

# **AGREEMENT**

**School District No. 1  
Multnomah County  
Oregon**

**And**

**Portland Association of  
Teachers**

**July 1, 2019- June 30, 2020**

**June 3, 2019**

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**ARTICLE 23**  
**PROFESSIONAL EDUCATOR RIGHTS AND JUST CAUSE**

- 23.1 No professional educator shall be disciplined, reprimanded, or reduced in compensation without just cause. Reprimands shall be made privately and not in the presence of students, parents, professional educators or members of the community. Professional educators who have completed three (3) full years of service and are not covered by the Fair Dismissal law shall not be dismissed without just cause. Plans of Assistance and Letters of Expectation are not disciplinary and shall not be issued for misconduct.
- 23.2 **A determination of sexual conduct or abuse as provided by Oregon law is subject to just cause and other contractual provisions and may be grieved as outlined in Article 5.**
- 23.3 This Article does not apply to dismissal, except as provided in Section **23.4**, or nonrenewal of professional educators. However, professional educators subjected to nonrenewal or dismissal shall be afforded the procedural rights of due process.
- 23.4 In the event of dismissal from employment a professional educator may elect to appeal the dismissal to binding arbitration in accordance with Section 5.5 of this Agreement, or the Fair Dismissal Appeals Board, but not both. Dismissal shall mean termination during the contract year for any professional educator or a second non-extension of a contract professional educator. The professional educator must so notify the Superintendent, in writing, within ten (10) calendar days after receipt of notice of the dismissal decision of the District's School Board. Probationary professional educators who are non-renewed and temporary professional educators completing the term of their contract may not appeal to arbitration.
- 23.5 The personal life of a professional educator is not an appropriate concern of the District, except where it relevantly affects the professional educator's fitness for or performance of his/her professional duties.
- 23.6 Removal from an Extended Responsibility Assignment
- 23.6.1 If a professional educator is removed from an extended responsibility assignment, upon request s/he shall be given the reasons in writing and afforded the opportunity to have a representative present in any discussion with the supervisor.
- 23.6.2 If a professional educator starts an extended responsibility assignment during a school year, and the professional educator is removed from the responsibility during the school year, the professional educator shall be paid the entire salary due for that assignment, unless the professional educator is physically unable to perform the extended responsibility assignment.
- 23.6.3 Dismissal of a professional educator whose assignment includes extended responsibility as an extension of the assignment (e.g., TOSA, Media Specialist, Music Teacher) is subject to Section **23.4**.
- 23.7 Administrative Support at Parent Meetings
- A professional educator has the right to administrative support at any meeting with a parent. Professional educators shall not be required to meet with a parent without a workday's advance notice. If during any meeting with a parent and administrator it appears to the professional educator that complaints are being made that could result in the discipline of the professional educator, that professional educator has the right to ask for representation before continuing the meeting. A professional educator has the right to ask the supervisor to take administrative charge of the meeting when such a meeting is dealing with the job performance of or a possible action against the professional educator. Tape recorders shall not be allowed without the consent of the professional educator.

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## 23.8 Investigations

Whenever a professional educator is directed to meet with an administrator or other representative of the District regarding a matter which could result in disciplinary action, termination, nonrenewal or layoff, the professional educator shall be given prior written notice including:

- 23.8.1 A description of the issue to be discussed in such meeting; and
- 23.8.2 The right to have representation by the Association or private legal counsel present to advise the professional educator during the meeting.
- 23.8.3 If additional reasons for a meeting emerge after the initial notice, the District will provide an additional notice with the additional reasons. If the professional educator believes there is insufficient time between the additional notice and the meeting, the District can choose between rescheduling the meeting later to investigate all reasons, or schedule a second meeting for the additional reasons.
- 23.8.4 Professional educators are not to be interviewed or questioned at the time of notice.
- 23.8.5 **If the allegation is related to sexual conduct or abuse, the investigation will be conducted by a subject matter expert for sexual misconduct or abuse.**
- 23.8.6 Bargaining Unit Members shall not conduct investigations of other bargaining unit members.
- 23.8.7 The parties shall cooperate in good faith to schedule the meeting within a reasonable period of time. The parties shall identify their respective representatives and communicate it to the other party prior to the meeting.
- 23.8.8 This section does not apply to a meeting where the sole reason for the meeting is to discuss re-assignment.
- 23.8.9 The written notice of the meeting shall not be placed into the professional educator's building file or personnel file but may be kept in an investigation file.
- 23.8.10 **At the conclusion of the investigation, a determination will be issued and retained in the investigation file. A copy of the determination will also be provided to the professional educator. The determination shall be issued within thirty (30) calendar days of the conclusion of the investigation unless there are extenuating circumstances.**

