<sup>11</sup> CDC – [Head Lice Information for Schools](#)

### Collective Bargaining Impact

None

## Local District Responsibility

Review the district's policy regarding management of head lice, if applicable, and update or rescind.

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

JHCCF – Pediculosis (Head Lice), *Version 1*, Delete

JHCCF-AR – Pediculosis (Head Lice), *Version 1*, Delete

JHCCF – Pediculosis (Head Lice), *Version 2*, Delete

JHCCF-AR – Pediculosis (Head Lice), *Version 2*, Delete

JHCCF – Pediculosis (Head Lice), was *Version 3*, now stand-alone, Optional

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## **PUBLIC RECORDS**

### **Summary**

The purpose of this summary is to make schools aware of some minor changes to the definition of public records under ORS 192.005, which describes any information generated by the school in course of business “necessary to satisfy the legal, administrative, fiscal, **tribal cultural** or historical policies, requirements or needs of the state agency or political subdivision.” (ORS 192.005 (5) as amended by House Bill 2112 (2023)) Other changes made in ORS 192, specifically 192.050 include updating terminology to how terms are used in today’s public operations, e.g., analog or digital audio and video tape technology changing to ***audio or video technology*** or ***audio recording and video recording***. Additionally, in ORS 192.060, any records made under ORS 192.040 and 192.050 “shall be properly indexed and **filed so as to facilitate access and retrieval.**” (ORS 192.060 as amended by House Bill 2112 (2023)) There are no policy changes resulting from this bill.

However, there are some other implications on appropriate administrative regulation (AR) language which are discussed herein under ‘district’ below.

### **Collective Bargaining Impact**

None

### **Local District Responsibility**

Review the district’s written procedures related to submitting public records requests. If there are separate written procedures made available which name the person or persons, and their address(es), for submitting public records requests, no modifications may be necessary. If the school operates under KBA-AR – Public Records Request, and if the AR does not name the person or persons to which a public records request should be submitted, make the addition using recommended bracketed language included herein and issue a revised AR for implementation and submit to the board for review.

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

KBA-AR – Public Records Request, Highly Recommended

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## ***ABOUT POLICY UPDATE***

*Policy Update* is a subscription newsletter providing a brief discussion of current policy issues of concern to Oregon school districts, education service districts, community colleges, and public charter schools.

Sample model policies reflecting these issues and changes in state and federal law, if applicable, are part of this newsletter. These samples are offered as a starting point for drafting local policy and may be modified to meet particular local needs. They do not replace district legal counsel advice.

To make the best use of *Policy Update*, we suggest you discuss the various issues it presents and use the sample model policies to determine which policies your district should develop or revise, get ideas for what a policy should contain, and as a starting point for editing, modifying and discussing your district’s policy position.

If you have questions about *Policy Update*, sample policies or policy in general, call OSBA Policy Services, 800-578-6722 or 503-588-2800.

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