



PORTLAND PUBLIC SCHOOLS

OFFICE OF GENERAL COUNSEL

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Date: Sept 3, 2019
To: School Board
From: Sharron Reese, Chief Human Resources Officer
Subject: Professional Conduct between Staff and Students Policy

UPDATE TO THE JULY 12, 2019 STAFF ANALYSIS AND REPORT TO THE BOARD

Since the Policy was brought before the Board on July 16, 2019, the policy has come under substantial revision as a result of input from PAT and the Policy and Governance Committee. The Committee met on August 5 to consider the edits requested by PAT and then made additional revisions to the text. It also asked that the policy be reformatted for clarity, scheduling it for final review by the Committee at its meeting on August 29. In the interim, staff reached out to PAT for additional input and then sent it to Joy Ellis for review. At the August 29 meeting, the Committee approved the final revisions and unanimously agreed to move it forward for full Board review.

ATTACHMENTS

- A. July 12, 2019 Staff Analysis and Report to the Board



Staff Analysis and Report to the Board

Board Meeting/Work Session Date:

Senior Lead: Sharon Reese, Chief Human Resources Officer

Department Lead: Carol Hawkins, Senior Director, Labor and Employee Relations

SUBJECT: Professional Conduct between Staff and Students Policy

I. BACKGROUND

The development of this policy was spurred by one of the recommendations in the Whitehurst Investigation Report. The investigators determined that the District had not provided clear guidance to employees as to what were appropriate boundaries between staff and students. This policy seeks to remedy this concern.

The attached draft includes the following changes:

1. The purpose and intent of the policy has been updated to recognize the importance of healthy relationships in children's lives and the role adults play in modeling healthy behaviors.
2. Clarifies expectations for staff conduct and provides examples of healthy and unhealthy behaviors.
3. Reorganizes components of the policy for better understanding.

II. RELATED POLICIES/BEST PRACTICES

As noted above, one of the recommendations coming out of the Whitehurst Investigation Report was to develop a professional conduct policy to provide clear expectations for adults working with students. We looked to a variety of sources to help us to develop this policy, including looking at the boundary policies of other school districts. We also relied on the U.S. Department of Education's Training Guide to help us to craft this policy. The guide can be found here: <https://rems.ed.gov/docs/ASMTrainingGuide.pdf>

III. ANALYSIS OF SITUATION

A key finding in the Whitehurst report was the "District's failure to recognize an educator's sexual conduct with students, failure to investigate it thoroughly, and failure to take action to ensure a safe educational environment by removing the offending educator." Report at p. 9. Approval of this policy will provide an important component in remediating the failures identified in the report. The policy outlines expectations for personal behavior as well as training to all employees to better ensure a safe educational environment for our students. Failure to approve this policy would leave the District without an important tool for self-regulation and enforcement.

IV. FISCAL IMPACT

The policy provides for mandatory training for all employees. The District has already begun this work with improvements of our online training. The cost of updating the system as well as providing District-wide training to all employees will be significant in the first few years of implementation.

V. COMMUNITY ENGAGEMENT (IF APPLICABLE)

General Counsel's office worked with the following stakeholders in developing this policy:

- Students
- Principals and vice-principals
- Human Resources
- Director of athletics and coaches
- Virtual Scholars outreach coordinators
- Multiple Pathways administrators
- Special education department
- Senior Directors and Area Superintendents
- Joy Ellis, co-author of the Whitehurst Investigation Report
- Title IX Coordinator
- Oregon School Board Association
- Community members

We also provided copies of the policy to PAT, PAPSA and PFSP and invited their input.

VI. TIMELINE FOR IMPLEMENTATION/EVALUATION

The District has already begun training employees of the expectations outlined in this policy. Our web-based professional learning platform has been updated to include enhanced mandatory training videos, and we have begun training various departments within the District. Training will continue in fall 2019 on the policy. Previously, administrators received an initial training in August 2018, Athletic Directors received a training in September 2018, and Nutrition Services was trained in October 2018. Scheduling of additional training is ongoing.

VII. BOARD OPTIONS WITH ANALYSIS

Approve the policy in its current iteration.

Approve the policy after changes are made based on public and employee comment.

