

# Evergreen Virtual Academy

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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.

# Evergreen Virtual Academy

Code: AC  
Adopted: 10/21/13  
Revised/Readopted: 6/19/18  
Orig. Code: AC

## Nondiscrimination

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

A public charter school may not limit student admission based on ethnicity, national origin, race, religion, disability, gender, sexual orientation, residence, health, income level, proficiency in English language, whether a student has an individualized education program (IEP) or the terms of that IEP, or athletic ability or academic records, but may limit admission to students within a given age group or grade level.

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

The public charter school board encourages staff to improve human relations within the school, to respect all individuals, and to establish channels through which citizens can communicate their concerns to the public charter school administration and the public charter school board.

The public charter school administrator shall appoint and make known, the individuals to contact on issues concerning the Americans with Disabilities Act (ADA), the Americans with Disabilities Act Amendment Act (ADAAA), Section 504 of the Rehabilitation Act of 1973, Title VI, Title VII, Title IX and other civil rights or discrimination issues<sup>2</sup>. The public charter school board will adopt and the public charter school will publish complaint procedures providing for prompt and equitable resolution of student and employee and the public, and such procedures will be available at the public charter school's administrative office and available on the home page of the school's website.

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

<sup>2</sup>Public charter schools are reminded that the public charter school is required to notify students and employees of the name, office address and telephone number of the employee or employees appointed.

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

END OF POLICY

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**Legal Reference(s):**

<a href="#">ORS 174.100</a>	<a href="#">ORS 659A.006</a>	<a href="#">ORS 659A.409</a>
<a href="#">ORS 192.630</a>	<a href="#">ORS 659A.009</a>	
<a href="#">ORS 326.051(1)(e)</a>	<a href="#">ORS 659A.029</a>	<a href="#">OAR 581-021-0045</a>
<a href="#">ORS 338.125(3)</a>	<a href="#">ORS 659A.030</a>	<a href="#">OAR 581-021-0046</a>
<a href="#">ORS 659.150</a>	<a href="#">ORS 659A.040</a>	<a href="#">OAR 581-021-0049</a>
<a href="#">ORS 659.805</a>	<a href="#">ORS 659A.100 to -145</a>	<a href="#">OAR 581-022-2310</a>
<a href="#">ORS 659.815</a>	<a href="#">ORS 659A.233</a>	<a href="#">OAR 581-022-2370</a>
<a href="#">ORS 659.850 to -860</a>	<a href="#">ORS 659A.236</a>	<a href="#">OAR 839-003</a>
<a href="#">ORS 659.865</a>	<a href="#">ORS 659A.309</a>	
<a href="#">ORS 659.870</a>	<a href="#">ORS 659A.321</a>	

Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6107 (2012).  
Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634 (2012); 29 C.F.R Part 1626 (2017).  
Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2017); 28 C.F.R. Part 35 (2017).  
Equal Pay Act of 1963, 29 U.S.C. § 206(d) (2012).  
Rehabilitation Act of 1973, 29 U.S.C. §§ 503, 791, 793-794 (2012).  
Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2012); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2017).  
Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2012).  
Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2012).  
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 (2012).  
Title II of the Genetic Information Nondiscrimination Act of 2008 (2017).

**Cross Reference(s):**

ACA - Americans with Disabilities Act  
GBA - Equal Employment Opportunity  
JB - Equal Educational Opportunity

# Evergreen Virtual Academy

Code: AC-AR  
Adopted: 10/21/13  
Revised/Readopted: 6/19/18  
Orig. Code: AC-AR

## Discrimination Complaint Procedure

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

**Step 1:** Complaints may be oral or in writing and must be filed with the administrator. The administrator shall investigate and determine the action to be taken, if any, and reply in writing to the complainant within 10 school days of receipt of the complaint.

Any staff member that receives a written or oral complaint shall report the complaint to the administrator.

**Step 2:** If the complainant wishes to appeal the decision of the administrator, he/she may submit a written appeal to the head of school within five school days after receipt of the administrator's response to the complaint. The head of school may review the administrator's response to the complaint and may meet with all parties involved. The head of school will review the merits of the complaint and the administrator's decision and respond in writing to the complainant within 10 school days.

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

<sup>1</sup>If the administrator is the subject of the complaint the individual may start at step 2 and file a complaint with the head of school. If the head of school is the subject of the complaint, the complaint may start at step 3 and should be referred to the Board chair. The Board may refer the investigation to a third party.

Complaints against the Board as a whole or against an individual Board member may start at step 3 and should be made to the Board chair and may be referred to counsel. Complaints against the Board chair may start at step 3 and be made directly to the Board vice chair.

Timelines may be extended based upon mutual consent of both parties.

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<sup>1</sup>If there is only a public charter school administrator, the complainant may file with the Board chair (make appropriate bracketed language selections) in the first sentence then delete second sentence. If there is an administrator and a director, make the appropriate bracketed language selections in this paragraph using the first and second sentences to outline to whom a complaint is filed.

If the complainant, is a person who resides in the district where the public charter school is located, is a parent or guardian of a student who attends the public charter school or is a student, is not satisfied after exhausting local complaint procedures, or 90 days, whichever occurs first, he or she may appeal in writing to the Superintendent of Public Instruction under Oregon Administrative Rule (OAR) 581-021-0049.

**Evergreen Virtual Academy**  
**DISCRIMINATION COMPLAINT FORM**

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Name of Person Filing Complaint                      Date                      School or Activity

Student/Parent  Employee  Nonemployee  (Job applicant)

- Type of discrimination:
- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Race           | <input type="checkbox"/> Color            | <input type="checkbox"/> Religion                        |
| <input type="checkbox"/> Sex            | <input type="checkbox"/> National Origin  | <input type="checkbox"/> Disability                      |
| <input type="checkbox"/> Marital Status | <input type="checkbox"/> Age              | <input type="checkbox"/> Sexual Orientation              |
| <input type="checkbox"/> Income level   | <input type="checkbox"/> Athletic ability | <input type="checkbox"/> Proficiency in English language |

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

# Evergreen Virtual Academy

Code: ACA  
Adopted: 10/21/13  
Revised/Readopted: 6/19/18  
Orig. Code: ACA

## Americans with Disabilities Act

The public charter school, in compliance with the Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendment Act of 2008 (ADA), is committed to maintaining employment practices, services, programs and activities that provide equity to qualified individuals with disabilities.

The public charter school will provide reasonable accommodations for the known disabilities of all applicants and current employees in all employment application procedures; hiring, advancement or discharge; employee compensation; job training; other terms, conditions and privileges of employment upon request and advance notice.

A reasonable accommodation must not present an undue hardship for the public charter school, be unduly costly, extensive or disruptive; nor present a direct threat to the health or safety of the individual or others in the workplace.

Public charter school services, programs and activities will be accessible and usable by qualified individuals with disabilities, consistent with Section 504 of the Rehabilitation Act of 1973 and the ADA. Accessibility may be achieved through nonstructural as well as structural methods.

In order to achieve equal access, the public charter school will make available appropriate auxiliary aids and services that promote effective communications. Primary consideration will be given to the request of individuals with disabilities in the selection of appropriate aids and services. Final determination will be made by the public charter school board. Auxiliary aids and services determinations will be based on availability, effectiveness and financial or administrative burden to the public charter school.

The public charter school board directs the administrator to develop and implement an appropriate plan that provides for public charter school compliance with the ADA, including the appointment of an ADA compliance officer and the establishment of a process for the investigation and prompt and equitable resolution of any complaint regarding noncompliance.

Retaliation is prohibited against anyone who files a complaint of discrimination, participates in an Office of Federal Contract Compliance Program proceeding or otherwise opposes discrimination federal or state laws.

END OF POLICY

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**Legal Reference(s):**

Rehabilitation Act of 1973, 29 U.S.C. §§ 503, 791, 793-794 (2012).  
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).  
Chevron U.S.A. Inc. v. Echazabal, 536 U.S. 73 (2002).  
Americans with Disabilities Act Amendments Act of 2008.

**Cross Reference(s):**

AC - Nondiscrimination  
BD/BDA - Public Charter School Board Meetings  
GAB - Job Descriptions  
GBA - Equal Employment Opportunity  
GCBDD/GDBDD - Sick Time  
JB - Equal Educational Opportunity

# Evergreen Virtual Academy

Code: ACA-AR  
Revised/Reviewed: 10/21/13; 6/19/18  
Orig. Code: ACA-AR

## ADA Grievance Procedure

The administrator is responsible for coordinating the public charter school's efforts to comply with the Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendments Act of 2008 (ADA). The administrator shall be a neutral party having had no involvement in the complaint presented.

- Step 1 Any complaint shall be presented in writing to the administrator within 180 days from date of alleged discrimination. It must include the following:
- a. The name and address of the individual or the representative filing the complaint;
  - b. The description of the alleged discriminatory action in sufficient detail to inform the public charter school of the nature and date of the alleged violation;
  - c. A signature by the complainant or by someone authorized to do so on his/her behalf;
  - d. The identification (by name, if possible) of the alleged victims of the discrimination for any complaint filed on behalf of classes or third parties.
- Step 2 The administrator shall thoroughly investigate the complaint, notify the person who has been accused of discriminating, permit a response to the allegation and arrange a meeting to discuss the complaint with all concerned parties within 10 working days after receipt of the written complaint, if deemed necessary. The administrator shall give a written answer to the complainant within 15 working days after receipt of the written complaint.
- Step 3 If the complainant is not satisfied with the answer of the administrator, he or she may submit a written appeal to the head of school indicating with particularity the nature of disagreement with the answer and reason underlying such disagreement. Such appeal must be filed within 10 working days after receipt of the administrator's answer. The head of school shall arrange a meeting with the complainant and other affected parties, if requested by the complainant, at a mutually agreeable time to discuss the appeal.
- The head of school shall give a written answer to the complainant's appeal within 10 working days.
- Step 4 If the complainant is not satisfied with the answer, an appeal to the public charter school board may be filed within 10 working days after receipt of the Step 3 answer. The Board shall, within 20 working days, conduct a hearing at which the complainant shall be given an opportunity to present the complaint. The Board shall give a written answer to the complainant within 10 working days following completion of the hearing.

