

SILETZ VALLEY SCHOOLS

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The following symbol is used on some policies:

** As used in this policy, the term parent includes legal guardian or person in a parental relationship. The status and duties of a legal guardian are defined in ORS 125.005(4) and 125.300 - 125.325. The determination of whether an individual is acting in a parental relationship, for purposes of determining residency, depends on the evaluation of the factors listed in ORS 419B.373. The determination for other purposes depends on evaluation of those factors and a power of attorney executed pursuant to ORS 109.056. For special education students, parent also includes a surrogate parent, an adult student to whom rights have transferred and foster parent as defined in OAR 581-015-2000.

Job Descriptions

Job descriptions serve:

1. To describe all essential functions that the individual who holds the position must be able to perform unaided or with the assistance of a reasonable accommodation;
2. To describe attendance standards;
3. To help applicants determine the qualifications needed to fill a position;
4. To help the superintendent determine which candidates to recommend for appointment; and
5. To assist the superintendent in the evaluation of the employee's performance of position responsibilities.

“Essential functions” as used in this policy means the fundamental job duties of the employment position. A job function may be considered essential for any of several reasons, including, but not limited to, the following:

1. The function may be essential because the reason the position exists is to perform the function;
2. The function may be essential because of the limited number of employees available among whom the performance of the job function can be distributed; and/or
3. The function may be highly specialized so that the individual is hired for his/her expertise or ability to perform the particular function.

“Attendance standards” as used in this policy means the regular work hours of the position, including leave and vacation provisions available through policy and/or collective bargaining agreements and any special attendance needs of the position as determined by the public charter school.

Job descriptions will be developed under the supervision of the superintendent for each position in the charter school. Each job description shall be dated. As job descriptions are reviewed and/or revised new dates will be affixed.

Job descriptions will be coded and retained in a document titled *Job Descriptions for the Siletz Valley Schools*. The document will be available for inspection by any charter school employee or patron. Each employee shall receive a copy of his/her job description. Each employee shall affix his/her signature and date after having read the job description.

Job descriptions will be reviewed annually. Initial or revised job descriptions will be approved by the superintendent and will be presented to the Board for a resolution rescinding those that have been replaced and accepting new ones.

END OF POLICY

Legal Reference(s):

[ORS 338.115 \(2\)](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2006); 28 C.F.R. Part 35 (2006).
The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212.
Title II of the Genetic Information Nondiscrimination Act of 2008.
Section 503 of the Rehabilitation Act of 1973.

Cross Reference(s):

ACA - Americans with Disabilities Act

Equal Employment Opportunity

Equal employment opportunity and treatment shall be practiced by the public charter school regardless of race, color, religion, sex, sexual orientation¹, national origin, marital status, age, veterans' status, genetic information and disability if the employee, with or without reasonable accommodation, is able to perform the essential functions of the position.

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

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

END OF POLICY

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

Legal Reference(s):

ORS 174.100	ORS 659A.006	OAR 581-021-0045
ORS 192.630	ORS 659A.009	OAR 581-022-1720
ORS 243.672	ORS 659A.029	OAR 839-003-0000
ORS 326.051	ORS 659A.030	OAR 839-006-0435
ORS 332.505	ORS 659A.109	OAR 839-006-0440
ORS 338.115	ORS 659A.142	OAR 839-006-0445
ORS 342.934	ORS 659A.145	OAR 839-006-0450
ORS 408.225	ORS 659A.233	OAR 839-006-0455
ORS 408.230	ORS 659A.236	OAR 839-006-0460
ORS 408.235	ORS 659A.309	OAR 839-006-0465
ORS 659.850	ORS 659A.321	
ORS 659.870	ORS 659A.409	
ORS 659A.003	ORS 659A.805	

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2006).
Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2006).
Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634 (2006); 29 C.F.R Part 1626 (2006).
Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6107 (2006).
Equal Pay Act of 1963, 29 U.S.C. § 206(d) (2006).
Rehabilitation Act of 1973, 29 U.S.C. §§ 503, 791, 793-794 (2006).
Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2006); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2006).
Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2006); 28 C.F.R. Part 35 (2006).
Wygant v. Jackson Bd. of Educ., 476 U.S. 267 (1989).
Americans with Disabilities Act Amendments act of 2008.
The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212.
Title II of the Genetic Information Nondiscrimination Act of 2008.

Cross Reference(s):

AC - Nondiscrimination

Staff Ethics

I. Conflict of Interest

No public charter school employee will use his/her public charter school position to obtain personal financial benefit or avoidance of financial detriment or financial gain or avoidance of financial detriment for relatives, household members or for any business with which the employee, household member or relative is associated.

This prohibition does not apply to any part of an official compensation package, honorarium allowed by ORS 244.042, reimbursement of expenses, or unsolicited awards of professional achievement. Further, this prohibition does not apply to gifts from one without a legislative or administrative interest. Nor does it apply if the gift is under the \$50 gift limit for one who has a legislative or administrative interest in any matter subject to the decision or vote of the public charter school employee.

Public charter school employees will not engage in, or have a financial interest in, any activity that raises a reasonable question of conflict of interest with their duties and responsibilities as staff members. This means that:

1. Employees will not use their position to obtain financial gain or avoidance of financial detriment from students, parents or staff;
2. Any device, publication or any other item developed during the employee's paid time shall be public charter school property;
3. Employees will not further personal gain through the use of confidential information gained in the course of or by reason of position or activities in any way;
4. No public charter school employee may serve as a Board or budget committee member for the sponsoring district;
5. An employee will not perform any duties related to an outside job during his/her regular working hours or during the additional time that he/she needs to fulfill the position's responsibilities; nor will an employee use any public charter school facilities, equipment or materials in performing outside work;
6. If an employee authorizes a public contract, the employee may not have a direct beneficial financial interest in that public contract for two years after the date the contract was authorized.

If an employee has a potential or actual conflict of interest, the employee must notify his/her supervisor in writing of the nature of the conflict and request that the supervisor dispose of the matter giving rise to the conflict.

In order to avoid both potential and actual conflicts of interests, public charter school employees must abide by the following rules when an employee’s relative or member of the household is seeking and/or holds a position with the public charter school:

1. A public charter school employee may not appoint, employ, promote, discharge, fire, or demote or advocate for such an employment decision for a relative or a member of the household, unless he/she complies with the conflict of interest requirements of ORS Chapter 244. This rule does not apply to employment decisions regarding unpaid volunteer position, unless it is a Board-related position.
2. A public charter school employee may not participate as a public official in any interview, discussion or debate regarding the appointment, employment, promotion, discharge, firing or demotion of a relative or a member of the household. An employee may still serve as a reference, provide a recommendation or perform other acts that are part of the normal job functions of the employee.
3. More than one member of an employee’s family may be hired as a regular public charter school employee. In accordance with Oregon law, however, the public charter school may refuse to hire individuals, or may transfer current employees, in situations where an appointment would place one family member in a position of exercising supervisory, appointment or grievance adjustment authority over another member of the same family.

In the *conflict of interest context*, a “member of the household” means any person who resides with the employee and “relative” means:

1. The employee’s spouse¹, parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law;
2. The spouse of the employee’s parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law.

II. Gifts

Public charter school employees must comply with the following rules involving gifts:

Employees are public officials and therefore will not solicit or accept a gift or gifts with an aggregate value in excess of \$50 from any single source in a calendar year that has a legislative or administrative interest in any matter subject to the decision or vote of the public charter school employee. All gift-related provisions apply to the employee, their relatives, and members of their household. The \$50 gift limit applies separately to the employee, and to the employee’s relatives or members of household, meaning that the employee and each member of their household and relative can accept up to \$50 each from the same source/gift giver.

1. “Gift” means something of economic value given to an employee without valuable consideration of equivalent value, which is not extended to others who are not public officials on the same terms and conditions.

¹The term spouse includes domestic partner.

2. “Relative” means:
 - a. The employee’s spouse², parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law;
 - b. The spouse of the employee’s parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law.
3. “Member of the household” means any person who resides with the employee.

Determining the Source of Gifts

Employees should not accept gifts in any amount without obtaining information from the gift giver as to who is the source of the gift. It is the employee’s personal responsibility to ensure that no single source provides gifts exceeding an aggregate value of \$50 in a calendar year, if the source has a legislative or administrative interest in any matter subject to the decision or vote of the public charter school employee. If the giver does not have a legislative/administrative interest, the ethics rules on gifts do not apply and the employee need not keep track of it, although they are advised to do so anyway in case of a later dispute.

Determining Legislative and Administrative Interest

A legislative or administrative interest means an economic interest distinct from that of the general public, in any action subject to the official decision of an employee.

A decision means an act that commits the public charter school to a particular course of action within the employee’s scope of authority and that is connected to the source of the gift’s economic interest. A decision is not a recommendation or work performed in an advisory capacity. If a supervisor delegates the decision to a subordinate but retains responsibility as the final decision maker, both the subordinate and supervisor’s actions would be considered a “decision.”

Determining the Value of Gifts

The fair market value of the merchandise, goods, or services received will be used to determine benefit or value.

“Fair market value” is the dollar amount goods or services would bring if offered for sale by a person who desired, but was not obligated, to sell and purchased by one who is willing, but not obligated, to buy. Any portion of the price that was donated to charity, however, does not count toward the fair market value of the gift if the employee does not claim the charitable contribution on personal tax returns. Below are acceptable ways to calculate the fair market value of a gift:

7. In calculating the per person cost at receptions or meals the payor of the employee’s admission or meal will include all costs other than any amount donated to a charity.

For example, a person with a legislative or administrative interest buys a table for a charitable dinner at \$100 per person. If the cost of the meal was \$25 and the amount donated to charity was \$75, the benefit conferred on the employee is \$25. This example requires that the employee does not claim the charitable contribution on personal tax returns.

²Ibid. p. 2

8. For receptions and meals with multiple attendees, but with no price established to attend, the source of the employee's meal or reception will use reasonable methods to determine the per person value or benefit conferred. The following examples are deemed reasonable methods of calculating value or benefit conferred:
 - a. The source divides the amount spent on food, beverage and other costs (other than charitable contributions) by the number of persons whom the payor reasonably expects to attend the reception or dinner;
 - b. The source divides the amount spent on food, beverage and other costs (other than charitable contributions) by the number of persons who actually attend the reception or dinner; or
 - c. The source calculates the actual amount spent on the employee.
9. Upon request by the employee, the source will give notice of the value of the merchandise, goods, or services received.
10. Attendance at receptions where the food or beverage is provided as an incidental part of the reception is permitted without regard to the fair market value of the food and beverage provided.

Value of Unsolicited Tokens or Awards: Resale value

Employees may accept unsolicited tokens or awards that are engraved or are otherwise personalized items. Such items are deemed to have a resale value under \$25 (even if the personalized item cost the source more than \$50), unless the personalized item is made from gold or some other valuable material that would have value over \$25 as a raw material.

Entertainment

Employees may not solicit or accept any gifts of entertainment over \$50 in value from any single source in a calendar year that has a legislative or administrative interest in any matter subject to the decision of the employee unless:

1. The entertainment is incidental to the main purpose of another event (i.e. a band playing at a reception). Entertainment that involves personal participation is not incidental to another event (such as a golf tournament at a conference); or
2. The employee is acting in their official capacity for a ceremonial purpose.

Entertainment is ceremonial when an employee appears at an entertainment event for a "ceremonial purpose" at the invitation of the source of the entertainment who requests the presence of the employee at a special occasion associated with the entertainment. Examples of an appearance by an employee at an entertainment event for a ceremonial purpose include: throwing the first pitch at a baseball game, appearing in a parade and ribbon cutting for an opening ceremony.

Exceptions

The following are exceptions to the ethics rules on gifts that apply to employees.

3. Gifts from "relatives" and "members of the household" are permitted in an unlimited amount; they are not considered gifts under the ethics rules.
4. Informational or program material, publications, or subscriptions related to the recipient's performance of official duties.