Reject the policy and require further revision with stakeholder engagement.

Reject the policy.

VIII. STAFF RECOMMENDATION

The Whitehurst Implementation committee, the Chief of Staff's Office, the Department of Human Resources, and the General Counsel's Office recommend approval of this policy.

IX. I have reviewed this staff report and concur with the recommendation to the Board.



Guadalupe Guerrero
Superintendent
Portland Public Schools

July 12, 2019

Date

ATTACHMENTS

- A. Policy
- B. Resolution

1. *Set a clear Vision and Strategic Plan*
 2. *Create equitable opportunities and outcomes for all students*
 3. *Build management and accountability systems and structures*
 4. *Allocate budget, funding and resources focused on improving outcomes for students*
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Professional Conduct Between Adults and Students

PURPOSE

District staff show extraordinary dedication and care in their daily work with students. A hallmark of this commitment is the development of strong relationships between adults and students. We believe that:

1. Children are always learning about healthy relationships, and their most significant learning about relationships comes from how adults behave.
2. Consistent relationship boundaries help children feel safe. Boundaries help them trust adults and help them know what is healthy behavior.
3. Children need adults to be adults. Adults' behaviors set the conditions for healthy relationships.
4. Adults are responsible for creating safe spaces.

The purpose of this policy is to establish common understanding and expectations for all adults in our District on setting consistent and safe boundaries with students. Those boundaries create the healthy relationships and safe spaces that students need to thrive.

GENERAL STANDARDS & DEFINITIONS

- A. For purposes of this policy, **except as specifically noted**, "adults" include any and all District employees, coaches, substitutes, contracted service providers, and volunteers in their interactions with students in District schools and programs.
- B. "Student" means any person: (1) Who is: (a) In any grade from pre-kindergarten through grade 12; or (b) Twenty-one years of age or younger and receiving educational or related services from an education provider that is not a post-secondary institution of education; or (c) Who left school or graduated from high school within 90 days of the alleged misconduct.
- C. For purposes of this policy, the term "legitimate educational purpose" includes matters or communications related to teaching, counseling, athletics, extracurricular activities, social-emotional support that serves the interest of the student, treatment of a student's physical injury or other medical needs, school administration, or other purposes within the scope of the adult's



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employment or other District-related duties.

- D. A “boundary violation” is behavior or interaction by an adult in a position of power with a student that has no legitimate educational purpose, and has the potential to cause harm to the student.
- E. All adults should maintain the highest professional and ethical standards when interacting with students. These standards are defined by the Oregon Teacher Standards and Practices Commission and by District policy.
- F. Volunteers play unique and important roles in students’ lives, and many also have relationships outside the school setting. **This policy applies to volunteers in the context of their volunteer commitment with the District.** The District expects volunteers to maintain appropriate conduct with students when they are engaged in District-authorized activities as outlined in this and other policies.

GUIDELINES FOR INTERACTIONS BETWEEN ADULTS AND STUDENTS

A. General Guidelines and Required Training

The interactions and relationships between adults and students should be based upon respect and trust, an understanding of the appropriate boundaries between adults and students in and outside of the educational setting, and consistency with the educational mission of our schools. Adults may not intrude or appear to intrude on a student’s physical and emotional boundaries unless the purpose of the interaction is to serve a legitimate educational purpose.

Adults are required to complete annual training provided by the District on sexual conduct prevention to provide guidance and establish appropriate professional boundaries for student-adult interactions.

We recognize that forming a relationship with students is an important aspect of teaching; however, adults should not engage in discussions with students when its purpose is to meet the adult’s personal needs rather than the student’s needs. If a student initiates a discussion about a significant personal or family problem, adults are encouraged to seek guidance from



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appropriate resources such as their principal or school counselors, as needed.

B. Conduct Outside a School Setting

Adults shall use good judgment in their relationships with students beyond their work responsibilities and/or outside the school setting. Informal and social involvements with individual students should be based on appropriate professional boundaries. Volunteers with community-based relationships with students are not subject to this provision in their relationships with those students in non-District settings. In addition to regular classroom instruction and extracurricular activities, staff members may also act in their professional capacity outside of the school day—for example, in providing before- and after-care, tutoring to improve students' academic skills, mentoring that provides students with positive role models, answering questions about school assignments, hosting school-sanctioned or school-sponsored activities and events. We recognize that adults will also encounter students out in our community in the normal course of their personal lives.