Step 5 If the complainant is not satisfied with the decision of the public charter school board, a complaint may be filed with the Coordination and Review Section, Civil Rights Division, U.S. Department of Justice (student complaints) or the U.S. Department of Labor, Equal Employment Opportunity Commission or Oregon Bureau of Labor and Industries (employment complaints).

Individuals may initiate complaint procedures and/or civil actions with or without first complying with local complaint procedures.

# Evergreen Virtual Academy

Code: BBA  
Adopted: 6/19/18; 8/20/19  
Orig. Code: BBA

## Board Powers and Duties

The charter agreement delegates to the public charter school board responsibility for the conduct and governance of programs and services in the public charter school. The general powers granted to the Board are:

### 1. Legislative or Rule-Making Authority

In regular or special public meetings, after open discussion and after members' votes are recorded, the public charter school board will establish rules or policy to govern the conduct of its members and the proceedings of the Board.

The Board shall establish policies for governing the programs and services of the public charter school consistent with State Board of Education rules and with local, state and federal laws, as applicable.

The Board is responsible for providing adequate and direct means for keeping informed about the needs and wishes of the public and for keeping local community patrons informed about the public charter school.

### 2. Judicial Authority

As provided by law, policy or contract, the public charter school board acts as a fact-finding body or a court of appeal for staff members, students and the public when issues involve Board policies or agreements and their implementation, and when the Board must determine the rights, duties or obligations of those who address the Board.

### 3. Executive/Administrative Authority

The public charter school board will appoint an administrator delegated to establish administrative regulations to implement Board policy and goals. The Board will evaluate the administrator's performance.

The public charter school board may establish academic and financial goals for the public charter school and evaluate the administrator's implementation of those goals.

The public charter school board will oversee the public charter school's financial affairs by authorizing, appropriating and adopting budgets as allowed by law, to provide for program operation and maintenance or acquisition of public charter school property.

The Board will authorize the administrator to approve payment on all contracts and business transactions of the public charter school in accordance with public charter school board policies and

charter agreement on purchasing and budget requirements. The public charter school board will provide for an annual audit of the public charter school's assets.

The public charter school board will employ the staff necessary to carry out the educational program and will provide for regular evaluation of staff.

The public charter school board will establish salaries and salary schedules, other terms and conditions of employment, and personnel policies for public charter school employees.

The public charter school board will establish the days of the year and the hours of the day when school will be in session.

END OF POLICY

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**Legal Reference(s):**

<a href="#">ORS 192.630</a>	<a href="#">ORS 338.115(2)</a>	<a href="#">ORS 339.351 to -339.364</a>
<a href="#">ORS 243.656</a>	<a href="#">ORS Chapter 339</a>	<a href="#">ORS 339.370 to -339.400</a>
<a href="#">ORS Chapters 279A, 279B and 279C</a>	<a href="#">ORS 339.250</a>	<a href="#">ORS 339.866 to -339.873</a>
<a href="#">ORS 294.305 to -294.565</a>	<a href="#">ORS 339.315 to -339.327</a>	<a href="#">ORS 339.883 to -339.885</a>

**Cross Reference(s):**

DJ - Public Charter School Purchasing

# Evergreen Virtual Academy

Code: BBAA  
Adopted: 6/19/18  
Orig. Code: BBAA

## Individual Board Member's Authority and Responsibilities

An individual public charter school board member exercises the authority and responsibility of his or her position when the public charter school board is in legal session only.

A public charter school board member has the authority to act in the name of the Board when authorized by a specific Board motion. The affirmative vote of a majority of the quorum of the Board is required to transact any business.

A public charter school board member has the right to express personal opinions. When expressing such opinions in public, the Board member must clearly identify the opinions as his/her own.

Members will be knowledgeable of information requested through Board action, supplied by the administrator, gained through attendance at public charter school activities and through professional Board activities.

Members of the Board will adhere to the following in carrying out the responsibilities of membership:

### 1. Requests for Information

Any individual Board member who desires a copy of an existing written report or survey prepared by the administrative staff will make such a request to the administrator. A copy of the material may be made available to each member of the Board. Requests for the generation of reports or information, which requires additional expense to the school, must be submitted to the Board for consideration.

### 2. Requests for Legal Opinions

A request for a legal opinion by a Board member, must be approved by a majority vote of the Board before the request is made to legal counsel. If the legal opinion sought involves the administrator's employment or performance, the request should be made to the Board chair. Legal counsel is responsible to the public charter school board.

### 3. Action on Complaints or Requests Made to Board Members

When Board members receive complaints or requests for action from staff, students or members of the public, the Board members will direct the staff, students and members of the public to the appropriate complaint policy Board policy KL - Public Complaints. Such information will be conveyed to the administrator.

### 4. Board Member's Relationship to Administration

Individual Board members will be informed about the school's educational program, may visit the school or other school facilities to gain information, and may request information from the administrator. Board members will not intervene in the administration of the school.

## 5. Contracts or Agreements

All contracts of the public charter school must be approved by the Board, or as delegated to the administrator, before an order can be drawn for payment. If a contract is made without authority of the Board, the individual making such contract shall be personally liable.

END OF POLICY

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### **Legal Reference(s):**

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

### **Cross Reference(s):**

BHD - Board Member Compensation and Expense Reimbursement

# Evergreen Virtual Academy

Code: BBF  
Adopted: 6/19/18  
Orig. Code: BBF

## Board Member Standards of Conduct

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

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

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

A public charter school board member has the right to express personal opinions. When expressing such opinions in public, the Board member should clearly identify the opinions as personal.

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

A Board member will keep information discussed in an executive session, confidential.

A Board member will utilize social media websites judiciously by not posting confidential information about students, staff or school business. Board members will treat fellow Board members, staff, students and the public with respect while posting and will adhere to Oregon Public Meetings Laws when communicating with other Board members via websites or other electronic means.

END OF POLICY

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### Legal Reference(s):

[ORS 192.610 to -192.710](#)

[ORS Chapter 244](#)

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

### Cross Reference(s):

BBFA - Board Member Ethics and Conflicts of Interest

# Evergreen Virtual Academy

Code: BBFA  
Adopted: 10/21/13  
Revised/Readopted: 6/19/18  
Orig. Code: BBFA

## Board Member Ethics and Conflicts of Interest

No Board member will use his/her official position or office to obtain personal financial benefit or to avoid financial detriment for him or herself, relatives, household members or for any business with which the Board member, household member or a relative is associated.

This prohibition does not apply to any part of an official compensation package, honorarium allowed by Oregon Revised Statutes (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 annual \$50 gift limit from one who has a legislative or administrative interest in any matter subject to the decision or vote of the Board member. Public charter school-provided meals at board meetings are acceptable under the reimbursement of expenses exception.

### I. Conflicts of Interest

“Business” means any corporation, partnership, proprietorship, enterprise, association, franchise, firm, organization, self-employed individual or any legal entity operated for economic gain. This definition excludes any income-producing tax exempt 501© not-for-profit corporation with which a public official or a relative of the public official is associated only as a member or board director or in a nonremunerative capacity.

“Business with which a Board member or relative is associated” means any private business or closely held corporation of which a Board member or relative is a director, officer, owner, employee or agent or any private business or closely held corporation in which a Board member or relative owns or has owned stock, another form of equity interest, stock options or debt instruments worth \$1,000 or more at any point in the preceding year; any publicly held corporation in which a Board member or relative owns or has owned \$100,000 or more in stock or another form of equity interest, stock options or debt instruments at any point in the preceding calendar year; or any publicly held corporation of which a Board member or relative is a director or officer.

“Relative” means: the Board member’s spouse<sup>1</sup>, parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the Board member; or the parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the spouse of the Board member. Relative also includes any individual for whom the Board member has a legal support obligation, whose employment provides benefits<sup>2</sup> to the Board member, or who receives any benefit from the Board member’s employment.

“Member of the household” means any person who resides with the public official.

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<sup>1</sup>The term spouse includes domestic partner.

<sup>2</sup>Examples of benefits may include, but not be limited to, elements of an official compensation package including benefits such as insurance, tuition or retirement allotments.

No Board member will solicit or receive, either directly or indirectly, any pledge or promise of future employment based on any understanding that the Board member's vote, official action or judgment would be thereby influenced.

No Board member will attempt to use or use for personal gain any confidential information gained through his/her official position or association with the public charter school. A Board member will respect individuals' privacy rights when dealing with confidential information gained through association with the public charter school.

If a Board member participates in the authorization of a public contract, the Board member may not have a direct beneficial financial interest in that public contract for two years after the date the contract was authorized.

Individual Board members and the Board as a public entity are bound by the ethics laws for public officials as stated in Oregon law.

### **Potential Conflict of Interest**

"Potential conflict of interest" means any action or any decision or recommendation by a Board member that could result in a financial benefit or detriment for self or relatives or for a business with which the Board member or relatives are associated, unless otherwise provided by law.

A Board member must publicly declare a potential conflict of interest. A Board member may, after declaring his/her potential conflict of interest, either vote or abstain on the issue. Abstaining from a vote does not meet the legal requirement of publicly stating a potential conflict.

### **Actual Conflict of Interest**

"Actual conflict of interest" means any action or any decision or recommendation taken by a Board member that would result in a financial benefit or detriment to self or relatives or for any business with which the Board member or relatives are associated, unless otherwise provided by law.

A Board member must publicly declare an actual conflict of interest. The Board member may not vote lawfully if an actual conflict of interest exists unless a vote is needed to meet a minimum requirement of votes to take official action. Such a vote does not allow the Board member to participate in any discussion or debate on the issue out of which an actual conflict arises.

### **Class Exception**

It will not be a conflict of interest if the Board member's action would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged. For example, if a Board member's spouse is a member of the collective bargaining unit, the Board member may vote to approve the contract, as it will affect all members of that class to the same degree. However, if the collective bargaining unit is very small, the class exception may not apply. Similarly, if the contract contains special provisions that might apply only to particular persons, then the class exception may not apply. For example, if a Board member's spouse is the only one in the bargaining unit that has a doctorate and there is a pay differential for employees with doctorates in the collective bargaining agreement, the Board member should not vote on the contract.