5. Food, lodging, and travel generally count toward the \$50 aggregate amount per year from a single source with a legislative/administrative interest, with the following exceptions:
 - a. *Organized Planned Events.* Employees are permitted to accept payment for travel conducted in the employee's official capacity, for certain limited purposes:
 - (1) Reasonable expenses (i.e., food, lodging, travel, fees) for attendance at a convention, fact-finding mission or trip, or other meeting do not count toward the \$50 aggregate amount IF:
 - (a) The employee is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the public charter school; AND
 - i) The giver is a unit of a:
 - a) Federal, state, or local government;
 - b) An Oregon or federally recognized Native American Tribe; OR
 - c) Non-profit corporation.
 - (b) The employee is representing the public charter school:
 - i) On an officially sanctioned trade-promotion or fact-finding mission; OR
 - ii) Officially designated negotiations or economic development activities where receipt of the expenses is approved in advance by the superintendent.
 - (2) The purpose of this exception is to allow employees to attend organized, planned events and engage with the members of organizations by speaking or answering questions, participating in panel discussions or otherwise formally discussing matters in their official capacity. This exception to the gift definition does not authorize private meals where the participants engage in discussion.
6. Food or beverage, consumed at a reception, meal, or meeting IF held by an organization and IF the employee is representing the public charter school.

“Reception” means a social gathering. Receptions are often held for the purpose of extending a ceremonial or formal welcome and may include private or public meetings during which guests are honored or welcomed. Food and beverages are often provided, but not as a plated, sit-down meal.
7. Food or beverage consumed by employee acting in an official capacity in the course of financial transactions between the public body and another entity described in ORS 244.020(6)(b)(I)(i).
8. Waiver or discount of registration expenses or materials provided to employee at a continuing education event that the employee may attend to satisfy a professional licensing requirement.
9. A gift received by the employee as part of the usual or customary practice of the employee's private business, employment or position as a volunteer that bears no relationship to the employee's charter school position.
10. Reasonable expenses paid to employee for accompanying students on an educational trip.

Honoraria

An employee may not solicit or receive, whether directly or indirectly, honoraria for the employee or any relative or member of the household of the employee if the honoraria are solicited or received in connection with the official duties of the employee.

The honoraria rules do not prohibit the solicitation or receipt of an honorarium or a certificate, plaque, commemorative token, or other item with a value of \$50 or less; or the solicitation or receipt of an honorarium for services performed in relation to the private profession, occupation, avocation, or expertise of the employee.

END OF POLICY

Legal Reference(s):

[ORS 244.010 to -244.400](#)

[ORS 659A.309](#)

[OAR 584-020-0040](#)

[ORS 332.016](#)

[OAR 199-005-0003 to -199-020-0020](#)

OR. ETHICS COMM'N, OR. GOV'T ETHICS LAW, A GUIDE FOR PUBLIC OFFICIALS.

Staff Ethics

Public charter school employees are allowed financial benefits as identified in ORS 244.040(2), such as their official compensation package, reimbursed expenses, limited honoraria and unsolicited awards for professional achievement. Public charter school employees are prohibited from using or attempting to use his/her position to obtain a financial gain or to avoid a financial detriment for the public charter school employee, a relative or member of the household of the employee, or any business with which the employee or a relative or member of the household of the employee is associated, if the opportunity for financial gain or avoidance of a financial detriment would not otherwise be available but for the employee's position with the public charter school. Specifically, this means that:

1. Employees will not use public charter school equipment for personal use, unless it is available to a significant segment of the general public. This includes, but is not limited to, the personal use of the public charter school's:
 - a. Fax machine¹;
 - b. Phones to make long distance personal calls;
 - c. Public charter school vehicles;
 - d. Professional technology equipment (e.g., wood shop, automotive shop, CAD); and
 - e. Athletic facilities (e.g., pool or weight room).

Further, the public charter school's supplies, facilities, equipment, employees, records or any other public resources are not to be used to engage in private business interests. For example, the public charter school's computer cannot be used to sell products on an auction website during school hours.

2. When employees are traveling on official public charter school business, any gift given because of this travel must be either declined or passed on to the public charter school for use for future public charter school travel. For example, if the hotel where the employee is staying gives the employee a free night's stay on a future visit, this must be declined or given back to the public charter school for future public charter school travel. The frequent flyer miles earned when traveling on official public charter school business can only be used for public charter school travel. If the employee's spouse is traveling with the employee, the employee is responsible for all additional charges (i.e., additional room charge).
3. Employees may not use personal credit cards for public charter school travel or other public charter school business and receive incentives such as cash reimbursements, frequent flyer miles and other benefits based upon the dollar amount of purchases made.
4. Employees may not use discounts offered by private companies for the employee's personal benefit if the discount is only offered because of the employee's official position. For example, an office supplies store provides all teachers a 10 percent discount. Because the teachers are receiving this

¹The public charter school could establish a fee schedule that would allow only public charter school employees to pay for the personal use of the public charter school fax machines. If the public charter school established a fee schedule for the use of fax machines the fee schedule must be equal to or exceed the prevailing rates offered at commercial businesses.

discount only because of their official position, they cannot use the discount to purchase personal items. Teachers may use the discount to purchase items for public charter school use. Employees can also accept the discount if it is also available to a substantial segment of the population who are not public officials.

5. Employees may accept free passes to public charter school extracurricular events if they are attending these events in their official capacity (i.e., chaperoning, ticket sales or managing concession sales). In order to promote employee participation in extracurricular activities, the public charter school may include free passes in employees' official compensation packages or employees may be reimbursed by the public charter school for the cost of admission.
6. The employee's public charter school position is not to be used to take official action that could have a financial impact on a private business with which the employee, a relative or member of the employee's household are associated. For example, if the employee's brother owns a pest-control business which is seeking a contract with the public charter school, the employee must declare an actual conflict of interest, in writing, describing the nature of the conflict, and provide this to the employee's supervisor.
7. Confidential information gained as a public charter school employee is not to be used to obtain a financial benefit for the employee, a relative or member of the public official's household or a business with which any are associated. For example, the employee should not use the information that a student in his/her class is falling behind in math to provide the parents a referral to the employees' sister's tutoring business.
8. Public charter school employees who mentor student teachers may not receive direct payments from sponsoring colleges or universities. The payment may be provided by the college or university to the public charter school, which can then distribute the compensation to the teachers as an element of their official compensation package.
9. Public charter school employees must follow Oregon Government Ethics Commission guidelines for outside employment if the employee acts as a chaperone for student group trips on personal time and the public charter school employee accepts compensation in the form of travel expenses from a private business or organization. Specifically, public charter school employees must conduct all activities related to the trip on personal time and cannot use the classroom or school environment to plan the off-campus trip. Employees may use public charter school facilities for this purpose only if they comply with the public charter school's public use of facilities policy. It is not an ethics violation to accept reasonable expenses for accompanying students on an education trip.

These restrictions do not apply if the teacher is chaperoning students on a fact-finding mission that is officially sanctioned by the Board. The definition of a "fact-finding mission" is, in part, any activity related to a cultural or educational purpose. *See* OAR 199-005-0020(3)(a). The public charter school employee must be directly and immediately associated with the event or location being visited. If a public charter school employee only acts as a chaperone and does not provide

instruction or guidance for the students in language usage or cultural events, the trip may not meet the requirements of ORS 244.020(6)(H)(i). Further, the employee can only accept the reimbursement of reasonable travel expenses from the private company, not any further compensation.

These restrictions do not apply if the public charter school compensates the public charter school employee for chaperoning the trip.

Staff Religious Dress

All staff when on duty shall be allowed to wear religious attire, in accordance with the employee's sincerely-held religious beliefs, while maintaining religious neutrality and refraining from endorsing religion in the educational environment.

The public charter school retains the authority to specify religious dress guidelines for staff that will prevent such matters from having an adverse impact on the educational process.

The superintendent may develop guidelines to implement this policy.

END OF POLICY

Legal Reference(s):

[ORS 243.650\(7\)](#)
[ORS 327.109](#)
[ORS 338.115\(2\)](#)
[ORS 339.351](#)
[ORS 659.850](#)
[ORS 659A.030](#)

OR. CONST., art. I, § 5.
U.S. CONST. amend. I.

Staff Religious Dress

“Religious clothing” means religious dress worn in accordance with the employee’s sincerely-held beliefs, including but not limited to head coverings, jewelry, emblems and other types of religious dress.

In assessing whether the public charter school may restrict or prohibit the wearing of religious clothing, the public charter school should consider whether:

1. The employee’s intent of wearing the religious clothing or by wearing the clothing is likely to be perceived by students, parents or employees to indoctrinate or proselytize students and/or create the impression that the public charter school endorses religion or the employee’s particular religious belief.
 - a. Specific factors to be considered when assessing employee’s intent and reasonable perception should include but not be limited to:
 - (1) The size and visibility of the religious clothing;
 - (2) The inclusion of any writing or symbols on the religious clothing that communicates a direct message;
 - (3) Any accompanying verbal statements or declarations of a religious nature that goes beyond a limited explanation of the religious significance or obligation associated with the wearing of the religious clothing;
 - (4) The number of employees requesting or wearing the same or similar religious clothing in the school; and
 - (5) The reasonableness of this perception should take into account the age, background and sophistication of the student, parent or employee in the school who regularly encounters the employee.
2. The wearing of religious clothing disrupts the educational process, harasses, intimidates, coerces or otherwise interferes with the rights of students, parents or another school employee in the public charter school.

Siletz Valley Schools

Code: **GBEBA**
Adopted: 10/23/12
Readopted: 11/27/12

Staff - HIV, AIDS and HBV

The public charter school will strictly adhere in its policies and procedures to the Oregon Revised Statutes and Oregon Administrative Rules as they relate to staff infected with HIV, AIDS or HBV¹.

The public charter school recognizes a staff member has no obligation under any circumstance to report his/her condition to the public charter school and the staff member has a right to continue working.

If the staff member reports his/her condition to the public charter school, 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, where and when the information will be given. All such information will be held in confidence in accordance with Oregon Revised Statutes.

When informed of the infection, and with written, signed permission from the staff member, the public charter school 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 staff member's condition.

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

END OF POLICY

Legal Reference(s):

[ORS 243.650](#)

[ORS 338.115\(j\)](#)

[ORS 342.850\(7\)](#)

[ORS 433.008](#)

[ORS 433.045](#)

[ORS 433.260](#)

[OAR 333-012-0270](#)

[OAR 333-017-0000](#)

[OAR 333-018-0000](#)

[OAR 333-018-0005](#)

[OAR 581-022-0705](#)

¹HIV - Human Immunodeficiency Virus; AIDS - Acquired Immune Deficiency Syndrome; HBV - Hepatitis B Virus

Drug and Alcohol Testing - Transportation Personnel

The public charter school is committed to the establishment of a drug use and alcohol misuse prevention program that meets all applicable requirements of the Omnibus Transportation Employee Testing Act of 1991 (OTETA). The public charter school or its transportation provider shall have an in-house drug and alcohol testing program or be a member of a consortium that provides testing that meets the federal regulations, and shall annually certify this information to the Oregon Department of Education.

Accordingly, all public charter school employees subject to commercial drivers' license (CDL) requirements shall be prohibited from:

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

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

All covered individuals offered employment with the public charter school and public charter school employees transferring to positions subject to OTETA shall be required to submit to preemployment drug testing. Additionally, covered employees will be subject to reasonable suspicion, random and postaccident alcohol and drug testing. Return-to-duty and follow-up testing may also be required.

Preemployment drug testing costs will be paid for by the employee. All drug and alcohol testing of public charter school employees, including reasonable suspicion, random, postaccident, return-to-duty and follow-up testing costs, as applicable, will be paid for by the public charter school. The public charter school will comply with applicable collective bargaining agreement provisions.

All offers of employment or transfer to covered positions with the public charter school will be made contingent upon testing results. An individual who tests positive for drugs will not be hired or transferred. The offer of employment or transfer will be immediately withdrawn.

An offer of employment or transfer will also be immediately withdrawn from any individual who refuses drug testing.