Even during non-school hours, when District employees and third-party contractors are acting in their professional capacity, they must maintain at all times ethical standards consistent with TSPC standards and District policies.

One-to-one tutoring and mentoring offered during school or non-school hours must take place at the school unless the principal or appropriate supervisor has received prior notification of an off-site location and written permission from the parent/guardian has been obtained. Unless otherwise approved by the principal or other District administrator, volunteers on District property must be under the supervision of a District staff member.

C. Appropriate Personal and Community Relationships

There may be circumstances where there is an appropriate personal relationship between staff and a student's family that exists independently of the staff member's position with the District (e.g., when the families' children are friends). This policy is not intended to interfere with such relationships or to limit activities that are normally consistent with such relationships.



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The District understands that adults may be involved in other roles in the community through civic, religious, family, athletic, scouting, private tutoring, or other organizations and programs whose participants may include District students. This policy is not intended to interfere with or restrict an adult's ability to serve in those roles; however, staff members are strongly encouraged to maintain professional boundaries appropriate to the nature of the activity with regard to all youth with whom they interact in the course of their community involvement.

D. Appropriate Use of Email, Websites & Social Media

The District allows and supports the use of technology to communicate transparently and for legitimate educational purposes. As with all forms of communication, adults are expected to maintain professional boundaries with students when communicating via electronic communications and social media.

Staff or students may use approved educational websites if such sites are used solely for legitimate educational purposes.

1. Email Communication

All email communications from employees to students must be through a PPS-provided email address as described in the District's Acceptable Use Policy (8.60.40) and Social Media Administrative Directive 8.60.045-AD.

2. Social Media

District employees who wish to use social media as a tool to assist them in their professional duties must maintain separate accounts for professional and personal social media use and may follow or accept requests to connect from students only through their professional social media presence established consistent with the requirements set forth in the Social Media Administrative Directive 8.60.045-AD. Staff should have no expectation of privacy when communicating to students, including on a social media platform (e.g. Facebook, Twitter). Staff should not promise students absolute confidentiality in their communications.



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3. Group Text Messages

The use of group text messaging has become a convenient tool for coaches and other staff working with students to relay information. District employees and third-party contractors shall use this method of communication only with both District approval and parental knowledge. Text messages to individual students shall contain only information with a legitimate educational purpose.

E. IN-PERSON INTERACTIONS

1. One-on-one meetings with students

There will be times when adults are alone with students to discuss legitimate educational issues, including discipline or academic performance, for example. When possible, adults should meet one-on-one with students in a public space, such as libraries, open classrooms, or in places observable by others, such as offices or classrooms with windows and unlocked, ajar doors. When supporting students with sensitive issues, as is common for staff such as counselors and social workers, it is appropriate to provide a private setting. To maintain transparency, it is also good practice to let others know when and where meetings with a student will occur.

2. Personal communication with students

Connecting with students and building rapport is an important component to the staff-student relationship, and adults should promote healthy relationships with all students.

There are many times when a staff member's request for personal information is for a legitimate educational purpose. For example, personal reflection, relationships, or experiences are often part of a journaling exercise, and this policy is not intended to interfere with or impede this type of educational activity. It is appropriate for adults to check in with students about their well-being and/or whether they need any support with their school work. This policy does not prohibit that kind of healthy support of students.



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If a student discloses information about the student's significant personal or family problems, adults are expected to seek guidance from appropriate resources such as their principal or school counselor, as needed.

Adults are also expected to bring their concerns to their supervisor's attention when they have reason to believe a student is or may be becoming overly attached to or interested in them or other staff.

3. Traveling with or transporting students

Coaches, chaperones, and other staff should take care when transporting students to athletic events and other extracurricular activities. Adults need to notify the District and the student's parent/guardian of the travel itinerary and may not transport students in a personal vehicle in a non-emergency situation without advance authorization by the District or as defined by the Coaches Handbook (<https://www.pilathletics.com/page/show/5161432-hs-coach-s-handbook>).