## II. Gifts

Board members 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 Board member. All gift related provisions apply to the Board member, their relatives, and members of their household. The \$50 gift limit applies separately to the Board member, and to the Board member's relatives or members of household, meaning that the Board member and each member of their household and relative can accept up to \$50 each from the same source/gift giver. "Gift" means something of economic value given to a Board member without valuable consideration of equivalent value, which is not extended to others who are not public officials on the same terms and conditions.

"Relative" means: the spouse<sup>3</sup>, parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the Board member; or the parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the spouse of the Board member. Relative also includes any individual for whom the Board member has a legal support obligation, whose employment provides benefits<sup>4</sup> to the Board member, or who receives any benefit from the Board member's employment.

"Member of the household" means any person who resides with the Board member.

### **Determining the Source of Gifts**

Board members 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 Board member'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 Board member. If the giver does not have a legislative/administrative interest, the ethics rules on gifts do not apply and the Board member 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 decision or vote of a person acting in the capacity of a Board member. For example, everyone within a county has a general interest in the fire department, but the person who sells the uniforms to the fire department has a legislative/administrative interest in the fire department that is distinct from the general public.

### **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 Board member does not claim the charitable contribution on personal tax returns. Below are acceptable ways to calculate the fair market value of a gift:

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<sup>3</sup>Ibid. p. 1

<sup>4</sup>Ibid. p. 1

1. In calculating the per person cost at receptions or meals the payor of the Board member'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 Board member is \$25. This example requires that the Board member does not claim the charitable contribution on personal tax returns.

2. For receptions and meals with multiple attendees, but with no price established to attend, the source of the Board member'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 Board member.
3. Upon request by the Board member, the source will give notice of the value of the merchandise, goods, or services received.
4. 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**

Board members 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**

Board members 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 or vote of the Board member 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 Board member is acting in their official capacity for a ceremonial purpose.

Entertainment is ceremonial when a Board member appears at an entertainment event for a "ceremonial purpose" at the invitation of the source of the entertainment who requests the presence of the Board member at a special occasion associated with the entertainment. Examples of an appearance by a Board member 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.

1. Campaign contributions are not considered gifts under the ethics rules.
2. Gifts from “relatives” and “members of the household” to the Board member are permitted in an unlimited amount; they are not considered gifts under the ethics rules.
3. Informational or program material, publications, or subscriptions related to the recipient’s performance of official duties.
4. Contributions made to a legal expense trust fund if certain requirements are met.
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. Board members are permitted to accept payment for travel conducted in the Board member’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 Board member 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 Board member 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 Board.*
      - (2) The purpose of this exception is to allow Board members 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 Board member is representing the public charter school. Again, this exception does not authorize private meals where the participants engage in discussion.

“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 Board member 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 Board member at a continuing education event that the Board member may attend to satisfy a professional licensing requirement.
9. A gift received by the Board member as part of the usual or customary practice of the Board member's private business, employment or position as a volunteer that bears no relationship to the Board member's holding of public office.

### **Honoraria**

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

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 Board member or candidate.

END OF POLICY

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#### **Legal Reference(s):**

[ORS 244.010](#) to -244.400

[OAR 199-005-0001](#) to -199-010-0150

38 OR. ATTY. GEN. OP. 1995 (1978)

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

#### **Cross Reference(s):**

BBF - Board Member Standards of Conduct

BBFB - Board Member Ethics and Nepotism

DJ - Public Charter School Purchasing

# Evergreen Virtual Academy

Code: BBFB  
Adopted: 10/21/13  
Revised/Readopted: 6/19/18  
Orig. Code: BBFB

## Board Member Ethics and Nepotism

In order to avoid both potential and actual conflicts of interests, Board members will abide by the following rules when a Board member's relative or member of the household is seeking and/or holds a position with the public charter school:

1. A Board member 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 the Board member complies with the conflict of interest requirements of ORS Chapter 244;
2. This policy does not apply to decisions regarding unpaid volunteer positions unless it is a Board member position or another Board-related unpaid volunteer position (i.e. a Board committee position);
3. A Board member 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. A Board member may still serve as a reference or provide a recommendation.

For the purposes of this policy:

“Member of the household” means any person who resides with the Board member.

“Relative” means: the spouse<sup>1</sup>, parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the Board member; or the parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the spouse of the Board member. Relative also includes any individual for whom the Board member has a legal support obligation, whose employment provides benefits<sup>2</sup> to the Board member, or who receives any benefit from the Board member's employment.

### Class Exception

It will not be a conflict of interest if the Board member's action would affect to the same degree a class including the Board member's relative or household member. For example, if a Board member's spouse is a member of the collective bargaining unit, the Board member may vote to approve the contract, as it will affect all members of that class to the same degree. However, if the collective bargaining unit is very small, the class exception may not apply. Similarly, if the contract contains special provisions that might apply only to particular persons, then the class exception may not apply. For example, if a Board

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<sup>1</sup>The term “spouse” includes domestic partner.

<sup>2</sup>Examples of benefits may include, but not be limited to, elements of an official compensation package including benefits such as insurance, tuition or retirement allotments.

member's spouse is the only one in the bargaining unit that has a doctorate and there is a pay differential for employees with doctorates in the collective bargaining agreement, the Board member should not vote on the contract.

END OF POLICY

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**Legal Reference(s):**

[ORS 244.010 to -244.400](#)

[ORS 659A.309](#)

[OAR 199-005-0001 to -199-010-0150](#)

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

**Cross Reference(s):**

BBFA - Board Member Ethics and Conflicts of Interest

# Evergreen Virtual Academy

Code: BD/BDA  
Adopted: 6/19/18  
Orig. Code: BD/BDA

## Public Charter School Board Meetings

The Board has the authority to act only when a quorum is present at a duly called regular, special or emergency meeting. “Meeting” means the convening of a quorum of the Board as the public charter school’s governing body to make a decision or to deliberate toward a decision on any matter. This includes meeting for the purpose of gathering information to serve as the basis for a subsequent decision or recommendation by the governing body, i.e. a work session. The affirmative vote of a majority is required to transact any business.

All regular, special and emergency meetings of the Board will be open to the public except as provided by law. All meetings will be conducted in compliance with state and federal statutes. All Board meetings, including Board retreats and work sessions, will be held within the geographic boundaries over which the Board has jurisdiction. The Board may attend training sessions outside these boundaries but cannot deliberate or discuss public charter school business.<sup>1</sup> No meeting will be held at any place where discrimination on the basis of disability, race, creed, color, sex, sexual orientation<sup>2</sup>, age or national origin is practiced.

The Board will give public notice reasonably calculated to give actual notice to interested persons, including those with disabilities, of the time and place for all Board meetings and of the principal subjects to be considered. The Board may consider additional subjects at a meeting, even if they were not included in the notice.

If requested to do so at least 48 hours before a meeting held in public, the Board shall provide an interpreter for hearing-impaired persons. Other appropriate auxiliary aids and services will be provided upon request and appropriate advance notice. Communications with all qualified individuals with disabilities shall be as effective as communications with others.

All meetings held in public shall comply with the Oregon Indoor Clean Air Act and the smoking provisions contained in the Public Meetings Law.

The possession of dangerous or deadly weapons and firearms, as defined in law and Board policy, is prohibited on public charter school property.

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<sup>1</sup>ORS 192.630(4). Meetings of the governing body of a public body shall be held within the geographic boundaries over which the public body has jurisdiction, or at the administrative headquarters of the public body or at the other nearest practical location. Training sessions may be held outside the jurisdiction as long as no deliberations toward a decision are involved.

<sup>2</sup>As defined in ORS 174.100.

## 1. Regular, Special and Emergency Meetings

Generally, a regular Board meeting will be held each month. The regular meeting schedule will be established at the organizational meeting in July and may be changed by the Board with proper notice. The purpose of each regular monthly meeting will be to conduct the regular Board business.

Special meetings can be convened by the Board chair, upon request of three Board members or by common consent of the Board at any time to discuss any topic. A special meeting may also be scheduled if less than a quorum is present at a meeting or additional business still needs to be conducted at the ending time of the meeting. At least 24 hours' notice must be provided to all Board members, the news media, which have requested notice, and the general public for any special meeting.

Emergency meetings can be called by the Board in the case of an actual emergency upon appropriate notice under the circumstances. The minutes of the emergency meeting must describe the emergency. Only topics necessitated by the emergency may be discussed or acted upon at the emergency meeting.

## 2. Communications Outside of Board Meetings

Communications, to, by and among a quorum of Board members outside of a legally called Board meeting, in their capacity as Board members, shall not be used for the purpose of discussing public charter school business. This includes electronic communication. Electronic communications among Board members shall be limited to messages not involving deliberation, debate, decision-making or gathering of information on which to deliberate.

Electronic communications may contain:

- a. Agenda item suggestions;
- b. Reminders regarding meeting times, dates and places;
- c. Board meeting agendas or information concerning agenda items;
- d. One-way information from Board members or the administrator to each Board member (e.g., an article on student achievement or to share a report on public charter school progress on goals) so long as that information is being made available to the public;
- e. Individual responses to questions posed by community members, subject to other limitations in Board policy.

## 3. Private or Social Meetings

Private or social meetings of a quorum of the Board for the purpose of making a decision or to deliberate toward a decision on any matter are prohibited by the Public Meetings Law.

## 4. Work Sessions

The Board may use regular or special meetings for the purpose of conducting work sessions to provide its members with opportunities for planning and thoughtful discussion. Work sessions will be conducted in accordance with the state law on public meetings, including notice and minutes. The Board may make official decisions during a work session. Generally, Boards do not take official action during work sessions, although there is no legal prohibition to do so.

## 5. Executive Sessions

Executive sessions may be held as an agenda item during regular, special or emergency meetings for a reason permitted by law. (See Board policy BDC - Executive Sessions)

END OF POLICY

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### Legal Reference(s):

[ORS 174.100](#)

[ORS 174.104](#)

[ORS Chapter 192](#)

[ORS Chapter 193](#)

[[ORS 255.335](#)]

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

[ORS 433.835](#) to -433.875

38 OR. ATTY. GEN. OP. 1995 (1978)

41 OR. ATTY. GEN. OP. 28 (1980)

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).