Covered employees who, under the public charter school's reasonable suspicion, random, postaccident, return-to-duty or follow-up testing program, test positive for drugs or test with a breath alcohol content level of 0.02 or higher, will be subject to immediate disciplinary action up to and including dismissal in

accordance with public charter school board policy. Employees who refuse to comply with testing requirements will also be regarded as testing positive for drugs or testing with a breath alcohol content level of 0.02 or higher. Notification of available resources for evaluation and treatment will be made as required by law. Additionally, employees may be subject to CDL prohibitions and penalties under the OTETA and applicable Federal Motor Carrier Safety Administration (FMCSA) regulations.

END OF POLICY

Legal Reference(s):

[ORS 338.115\(a\)](#)

[ORS 657.176](#)

[OAR 581-053-0220\(3\)\(h\)](#)

[OAR 581-053-0230\(9\)\(t\)](#)

[OAR 581-053-0420\(4\)\(b\)\(B\)\(ii\)](#)

[OAR 581-053-0430\(13\),\(14\)](#)

[OAR 581-053-0531\(12\),\(13\)](#)

[OAR 581-053-0615\(2\)\(c\)\(D\)\(ii\)](#)

[OAR 581-053-0620\(1\)\(d\)](#)

SB 193 (2013)

Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. §§ 31301-31317; 49 C.F.R. Parts 40, 382, 391-395 (2006).

Drug and Alcohol Testing - Transportation Personnel

The following procedures shall govern the public charter school's drug use and alcohol misuse prevention program:

1. Program Coordinator

The superintendent will be designated as the public charter school's drug use and alcohol misuse prevention program coordinator. The superintendent will coordinate the public charter school's responsibilities and compliance efforts with the applicable provisions of the Omnibus Transportation Employee Testing Act of 1991 (OTETA). The superintendent will:

- a. Ensure that all covered employees receive written materials explaining the public charter school's drug use and alcohol misuse prevention program requirements including:
 - (1) The public charter school policy and administrative regulations;
 - (2) A contact person knowledgeable about the materials, policy, administrative regulations and OTETA;
 - (3) Categories of employees covered;
 - (4) Information about the safety-sensitive functions and what period of the workday the employee is required to be in compliance. Safety-sensitive functions shall include such responsibilities as all on-duty time waiting to be dispatched, driving time, assisting or supervising loading or unloading, repairing, obtaining assistance or remaining in attendance upon a disabled vehicle. All time spent providing drug and alcohol samples, including travel time to and from the collection or testing site as needed to comply with random, reasonable suspicion, postaccident, return-to-duty or follow-up testing, will also be considered as on-duty time;
 - (5) Specific information concerning prohibited conduct;
 - (6) Circumstances under which employees will be tested;
 - (7) Procedures used in the testing process;
 - (8) The requirement that covered employees submit to drug and alcohol testing, administered in accordance with 49 C.F.R. Part 382;
 - (9) Explanation of what constitutes a refusal to submit to a drug and/or alcohol test;
 - (10) Consequences of violations (e.g., discipline up to and including dismissal as may be required by the public charter school and removal from safety-sensitive functions as required by OTETA) and notification of resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol and the use of drugs including the names, addresses and telephone numbers of substance abuse professionals (SAPs) and counseling and treatment programs. Such information will include the consequences for covered employees found to have a breath alcohol concentration rate of 0.02 or greater, but less than 0.04, and for those employees found to have a breath alcohol content level greater than 0.04. Minimally, no driver tested and found to have a

breath alcohol concentration rate of 0.02 or greater but less than 0.04 shall be permitted to perform or continue to perform safety-sensitive functions until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test;

- (11) Information on the effects of drug use and alcohol misuse on an individual's health, work and personal life; signs and symptoms of an alcohol or drug problem (driver's or coworker's); and available methods of intervening when such problems are suspected, including confrontation, referral to an employee assistance program as available and/or referral to the administration.
- b. Ensure that employees sign statements certifying that they have received the materials;
 - c. Ensure that the superintendent designated to determine reasonable suspicion receive at least 60 minutes of drug abuse training and an additional 60 minutes of alcohol misuse training. Training will include the physical, behavioral, speech and performance indicators of probable drug use and alcohol misuse;
 - d. Ensure public charter school compliance with applicable provisions of OTETA's requirements regarding the public charter school's management information system, retention and confidentiality of records;
 - e. Ensure selection of a site with appropriately trained personnel for the collection of specimens for drug testing;
 - f. Ensure selection of a site with a certified breath alcohol technician and evidential breath testing devices for alcohol testing;
 - g. Ensure selection of a laboratory certified by the Department of Health and Human Services (DHHS) to conduct drug specimen analysis;
 - h. Ensure selection of a qualified medical or osteopathic doctor to serve as a medical review officer (MRO) to verify laboratory drug test results;
 - i. Ensure selection of qualified personnel to provide education and training to employees and supervisors in accordance with employee assistance program requirements as specified in OTETA;
 - j. Ensure the public charter school's drug use and alcohol misuse prevention program is maintained in at least outline form, on file and available for inspection at the public charter school office. The public charter school shall maintain the following:
 - (1) Information on the effects and consequences of drug and alcohol use on personal health, safety and the work environment;
 - (2) Information on the manifestations and behavioral changes that may indicate drug and alcohol use or abuse;
 - (3) Documentation that drug training for all supervisory personnel has consisted of at least 60 minutes;
 - (4) Documentation that alcohol training for all supervisory personnel has consisted of at least 60 minutes;
 - (5) Documentation of training given to employees.
 - k. Ensure the establishment of clearly defined communication procedures to include the method (e.g., mail, facsimile) and frequency (e.g., monthly, daily, weekly) as well as the authorized individuals to impart and receive information to meet the documentation and confidentiality requirements of OTETA;

- l. Ensure employee organizations receive written notice of the availability of all pertinent drug use and alcohol misuse prevention program information;
- m. Ensure compliance with stand-down prohibitions as set forth by OTETA. “Stand-down” means the practice of temporarily removing an employee from the performance of safety-sensitive functions, based on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test or a substituted test, before the MRO has completed verification of the test results. The public charter school will not stand-down employees, except as provided by the Federal Motor Carrier Safety Administration (FMCSA) below:
 - (1) The public charter school may seek a waiver of the prohibition against standing down an employee;
 - (2) Requests which include all required information will be submitted to FMCSA for approval.

2. Pre-employment Testing

The public charter school shall conduct pre-employment testing as follows:

- a. All offers of employment for positions as identified by Board policy and as required by OTETA will be contingent upon drug and alcohol test results;
- b. Individuals offered employment with the public charter school and employees transferring to positions subject to OTETA contingent on drug and alcohol testing, must provide written consent for the release of any prior employer positive drug and failed alcohol testing results, refusals to be tested, other violations of testing regulations and, with respect to any employee who violated drug and alcohol regulations, documentation of the employee’s successful completion of return-to-duty requirements (including SAP evaluations and follow-up tests) within the preceding two years;
- c. The public charter school shall obtain and review such drug and alcohol information from previous employers of the past two years before the driver is used for the first time. The public charter school will provide the driver’s written permission for release of information to the previous employers;
- d. Release of such information may be by telephone, letters or any other method that ensures confidentiality. The public charter school will maintain a written, confidential record of each past employer contacted;
- e. The public charter school will not use a driver with a positive drug test or a failed alcohol test while employed with a previous employer or who refused to test while under employment with a previous employer unless the driver is in compliance with the SAP’s treatment program and OTETA’s return-to-duty test requirements;
- f. Prior to being directed by the public charter school to a collection site for drug and alcohol testing, the applicant will be notified that the urine sample collected shall be tested for the presence of drugs and the breath or saliva sample shall be tested for the presence of alcohol;
- g. Failure to report to the collection site for testing within the time frame specified by the public charter school shall constitute a refusal to report for testing and result in immediate withdrawal of the employment or transfer offer;
- h. Pre-employment drug and alcohol testing will be paid for by the employee;

- i. Tests must indicate negative drug test results. Individuals who fail to meet such drug and alcohol requirements will not be hired or transferred voluntarily or involuntarily to covered positions;
- j. Such testing will also be required of covered employees each time an employee returns to work after a layoff period if the employee was removed from the random testing pool. As long as the employee remains in the random testing pool, additional testing or subsequent pre-employment drug and alcohol testing will not be necessary following a layoff;
- k. The public charter school will notify individuals offered employment with the public charter school contingent on drug testing of the results of such testing upon request within 60 days of being notified of the disposition of the employment application;
- l. Refusal to submit to drug and alcohol testing and/or to provide signed permission for the release of past testing information as required by the public charter school shall result in immediate termination from employment or transfer consideration;
- m. The individual may request a screening of the split specimen at his/her own expense. All such requests must be received in writing by the public charter school no later than 72 hours following notification to the applicant of the positive test results.

3. Post-accident Testing

The public charter school shall conduct post-accident testing as follows:

- a. It is the responsibility of the employee to report for post-accident drug and alcohol testing as soon as practicable following a motor vehicle accident which occurs while the employee is performing public charter school safety-sensitive functions in which there is a fatality or the employee receives a citation for a moving traffic violation in connection with an injury or tow-away accident:
 - (1) The employee will report to the designated collection site for post-accident drug and alcohol testing as soon as practicable following the occurrence of the accident;
 - (2) If alcohol testing has not been administered within two hours, the public charter school will prepare and maintain on file a record stating the reasons the test was not promptly administered;
 - (3) If alcohol testing is not administered within eight hours, the public charter school will cease attempts to administer an alcohol test and will prepare and maintain on file a record specifying why the test was not administered;
 - (4) If drug testing has not been administered within 32 hours following the accident, the public charter school will cease attempts to administer such tests and will document why the test was not administered;
 - (5) The employee will contact the public charter school official or designee as soon as practicable following the accident giving as much detailed information about the accident as possible (e.g., fatalities, injuries, tow-aways, traffic citation issued, etc.).
- b. The public charter school will provide employees with necessary post-accident testing information, procedures and instructions as a part of its employee training program. Additionally, written instructions to follow in the event of an accident will be provided in public charter school vehicles as appropriate. Instructions will include locations of drug specimen collection and alcohol testing sites and telephone number of the public charter

- school drug use and alcohol misuse prevention program coordinator or other public charter school officials to contact;
- c. The employee shall remain readily available for testing or may be deemed by the public charter school to have refused to submit to testing. Such refusal is treated as if the public charter school received an alcohol test result of 0.04 or greater or received a positive drug test. Nothing in this requirement shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care;
 - d. Results of a breath or blood test for the use of alcohol or a urine test for the use of drugs conducted by on-site federal, state and/or local law enforcement officials having independent authority for the test shall be considered to meet necessary requirements provided results of the test are obtained by the public charter school and the tests conform to all applicable federal, state and/or local requirements;
 - e. An employee who is involved in an accident involving a fatality, injury and/or tow-away as described by OTETA is prohibited from using alcohol for eight hours after the accident or until the employee undergoes a postaccident alcohol test, whichever occurs first.

4. Random Testing

The public charter school shall conduct random drug and alcohol testing annually as follows:

- a. Not less than 50 percent of the average number of driver positions shall be tested for drugs and not less than 10 percent shall be tested for alcohol in accordance with current minimum random testing requirements of OTETA. Any unfilled, covered positions will be included as part of the total number of positions counted by the public charter school for testing rate purposes.

The public charter school will meet minimum testing rates.

- b. The testing rate may be adjusted by FMCSA based on industrywide data;
- c. The testing process shall, in fact, be random. All employees will remain in the pool of drivers for each subsequent period, including vacations, holiday periods and summer recesses, whether or not they have been chosen for testing in the past;
- d. The selection of employees for random testing shall be made by a scientifically valid method. The process selected by the public charter school will ensure that all employees shall have an equal chance of being tested each time selections are made.
- e. All such testing shall be unannounced and dates selected spread reasonably throughout the calendar year to avoid predictability and the perception that testing is “done for the year.” Public charter schools with six or less transportation personnel may annually select a single calendar date for random drug and alcohol testing. The date selected will be kept confidential to ensure that testing is unannounced as required by law;
- f. Following notification of testing, selected employees shall proceed to the public charter school-selected collection site immediately or as soon as practicable;
- g. Employees shall only be tested for alcohol just before the driver is scheduled to perform his/her safety-sensitive function, during or just after performing such function;
- h. Employees off work due to leave of absence, vacation and layoff will be informed that they remain subject to random testing. Employees drawn for such testing will be notified and

tested as soon as practicable upon return to duty but no later than the next selection cycle (e.g., monthly, quarterly, etc.).