If an emergency situation arises that requires a staff member to transport a student without prior approval, the staff member shall alert a direct supervisor and the parent of the situation as soon as practicable.

When traveling out of town, staff must follow the procedure outlined in the Field Trips Administrative Directive (6.50.011-AD). Adults are prohibited from entering a student's hotel room without another adult present, except in an emergency.

4. Physical contact with students

Adults should not initiate any physical contact without a legitimate educational purpose such as public greetings, positive acknowledgment, or in a crisis. There are times when adults have a legitimate educational purpose to initiate physical contact with a student, and noninvasive contact, such as "high fives" or fist bumps to acknowledge a job well done are fine. In other instances, adults may be required to assist an injured student or a student with special needs who requires physical



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assistance. Likewise, adults may need to touch a student's arms or hands to redirect them in an activity. Coaches, music teachers, and other instructors may have a need for physical contact as a method of instruction. Adults need to be aware of a student's physical boundaries and limit physical contact to only that which is necessary for a legitimate purpose. Any physical redirection of students must be pursuant to the District's Physical Restraint and Seclusion Administrative Directive 4.50.060-AD.

5. Respecting student privacy

Adults must honor a student's physical and emotional boundaries unless the interaction serves a legitimate educational purpose or is in response to an emergency.

Examples:

Physical Surroundings: Adults should not invade a student's privacy by entering a restroom, locker room, or other space where a student may not be fully clothed unless it falls within a staff member's regular job duties under an established written protocol, an emergency, or the staff needs to use the facility for a legitimate and intended purpose (e.g., if it is not practical due to distance and time constraints to use a staff-only restroom).

Personal Space: Adults should respect a student's private space and be conscious of a student's cultural and personal boundaries when communicating (e.g., adults should be conscious of standing too close to students when interacting with them).

6. Exceptions

An emergency or a legitimate educational purpose may justify deviation from professional boundaries set out in this policy. Adults shall be prepared to articulate the reason for any exception from the requirements of this policy and must demonstrate that an appropriate relationship was maintained with the student at all times. Adults must ensure that any exception is narrowly tailored to the circumstances and must report it to their supervisor within 24 hours.



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BOUNDARY VIOLATIONS

A boundary violation is behavior or interaction by an adult in a position of power with a student that has no legitimate educational purpose, and has the potential to cause harm to the student.

A. Examples of boundary violations/prohibited conduct

Examples of conduct that violates professional adult/student boundaries in or outside of school hours include, but are not limited to, the following:

1. Any type of conduct that would be considered sexual harassment under the District's Non-Discrimination/Anti-Harassment Policy (1.80.020-P);
2. Having any sexual conduct, including verbal or physical conduct or contact through written or electronic communications, with a student that is a sexual advance or request for a sexual favor or is of a sexual nature and is directed toward the student or that has the effect of unreasonably interfering with the student's educational performance, or of creating an intimidating, hostile, or offensive educational environment;
 - a. Examples of this behavior include, but are not limited to, the following:
 - 1) Engaging in a romantic or sexual relationship with a student;
 - 2) Dating, flirting with, or propositioning a student;
 - 3) Showing pornography to a student;
 - 4) Discussing, writing, texting, transmitting, and/or displaying material to students about sexual topics unrelated to curriculum or a legitimate educational purpose;
 - 5) Banter, allusions, jokes, or innuendos of a sexual nature with students;
 - 6) Patting buttocks or touching other intimate parts of a student;