Americans with Disabilities Act Amendments Act of 2008.

OR. ATTY. GEN. Public Records and Meetings Manual (2014).

### Cross Reference(s):

ACA - Americans with Disabilities Act

BDC - Executive Sessions

# Evergreen Virtual Academy

Code: BDC  
Adopted: 6/19/18  
Orig. Code: BDC

## Executive Sessions

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

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

The Board may hold an executive session:

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

8. To consider matters relating to school safety or a plan that responds to safety threats made toward a school. (ORS 192.660(k))
9. To review the expulsion of a minor student from a public elementary or secondary school. (ORS 332.061(1)(a))
10. To discuss matters pertaining to or examination of the confidential medical records of a student, including that student's educational program. (ORS 332.061(1)(b))

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

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

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

Minutes shall be kept for all executive sessions.

Content discussed in executive sessions is confidential.

END OF POLICY

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**Legal Reference(s):**

[ORS 192.610](#) to -192.710

[ORS 338.115](#)

**Cross Reference(s):**

BD/BDA - Public Charter School Board Meetings

BDDG - Minutes of Board Meetings

CBG - Evaluation of the Head of School

# Evergreen Virtual Academy

Code: BDC-AR  
Adopted: 10/21/13  
Revised/Readopted: 6/19/18  
Orig. Code: BDC-AR

## Executive Sessions-News Media

**Currently Recognized News Media Organizations.** The following entities are recognized as news media organizations eligible to attend executive sessions because they have an established history of meeting the requirements of this regulation:

*The World*  
*The Oregonian*  
*The Bulletin*

No other entity shall be permitted to attend an executive session unless it is recognized through the process described below.

### 1. Recognition of Other News Media Organizations

- a. The following entities are recognized as news media organizations eligible to attend executive sessions:<sup>1</sup>
  - (1) A general or associate member newspaper of the Oregon Newspaper Publishers Association, a broadcast member of the Oregon Association of Broadcasters or a member of the Associated Press; or
  - (2) A newspaper that the public charter school uses for publication of public notices and that meets the requirements of ORS 193.020; or
  - (3) An entity recognized by the public charter school as being a news source that:
    - (a) Is organized and operated to regularly and continuously publish, broadcast, transmit via the Internet or otherwise disseminate news to the public, and that regularly reports on activities of the public charter school or matters of the nature under consideration by the public charter school; and
    - (b) Is determined by the public charter school to be a business entity that is institutionalized<sup>2</sup> and that is committed to, and is structured to support, the terms of ORS 192.660(4).<sup>3</sup> In making this determination, the public charter school may

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<sup>1</sup>School-sponsored media groups comprised of members of the student body under the direction of a student media advisor are not within the definition of “media organization” as contemplated by this regulation.

<sup>2</sup>For the purposes of this regulation, “institutionalized” means long-established or well-established.

<sup>3</sup>ORS 192.660(4). Representatives of the news media shall be allowed to attend executive sessions other than those held under Subsection (2)(d) of this section relating to labor negotiations or executive session held pursuant to ORS 332.061(2) but the governing body may require that specified information be undisclosed.

consider and weigh any factors that it deems to be relevant, including, without limitation, the existence of any of the following factors:

- (i) The entity has multiple personnel with defined roles within its organizational structure;
  - (ii) The names of news-reporting personnel, and responsible entity management personnel, together with addresses and contact telephone numbers, are readily available;
  - (iii) The entity has an available process for correcting errors, including violations of executive session statutes, by a person with authority to take corrective measures.
- b. It shall be the entity's burden to persuade the public charter school by substantial evidence that it should be recognized as a news media organization meeting the criteria in Section 1.a. of this regulation. Such evidence must be submitted five working days in advance of the next regularly scheduled Board meeting prior to the first executive session that the entity desires to attend. The Board shall make a determination within three days or at the next regularly scheduled Board meeting of receiving the evidence submitted by the entity. The Board may elect to forgo this procedure in cases where the Board, in its sole discretion, determines that it can immediately recognize that an entity qualifies under this procedure, or in cases where the Board, in its sole discretion, determines that other good cause exists for making an expedited determination. A determination that the entity is not recognized shall be based upon written findings addressing the criteria in Section 1.a.

## 2. Attendance at Executive Sessions

Representatives of news media organizations recognized under the criteria established by this regulation shall be allowed to attend executive sessions, except as described in ORS 192.660(4) and 192.660(5), pursuant to the following process:

- a. The representative must provide substantial evidence persuading the public charter school, that he or she is a news reporter for the recognized news media organization. In making its determination whether to recognize the person as a representative of the news media organization, the public charter school shall require:
  - (1) A press badge or identification issued by the recognized news media organization, plus proof of identity (such as a driver's license); or
  - (2) A recently published news article in the recognized news media organization publication or broadcast, with the person's byline, or a masthead showing the person's name as a member of the news gathering staff of the news media organization, plus proof of identity; or
  - (3) A letter on letterhead from an editor of the recognized news media organization in which the editor states that the reporter is covering the meeting for the news media organization, plus proof of identity.
- b. Representatives of the news media are not permitted to attend executive sessions involving deliberations with persons designated to carry on labor negotiations. ORS 192.660(4). If the executive session is being held for the purpose of conferring with counsel about current litigation or litigation likely to be filed, the Board shall exclude any member of the news

media from attending if the member is a party to the litigation to be discussed or is an employee, agent or contractor of a news media organization that is a party to the litigation. ORS 192.660(5);

- c. The Board may require that a request to attend an executive session be made in writing on a form provided by the public charter school. The form shall require disclosure of the person's name, and the entity for which he or she is a news reporter, and shall require submission of evidence described in Subsections 2.a.(1), (2) or (3) of this regulation. The form shall also include a signature line whereby the person certifies that they are gathering news for a recognized news media organization, that the information given is true and that they agree to comply with ORS 192.660(4);
- d. The Board may consider any relevant evidence provided or gathered in making its decision as to whether a person shall be recognized as a representative of a recognized news media organization.

### 3. Recording Devices Prohibited

Cameras and other audio or video recording devices shall not be used in executive sessions, except for the official executive session tapes made by public charter school staff.

### 4. Exclusion Based on a Direct Personal Interest

A representative of a news media organization that has a direct personal interest in the subject of the executive session that would frustrate the purpose of the executive session may be barred from attending.

# Evergreen Virtual Academy

Code: BDD  
Adopted: 6/19/18  
Orig. Code: BDD

## Board Meeting Procedures

### 1. Quorum

A quorum will consist of the majority of the Board members.

### 2. Vote Needed for Exercise of Powers

The affirmative vote of a majority of Board members [present] will be necessary for exercising any of the Board's powers.

### 3. Board Member Voting

Each member's vote on all motions will be recorded in the minutes.

### 4. Abstaining from Vote

If a Board member chooses to abstain from voting, and the abstention is due to a conflict of interest, the Board members will state the reason for the abstention and such abstention will be recorded.

### 5. Parliamentary Procedure

Official Board business will be transacted by motion or resolution at duly called regular or special meetings.

Except as otherwise provided by state law and/or Board policy, the rules of parliamentary procedure comprised in *Robert's Rules of Order Newly Revised*, "Procedure in Small Boards" as modified by the Board will govern the Board in its deliberation.

The Board chair will decide all questions relative to points of order, subject to an appeal to the Board.

END OF POLICY

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#### Legal Reference(s):

[ORS 192.650](#)

[ORS 244.120\(2\)](#)

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

38 OR. ATTY. GEN. OP. 1995 (1978)

41 OR. ATTY. GEN. OP. 28 (1980)

# Evergreen Virtual Academy

Code: BDDC  
Adopted: 6/19/18  
Orig. Code: BDDC

## Board Meeting Agenda

The Board chair, with the assistance of the administrator, will prepare an agenda for all regular meetings of the Board. Items of business may be suggested by any Board member, staff member, student or citizen of the public charter school by notifying the Board chair at least two working days prior to the meeting.

A consent agenda may be used by the Board for noncontroversial business. The consent agenda will consist of routine business that requires action but not necessarily discussion. These items may all be approved at the same time. A Board member may ask that any item be removed from the consent agenda. The removed item will then be placed on the regular agenda.

The agenda will follow a general order established by the Board. Opportunities for the audience to be heard may be included on the agenda. The Board will follow the order of business set up by the agenda unless the order is altered by a consensus of the Board.

Items of business not on the agenda may be discussed and acted upon if the majority of the Board agrees to consider them.

The agenda, together with supporting materials, will be distributed by the public charter school office or administrator to Board members at least two full working days prior to the meeting. The agenda will be available to the press and to interested patrons through the administrator's office at the same time it is available to the Board members. Copies of the agenda for the press and public will not contain any confidential information included in the Board members' packets.

A copy of the agenda will be posted on the school website on the day of the meeting.

The public charter school will ensure equally effective communications are provided to qualified persons with disabilities, upon request, as required by the Americans with Disabilities Act.

Appropriate auxiliary aids and services may include, but are not limited to, qualified interpreters, assistive listening systems, note takers, large print, Braille materials, audio recordings and readers. Primary consideration will be given to the requests of the person with a disability in the selection of the appropriate auxiliary aid and/or service. Should the Board demonstrate such request would result in a fundamental alteration in the service, program or activity or an undue financial and administrative burden, an alternate, equally effective communications will be used.

Auxiliary aids and services for persons with disabilities will be available at no charge to the individual.

END OF POLICY

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**Legal Reference(s):**

[ORS 192.630](#)

[ORS 192.640](#)

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).  
Americans with Disabilities Act Amendments Act of 2008.

**Cross Reference(s):**

BDDG - Minutes of Board Meetings

# Evergreen Virtual Academy

Code: BDDG  
Adopted: 6/19/18  
Orig. Code: BDDG

## Minutes of Board Meetings

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

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

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

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

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

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

END OF POLICY

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### Legal Reference(s):

[ORS 192.610 to -192.710](#)

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

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

# Evergreen Virtual Academy

Code: BFC  
Adopted: 6/19/18  
Orig. Code: BFC

## Adoption and Revision of Policies

Board policies will be subject to alteration, addition or deletion upon majority vote of the Board at any regular or special meeting in which all members have been notified in writing of the proposed alteration, addition or deletion at least 24 hours in advance. In most cases, a first reading of the policy will be scheduled on a regular meeting agenda prior to its adoption at a subsequent regular or special meeting.