5. Reasonable Suspicion Testing

The public charter school shall conduct reasonable suspicion drug and alcohol testing as follows:

- a. The public charter school will test covered employees when there is reasonable suspicion to believe that the employee has engaged in drug use or alcohol misuse;
- b. Reasonable suspicion will be based on specific contemporaneous, articulable observations made by a trained supervisor as designated by the public charter school, concerning appearance, behavior, speech or body odors indicative of employee use of drugs or the misuse of alcohol. Observations of drug use may include indications of chronic and withdrawal effects of drugs and noticeable degradation of job performance that may be associated with the use of drugs;
- c. Hearsay or secondhand information is not sufficient to require an employee to submit to testing;
- d. Alcohol testing may be authorized only if observations resulting in reasonable suspicion are made during, just preceding or just after the period of the workday that the employee is required to be in compliance with this policy, administrative regulations and applicable OTETA provisions;
- e. A written record shall be made of the observations leading to a reasonable suspicion drug test and signed by the superintendent authorized to make such observations within 24 hours of the observed behavior or before the results of the drug test are released, whichever is earlier;
- f. The public charter school will ensure that the employee under reasonable suspicion is transported to the designated collection or testing site.

6. Referrals, Evaluation and Treatment

The public charter school shall provide information related to referrals, evaluation and treatment as follows:

- a. The public charter school shall advise covered employees, who violate the drug and alcohol prohibitions, of referral services available for evaluating and resolving problems associated with the use of drugs and the misuse of alcohol. Such information will include the names, addresses and telephone numbers of SAPs and counseling and treatment programs;
- b. An employee who engages in such prohibited conduct shall be evaluated by an SAP;
- c. The SAP will determine what assistance if any the employee needs in resolving problems associated with drug use and alcohol misuse;
- d. This requirement applies only to current employees and not to job applicants who refuse testing or who test positive for drugs;
- e. This requirement shall not be interpreted to require the public charter school to provide or pay for any rehabilitation costs or to hold a job open for an employee with or without salary;
- f. SAPs, as referred to in these administrative regulations, means:
 - (1) Licensed physicians with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders;

- (2) Licensed or certified psychologists, social workers or employee assistance professionals with like knowledge; and
- (3) Alcohol and drug abuse counselors certified by the National Association of Alcoholism and Drug Abuse Counselors (NAADAC). This does not include state-certified counselors.

7. Return-to-Duty Testing

Employees, if they continue employment and before they return to duty, shall comply with the following:

- a. When an employee has previously tested greater than or equal to 0.04 for alcohol, the employee must retest (return-to-duty test) with an alcohol concentration of less than 0.02;
- b. When an employee has previously tested positive for drug use, the employee must retest (return-to-duty test) with a verified negative test result.

8. Follow-up Testing

Employees, if they continue employment, shall comply with the following:

- a. Follow-up testing will be conducted whenever an SAP determines that an employee is in need of resolving problems associated with drug use and/or alcohol misuse;
- b. Follow-up alcohol testing will be conducted only when the employee is performing safety-sensitive functions, just before or just after the driver has performed safety-sensitive functions;
- c. Follow-up drug and alcohol testing will be unannounced;
- d. The number and frequency of such tests shall be determined by the SAP. Minimally, there shall be:
 - (1) At least 6 tests in the first 12 months following the driver's return to duty;
 - (2) Testing shall not exceed 60 months from the date of the employee's return to duty. The SAP, however, may terminate the follow-up testing at any time after the first six tests if he/she determines the testing is no longer needed.

9. Drug and Alcohol Testing Procedures

The public charter school, in cooperation with contracted collection and testing facilities, shall maintain drug and alcohol testing procedures as follows:

- a. Drugs
 - (1) The applicant or employee reports to the public charter school-designated collection site and provides positive identification (e.g., photo ID);
 - (2) A urine sample for drug testing is provided. A "split specimen" (two urine specimen bottles) is prepared from the urine sample;
 - (3) Following completion of a chain-of-custody form, both specimen bottles are forwarded to the DHHS certified laboratory for analysis. The split specimen is stored at the laboratory for later testing as may be necessary. Initial testing is performed only on one specimen bottle;

- (4) Testing results are reported to the public charter school-selected MRO by mail or electronic transmission. Results may not be given over the phone;
- (5) The MRO will verify both negative and positive testing results;
- (6) The MRO will report the verified negative testing results to the public charter school;
- (7) The MRO will report verified positive testing results to the applicant or employee, discuss the type of illegal substance found and determine whether there is any valid medical reason for the positive testing results;
- (8) A verified valid medical reason for a positive test result will be reported as a negative test result to the public charter school;
- (9) If no legitimate medical reason exists for positive drug testing, the MRO will report a confirmed positive test result and identity of the substance(s) to the public charter school;
- (10) The employee or applicant may request within 72 hours of a positive test notice that the split specimen (second bottle) be screened. Such screening costs will be paid for by the employee;
- (11) Unlike the original specimen analyzed for specific levels of controlled substances, the split specimen is analyzed only for the presence of drugs;
- (12) The MRO will report results of the second screening to the employee and the public charter school;
- (13) The MRO will meet all OTETA requirements including review of chain-of-custody control form, administrative processing of negative test results, verification of positive testing results and maintenance of confidentiality requirements as may be applicable;
- (14) Detailed drug testing procedures may be obtained by contacting the public charter school's drug use and alcohol misuse prevention coordinator or designee.

b. Alcohol

- (1) The employee reports to the public charter school-designated testing site and provides positive identification;
- (2) Under the alcohol testing rule, an alcohol test result will be considered failing even if over-the-counter or legally prescribed medication is involved;
- (3) All alcohol screening tests will be conducted by:

A qualified screening test technician using an alcohol screening device other than an evidential breath testing device.

- (4) Testing may be conducted at a DHHS certified laboratory or other location including mobile facilities equipped for such testing as may meet the requirements of OTETA;
- (5) Public charter school supervisors should generally not be used as a breath alcohol or screening test technician for covered employees. Under certain circumstances, a properly trained public charter school supervisor may conduct such testing in the absence of another technician;
- (6) The employee submits to breath or saliva testing;
- (7) If the result of the testing indicates an alcohol concentration rate of 0.02 or greater, a confirmation breath test is administered after at least 15 minutes, but no longer than 30 minutes, after the initial testing. All confirmation tests will be conducted using evidential breath testing devices;

- (8) The technician will report any invalid tests, confirmed failing and passing results to the public charter school;
- (9) Employee refusal to sign forms as required (i.e., Step 2 on the Alcohol Testing Form) shall be considered as refusal to be tested;
- (10) The breath alcohol or screening test technician will meet all OTETA requirements including such testing procedures, Alcohol Testing Form and confidentiality requirements as may be required;
- (11) Detailed alcohol testing procedures may be obtained by contacting the public charter school's drug use and alcohol misuse prevention program coordinator or designee.

10. Positive Test Result

When the MRO determines a positive test result is valid, the MRO will report the finding to the Oregon Department of Transportation (ODOT) and the Oregon Department of Education. The person who is the subject of the test results will be notified by ODOT that the person has a right to a hearing to determine whether the test results reported will be placed in the employee's employment driving record.

11. Record Keeping/Record Reporting

The public charter school shall maintain records of its drug use and alcohol misuse prevention program as follows:

a. Records related to the collection process:

- (1) Documents relating to the random selection process;
- (2) Documents generated in connection with decisions to administer reasonable suspicion drug or alcohol testing;
- (3) Documents generated in connection with decisions on postaccident testing;
- (4) Documents verifying the existence of an explanation of the inability of an employee to provide adequate breath or to provide a urine specimen for testing;
- (5) An annual calendar year report summarizing results of the public charter school's drug use and alcohol misuse prevention program will be prepared and maintained when requested by FMCSA as part of an inspection, investigation, special study or for statistical purposes.

b. Records related to a driver's test results, including:

- (1) The public charter school's copy of the alcohol testing form, including the test results;
- (2) The public charter school's copy of the controlled substance test custody and control form;
- (3) Documents sent by the MRO to the public charter school;
- (4) Documents related to the refusal of any employee to submit to drug and/or alcohol testing;
- (5) Documents presented by a driver to dispute the results of a drug and/or alcohol test administered in connection with the requirements of OTETA.

c. Records related to evaluations as follows:

- (1) Records pertaining to a determination by an SAP concerning his/her evaluation of a covered employee who tested positive for drugs, or failed an alcohol test or refused to test;
 - (2) Records concerning a driver's compliance with recommendations of the SAP.
- d. Records related to education and training as follows:
- (1) Materials on drug use awareness and alcohol misuse including a copy of the public charter school's policy and administrative regulations on drug use and alcohol misuse and related information;
 - (2) Driver's signed receipt of education materials;
 - (3) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for drug and/or alcohol testing based on reasonable suspicion;
 - (4) Certification that any training conducted in compliance with OTETA meets all pertinent requirements for such training.
- e. Records related to alcohol and drug testing as follows:
- (1) Agreements with collection site facilities, laboratories, MROs and consortia (includes breath alcohol technicians, screening test technicians and third party providers), as applicable;
 - (2) Names and positions of officials and their role in the public charter school's drug and alcohol testing program(s);
 - (3) Semiannual laboratory statistical summaries of urinalysis as required by OTETA and as reported by the laboratory. The public charter school will document laboratory failures to provide statistical summaries and any public charter school follow-up efforts to obtain such reports.
- f. Records will be retained by the public charter school as follows:
- (1) Five Years:
 - (a) Records of employee alcohol-testing results with results indicating an alcohol concentration of 0.02 or greater;
 - (b) Records of verified positive drug testing results;
 - (c) Documentation of refusals to take required drug and/or alcohol tests;
 - (d) Drug testing custody and control forms;
 - (e) Employee evaluation and referrals;
 - (f) A copy of each annual calendar year report summary;
 - (g) Equipment calibration documentation as applicable (See 10. a. (6), (7) and (8)).
 - (2) Two Years:

Records related to the drug and alcohol collection process (except calibration of evidential breath testing devices).

(3) One Year:

Records of negative and cancelled drug-testing results and alcohol test results with a concentration of less than 0.02.

(4) Indefinite Period:

Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors and drivers shall be maintained by the public charter school while the individual performs the functions which require training and for two years after ceasing to perform those functions.

g. Records will be maintained in a secure location with controlled access to ensure confidentiality requirements are met as follows:

- (1) Drug use and alcohol misuse prevention program records will be maintained at the public charter school office. Records relating to individual employee drug and/or alcohol testing, evaluation and treatment will be maintained separately from the employee's personnel file;
- (2) Employees are entitled upon written request to obtain copies;
- (3) The public charter school may disclose information in connection with employee benefit proceedings, Department of Transportation agency action against an employee or National Transportation Safety Board safety investigations;
- (4) The public charter school shall disclose such information to subsequent employers upon written request from the employee (in accordance with 49 C.F.R. § 382.413(a)(1)).

Prohibited Use, Possession, Distribution or Sale of Tobacco Products and Inhalant Delivery Systems**

It is the public charter school's obligation to protect the health, welfare and safety of students. To be consistent with Oregon law and the school's curriculum, student possession, use, distribution or sale of tobacco products or inhalant delivery systems in any form on or off public charter school premises, at public charter school-sponsored activities, on all school grounds, including parking lots, in public charter school-owned, rented or leased vehicles or otherwise, or while a student is under the jurisdiction of the public charter school is prohibited.

The use, distribution or sale of tobacco products or inhalant delivery systems by staff and all others is prohibited on public charter school premises, in any building or facility, on school grounds, including parking lots, in any vehicle owned, rented or chartered by the school and at all school-sponsored activities.