## 23.9 Letter of Expectation

- 23.9.1 A Letter of Expectation is a written notice of an expectation, standard, policy or procedure **arising from a complaint or an administrative concern. Letters of Expectation will not include standards stated in the evaluation rubric.** ~~It~~ **A Letter of Expectation** is not a finding of fault or misconduct and is not a disciplinary action.
- 23.9.2 A Letter of Expectation must ~~confirm~~ **conform** to the template agreed upon by the parties (Appendix K). Letters of Expectation ~~may~~ **shall** be placed in the ~~building~~ **official district personnel** file. ~~Letters of Expectation shall be placed in a District "Letter of Expectation" file maintained by the Human Resources Department. Letters in the Letters of Expectation file shall be organized District-wide by school-year and shall be removed from the~~ **official district personnel** file after ~~three (3)~~ **six (6)** years. Professional educators who have received a Letter of Expectation have the right to review any letters of expectation addressed to them ~~in the District Letter of Expectation file~~ and attach a response.

## 23.10 Paid Administrative Leave or Alternative Assignment

- 23.10.1 A professional educator who is removed from work pending an investigation and is available to report to work shall be placed on paid administrative leave **or the District may place the professional**

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**educator in an alternative assignment. Alternative assignments will not result in a reduction in compensation or benefits.**

23.10.2 If the professional educator on paid administrative leave is unavailable to report to work, he/she will be removed from paid administrative leave status and will be able to appropriately use any leave accruals until the professional educator is available to report to work and be placed back on paid administrative leave status.

23.10.3 The District shall not dock a professional educator's paid leave balance in lieu of actual time off for a disciplinary suspension, or retroactively change Paid Administrative Leave to unpaid disciplinary suspension, unless there is agreement by the employee and Association.

23.10.4 Paid administrative leave **or alternative assignment** should be limited to situations where:

23.10.4.1 The presence of the employee in the workplace might tend to interfere with an investigation;

23.10.4.2 There are concerns the employee will repeat the alleged **serious** misconduct;

23.10.4.3 Removal of the employee from the worksite is appropriate to maintain the safety and security of students and/or staff; or

23.10.4.4 The alleged misconduct is serious enough to result in dismissal, if substantiated.

23.10.5 Paid administrative leave letters will conform to the template attached as Appendix L of this Agreement and provide a description of the reason for the paid administrative leave, which is sufficient for the employee and Association to understand the events being referenced. The Association may contact the District's Labor Relations Office for additional information. The District shall place paid administrative leave letters in the investigation file, not in the professional educator's personnel file.

23.10.6 The investigation shall be conducted promptly in order to limit the time that the professional educator is involuntarily away from work. **Investigations of professional educators on Paid Administrative Leave will be given priority over other investigations.** If the administrative leave pending investigation lasts longer than ten (10) work days, the District shall notify the professional educator in writing of the reasons.

23.10.7 While on administrative leave, if a professional educator needs access to his/her PPS email to gather evidence for the investigation, the District will work with the Association to allow for that access. By arrangement with the site administrator, the professional educator shall also have access to materials from his/her classroom or office.

23.10.8 School and program administrators will not communicate that a professional educator is on administrative leave or disclose the reason for the administrative leave to staff, parents, students or the public. In the case where violence, child endangerment or criminal behavior is alleged, the administrator can inform those who need to know that the professional educator is not at the school. In all cases, when asked directly about the professional educator's whereabouts, the Administrator may respond that the professional educator is not at the school.