A proposed change in policy will not be made at the meeting in which the change is proposed unless by majority vote of the Board.

The formal adoption of policies will be recorded in the Board minutes. Only those written statements so adopted and so recorded will be regarded as official Board policy.

When additions, deletions or amendments are made to Board policy, the addition, deletion or amendment will carry the adoption date and the corrected copy will be published at the earliest opportunity.

The operation of any single policy, section or sections of policies not established by law or specifically listed in the current collective bargaining agreement may be temporarily suspended by a majority vote of the Board at a regular or special meeting.

The policy manual will be regularly reviewed to keep it current.

END OF POLICY

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### Legal Reference(s):

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

# Evergreen Virtual Academy

Code: BFC  
Adopted: 6/19/18

## Administrative Regulations (AR)

Administrative regulations are detailed directions governing the operation of the public charter school.

The administrator is authorized to formulate such administrative regulations appropriate for the implementation of policies adopted by the Board and necessary for the consistent operation of the public charter school.

When approved by the administrator, administrative regulations shall be distributed to the Board and the staff as appropriate, placed in notebooks and made available to the Board, staff and the public.

The Board may review any administrative regulation and may direct its revision if, in the Board's judgment, such administrative regulation is not consistent with adopted board policies.

END OF POLICY

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### Legal Reference(s):

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

# Evergreen Virtual Academy

Code: BHD  
Adopted: 6/19/18  
Orig. Code: BHD

## Board Member Compensation and Expense Reimbursement

No Board member will receive any compensation for services other than reimbursement for approved expenses actually incurred on public charter school business. Such expenses may include the cost of attendance at meetings, conferences or visitations when such attendance has been approved by the Board.

When paid admission is required of the public, Board members may be reimbursed for attending school events and other activities when their attendance is consistent with board responsibilities and school operations. The public charter school will establish accounting procedures consistent with this policy.

END OF POLICY

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### Legal Reference(s):

[ORS 244.020](#)  
[ORS 244.040](#)

[ORS 332.018\(3\)](#)  
[ORS 338.115\(2\)](#)

OR. GOV'T STANDARDS AND PRACTICES COMM'N, STAFF OPINION 02S-015 (May 20, 2002).  
OR. GOV'T STANDARDS AND PRACTICES COMM'N, STAFF OPINION 03S-015 (Sept. 11, 2003).

### Cross Reference(s):

BBAA - Individual Board Member's Authority and Responsibilities  
DLC - Expense Reimbursements \*

# Evergreen Virtual Academy

Code: CB  
Adopted: 6/19/18  
Orig. Code: CB

## Head of School

The head of school is designated as the public charter schools chief executive officer. Under the Board’s direction, the head of school exercises general supervision of the public charter school, and departments. The head of school is responsible for managing the public charter school under the Board’s policies and is accountable to the Board for that management.

The head of school may delegate to other public charter school personnel any powers and duties imposed upon the head of school by Board policies or by vote of the Board. Delegation of power or duty will not relieve the head of school of responsibility for action taken under such delegation.

END OF POLICY

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### Legal Reference(s):

[ORS 332.505](#)

[ORS 332.515](#)

[OAR 581-022-2405](#)

### Cross Reference(s):

CBG - Evaluation of the Head of School

# Evergreen Virtual Academy

Code: CBB  
Adopted: 6/19/18  
Orig. Code: CBB

## Recruitment and Appointment of the Head of School

The Board considers foremost among its responsibilities, the selection and appointment of a head of school who can effectively translate into action, the Board’s policies and the community’s aspirations for its public charter school.

To provide the most capable leadership available for the public charter school, the Board may engage in a search for applicants for the position of head of school whenever a vacancy in that position occurs.

The Board shall develop and adopt the standards (e.g., candidate qualities and work experience), criteria (e.g., application, screening and hiring process) and policy directives (e.g., promote from within, state and/or national search) to be used in hiring the head of school at a meeting open to the public and at which the public has had an opportunity to comment.

The Board may seek the advice and counsel of interested individuals or of an advisory committee, or it may hire consultants to assist in screening candidates to encourage the filing of applications by professionals who meet the qualifications. Final selection will rest with the Board after a thorough consideration of qualified applicants.

The Board will appoint the head of school by a majority vote of the Board members at a meeting for which notice has been given of the intended action.

END OF POLICY

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### Legal Reference(s):

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

# Evergreen Virtual Academy

Code: CBG  
Adopted: 6/19/18  
Orig. Code: CBG

## Evaluation of the Head of School

The head of school job performance will be evaluated formally. Additional criteria for the evaluation, if any, will be developed prior to conducting the evaluation. The head of school will be notified of the additional criteria prior to the evaluation.

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

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

END OF POLICY

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### Legal Reference(s):

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

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

[OAR 581-022-2405](#)

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

### Cross Reference(s):

BDC - Executive Sessions  
CB - Head of School

# Evergreen Virtual Academy

Code: CCG  
Adopted: 6/19/18  
Orig. Code: CCG

## Evaluation of Administrators

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

A formal evaluation will be conducted at least once each year. The evaluation shall be conducted according to the following guidelines:

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

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

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

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

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

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

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

An evaluation using the administrator standards must attempt to:

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

Evaluation and support systems established by the public charter school must evaluate administrators on a regular cycle. The administrator shall regularly report to the Board on the implementation of the evaluation and support systems and educator effectiveness.

END OF POLICY

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**Legal Reference(s):**

[ORS 192.660\(2\),\(8\)](#)  
[ORS 332.505](#)  
[ORS 342.513](#)

[ORS 342.815](#)  
[ORS 342.850](#)  
[ORS 342.856](#)

[OAR 581-022-2405](#)  
[OAR 581-022-2410](#)  
[OAR 581-022-2420](#)

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

# Evergreen Virtual Academy

Code: CHCA  
Adopted: 6/19/18  
Orig. Code: CHCA

## Handbooks

In order that pertinent Board policies, administrative regulations, school rules and procedures may be known by all staff members, patrons, students and parents affected; the public charter school administrator is granted authority to issue staff and student/parent handbooks.

The contents of all handbooks must conform with the public charter school charter agreement, board policies and administrative regulations. The publication shall bear the name of the public charter school and be of a quality that reflects favorably on the school. The Board expects all handbooks to be approved by the administrator before publication.

All handbooks published are to be made available to the Board for informational purposes.

END OF POLICY

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### Legal Reference(s):

[ORS 332.107](#)

# Evergreen Virtual Academy

Code: DB  
Adopted: 6/19/18  
Orig. Code: DB

## Public Charter School Budget

The public charter school budget will serve as the financial plan of operation for the public charter school and will include estimates of expenditures for a given period and purpose and the proposed means of financing the estimated expenditures. The public charter school may provide that the budget and budget documents are prepared on an annual or biennial basis.

The public charter school budget will be prepared in compliance with Generally Accepted Accounting Principles.

The fiscal year will extend from July 1 to June 30 inclusive.

The administrator will be designated as budget officer and will prepare the budget document.

END OF POLICY

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### Legal Reference(s):

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

OR. DEP'T OF EDUC, PROGRAM BUDGET AND ACCOUNTING MANUAL (2006).

# Evergreen Virtual Academy

Code: DD  
Adopted: 6/19/18  
Orig. Code: DD

## Grant Funding Proposals and Applications

The public charter school may pursue federal, state or private grants or other such funds that will assist the public charter school in meeting adopted Board and public charter school goals.

Proposals for external funds will be submitted to the Board for evaluation and approval.

In the event an opportunity arises to submit a grant proposal and there is insufficient time to place it before the Board, the administrator is authorized to use his or her judgment in approving it for submission. The administrator will review the proposal with the Board at its next regular meeting. The Board reserves the right to reject funds associated with any grant which has been approved.

The Board shall, before an acceptance of such funds, consider the public charter school's obligations, expectations or encumbrances when the grant ceases.

END OF POLICY

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### Legal Reference(s):

[ORS 294.305 to -294.565](#)

[ORS 332.075](#)

# Evergreen Virtual Academy

Code: DE  
Adopted: 6/19/18  
Orig. Code: DE

## Revenues from Private, State and Federal Sources

The Board may authorize, accept and use private, state or federal funds available to the public charter school to carry out public charter school educational programs. The public charter school will comply with all regulations and procedures required for receiving and using such funds.

END OF POLICY

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### Legal Reference(s):

[ORS 294.305 to -294.565](#)

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

# Evergreen Virtual Academy

Code: DFA  
Adopted: 10/21/13  
Revised/Readopted: 6/19/18  
Orig. Code: DFA

## Investment of Funds

The public charter school board may authorize the investment or reinvestment of funds which are not immediately needed for operation of the public charter school. Such investments will comply with state law and Oregon Administrative Rules.

The head of school will develop criteria for the appropriate investments of public charter school funds. A progress report of investments will be made to the public charter school board on a regular basis.

END OF POLICY

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### Legal Reference(s):

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

# Evergreen Virtual Academy

Code: DH  
Adopted: 6/19/18  
Revised/Readopted: 8/20/19  
Orig. Code: DH

## Bonded Employees and Officers

All public charter school employees responsible for funds, fees, cash collections or inventory control will be bonded to protect the public charter school against loss in an amount determined by the Board and upon recommendation of the public charter school's agent-of-record. In compliance with Oregon statutes and administrative rules, the administrator, custodian of funds and other individuals as deemed necessary by the Board, will have individual fidelity bond coverage or equivalent crime coverage. The public charter school will pay the cost of such coverage.

END OF POLICY

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### Legal Reference(s):

[ORS 328.441](#)

[ORS 332.525](#)

[OAR 581-022-2405](#)

# Evergreen Virtual Academy

Code: DIC  
Adopted: 6/19/18  
Orig. Code: DIC

## Financial Reports and Statements

The Board will receive monthly financial reports that include estimates of expenditures for the general fund in comparison to budget appropriations, actual receipts in comparison to budget estimates and the public charter school's overall cash condition. Supplementary reports on other funds or accounts will be furnished upon request of the Board or administrator.