For the purpose of this policy "tobacco products" is defined to include, but not limited to, any lighted or unlighted cigarette, cigar, pipe, bidi, clove cigarette, and any other smoking product, spit tobacco, also known as smokeless, dip, chew or snuff, in any form. This does not include USFDA-approved tobacco products or therapy products used for the purpose of cessation.

For the purpose of this policy, "inhalant delivery system" means a device that can be used to deliver nicotine or cannabinoids in the form of a vapor or aerosol to a person inhaling from the device; or a component of a device or a substance in any form sold for the purpose of being vaporized or aerosolized by a device, whether the component or substance is sold or not sold separately. This does not include USFDA-approved tobacco products or other therapy products marked and sold solely for the approved purpose.

Violation of this policy will lead to appropriate disciplinary action up to and including expulsion for students. When considering disciplinary action for a student with disabilities, the public charter school must follow the requirements of Board policy JGDA/JGEA - Discipline of Students with Disabilities, including those involving functional behavioral assessment, change of placement, manifestation determination and an interim alternative educational setting. Community or school service may be required. A referral to law enforcement may be made. Parents will be notified of all violations involving their student and subsequent action taken by the public charter school. Information about cessation support and/or tobacco education programs and how students can access these programs will be provided. At the discretion of the public charter school superintendent, attendance and completion of such programs or successful completion of a behavior modification plan, may be allowed as a substitute for, or as part of student discipline.

Violation of this policy by nonstudents may result in the individual's removal from public charter school property. The public charter school reserves the right to restrict access to public charter school property by individuals who are repeat offenders.

The public charter school superintendent will develop guidelines as needed to implement this policy.

END OF POLICY

Legal Reference(s):

[ORS 167.400](#)

[ORS 336.222](#)

[ORS 336.227](#)

[ORS 338.115\(w\)](#)

[ORS 339.240](#)

[ORS 339.250](#)

[ORS 339.883](#)

[ORS 431.840](#)

[ORS 433.835 to -433.990](#)

[OAR 581-021-0050 to -0075](#)

[OAR 581-022-0413](#)

[OAR 581-021-0110](#)

[OAR 581-053-0230\(9\)\(s\)](#)

[OAR 581-053-0330\(1\)\(m\)](#)

[OAR 581-053-0430\(12\)](#)

[OAR 581-053-0531\(11\)](#)

[OAR 581-053-0630](#)

Pro-Children Act of 1994, 20 U.S.C. §§ 6081-6084 (2006).

Cross Reference(s):

JFCG/KGC/GBK - Prohibited Use, Possession, Distribution or Sale of Tobacco Products and Inhalant Delivery Systems

KGC/GBK/JFCG - Prohibited Use, Possession, Distribution or Sale of Tobacco Products and Inhalant Delivery Systems

Sexual Harassment

The public charter school board is committed to the elimination of sexual harassment in public charter schools and activities. Sexual harassment is strictly prohibited and shall not be tolerated. This includes sexual harassment of students, staff or third parties by other students, staff, public charter board members or third parties. "Third parties" include, but are not limited to, school volunteers, parents, school visitors, service contractors or others engaged in public charter school business, such as employees of businesses or organizations participating in cooperative work programs with the public charter school and others not directly subject to public charter school's control at interschool athletic competitions or other public charter school events. "Public charter school" includes public charter school facilities; public charter school premises and nonpublic charter school property if the student or employee is at any public charter school-sponsored, public charter school-approved or public charter school-related activity or function, such as field trips or athletic events where students are under the control of the public charter school; or where the employee is engaged in public charter school business. The prohibition also includes off duty conduct which is incompatible with public charter school job responsibilities.

Sexual harassment of students, staff or third parties shall include, but is not limited to, unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal or physical conduct of a sexual nature when:

1. The conduct or communication has the purpose or effect of demanding sexual favors in exchange for benefits;
2. Submission to or rejection of the conduct or communication is used as the basis for educational decisions affecting a student or employment or assignment of staff;
3. The conduct or communication is so severe, persistent or pervasive that it has the purpose or effect of unreasonably interfering with a student's educational performance or with an employee's ability to perform his/her job; or creates an intimidating, offensive or hostile educational or working environment. Relevant factors to be considered will include, but not be limited to, did the individual view the environment as hostile; was it reasonable to view the environment as hostile; the nature of the conduct; how often the conduct occurred and how long it continued; age and sex of the complainant; whether the alleged harasser was in a position of power over the student or staff member subjected to the harassment; number of individuals involved; age of the alleged harasser; where the harassment occurred; and other incidents of sexual harassment at the school involving the same or other students or staff.

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 sexuality in front of others or spreading rumors about or rating other students or others as to appearance, sexual activity or performance.

All complaints about behavior that may violate this policy shall be promptly investigated. Any student, employee or third party who has knowledge of conduct in violation of this policy or feels he/she is a victim of sexual harassment must immediately report his/her concerns to the public charter school superintendent or compliance officer who has overall responsibility for all investigations. A student may also report concerns to a teacher, counselor or school nurse, who will promptly notify the appropriate public charter school superintendent. The student and the student's parents or staff member who initiated the complaint shall be notified of the findings of the investigation and, if appropriate, that remedial action has been taken.

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

It is the intent of the public charter school board that appropriate corrective action will be taken by the public charter school to stop the sexual harassment, prevent its recurrence and address negative consequences. Students in violation of this policy shall be subject to discipline up to and including expulsion and/or counseling or sexual harassment awareness training, as appropriate. The age and maturity of the student(s) involved and other relevant factors will be considered in determining appropriate action. Employees in violation of this policy shall be subject to discipline, up to and including dismissal and/or additional sexual harassment awareness training, as appropriate. Other individuals whose behavior is found to be in violation of this policy shall be subject to appropriate sanctions as determined and imposed by the public charter school superintendent or public charter school board.

Additionally, the public charter school may report individuals in violation of this policy to law enforcement officials. Licensed staff, staff registered with the Teacher Standards and Practices Commission (TSPC) and those participating in practicum programs, as specified by Oregon Administrative Rules, shall be reported to TSPC.

The public charter school superintendent shall ensure appropriate periodic sexual harassment awareness training or information is provided to all supervisors, staff and students and that annually, the name and position of district officials responsible for accepting and managing sexual harassment complaints, business phone numbers, addresses or other necessary contact information is readily available. This policy as well as the complaint procedure will be made available to all students, parents of students and staff in student/parent and staff handbooks. The public charter school's policy shall be posted in the public charter school. Such posting shall be by a sign of at least 8 ½" by 11".

The public charter school superintendent will establish a process of reporting incidents of sexual harassment.

END OF POLICY

Legal Reference(s):

[ORS 243.706](#)

[ORS 338.115](#)

[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 (2006).

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2006).

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2006); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2006).

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

Cross Reference(s):

GBNA - Hazing/Harassment/Intimidation/Cyberbullying/Menacing – Staff

JBA/GBN - Sexual Harassment

JFCF - Harassment/Intimidation/Bullying/Cyberbullying/Teen Dating Violence – Student

Sexual Harassment Complaint Procedure

The public charter school superintendent or the compliance officer have responsibility for investigations concerning sexual harassment. The investigator(s) shall be a neutral party having had no involvement in the complaint presented.

Step I Any sexual harassment information (complaints, rumors, etc.) shall be presented to the public charter school superintendent or compliance officer. All such information shall be reduced to writing and will include the specific nature of the sexual harassment and corresponding dates. If the compliance officer is the subject of the complaint, the complaint will be submitted to the public charter school superintendent. If the superintendent is the subject of the complaint, the complaint will be submitted to the charter school board.

Step II The public charter school official receiving the information or complaint shall promptly initiate an investigation. He/She will arrange such meetings as may be necessary to discuss the issue with all concerned parties within 10 working days after receipt of the information or complaint. All findings of the investigation, including the response of the alleged harasser, shall be reduced to writing. The public charter school official(s) conducting the investigation shall notify the complainant in writing when the investigation is concluded. The parties will have an opportunity to submit evidence and a list of witnesses.

Step III If a complainant is not satisfied with the decision at Step II, he/she may submit a written appeal to the public charter school board. Such appeal must be filed within 10 working days after receipt of the Step II decision. The public charter school board shall, within 30 working days, conduct a hearing at which time the complainant shall be given an opportunity to present the appeal. The public charter school board shall provide a written decision to the complainant within 10 working days following completion of the hearing.

Direct complaints related to employment may be filed with the U.S. Department of Labor, Equal Employment Opportunity Commission or Oregon Bureau of Labor and Industries. Direct complaints related to educational programs and services may be made to the Regional Civil Rights Director, U.S. Department of Education, Office for Civil Rights, Region X, 915 2nd Ave., Room 3310, Seattle, WA 98174-1099. Additional information regarding filing of a complaint may be obtained through the public charter school superintendent or compliance officer.

All documentation related to sexual harassment complaints may become part of the student's education record or employee's personnel file, as appropriate. Additionally, a copy of all sexual harassment complaints and documentation will be maintained as a confidential file and stored in the public charter school office.

The public charter school superintendent shall report the name of any person holding a teaching license or registered with Teacher Standards and Practices Commission (TSPC) or participating in a practicum under

OAR Chapter 584, Division 17, when, after appropriate investigation, there is reasonable cause to believe the person may have committed an act of sexual harassment. Reports shall be made to TSPC within 30 days of such a finding. Reports of sexual contact with a student shall be given to a representative from law enforcement or Oregon Department of Human Services, Community Human Services, as possible child abuse. In the event the public charter school superintendent is the subject of the investigation, reports, when required, shall be made by the public charter school board chair.

SEXUAL HARASSMENT COMPLAINT FORM

Name of complainant: _____

Position of complainant: _____

Date of complaint: _____

Name of alleged harasser: _____

Date and place of incident or incidents: _____

Description of misconduct: _____

Name of witnesses (if any): _____

Evidence of sexual harassment, i.e., letters, photos, etc. (attach evidence if possible): _____

Any other information: _____

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

Signature: _____

Date: _____

WITNESS DISCLOSURE FORM

Name of Witness: _____

Position of Witness: _____

Date of Testimony/Interview: _____

Description of Instance Witnessed: _____

Any Other Information: _____

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

Signature: _____

Date: _____

Hazing/Harassment/Intimidation/Bullying/Cyberbullying/Menacing – Staff

The Board is committed to providing a positive and productive learning and working environment. Hazing, Harassment, intimidation, menacing and acts of cyberbullying of students, staff or third parties by students, staff or third parties is strictly prohibited and shall not be tolerated in the public charter school. Retaliation against any person who reports, is thought to have reported, files a complaint or otherwise participates in an investigation or inquiry is also strictly prohibited.

Staff whose behavior is found to be in violation of this policy will be subject to discipline, up to and including dismissal. Third parties whose behavior is found to be in violation of this policy shall be subject to appropriate sanctions as determined and imposed by the public charter school superintendent or Board. Students found in violation of this policy will be subject to discipline up to and including expulsion.

Individuals may also be referred to law enforcement officials. Licensed staff will be reported to Teacher Standards and Practices Commission, as provided by OAR 584-020-0041.

The public charter school superintendent is directed to develop administrative regulations to implement this policy. Regulations shall include descriptions of prohibited conduct, reporting and investigative procedures, and provisions to ensure notice of this policy is provided to students, staff and third parties.

END OF POLICY

Legal Reference(s):

[ORS 163.190](#)

[ORS 163.197\(2\)](#)

[ORS 166.065](#)

[ORS 166.155 to -166.165](#)

[ORS 338.115](#)

[ORS 659A.030](#)

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2006).

Cross Reference(s):

GBN/JBA - Sexual Harassment

JFCM - Threats of Violence

**Hazing/Harassment/Intimidation/Bullying/Menacing/Cyberbullying
Complaint Procedures – Staff**

The following definitions and procedures shall be used for reporting, investigating and resolving complaints of hazing, harassment, intimidation, acts of cyberbullying and menacing.