~~23.9.8 Within sixty (60) calendar days of the ratification of this agreement, the District will distribute the new administrative leave template letter and administrative leave protocol, and shall provide training for administrators.~~

23.11 Required Examination by Physician

23.11.1 The District may direct a professional educator to be examined by the professional educator's physician if there exist substantive reasons which call into question a professional educator's ability to perform assigned duties. The professional educator shall be counseled as to the concern that has prompted the referral. The professional educator shall provide the District a statement from his/her personal physician that confirms that the District's concern is being addressed and that the professional educator

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is able to perform assigned duties or is unable to continue at the present time. The professional educator will not be required to release her/his private medical records.

23.11.2 If the professional educator does not have a physician, or a substantive reason exists, the District may direct the professional educator to be examined by the District's physician. The District shall provide the professional educator with the reasons prior to being examined by the District's physician. The District shall pay for any such examinations and also provide the necessary release time. The District shall request that the physician only disclose medical information specific to the reason that prompted the referral.

23.12 A professional educator shall not be required by the District to involuntarily submit to testing of bodily fluids unless there is a substantive reason to believe the health and safety of others is at risk.

23.13 Exceptional Medical/Health Care Needs

Professional Educators routinely have assigned to their regular classrooms students with special needs. Some of these students have exceptional medical/health care needs that are of a nature requiring the use of technical procedures, medical hardware, or supplies in personal health maintenance cycles. Professional educators shall not be required to have back-up training or responsibilities for the medical procedure. (This does not eliminate the option of professional educators assisting in emergencies or in volunteering to participate in training and practices for which they feel some comfort.)

23.14 Lost Keys

Professional educators shall not be required to reimburse the District for lost keys. Professional educators will not be responsible for re-keying District facilities. Professional educators shall be responsible for safeguarding keys in accordance with District regulations.

23.15 Standardized Testing

Student performance on standardized tests is not designed or intended to and shall not serve as the basis for involuntary transfer, layoff, recall, placement on the salary schedule, and/or disciplinary action.

23.16 Respectful Working Environment

23.16.1 Purposeful, intentional conduct by an individual or group of individuals against another, if a reasonable person would consider the behavior to be threatening, intimidating or offensive, is inconsistent with a respectful work environment. Examples include verbal abuse or other behavior that demeans, threatens, humiliates or intimidates others in the workplace. No professional educator shall be retaliated against for reporting, grieving or protesting such behavior. Likewise, no professional educator shall retaliate against a co-worker, or other District staff for reporting, grieving and/or protesting such behavior on the part of a professional educator. This section shall not be interpreted to mean that bargaining unit members may file a grievance against other bargaining unit members.

23.16.2 Reasonable counselling, discipline or job performance evaluations are consistent with a respectful working environment and are not prohibited by this provision.

23.17 The District shall comply with Oregon law that prohibits the use of polygraph examinations for employment purposes (ORS 659A.300); and prohibits an employer from requiring an employee to provide access to the employee's personal social media account (HB 2654 effective January 1, 2014).

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**ARTICLE 25**  
**COMPLAINT PROCEDURE**

- 25.1 “Complaint” means an allegation made against a professional educator brought by a parent, other citizen, or a nonsupervisory third party.
- 25.2 **If an allegation is related to sexual conduct or abuse, the investigation will be conducted by a subject matter expert for sexual misconduct or abuse in accordance with this Article.**
- 25.3 If a complaint is made to a supervisor about the professional educator and the supervisor believes it warrants further consideration, such complaint shall be handled as follows:
- 25.3.1 After hearing the complaint, the supervisor will request that the complainant discuss the matter directly with the professional educator, except if the complaint involves allegations of sexual conduct **or abuse or if the supervisor has a concern about the safety of any party**. The supervisor shall not be involved in this discussion unless his/her presence is requested by either party.
- 25.3.2 If the complainant refuses to discuss the matter with the professional educator or, if after discussing the matter with the professional educator the complainant is still dissatisfied, the supervisor will cause the complaint to be reduced to writing.
- 25.4 If the supervisor decides to proceed further with the written complaint, it shall be processed within ten (10) workdays of receipt under the following circumstances:
- 25.4.1 If the evaluating supervisor intends to make a record in the evaluation report of the professional educator against whom the complaint was made;
- 25.4.2 If the supervisor intends to place a record of such complaint in the professional educator’s personnel file or the building file;
- 25.4.3 If in the supervisor’s judgment such complaint is sufficiently relevant to the professional educator’s performance so as to indicate the desirability of a conference (The professional educator may have a representative present at any such conference.); and
- 25.4.4 If a professional educator learns of a complaint and requests a conference.
- 25.5 The supervisor shall meet with the professional educator and shall describe the nature of the complaint including specific examples of the time, place and type of action complained of, if known, at the conference. The professional educator may have (a) representative(s) present at such conference. The name of the complainant may be given as part of the discussion of such specifics. The unit member will have an opportunity to respond fully to the complaint. If, however, the complaint is used in any manner to support actual or recommended discipline, administrative transfer, nonrenewal or dismissal, such record shall be placed in the personnel file and the complainant’s name shall be disclosed if the unit member so requests.