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- 7) Permitting students to engage in behaviors with an adult that invade appropriate physical boundaries, *e.g.*, allowing students to give shoulder massages to the adult or allowing students to sit on an adult's lap;
 - 8) Singling out a particular student or students for favoritism, special privileges, or exchanging of gifts beyond the employee-student relationship;
 - 9) Disclosing intimate or sexual matters to a student, unless necessary to serve a legitimate educational purpose; or a student physical, mental, and/or emotional health purpose.
3. Bullying or other violations of the District's Anti-Harassment Policy 4.30.060-P.
 4. Favoring a student when its purpose is to meet the adult's personal needs rather than the student's needs;
 5. Inviting individual students to the adult's home without parental notice and approval unless otherwise noted in "Exceptions" section of the policy;
 6. Observing students who are consuming alcohol, drugs, or tobacco without intervening or reporting the conduct to appropriate personnel;
 7. Sending or accompanying a student on personal errands or travel unrelated to any legitimate educational purpose;
 8. Telling a student to keep something secret from other adults;
 9. Addressing students or permitting students to address adults with personalized terms of endearment, pet names, or otherwise in an overly familiar manner that may affect appropriate professional boundaries;
 10. Giving a student a ride alone in a vehicle in a non-emergency situation; except as permitted under this policy and Field Trips 6.50.011-AD;
 11. Engaging in prohibited social media and electronic communications between adults and students as defined by the District's Acceptable Use Policy (8.60.40) and Social Media Administrative Directive 8.60.045-AD.



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- a. Examples of this behavior include, but are not limited to, the following:
 - 1) District employees acting in their District capacity are prohibited from inappropriate online socializing with students, including phone calls, texting, skyping, instant messaging, or use of any other telecommunications method, or from engaging in any conduct that violates the law, District policies, or other generally recognized professional standards.
 - 2) Adults shall not communicate with students, for any reason, through use of a medium, blog, or app (software or phone application) that is designed to eliminate all traces or records of the communication (e.g., Snapchat).
 - 3) District employees and third-party contractors may not communicate with current students through social media directly or through private messaging tools without both written District approval and parental notice.

DUTY TO REPORT POSSIBLE VIOLATIONS

- A. Adults shall discuss with their building administrator or supervisor whenever they suspect or are unsure whether their conduct, or the conduct of other adults, is inappropriate or constitutes a violation of this policy. If the adult is dissatisfied with the response of the building administrator or supervisor, or does not feel comfortable discussing the situation with those individuals, they may bring it to the attention of the Chief of Human Resources. If the alleged behavior deals with harassment, intimidation, or bullying, the process in Policy 4.30.060-P should be followed. The District will investigate all complaints.

Any District employee who has reasonable cause to believe that another adult has engaged in sexual conduct as defined by Prohibition Against Employee Child Abuse and Sexual Conduct with Students 5.10.063-AD or sexual abuse as defined by statute shall immediately report this behavior to their school compliance officer and to the District Title IX Director. Additionally, any District employee or other mandatory reporter of abuse/neglect who has reasonable cause to believe that a child has been abused must promptly fulfill the mandatory reporting requirements to law enforcement and the Department of Human Services and report the allegation to their principal or supervisor.



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District employees whose conduct violates this policy or who fail to report violations of this policy, may face discipline and/or termination, consistent with the District's policies and applicable collective bargaining agreements.

Violations of this policy by volunteers or contracted service providers may result in a prohibition from working or serving on District properties or with District students in school programs, or may result in contract cancellation. The District shall notify law enforcement of any potentially unlawful conduct, as appropriate.

B. Student/Parent and Guardian Reporting

Students and/or parents/guardians are strongly encouraged to notify the principal or other appropriate administrator if they believe an adult may be engaging in conduct that violates this policy.

CONFIDENTIALITY AND NON-RETALIATION

Staff members making a report of potential boundary violations or other prohibited conduct are specifically advised of the following:

1. They must directly notify a supervisor of the conduct;
2. They are required to maintain confidentiality; and
3. They are neither permitted to investigate nor responsible for investigating whether the conduct is inappropriate.

Confidentiality protects the student(s), the adult who is the subject of the report. Failure to maintain confidentiality may impede the investigation and foster untrue and potentially harmful rumors. False reports are regarded as a serious offense and may result in disciplinary action or other appropriate sanctions.

The District prohibits retaliation against anyone who makes a good-faith report under this policy. Any District employee who retaliates against any complainant, reporter, or other participant in an investigation may be subject to discipline, up to and including dismissal.



Board Policy

X.XX.XXX-P

Professional Conduct Between Adults and Students

TRAINING

The Superintendent or his/her designee shall develop an annual training for all staff and ensure ongoing review of procedures to support this policy.

History: 10/18

2019 Revised Draft 6/19, 6/24, 6/28, 7/10, 7/30, 8/1, 8/5, 8/7, 8/25, 8/30