The Board may receive a preaudit report from the business manager recapping the year-end closure of financial statements prior to the annual audit.

Appropriate staff will be available at any Board meeting, upon the Board's request, to respond to questions and to present current financial information. The administrator will notify the Board at any time of substantial deviations in the anticipated revenues and/or expenditures.

END OF POLICY

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### Legal Reference(s):

[ORS 294.155](#)

[ORS 294.311](#)

[ORS Chapter 297](#)

[ORS 328.465](#)

[ORS 338.095\(2\)](#)

[OAR 162-010-0000 to -0330](#)

[OAR 162-040-0000 to -0160](#)

[OAR 581-023-0037](#)

OR. DEP'T OF EDUC, PROGRAM BUDGET AND ACCOUNTING MANUAL.

### Cross Reference(s):

DIE - Audits

# Evergreen Virtual Academy

Code: DID  
Adopted: 10/21/13  
Revised/Readopted: 6/19/18  
Orig. Code: DID

## Property Inventories

The public charter school will maintain a complete property inventory which lists all public charter school equipment and supplies with a value greater than \$500. This inventory will be updated annually. The Board may authorize the employment of an appraisal company to assist with the inventory procedure.

To update these records, the public charter school will keep current records of equipment disposed of and purchased.

END OF POLICY

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### Legal Reference(s):

[ORS 332.155](#)

OR. DEP'T OF EDUC, PROGRAM BUDGET AND ACCOUNTING MANUAL.

# Evergreen Virtual Academy

Code: DIE  
Adopted: 6/19/18  
Orig. Code: DIE

## Audits

An audit of all public charter school accounts will be made annually by an accountant selected by the Board from the roster of authorized municipal accountants maintained by the Oregon Board of Accountancy. The audit examination will be conducted in accordance with minimum auditing standards established by the Secretary of State.

A copy of the audit report will be presented to the Board. The administrator will submit a copy of the audit report to the school's sponsor and the Oregon Department of Education.

END OF POLICY

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### Legal Reference(s):

[ORS 294.155](#)

[ORS Chapter 297](#)

[ORS 327.137](#)

[ORS 328.465](#)

[OAR 162-010-0020\(11\)](#)

[OAR 581-023-0037](#)

### Cross Reference(s):

DIC - Financial Reports and Statements

DJB - Petty Cash Accounts

# Evergreen Virtual Academy

Code: DJ  
Adopted: 10/21/13  
Revised/Readopted: 6/19/18  
Orig. Code: DJ

## Public Charter School Purchasing

The function of public charter school purchasing is to serve the educational program by providing the necessary supplies, equipment and services. Items commonly used will be standardized whenever consistent with educational goals and in the interest of efficiency or economy.

The office manager is appointed by the Board to serve as purchasing agent. He/She will be responsible for developing and administering the public charter school's purchasing program.

No obligation may be incurred by any officer or employee of the Board unless that expenditure has been authorized in the budget or by Board action and/or Board policy. In all cases calling for the expenditure of public charter school money, except payrolls, the approval system must be used.

No purchase will be authorized unless covered by the approval system. No bills will be approved for payment unless purchases were made on approved orders.

The head of school or designee is authorized to enter into and approve payment on contracts obligating public charter school funds not to exceed \$10,000 for products, materials, supplies, capital outlay and services that are within current budget appropriations. The Board shall approve all contracts that are collective bargaining agreements or service contracts that include the provision of labor performed by public charter school employees, such as custodial, food service and transportation services.

The office manager will review bills due and payable for the purchase of supplies and services to determine if they are within budget amounts. After appropriate administrative review, the office manager will direct payment of the just claims against the public charter school. The head of school and office manager are responsible for the accuracy of all bills and vouchers.

No Board member, officer, employee or agent of this public charter school shall use or attempt to use his or her official position to obtain financial gain or for avoidance of financial detriment for himself or herself, a relative or member of their household for any business with which the Board member, a relative or a member of their household is associated.

Acceptance of any gratuities, financial or otherwise, from any supplier of materials or services to the public charter school by any Board member, officer or employee of the public charter school is prohibited.

END OF POLICY

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**Legal Reference(s):**

[ORS 244.040](#)

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

[ORS 294.311](#)

[ORS 328.441 to -328.470](#)

[ORS 332.075](#)

[OAR 125-055-0040](#)

**Cross Reference(s):**

BBA - Board Powers and Duties

BBFA - Board Member Ethics and Conflicts of Interest

DJC - Bidding Requirements

# Evergreen Virtual Academy

Code: DJ-AR  
Revised/Reviewed: 6/19/18; 8/20/19  
Orig. Code: DJ-AR

## Expenditure of Funds for Meals, Refreshments and Gifts

The public charter school recognizes there may be occasions when it is appropriate for Board members, administrators and others to expend public charter school funds in the course of conducting public charter school business to provide meals or refreshments (bakery goods, snacks, fruit, punch, coffee, tea, soft drinks, etc.). The purchase of gifts may also be approved, in certain situations. Such occasions may include, but are not limited to, various public charter school meetings, gatherings to celebrate public charter school successes or recognize individual achievements, contributions or outstanding service to the public charter school and other public charter school-sponsored activities. Such expenditures may be made with prior administrator approval only, subject to the provisions of this administrative regulation.

The use of public charter school funds, as used in this regulation, means the use of money in any of the general accounts of the public charter school. Exceptions are funds collected from staff members or others for the specific purpose of providing gifts or parties. It is also recognized that the public charter school may have established a “social fund” or “sunshine fund” to which each staff member may voluntarily contribute. Such funds are generally used for birthday recognition, bereavement and illness acknowledgment activities, etc. These funds are also exempt from the following requirements.

### Meals and Refreshments

Public charter school funds may be used to pay for individual or group meals only if official public charter school business is being conducted during the time in which the meal is provided and only if the meal provides a particularly practical time or setting for the discussion, consistent with Board policy and the following:

1. Meals may be provided by the public charter school to recognize the contributions of staff, through retirement dinners or other recognition events;
2. Meals may be provided by the public charter school as a part of Board or administrative work sessions, at public charter school committee meetings or other public charter school-approved activities.

Meals not directly business related may be provided to staff or others at the individual’s expense only.

Board members and administrative staff may use public charter school funds to provide refreshments for staff, parents or others at meetings, in-service programs or other similar public charter school-sponsored activities, not to exceed \$15 per participant and subject to the following additional requirements:

1. The purchase of alcoholic beverages with public charter school funds is strictly prohibited;
2. The use of public charter school monies for parties is prohibited.

## **Gifts**

There are numerous occasions that may arise whereby Board members, administrators or other public charter school staff may feel the need to recognize employees (i.e., Administrative Professional's Day, employees' week, birthday, etc. A Board member, administrator or other public charter school employee may provide such recognition only at his or her expense, unless as otherwise permitted below:

1. The public charter school may provide a small token of appreciation for a Board member's or employee's retirement and years of service and other related activities utilizing public charter school funds, as approved in advance.
2. Administrators may use public charter school funds to provide an appropriate token of appreciation on behalf of the Board. The value of this item may not exceed \$50 per person;
3. No other expenditure of public charter school monies for gifts is permitted without prior authorization from the Board.

# Evergreen Virtual Academy

Code: DJB  
Adopted: 6/19/18  
Orig. Code: DJB

## Petty Cash Accounts

Petty cash funds will be established annually in the amount sufficient. Such funds will be used for the payment of properly itemized bills of nominal amounts and under conditions calling for immediate payment. Allowances, responsibility, security and accounting of petty cash funds will be in accordance with Board policy and requirements of law.

Petty cash will not be used to thwart or circumvent established purchasing procedures. It is a convenient accommodation to facilitate immediate acquisition of low-cost goods and services in an efficient manner.

END OF POLICY

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### Legal Reference(s):

[ORS 294.311](#)

**Or. Dep't. of Education, Program Budget and Accounting Manual.**

### Cross Reference(s):

DIC - Financial Reports and Statements  
DIE - Audits

# Evergreen Virtual Academy

Code: DJC  
Adopted: 6/19/18  
Revised/Readopted: 8/20/19  
Orig. Code: DJC

## Bidding Requirements

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

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

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

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

Where necessary, the Board has made the written findings required by law for exemptions from competitive bidding. Such findings shall be maintained by the public charter school and made available on request.

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

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

The Board recognizes that a public contracting agency that has not established its own rules of procedure as permitted under ORS 279A.065(5) is subject to the model rules adopted by the Attorney General, including all modifications to the model rules that the Attorney General may adopt. Procurements estimated to be in excess of \$250,000 shall go through the cost analysis and feasibility process described in ORS 279B.

END OF POLICY

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**Legal Reference(s):**

ORS Chapters [279](#), [279A](#), [279B](#) and [ORS 338.115](#) [OAR Chapter 125](#), Divisions 246-249  
[279C](#)

OR. DEP'T OF JUSTICE, OR. ATT'Y GENERAL'S MODEL PUBLIC CONTRACT RULES MANUAL.

**Cross Reference(s):**

DJ - Public Charter School Purchasing

# Evergreen Virtual Academy

Code: DJC-AR  
Revised/Reviewed: 6/19/18; 8/20/19  
Orig. Code: DJC-AR

## Special Procurements and Exemptions from Competitive Bidding

### *SPECIAL PROCUREMENTS*

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

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

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

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

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

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

### **2. Advertising Contracts, Purchase of**

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

## **Findings of Fact**

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

- a. By their nature, media sources are generally unique. Advertisements are placed in a particular source because of the specific audience that source serves;
- b. Competition to furnish advertising space in daily newspapers of general, trade or business circulation in the vicinity of the public charter school is limited;
- c. Cost savings are difficult to quantify where the sources are unique and not interchangeable;
- d. Advertisements may be placed to satisfy legal notice or Board policy requirements;

- e. Other published advertisements or notices, such as routine public notices, personnel recruitment information, etc., are placed in one or more of the publications of general circulation in the local area and other publications, as appropriate;
- f. The communities served by the public charter school rely upon its use of the local daily newspaper as a central source of news and information regarding public charter school activities;
- g. It is unknown whether contracts for advertisements placed with radio, television or other broadcast media are going to result in cost savings if not placed for competitive bid or request for proposal (RFP). If possible savings could be obtained through competitive means, the public charter school would attempt to obtain competitive quotes or bids, as appropriate.