Definitions

1. “Third parties” include, but are not limited to, coaches, school volunteers, parents, school visitors, service contractors or others engaged in public charter school business, such as employees of businesses or organizations participating in cooperative work programs with the public charter school and others not directly subject to public charter school control at inter school and intraschool athletic competitions or other public charter school events.
2. “Public charter school” includes public charter school facilities, public charter school premises and nonschool property if the employee is at any public charter school-sponsored, public charter school-approved or public charter school-related activity or function, such as field trips, athletic events or where the employee is engaged in Public charter school business.
3. “Hazing” includes, but is not limited to, any act that recklessly or intentionally endangers the mental health, physical health or safety of a staff member for the purpose of initiation or as a condition or precondition of attaining membership in, or affiliation with, any public charter school-sponsored work activity, work group or work assignment, (i.e., personal servitude, sexual stimulation/sexual assault, forced consumption of any drink, alcoholic beverage, drug or controlled substance, forced exposure to the elements, forced prolonged exclusion from social contact, sleep deprivation or any other forced activity that could adversely affect the mental or physical health or safety of a student/staff); requires, encourages, authorizes or permits another to be subject to wearing or carrying any obscene or physically burdensome article; assignment of pranks to be performed or other such activities intended to degrade or humiliate regardless of the person’s willingness to participate.
4. “Harassment” includes, but is not limited to, any act which subjects an individual or group to unwanted, abusive behavior of a nonverbal, verbal, written or physical nature on the basis of age, race, religion, color, national origin, disability, marital status, sex or sexual orientation.
5. “Intimidation” includes, but is not limited to, any threat or act intended to tamper, substantially damage or interfere with another’s property, cause substantial inconvenience, subject another to offensive physical contact or inflict serious physical injury on the basis of race, color, religion, national origin, or sexual orientation.

6. “Cyberbullying” means the use of any electronic communication device to convey a message in any form (e.g., text, image, audio or video) that intimidates, harasses or otherwise harms, insults or humiliates another in a deliberate, repeated or hostile and unwanted manner under a person’s true or false identity.
7. “Menacing” includes, but is not limited to, any act intended to place a public charter school employee, student or third party in fear of imminent serious physical injury.

Retaliation/False Charges

Retaliation against any person who reports, is thought to have reported, files a complaint or otherwise participates in an investigation or inquiry is prohibited. Such retaliation shall be considered a serious violation of Board policy and independent of whether a complaint is substantiated. False charges shall also be regarded as a serious offense and will result in disciplinary action or other appropriate sanctions.

Complaint Procedures

The superintendent has responsibility for investigations concerning hazing, harassment, intimidation, acts of cyberbullying or menacing. The investigator(s) shall be a neutral party having had no involvement in the complaint presented.

Any employee who has knowledge of conduct in violation of Board policy JFCF – Harassment/Intimidation/Bullying/Cyberbullying – Student shall immediately report his/her concerns to the designated public charter school official.

Any employee or third party who has knowledge of conduct in violation of Board policy or feels he/she has been hazed, harassed, intimidated, bullied, cyberbullied or menaced in violation of Board policy or this administrative regulation shall immediately report his/her concerns to the designated public charter school official.

Complaints will be promptly investigated in accordance with the following procedures:

- Step 1 Any hazing, harassment, intimidation, acts of cyberbullying or menacing information (complaints, rumors, etc.) shall be presented to the superintendent. Information may be presented anonymously. Complaints against the public charter school superintendent shall be filed with the Board chair. All such information will be reduced to writing and will include the specific nature of the offense and corresponding dates.
- Step 2 The public charter school official receiving the complaint shall promptly investigate. Parents will be notified of the nature of any complaint involving their student. The public charter school official will arrange such meetings as may be necessary with all concerned parties within five working days after receipt of the information or complaint. The parties will have an opportunity to submit evidence and a list of witnesses. All findings related to the complaint will be reduced to writing. The public charter school official(s) conducting the investigation shall notify the complainant and parents as appropriate, in writing, when the investigation is concluded and a decision regarding disciplinary action, as warranted, is determined.
- Step 3 If the complainant is not satisfied with the decision at Step 2, a written appeal may be filed with the Board. Such appeal must be filed within 10 working days after receipt of the Step 2

decision. The Board shall, within 20 working days, conduct a hearing at which time the complainant shall be given an opportunity to present the complaint. The Board shall provide a written decision to the complainant within 10 working days following completion of the hearing.

Direct complaints related to employment may be filed with the Oregon Bureau of Labor and Industries, Civil Rights Division, or the U.S. Department of Labor, Equal Employment Opportunities Commission.

Documentation related to the incident may be maintained as a part of the employee's personnel file. Additionally, a copy of all hazing, harassment, intimidation, acts of cyberbullying or menacing complaints and documentation will be maintained as a confidential file in the public charter school office.

Personal Electronic Devices and Social Media - Staff **

Staff possession or use of personal electronic devices on public charter school property, in public charter school facilities during the work day and while the staff is on duty in attendance at public charter school-sponsored activities, may be permitted subject to the limitations set forth in this policy and consistent with any additional school rules as may be established by the administrator. At no time, whether on duty or off duty, will a personal electronic device be used in a manner that interferes with staff duty and responsibility for the supervision of students.

A “personal electronic device” is a device, not issued by the public charter school and is capable of electronically communicating, sending, receiving, storing, recording, reproducing and/or displaying information and data.

Personal electronic devices shall be silenced during instructional or class time, while on duty or at any other time where such use of the device would cause a disruption of school activities or interfere with work assignment. Devices which have the capability to take photographs or record video or audio shall not be used for such purposes while on public charter school property or while a staff member is on duty in public charter school-sponsored activities, unless as expressly authorized by the administrator or designee for a use directly related to and consistent with the employee’s assigned duties. Computers, tablets, iPads or similar devices brought to school will be restricted to academic activities during on duty time.

The public charter school will not be liable for loss or damage to personal communication devices brought to public charter school property and public charter school-sponsored activities.

Staff members, while on duty and off duty, will utilize social media websites, public websites and blogs, judiciously by not posting confidential information about students, staff or public charter school business. Staff may not post images of school facilities, staff, students, volunteers or parents without written authorization from persons with authority to grant such a release. Staff members, while on duty and off duty, will treat fellow employees, students and the public with respect while posting on social media websites, etc., in order to prevent substantial disruption in school. Communication with students using personal electronic devices will be appropriate and professional. Communication with students using personal electronic devices regarding nonschool-related matters is prohibited during work hours and strongly discouraged at all other times. If communicating with students electronically regarding school-related matters, staff should use public charter school e-mail using mailing lists to a group of students rather than individual students. Texting students during work hours is discouraged. Texting students while off duty is strongly discouraged.

Exceptions to the prohibitions set forth in this policy may be made for health, safety or emergency reasons with administrator or designee approval.

Staff is subject to disciplinary action up to and including dismissal for using a personal electronic device in any manner that is illegal or violates the terms of this policy. Staff actions on social media websites,

public websites and blogs, while on or off duty, which disrupt the school environment, are subject to disciplinary action up to and including dismissal. A “disruption” for purposes of this policy includes but is not limited to, one or more parent threatens to remove their children from a particular class or particular school, actual withdrawal of a student or students from a particular class or particular school, and/or a threatened or actual negative impact on the learning environment. The taking, disseminating, transferring or sharing of obscene, pornographic or otherwise illegal images or photographs, whether by electronic data transfer or otherwise (commonly called texting, sexting, emailing etc.) may constitute a crime under state and/or federal law. Any person taking, disseminating, transferring or sharing obscene, pornographic or otherwise illegal images or photographs, will be reported to law enforcement and/or other appropriate state or federal agencies.

Licensed staff are subject at all times to the Standards of Competent and Ethical Performance for Teachers.

The superintendent shall ensure that this policy is available to all employees.

END OF POLICY

Legal Reference(s):

[ORS 167.057](#)
[ORS 163.432](#)
[ORS 163.433](#)
[ORS 163.684](#)
[ORS 163.686](#)
[ORS 163.687](#)

[ORS 163.688](#)
[ORS 163.689](#)
[ORS 163.693](#)
[ORS 163.700](#)
[ORS 326.011](#)
[ORS 326.051](#)

[ORS 336.840](#)
[ORS 338.115\(2\)](#)

[OAR 584-020-0000 to -0035](#)

Copyrights, Title 17, as amended, United States Code; 19 CFR Part 133 (2001).

Melzer v. Bd. Of Educ., City of New York, 336 F.3d 185 (2d Cir. 2003).

Ross v. Springfield Sch. Dist., No. FDA 80-1, aff’d, 56 Or. App. 197, rev’d and remanded, 294 Or. 357 (1982), order on remand (1983), aff’d, 71 Or. App. 111 (1984), rev’d and remanded, 300 Or. 507 (1986), order on second remand (1987), revised order on second remand (1988).

Cross Reference(s):

JHFF - Reporting Requirements Regarding Sexual Conduct with Students

Family Medical Leave

Federal law covers public agencies, including public charter schools. In order for public charter school employees to be eligible, however, they must be employed at a work site with 50 or more employees within 75 miles of the employee's work site for each working day during each of the 20 or more calendar workweeks in the year in which the leave is taken or in the preceding calendar year. State law covers public charter schools that employ 25 or more part-time or full-time employees for each working day during 20 or more calendar workweeks in the calendar year in which the leave is to be taken, or in the calendar year immediately preceding the year in which the leave is to be taken.

The public charter school will comply with all provisions of the Family and Medical Leave Act (FMLA) of 1993, the Oregon Family Leave Act (OFLA) of 1995, other applicable provisions of public charter school board policies regarding family medical leave.

In order for an employee to be eligible for the benefits under federal law, he/she must have been employed by the public charter school for the previous 12 months and have worked at least 1250 hours during the past 12-month period.

In order to be eligible under state law, an employee must work an average of 25 hours per week and have been employed at least 180 days prior to the first day of the family medical leave of absence. For parental leave purposes, however, an employee becomes eligible upon completing at least 180 days immediately preceding the date on which the parental leave begins. There is no minimum average number of hours worked per week when determining employee eligibility for parental leave.

Federal and state leave entitlements generally run concurrently.

The public charter school superintendent will develop administrative regulations as necessary for the implementation of the provisions of both federal and state law.

END OF POLICY

Legal Reference(s):

[ORS 332.507](#)
[ORS 338.115](#)
[ORS 342.545](#)
[ORS 659A.150 - 659A.186](#)

[OAR 839-009-0200 to -0320](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2006); 28 C.F.R. Part 35 (2006).
Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601-2654 (2006); Family and Medical Leave Act of 1993, 29 C.F.R. Part 825 (2008).
National Defense Authorization Act of 2008, Public Law 110-181, § 585(a).
National Defense Authorization Act for Fiscal Year 2010, Public Law 111-84, § 565.

Oregon Family Medical Leave (OFLA)

Coverage

State law covers public charter schools that employ 25 or more part-time or full-time employees for each working day during 20 or more calendar workweeks in the calendar year in which the leave is to be taken or in the calendar year immediately preceding the year in which the leave is to be taken.

Eligibility

An eligible employee is an employee employed in the state of Oregon on the date OFLA leave begins. State law generally applies to employees who work an average of 25 hours or more per week for the district during the 180 days or more immediately prior to the first day of the start of the requested leave. Oregon Military Family Leave Act (OMFLA) applies to employees who work an average of at least 20 hours per week. For parental leave purposes, an employee becomes eligible upon completing at least 180 days immediately preceding the date on which the parental leave begins. There is no minimum average number of hours worked per week when determining employee eligibility for parental leave.

In determining that an employee has been employed for the preceding 180 calendar days, the employer must count the number of days an employee is maintained on the payroll, including all time paid or unpaid. If an employee continues to be employed by a successor in interest to the original employer, the number of days worked are counted as continuous employment by a single employer.

In determining 25 hours average workweek, the employer must count the actual hours worked using guidelines set out pursuant to the Fair Labor Standards Act.

Definitions

“Child,” for the purpose of taking parental leave, means a biological, adopted, foster child or stepchild of the employee, the child of an employee’s same-gender domestic partner or a child with whom the employee is or was in a relationship of “in loco parentis.” A legal or biological relationship is not required. The child must be under 18 years of age, or may be 18 years of age or older if incapable of self-care due to mental or physical disability.