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**ARTICLE 26**  
**PERSONNEL FILE**

- 26.1 There shall be only one official District personnel file, which shall be maintained by the Human Resources Department. If the District plans to move to an electronic personnel system, it shall give prior notice to the Association.
- 26.2 With the exception of items which are duplicates of those in the District file, evaluation materials as described in the *Portland Public Schools Handbook for Professional Growth and Evaluation*, and in-service records, and other official records, materials in the supervisor's building file, including Letters of Expectation, shall be removed when the supervisor or the professional educator is transferred.
- 26.3 Each professional educator shall have the right upon request to review the contents of his/her District personnel file as well as any similar building file maintained by his/her supervisor. Upon request, the professional educator shall be provided with a copy of all or part of his/her personnel file from the District.
- 26.4 A representative of the Association may:
- 26.4.1 at the professional educator's request accompany the professional educator in this review; or
  - 26.4.2 be authorized by the professional educator in writing to review the file.
- 26.5 Section 26.4 does not limit the Association's right to information under the PECBA.
- 26.6 A professional educator shall be provided a copy of any materials relating to the professional educator's work performance if such materials are to be placed in the professional educator's personnel file. A complaint shall not be placed in the professional educator's personnel file unless accompanied by a written directive from the administrator. Each professional educator's personnel file subject to review shall contain the following minimum items of information:
- 26.6.1 all professional educator evaluation reports
  - 26.6.2 transcript of academic records
  - 26.6.3 contract status recommendation.
- 26.7 The professional educator may respond to any item placed in the professional educator's personnel file or the record described above of the professional educator maintained by the supervisor and said response shall become a part of the file. A professional educator may request and have granted that any materials in the District personnel file (excluding evaluations and letters stating final disciplinary actions) be removed from his/her file if after three (3) years of being written no subsequent similar entries have been made into the professional educator's personnel file.
- 26.8 Letters of Expectation shall be removed from a professional educator's ~~building~~ **official district personnel** file ~~three (3)~~ **six (6)** years after the date of the Letter of Expectation.

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APPENDIX K  
Template for Letter of Expectation

PERSISTENTLY FOCUSED ON CREATING A CULTURE OF EQUITABLE STUDENT GROWTH AND ACHIEVEMENT

VIA [DELIVERY METHOD]

[DATE]

[EMPLOYEE NAME]  
[EMPLOYEE ADDRESS]  
[CITY, ST ZIP]

RE: Letter of Expectation

Dear [EMPLOYEE NAME]:

The purpose of this letter is to confirm our discussion on [MEETING DATE], at which I communicated the expectation, standard, or policy stated below. This letter is to clarify my expectations. **It is not a finding of fault or misconduct and is not a disciplinary action.** ~~This letter is not disciplinary.~~

It is expected that you will adhere to the professional standards and expectations of the District including, but not limited to:

- [STATE SPECIFIC EXPECTATION, POLICY, PROCEDURE OR PROFESSIONAL STANDARD. **Letters of Expectation will not include standards stated in the evaluation rubric.**]

Please feel free to contact me if you have any questions about these expectations or if you would like to discuss whether there may be any training or learning opportunities related to them. Failure to comply with these expectations may lead to discipline, up to and including termination.

Sincerely,

[NAME], Principal

Copy: **Official District Personnel File**  
~~District Letter of Expectation File~~  
~~Building File (at supervisor's option)~~

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