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

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

### 3. Advertising Contracts, Sale of

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

### **Findings of Fact**

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

## **Conclusion of Compliance with Law**

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

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

### **4. Equipment Repair and Overhaul**

- a. The public charter school may enter into a public contract for equipment repair or overhaul without competitive bidding, subject to the following conditions:
  - (1) Service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing; or
  - (2) Service or parts required are for sophisticated equipment for which specially trained personnel are required and such personnel are available from only one source; and
  - (3) The purchase is made within the limits and pursuant to the methods in subsection b. of this rule.
  
- b. The following limitations apply to this rule:
  - (1) If the contract is less than or equal to \$150,000, the school or department shall submit in writing to the board or designee the reasons why competitive bids or quotes are deemed to be impractical. The board or designee will accordingly document in its procurement file and may enter directly into the contract;
  - (2) If the school or department official thinks the contract may exceed \$150,000, he/she shall submit in writing to the board or designee the reasons why competitive bidding is deemed to be impractical and a description of the cost savings to be obtained by a special procurement. The board or designee may prepare a specific request for the anticipated contract to be obtained through special procurement procedures to submit to the LCRB for approval.

## **Findings of Fact**

- a. The need for equipment repair or overhaul cannot be anticipated by public charter school staff. If a piece of equipment is broken or not working properly, the public charter school incurs cost of downtime, possible replacement equipment rental fees, staff time and other inconveniences or liabilities to its programs.
- b. Generally, there are a limited number of vendors who are able to perform repair or overhaul on a particular piece of equipment because of its make or manufacture. Sophisticated equipment may require specially trained personnel available from only one source. Often, a piece of equipment will have a partial warranty in place which will guarantee some savings to the public charter school in the parts and/or labor needed to do the repair or overhaul. This

warranty savings may only be achieved if the original manufacturer or provider of the equipment performs the necessary repair or overhaul.

- c. The dollar limits on the use of this special procurement procedure ensure that when the cost of the equipment repair or overhaul is expected to exceed \$150,000, the public charter school will either seek formal competitive bids or, if that is not practical or cost effective, obtain a specific special procurement procedure from the LCRB to proceed with the purchase of the needed repair or overhaul.

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

It is unlikely that this special procurement procedure will encourage favoritism in the awarding of public contracts or substantially diminish competition for such contracts because the dollar limits incorporated into this special procurement when the anticipated costs exceed \$150,000, insure the public charter school will seek formal competitive bids and proposals. If the formal process is not practical, the public charter school will obtain a specific exemption from the LCRB to proceed with the purchase of the needed repair or overhaul.

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

### 5. Copyrighted Materials

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

### **Findings of Fact**

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

The public charter school purchases its textbooks/instructional materials through the Northwest Textbook Depository. This practice enables the regional textbook depository to

purchase and warehouse textbooks/instructional materials in conformance with adoptions made in the states of their region. The result is that savings are achieved through the depository's combined purchases on behalf of members. Freight costs for individual public charter schools are reduced by the bulk purchases of the depository and the depository takes on the cost of stocking and warehousing enough to meet each members' needs.

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

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

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

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

#### **6. Product Prequalification**

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

written appeal within seven calendar days to the public charter school board to request review and reconsideration of the denial.

### **Findings of Fact**

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

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

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

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

## Conclusion of Compliance with Law

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

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

7. Requirements Contracts (Blanket Purchase Orders, Price Agreements)<sup>1</sup>
  - a. The board, on behalf of the public charter school, may establish requirements contracts for the purposes of minimizing paperwork, achieving continuity of product, securing a source of supply, reducing inventory, combining public charter school requirements for volume discounts, standardization among school and departments and reducing lead time for ordering.
  - b. The public charter school may enter into a requirements contract (also known as a blanket purchase order or price agreement) whereby it is agreed to purchase goods or services for an anticipated need at a predetermined price or price discount from a price list, provided the contract is led by a competitive procurement process pursuant to the requirements of the public contracting code and these rules.
  - c. Once a requirements contract is established, schools and departments may purchase the goods and services from the awarded contractor without first undertaking additional competitive solicitation.
  - d. School and departments shall use requirements contracts established by the public charter school, unless otherwise specified in the contract, allowed by law or these rules or specifically authorized by the board or designee.
  - e. Under the authority of ORS 279A.025 and 279B.085, the public charter school may use the requirements contracts entered into by another Oregon public agency when:
    - (1) The original contract met the requirements of public contracting code; and
    - (2) The original contract allows other public agency usage of the contract; and
    - (3) The original public contracting agency concurs and this is documented by a written interagency agreement between the public charter school and the agency.

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

- f. The term of any public charter school requirements contract, including renewals, shall not exceed five years unless otherwise permitted under the public contracting code.

### **Findings of Fact**

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

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

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

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

8. Used Personal Property or Equipment, Purchase<sup>2</sup>
  - a. Subject to the provisions of this rule, the public charter school may purchase used property or equipment without obtaining competitive bids or quotes, if the public charter school has determined that the purchase will result in cost savings to the public charter school and will not diminish competition or encourage favoritism. “Used personal property or equipment” is property or equipment which has been placed in its intended use by a previous owner or user for a period of time recognized in the relevant trade or industry as qualifying the personal property or equipment as “used” at the time of public charter school purchase. Used personal property or equipment generally does not include property or equipment if the public charter

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<sup>2</sup>When contracting with another governmental entity, a public charter school has a statutory exception under ORS 279A.025. The public charter school may purchase state/federal surplus property through the Department of Administrative Services (DAS), State Services Division for Surplus Property. For more information on this program, contact DAS at 503-378-3014.

- school was the previous user, whether under a lease, as part of a demonstration, trial or pilot project or similar arrangement.
- b. For purchases of used personal property or equipment costing less than or equal to \$150,000, the public charter school shall, where feasible, obtain three competitive quotes unless the public charter school has determined and documented that a purchase without obtaining competitive quotes will result in cost savings to the public charter school and will not diminish competition or encourage favoritism.
  - c. For purchases of used personal property or equipment totaling \$150,000 or more, the public charter school shall attempt to obtain three competitive quotes. The public charter school will keep a written record of the source and amount of quotes received. If three quotes are not available, a written record must be made of the attempt to obtain quotes.

### **Findings of Fact**

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

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

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

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

## 9. Information Technology Contracts

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

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

### **Findings of Fact**

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

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

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

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

10. Telecommunications Systems - Hardware and Software Contracts

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

**Findings of Fact**

- a. Rapid changes in technology make it necessary for the public charter school to be able to purchase needed telecommunications hardware and software quickly.
- b. Since deregulation, there is generally adequate competition among vendors of telecommunication hardware and software to allow the public charter school to make competitive purchases.
- c. Pricing for telecommunications hardware and software also changes frequently. It is important for the public charter school to take advantage of price competition in the marketplace.
- d. The public charter school will follow procedures governing special procurements and document reasonable efforts to obtain at least three informally solicited quotes for purchases over \$10,000 but less than or equal to \$150,000.
- e. If a purchase of telecommunications hardware or software is expected to cost more than \$150,000, the public charter school will use a formal competitive bidding or proposal process in accordance with these rules and the *Attorney General's Model Public Contract and LCRB Rules*.

- f. There are also times when the public charter school needs to purchase specific items that are compatible with current equipment. On these occasions, the public charter school will follow its rule governing Brand Names or Products, “Or Equal,” Single Seller and Sole Source, Section 1. under Special Procurements, to make the purchase.

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

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

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

## **11. Telecommunications Services**

- a. The public charter school shall secure the most competitive, cost-effective telecommunications services of the quality needed to meet all service performance requirements while minimizing administrative and service delivery costs. The public charter school will use routine purchasing procedures whenever possible, but if necessary, the public charter school can consider alternative procurement methods in accordance with this rule.
- b. The public charter school will generally follow the normal competitive procurement processes in obtaining telecommunications services. This process will only be used if necessary where there is a lack of sufficient competition to furnish needed services.
- c. In determining the appropriate procurement method for telecommunications services, the public charter school shall comply with the requirements of ORS 291.038 and determine whether competition exists. In determining whether competition exists, the public charter school may consider the following factors:
  - (1) The extent to which alternative providers exist in the relevant geographic and service market; the greater area of Coos County;
  - (2) The extent to which alternative services offered are comparable or substitutable in technology, service provided and performance. For example, if the public charter school requires digital services, analog services are not comparable or substitutable. If the public charter school requires fiber optic technology, then copper, microwave or satellite transmission technology may not be comparable or substitutable;
  - (3) The extent to which alternative providers can respond to the public charter school’s interest in consistency and continuity of services throughout its service area, volume discounts, equitable service for all users, centralized management and limiting public charter school liability. For example, to be considered as the public charter school’s long-distance service provider, any long-distance service vendor must be able to meet, support and interface with the public charter school’s centralized automated billing requirements. The public charter school must document for the record, its findings on these factors or any other factors used in determining whether competition exists. In

developing its findings, the public charter school may solicit the information either through informal telephone or written contacts or through a formal solicitation such as a RFP.

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

### **Findings of Fact**

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

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

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

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

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

steps to be taken to document situations where sufficient competition may not exist and a sole source purchase needs to be made.