“Family member,” for purposes of serious health condition leave, sick child leave or leave for the death of a family member, means the spouse¹, same-gender domestic partner, custodial parent, noncustodial parent, adoptive parent, foster parent, stepparent², biological parent, parent-in-law, parents of the employee’s same-gender domestic partner, grandparent or grandchild of the employee, or a person with whom the employee is or was in a relationship of “in loco parentis.” It also includes the biological, adopted, foster child or stepchild of an employee or the child of an employee’s same-gender domestic partner. For purposes of OFLA, “child” in any of these categories may be either a minor or an adult child at the time serious health condition leave, sick child leave or death of a family member leave is taken.

¹“Spouse” means individuals in a marriage or recognized under state law in the state in which the marriage was entered into, including “common law” marriage, same-sex marriage, domestic partnership or civil union.

²Includes the stepparent who is a same-gender spouse of the employee’s parent.

A “serious health condition” means an illness, injury, impairment or physical or mental condition of an employee or family member that:

1. Requires inpatient care in a hospital, hospice or residential medical care facility such as a nursing home. When a family member resides in a long-term residential care facility, leave shall apply only to:
 - a. Transition periods spent moving the family member from one home or facility to another, including time to make arrangements for such transitions;
 - b. Transportation or other assistance required for a family member to obtain care from a physician;
 - c. Serious health conditions as described in this regulation.
2. The treating health care provider judges to pose an imminent danger of death or that is terminal in prognosis with a reasonable possibility of death in the near future;
3. Requires constant or continuing care such as home care administered by a health care professional;
4. Involves a period of incapacity. “Incapacity” is the inability to perform at least one essential job function, to attend school or to perform regular daily activities for more than three consecutive calendar days and any subsequent required treatment or recovery period relating to the same condition. This incapacity must involve:
 - a. Two or more treatments by a health care provider; or
 - b. One treatment plus a regimen of continuing care.
5. Any period of incapacity or treatment for a chronic serious health condition that requires periodic visits for treatment by a health care provider, continues over an extended period of time and may cause episodic rather than a continuing period of incapacity such as asthma, diabetes or epilepsy;
6. Involves permanent or long-term incapacity due to a condition for which treatment may not be effective, such as Alzheimer’s disease, a severe stroke or terminal stages of a disease;
7. Involves multiple treatments for restorative surgery or for a condition such as chemotherapy for cancer, physical therapy for arthritis or dialysis for kidney disease that if not treated would likely result in incapacity of more than three days; or
8. Involves any period of disability of a female due to pregnancy or childbirth or period of absence for prenatal care.

Purpose of Leave

State law allows eligible employees to take OFLA leave for the following purposes commonly referred to as parental leave, serious health condition leave, pregnancy disability leave, OFMLA leave, leave for the death of a family member and sick child leave:

9. Birth of the employee's child and for bonding with a newborn (eligibility expires 12 months after the birth);
10. Placement of a child with the employee for adoption or foster care or for bonding with a newly placed child, when the child is under 18 years of age (eligibility expires 12 months after placement), or when a child is older than 18 years of age, if incapable of self-care because of mental or physical disability;
11. Care of a family member with a serious health condition;
12. Employee's own serious health condition;
13. Care of a sick or injured child who requires home care but is not suffering from a serious health condition. An employer is not required to grant leave for routine medical or dental appointments;
14. Oregon Military Family Leave allows leave for a spouse of a military personnel per each deployment of the spouse when the spouse has either been notified of an impending call to active duty, has been ordered to active duty or has been deployed or on leave from deployment;
15. State law allows employees to take leave for the death of a family member³ to attend the funeral or alternative to funeral of the family member, make arrangements necessitated by the death of a family member or grieve the death of a family member.

Length of Leave

An employee eligible for OFLA leave under state law is entitled to a total of 12 workweeks of leave during any 12-month period for the purposes specified above. The 14 days of leave provided by the OMFLA and the two weeks of leave provided for the death of a family member are part of the 12 weeks. Two or more family members who are eligible and who both work for the public charter school may not take OFLA leave at the same time unless:

16. One employee needs to care for another employee who is a family member and who is suffering from a serious health condition;
17. One employee needs to care for a child suffering from a serious health condition while another employee who is a family member, is also suffering from a serious health condition;
18. Both family members are suffering from a serious health condition;
19. The employees are taking leave for the death of a family member; or
20. The concurrent leave in such an instance is permitted by the district.

³Must be completed within 60 days of the date on which the employee receives notice of the death of the family member.

There will be occasions where two employees employed by the same public charter school will not have to share the 12-week allotment of leave.

In addition to the 12 workweeks of family leave authorized above, under state law a female eligible employee may take an additional 12 workweeks of leave within any one-year period for an illness, injury or condition related to pregnancy or childbirth that disables the employee from performing her work duties. An employee who takes 12 workweeks of OFLA leave for parental leave may also take up to an additional 12 workweeks of sick child leave within the same leave year. If the employee uses less than 12 weeks of parental leave, however, no additional sick child leave is available, except for the balance of the initial 12 weeks. The employee may also use this balance for any OFLA leave purpose.

A female employee may take up to 36 weeks of OFLA leave in one leave year, but only under the following circumstances:

21. The female employee takes 12 weeks of pregnancy disability leave; followed by
22. Twelve weeks of parental leave; followed by
23. Twelve weeks of sick child leave.

A male employee may take up to 24 weeks of OFLA leave in one year, but only under the following circumstances:

24. The male employee takes 12 weeks of parental leave; followed by
25. Twelve weeks of sick child leave.

Parental leave must be taken in one uninterrupted period – unless the employer approves otherwise – and must be completed within 12 months of the birth, adoption or placement of the child. An exception must be made to allow parental leave to effectuate adoption or foster placement of the child. Such leave need not be taken in one, uninterrupted period with any additional parental leave.

The birth, adoption or foster placement of multiple children at one time entitles the employee to take only one 12-week period of parental leave.

Sick child leave need not be provided if another family member, including a noncustodial biological parent, is willing and able to care for the child.

For the purpose of intermittent leave, OFLA leave entitlement is calculated for an employee by multiplying the number of hours the employee normally works per week by 12. (For example, an employee normally employed to work 30 hours per week is entitled to 12 times 30 hours, or a total of 360 hours OFLA leave.) If an employee's schedule varies from week to week, a weekly average of the hours worked over the 12 weeks worked prior to the beginning of the leave period shall be used for calculating the employee's normal workweek. (For example, an employee working an average of 25 hours per week is entitled to 12 times 25 hours, or a total of 300 hours OFLA leave.) If an employee takes intermittent or reduced work schedule OFLA leave, only the actual number of hours of leave taken may be counted toward the 12 weeks of OFLA leave to which the employee is entitled.

An eligible employee, who has previously qualified for and taken some portion of OFLA leave, may request additional OFLA leave within the same leave year. The employee must be employed for 180 days immediately before the date the additional OFLA leave begins and:

26. The employee must have worked an average of 25 hours per week in the 180 days preceding the additional period of OFLA leave; except that
27. An employee taking parental leave, or sick child leave that is available as a result of the employee taking a full 12 weeks of parental leave, need only be employed for the 180 days immediately before the date any additional OFLA leave begins; and
28. The provisions of this section do not apply to intermittent or reduced work schedule leave taken for a serious health condition for an employee or family member.

For situations where OFLA leave is not covered by FMLA leave (the employer has 25 to 49 employees; or the leave taken is for a sick child or for serious health condition of a parent-in-law, parent of the employee's same-gender domestic partner, grandparent or grandchild) the employer:

29. May allow an exempt employee with accrued paid leave to take OFLA leave in one-hour blocks or less than a full day. For these purposes, an exempt employee is a salaried executive, administrative or professional employee under the federal Fair Labor Standards Act or the state minimum wage and overtime laws;
30. May not reduce the salary of an employee who does not have or has run out of accrued paid leave and takes intermittent leave in blocks of less than a full day. To do so would result in the loss of exemption under state law.

The requirements of OFLA do not apply to any employer offering eligible employees a nondiscriminatory cafeteria plan, as defined by section 125 of the Internal Revenue Code of 1986, which provides as one of its options employee leave at least as generous as the leave required by OFLA.

Intermittent Leave and Alternate Duty

An employer may transfer an employee on intermittent OFLA leave or a reduced work schedule into an alternate position with the same or different duties to accommodate the leave, provided the following exist:

31. The employee accepts the transfer position voluntarily and without coercion;
32. The transfer is temporary, lasts no longer than necessary to accommodate the leave and has equivalent pay and benefits;
33. The transfer is compliant with applicable collective bargaining agreements, as well as with state and federal law, providing all the employee protections found in FMLA regulations 29 C.F.R. Part 825;
34. Transfer to an alternate position is used only when there is no other reasonable option available that would allow the employee to use intermittent leave or reduced work schedule; and
35. The transfer is not used to discourage the employee from taking intermittent or reduced work schedule leave, or to create a hardship for the employee.

An employee transferred, as provided in 1.-5. above, to an alternate position for the purpose of a reduced work schedule, must be returned to the employee's former position.

OFLA leave time for an employee on intermittent leave or a reduced work schedule is the difference between the number of hours the employee normally works and the number of hours the employee actually works during the intermittent leave or reduced work schedule. Holidays or days in which the employer's

business is not in operation are not counted toward intermittent or reduced work schedule OFLA leave, unless the employee was scheduled or expected to work on the holiday.

An employer may transfer an employee recovering from a serious health condition to an alternate position that accommodates the serious health condition provided:

36. The employee accepts the position voluntarily and without coercion;
37. The transfer is temporary, lasts no longer than necessary and has equivalent pay and benefits;
38. The transfer is compliant with applicable collective bargaining agreements, as well as with state and federal law, providing all the employee protections found in FMLA regulations 29 C.F.R. Part 825; and
39. The transfer is not used to discourage the employee from taking OFLA leave for a serious health condition, or to create a hardship for the employee.

An employee is not on OFLA leave if the employee has been transferred, as provided in section 1.-3. above, to an alternate position for the purpose of alternate work duties that the employee is able to perform within the limitations of the employee's own serious health condition, but not requiring a reduced workweek. An employee working in an alternate position retains the right to return to the employee's original position unless all OFLA leave taken in that leave year plus the period of time worked in the alternate position exceed 12 weeks.

An alternate position accommodating an employee's serious health condition may result in the employee working fewer hours than the employee worked in the original position. The employee's OFLA leave is the difference between the number of hours the employee worked in the original position and the number of hours the employee actually works in the alternate position.

Intermittent leave for teachers is subject to special rules.

Special Rules for Teachers

Special rules apply if leave is requested to be taken near the end of a semester.

40. If a teacher requests, in advance, OFLA leave for a serious health condition and the teacher will be absent more than 20 percent of the time the employer may require the teacher to elect one of the following options:
 - a. To take OFLA leave for one uninterrupted period of time as necessary to complete medical treatment. (School holidays and school vacation days are not counted as family leave.);
 - b. To transfer temporarily into an available alternative position which better accommodates periodic absences.
41. If a teacher begins OFLA leave more than five weeks before the end of the academic term because of the teacher's own serious health condition, the employer may require the teacher to remain on leave until the end of the term if:
 - a. The OFLA leave is at least three weeks long; and
 - b. The teacher's return to work would occur within three weeks of the end of the term.

42. If a teacher begins OFLA leave within five weeks of the end of the academic term for parental leave or the serious health condition of a family member, the employer may require the teacher to remain on OFLA leave through the end of the term if:
 - a. The leave is at least two weeks long; and
 - b. The teacher's return would occur within the last two weeks of the term.
43. If a teacher begins OFLA leave within three weeks of the end of the academic term for parental leave or to care for a family member with a serious health condition and the leave is greater than five working days, the employer may require the teacher to remain on family leave until the end of the term.
44. If a teacher takes OFLA leave to the end of the school year and continues the leave at the beginning of the next school term, the leave is consecutive rather than intermittent leave.
 - a. The period between the end of the school term and the beginning of the next school term, when a teacher would not have been required to report for duty, is not counted against the teacher's OFLA leave entitlement.
 - b. A teacher on OFLA leave at the end of the school term must be provided with the same benefits during the period between school terms that the teacher would normally receive if no OFLA leave were taken.
45. If a teacher is required by the employer to remain on leave to the end of the academic term, only the period of leave the teacher requested shall be charged against the teacher's OFLA leave entitlement.
46. Nothing in OFLA rules prohibits the employer from allowing the teacher to work as a substitute or in some other paid capacity during the weeks prior to the end of term under 3. or 4. above.
47. Full-time employees covered by OFLA rules, and who have been maintained on the payroll by a district during 180 consecutive calendar days, are thereafter deemed to have been employed by that district for an average of at least 25 hours per week during the 180 days immediately preceding the date any OFLA leave begins.

Calculating the 12-Month Period for Leave

The public charter school will use the same method for calculating the 12-month period in which the 12 workweek OFLA leave entitlement occurs for all employees. The district will use a "rolling" 12-month period measured backward from the date the employee uses any family and medical leave.

Paid/Unpaid Leave

Family leave under state law is generally unpaid. The public charter school requires the employee to use any accrued sick leave, vacation or personal leave days (or other paid time established by Board policy(ies)) in the order specified by the district and before taking OFLA leave without pay for the leave period. The public charter school will notify the employee that the requested leave has been designated as OFLA leave and, if required by the public charter school, that accrued paid leave shall be used during the OFLA leave period. In the event the public charter school is aware of an OFLA qualifying exigency, the public charter school shall notify the employee of the intent to designate the leave as such regardless of whether a request has been made by the employee. Such notification will be given to the employee prior to the commencement of the leave or within two working days of the employee's notice of an unanticipated or emergency leave.

When the public charter school does not have sufficient information to make a determination of whether the leave qualifies as OFLA leave, the district will provide the required notice promptly when the information is available but no later than two working days after the public charter school has received the information. Oral notices will be confirmed in writing no later than the following payday. If the payday is less than one week after the oral notice is given, written notice will be provided no later than the subsequent payday.

Continuation of Health Insurance Benefits

Under state law, benefits are not required to continue or accrue unless required by Board policy(ies) and/or provisions of collective bargaining agreements related to paid and unpaid leaves.

An employer electing to continue health or other insurance coverage for an employee on OFLA leave may require that the employee pay only the same share of health or other insurance premium during the leave that the employee paid prior to the leave. If an employee cannot or will not pay such costs, the employer may elect to discontinue benefit coverage, unless to do so would render the employer unable to restore the employee to full benefit coverage as required by law. If an employer pays any portion of any employee's benefit coverage for employees on non-OFLA leave, the employer must pay that portion during OFLA leave.

If an employee gives unequivocal notice of intent not to return to work from OFLA leave, the employee is entitled to complete the approved OFLA leave, providing that the original need for OFLA leave still exists. The employer's obligations under OFLA – to restore benefits (subject to COBRA requirements) and to restore the employee to his/her position at the end of the leave – cease and the employer is not required to hold a position vacant or available for the employee giving unequivocal notice of intent not to return.

In the event the public charter school is required to pay or elects to pay any part of the costs of providing health, disability, life or other insurance coverage for an employee during the period of OFLA leave that should have been paid by the employee, the public charter school may deduct, on the employee's return to work, such amounts from the employee's pay as have been advanced.

In no event may the total deducted exceed 10 percent of the employee's gross pay each pay period.

Return to Work

After leave, granted under state law, an employee is generally entitled to be returned to the same position the employee held when leave commenced or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment unless otherwise excepted by law.

If the leave was required for the employee's own serious health condition, the public charter school may require the employee to obtain and present certification from the health care provider that the employee is able to resume work. The employer is responsible for any co-pay or other out-of-pocket costs incurred by the employee in providing certification.

Special rules for teachers will apply if OFLA leave is requested to be taken near the end of a semester.

Application

Under state law, an employee requesting OFLA leave shall provide at least 30 days notice prior to the leave date if the leave is foreseeable. The notice shall be written and include the anticipated start, duration and reasons for the requested leave. The employee must make a reasonable effort to schedule treatment, including intermittent leave and reduced leave, so as not to unduly disrupt the operation of the public charter school.

When an employee is able to give advance notice and requests leave, an employer may request additional information to determine that the leave qualifies for designation as OFLA leave. The employer may designate the employee as provisionally on OFLA leave until sufficient information is received to make a determination. An employee able to give advance notice of the need to take OFLA leave must follow the employer's known, reasonable and customary procedures for requesting any kind of leave.

An employee eligible for OFLA leave is required, under state law, to provide oral or written notice within 24 hours of commencement of the leave in unanticipated or emergency leave situations. The employee may designate a family member or friend to notify the public charter school during that period of time.

In either case, proper documentation must be submitted no later than three working days following the employee's return to work.

Failure of an employee to provide the required notice for OFLA leave under state law may result in the public charter school deducting up to three weeks from the employee's unused OFLA leave in that one-year leave period.

The employee may be subject to disciplinary action for not following the public charter school's notice procedure.

Medical Certification

When an employee gives 30 days notice for OFLA leave, other than for parental leave, the employer shall require the employee to provide medical documentation when appropriate to support the request for the OFLA leave need before the leave starts. The public charter school will provide written notification to employees of this requirement within three working days of employee's request for leave. If the employee's need for OFLA leave precludes giving 30 days notice, the employee is required to submit such medical certification no later than 15 calendar days after receipt of the public charter school's notification that medical certification is required.

Under state law, if an employee requests OFLA leave because of a serious health condition, the public charter school may require a second opinion and designate the health care provider. The provider may not be employed by the public charter school. Should the two opinions conflict, the public charter school may require a third opinion and that the two providers designate the third health care provider. The third opinion will be final. Second and third opinions and the actual travel expenses for the employee to obtain such opinions will be paid for by the public charter school.

An employer may not delay the taking of an OFLA leave in the event that medical certification is not received prior to the commencement of a leave taken subject to the timelines set forth in this regulation. The employer may designate the leave as provisionally approved subject to medical certification. The employer shall provide the employee with written notice of any requirement to provide medical certification of the need for leave and the consequences for failure to do so. The employee must be allowed a minimum of 15 days to provide medical certification.

If the employee elects or the public charter school requires substitution of accrued sick leave, vacation or other paid leave for unpaid leave pursuant to other Board policy, the public charter school will follow the medical documentation requirements of the applicable leave policy or contract provision whenever such requirements are more beneficial to the employee.

If the leave is for the purpose of an employee's own serious health condition, he/she must also provide a fitness-for-duty medical release from the health care provider before returning to work.

If an employee has taken sick child leave on all or any part of three separate days during a leave year, the employer may require medical certification on the fourth day or subsequent occurrence of sick child leave within that leave year. The employer must pay the cost of the medical certification not covered by insurance or other benefit plan. The opinion of the health care provider shall be binding. The employer may not require the employee to obtain a second opinion. The employer is not required to request medical certification for sick child leave exceeding three days and may make such requests at the employer's discretion.

Notification

Any notice required by state laws explaining employee rights and responsibilities will be posted in all staff rooms and the public charter school office. Additional information may be obtained by contacting the superintendent.

Record Keeping/Posted Notice

The public charter school will maintain all records as required by state laws including dates leave is taken by employees, identified separately from other leave; hours/days of leave; copies of general and specific notices to employees, including Board policy(ies) and regulations; premium payments of employee health benefits while on leave and records of any disputes with employees regarding granting of leave.

Medical documentation will be maintained separately from personnel files as confidential medical records.

The public charter school will post notice of Oregon Family Leave Act requirements.

Request for Family, Military and Medical Leave
Employee Request for Oregon Family Leave Act (OFLA)

PLEASE PRINT

Where the need for the leave may be anticipated, written request for OFLA leave must be made, if practical, at least 30 days prior to the date the requested leave is to begin. Failure to provide timely notice could result in the public charter school reducing the available OFLA leave by up to three weeks.

Name _____ Effective Date of the Leave _____

Department _____ Title _____

Status: Full-time Part-time Temporary Hire Date _____ Length of Service _____

I request OFLA leave for one or more of the following reasons:¹

- 1. Because of the birth of my child and in order to care for him or her.
 Expected date of birth _____ Actual date of birth _____
 Leave to start _____ Expected return date _____
- 2. Because of the placement of a child with me for adoption or foster care.
 Age of child _____ Date of placement _____
 Leave to start _____ Expected return date _____
- 3. In order to care for a family member² with a serious health condition.
 Leave to start _____ Expected return date _____

Please check one: spouse parent (biological parent of an employee or an individual who stood “in loco parentis” to an employee when the employee was a child) child (including the biological, grandchild, adopted or foster child, child of same-gender domestic partner or stepchild of an employee or a child with whom the employee is or was in a relationship of “in loco parentis” parent-in-law parent of employee’s same-gender domestic partner custodial parent noncustodial parent adoptive parent stepparent foster parent grandparent grandchild

¹A physician’s certification may be required to support a request for OFLA leave. In addition, a fitness-for-duty certification may be required before reinstatement following the leave.

²“Family member” means the spouse, same-gender domestic partner, custodial parent, noncustodial parent, adoptive parent, foster parent, biological parent, stepparent, parent-in-law, parents of the employee’s same-gender domestic partner, grandparent or grandchild of the employee or a person with whom the employee is or was in a relationship of “in loco parentis.” It also includes the biological, adopted, foster or stepchild of an employee or the child of an employee’s same-gender domestic partner, or a child with whom the employee is or was in a relationship of “in loco parentis.” For purposes of OFLA, leave for a serious health condition, sick child leave or leave for the death of a family member, “child” includes both minor and adult children.

Please state name and address of relation:

Name _____ Address _____

Describe serious health condition _____

- 4. For a serious health condition which prevents me from performing my job functions.

Describe _____

Leave to start _____ Expected return date _____

Regarding 3. or 4. above, request intermittent (reduced workday hours) or reduced leave (fewer workdays each workweek) schedule or alternate duty (if applicable, subject to employer’s approval). Please describe schedule of when you anticipate you will be unavailable to work: _____

- 5. In order to care for a child with a condition requiring home care which does not meet the definition of serious health condition and is not life threatening or terminal. Yes No

Have you taken OFLA leave in the past 12 months? Yes No

If yes, how many workdays? _____

- 6. Leave for the spouse of a military personnel when they have been notified of an impending call to active duty, ordered to active duty, or has been deployed or on leave from deployment.

- 7. For the death of a family member.

I understand that the public charter school requires me to use any accrued sick leave, vacation, personal leave days or other paid time established by Board policy(ies) in the order specified by the public charter school, and before taking leave without pay, for the OFLA leave period.

If my request for a leave is approved, it is my understanding that without an authorized extension when the need for an extension could be anticipated, I must report to duty on the first workday following the date my leave is scheduled to end. I understand that failure to do so will constitute unequivocal notice of my intent not to return to work and the public charter school may terminate my employment.

I authorize the public charter school to deduct from my paychecks any employee contributions for health insurance premiums, life insurance or long-term disability insurance which remain unpaid after my leave, consistent with state law.

I have been provided a copy of the public charter school’s family and medical leave policy with this OFLA leave request form.

Signature of Employee: _____	Date: _____
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Sample Letter to Employee - OFLA Leave

The following is a sample cover letter to an employee notifying the employee that the employer is treating a request for leave as a request for OFLA leave (either paid or unpaid) that will reduce the employee's OFLA leave entitlement. This letter should be mailed to the employee within two working days after the employee's request for the leave along with the OFLA notice form.

Dear Employee:

On ____ (date) ____ you advised the public charter school that you were requesting a leave under the Oregon Family Leave Act (OFLA). Under our policy, leaves of absence that qualify for family and medical leave under state law run concurrently with other types of leave such as sick leave, vacation leave, and short-term disability leave. OFLA cannot run concurrently with workers' compensatory leave.

We understand the purpose of your requested leave qualifies as family medical leave under state law. Accordingly, this letter is to notify you that the leave will be counted against your annual OFLA leave entitlement. Also attached is a form entitled OFLA Notice to Employee which contains other information for you regarding state family medical leave rights.

Sincerely,

Superintendent

Enclosure (OFLA Notice to Employee form)