## 12. Hazardous Material Removal; Oil Cleanup

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

### **Findings of Fact**

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

## **Conclusions of Compliance with Law**

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

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

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

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

## **Findings of Fact**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Brand Names or Products, “Or Equal,” Single Seller and Sole Source
  - a. The public charter school may purchase brand names or products from a single seller or sole source without competitive bidding subject to the limitations of this rule.
  - b. The public charter school has determined that value engineering, specialized expertise required, public safety and technical complexity, generally do not apply to this exemption.
  - c. Solicitation specifications for public contracts of the public charter school shall not expressly or implicitly require any product of any particular manufacturer or seller except as expressly authorized in subsections d. and e. of this rule.
  - d. The public charter school may specify a particular brand name, make or product suffixed by “or equal,” “or approved equal,” “or equivalent,” “or approved equivalent” or similar language if there is no other practical method of specification after documenting the procurement file with the following:
    - (1) A brief description of the solicitation(s) to be covered, including contemplated future purchases;
    - (2) Description of the brand name, mark or product to be specified; and
    - (3) A brand name specification may be prepared and used only if the public charter school determines for a solicitation or class of solicitations that only the identified brand name specification will meet the needs of the public charter school based on one or more of the following written determinations:
      - (a) The use of the brand name specification is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; or
      - (b) Specification of the brand name, mark or product would result in substantial cost savings to the public charter school; or
      - (c) There is only one manufacturer or seller of the product of the quality, performance or functionality required; or
      - (d) The efficient utilization of existing goods requires the acquisition of compatible goods and services.
    - (4) The public charter school shall make reasonable effort to notify all known suppliers of the specified product and invite such vendors to submit competitive bids or proposals.
  - e. The public charter school may purchase a particular product or service available from only one source, after documenting the procurement file with the public charter school’s findings of current market research to support the determination that the product is available from only one seller or source. The public charter school’s findings shall include:
    - (1) A brief description of the contract or contracts to be covered, including contemplated future purchases;
    - (2) Description of the product or service to be purchased; and
    - (3) The reasons the public charter school is seeking this procurement method, which shall include any of the following:
      - (a) That the efficient utilization of existing equipment, supplies or services requires the acquisition of compatible equipment, supplies or services; or
      - (b) That the goods or services required for the exchange of software or data with other public or private agencies are available for only one source; or

- (c) That the goods or services are for use in a pilot or an experimental project; or
  - (d) Other findings that support the conclusion that the goods or services are available from only one source.
- (4) To the extent reasonably practical, the contracting agency shall negotiate with the sole source to obtain contract terms advantageous to the contracting agency.
- f. The public charter school may specify a product or service available from only one manufacturer but available through multiple sellers, after documenting the procurement file with the following information:
- (1) If the total purchase is over \$10,000 but does not exceed \$100,000, and a comparable product or service is not available under an existing state cooperative purchasing contract, competitive quotes shall be obtained by the public charter school and retained in the procurement file; or
  - (2) If the amount of the purchase exceeds \$100,000, the product or service shall be obtained through competitive bidding unless a specific exemption is granted by the LCRB.
- g. If the public charter school intends to make several purchases of the product of a particular manufacturer or seller for a period not to exceed five years, the public charter school will so state in the solicitation file and in the solicitation document, if any. Such documentation shall be sufficient notice as to subsequent purchases. If the total purchase amount is estimated to exceed \$100,000, this shall be stated in the advertisement for bids or proposals.

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

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

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

## **2. Product Prequalification**

- a. When specific design or performance specifications must be met or such specifications are impractical to create or reproduce for a type of product to be purchased, the public charter school may specify a list of approved or qualified products by reference to the prequalified product(s) of particular manufacturers or vendors in accordance with the following product prequalification procedure:
  - (1) The public charter school will make reasonable efforts to notify all known manufacturers and vendors of competing products of the public charter school's intent to compile a list of prequalified products. The notice will explain the opportunity manufacturers and vendors of competing products will have to apply to have their product(s) included on

the public charter school's list of prequalified products. At its discretion, the public charter school may provide notice by advertisement in a trade paper of general statewide circulation or other appropriate trade publication; or instead of advertising, the public charter school may provide written notice to those manufacturers and vendors appearing on the appropriate list maintained by the public charter school; and

- (2) The public charter school will accept manufacturer and vendor applications to include products in the public charter school's list of prequalified products up to 15 calendar days prior to the initial advertisement for bids or proposals for the type of product to be purchased, unless otherwise specified in the advertisement or in the public charter school's written notice.
- b. The public charter school has determined that special expertise required, generally, does not apply to this rule.
  - c. If the public charter school denies an application for inclusion of a product on its list of prequalified products, the public charter school shall promptly provide the applicant with a written notice of the denial and include the reason for denial. The applicant may submit a written appeal within seven calendar days to the public charter school board to request review and reconsideration of the denial.

### **Findings of Fact**

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

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

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

- b. A second occasion when prequalification of products will be useful is when the specific design or performance specifications for a product are so exacting that the public charter school must have time to carefully consider what is offered in the market that may or may not meet the specifications and, if necessary, reconsider its options before issuing an invitation to bid.
- c. This rule sets out a process of prequalification which requires the use of advertisement or other appropriate means to notify vendors of competing products of their opportunity to submit items for prequalification. The public charter school maintains vendor mailing lists which are

- open to all interested vendors. The public charter school uses these lists routinely to notify vendors of its intentions to prequalify products or to invite bids on products.
- d. This includes a 15-day time limit between the closure of a prequalification list and a related invitation to bid. This time factor ensures that vendors have a reasonable time to apply to include their products on a prequalified product list.
  - e. Subsection c. of this rule provides vendors with an appeal process to follow if their application for prequalification is denied.

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

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

The prequalification of products process is a time-consuming effort for the public charter school. It is not a shortcut procurement method. The public charter school would use this method only after balancing cost-saving considerations, such as the ability of the public charter school to create or generate nonbrand name generic specifications for types of products or the need for lengthy product evaluation prior to a contract award. If the prequalification method is chosen, it will likely result in a substantial cost savings and other substantial benefits to the public charter school as required by ORS 279C.335(2)(b) because the normal method of product selection is too cumbersome and costly to pursue.

3. Requirements Contracts (Blanket Purchase Orders, Price)<sup>3</sup>
  - a. The board, on behalf of the public charter school, may establish requirements contracts for the purposes of minimizing paperwork, achieving continuity of product, securing a source of supply, reducing inventory, combining public charter school requirements for volume discounts, standardization among schools and departments and reducing lead time for ordering.
  - b. The public charter school has determined that value engineering, specialized expertise required and technical complexity, generally, do not apply to this rule.
  - c. The public charter school may enter into a requirements contract (also known as a blanket purchase order or price agreement) whereby it is agreed to purchase goods or services for an anticipated need at a predetermined price or price discount from a price list, provided the contract is led by a competitive procurement process pursuant to the requirements of the public contracting code and these rules.
  - d. Once a requirements contract is established, schools and departments may purchase the goods and services from the awarded contractor without first undertaking additional competitive solicitation.
  - e. Schools and departments shall use requirements contracts established by the public charter school, unless otherwise specified in the contract, allowed by law or these rules or specifically authorized by the administrator, board or designee.

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

- f. Under the authority of ORS 279A.025 and 279C.335, the public charter school may use the requirements contracts entered into by another Oregon public agency when:
  - (1) The original contract met the requirements of the public contracting code; and
  - (2) The original contract allows other public agency usage of the contract; and
  - (3) The original public contracting agency concurs and this is documented by a written interagency agreement between the public charter school and the agency.
- g. The term of any public charter school requirements contract, including renewals, shall not exceed five years unless otherwise exempted pursuant to ORS 279C.335.

### **Findings of Fact**

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

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

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

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

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

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

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

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

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

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

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

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

6. Projects with Complex Systems or Components

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

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

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

number of factors, in addition to price, will likely result in substantial cost savings and other substantial benefits to the public charter school as required by ORS 279C.335(2)(b).

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

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

# Evergreen Virtual Academy

Code: DLC  
Adopted: 10/21/13  
Revised/Readopted: 6/19/18  
Orig. Code: DLC

## Expense Reimbursements

The public charter school will reimburse employees for authorized expenses incurred for professional growth and/or job requirements in accordance with administrative regulations developed by the administrator and consistent with Internal Revenue Service requirements.

END OF POLICY

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### Legal Reference(s):

[ORS 294.155](#)

[ORS 332.107](#)

[OAR 581-022-2260](#)

I.R.C. § 162 (2006); Business Expenses, 26 C.F.R. 1.162-1 (2006).

INTERNAL REVENUE SERVICE, PUBLICATION 463: TRAVEL, ENTERTAINMENT, GIFT AND CAR EXPENSES.

### Cross Reference(s):

BHD - Board Member Compensation and Expense Reimbursement

# Evergreen Virtual Academy

Code: EB  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: EB

## Safety Program

Safe buildings, grounds and equipment will be maintained in order to prevent accidents or injury to students, employees and others from fire, natural disasters, mechanical and electrical malfunction and other hazards.

Buildings will be planned, constructed, equipped and maintained in accordance with appropriate local, state and federal safety regulations.

Buildings will be provided with alarm systems, fire extinguishers and other safety devices required by state and federal laws and regulations.

The head of school will develop and implement a safety program which will include, but not be limited to, compliance with and enforcement of all state and federal laws, rules and regulations.

END OF POLICY

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### Legal Reference(s):

[ORS 338.115\(1\)\(y\)](#)  
[ORS 654.003 to -654.022](#)

[OAR 437-001-0760](#)  
[OAR 437-002-0020 to -0081](#)  
[OAR 437-002-0100](#)

[OAR 437-002-0140](#)  
[OAR 437-002-0144](#)  
[OAR 437-002-0145](#)  
[OAR 437-002-0180 to -0182](#)  
[OAR 437-002-0260 to -0268](#)  
[OAR 437-002-0360](#)

[OAR 437-002-0368](#)  
[OAR 437-002-0377](#)  
[OAR 437-002-0390](#)  
[OAR 437-002-0391](#)  
[OAR 581-022-2030](#)  
[OAR 581-022-2225](#)

Fazzolari v. Portland Sch. Dist. No. 1J, 303 Or. 1 (1987).

Toxic Substances Control Act, 15 U.S.C. §§ 2601-2629 (2012); Asbestos Hazard Emergency Response Act of 1986, 15 U.S.C. §§ 2641-2656 (2012).

# Evergreen Virtual Academy

Code: EDC/KGF  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: EDC/KGF

## Authorized Use of School Equipment and Materials

Public charter school materials and equipment will be used only for school purposes by public charter school personnel on public charter school properties.

Exceptions to this policy must be approved by the administrator and authorized use shall be consistent with ORS Chapter 244.

END OF POLICY

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### Legal Reference(s):

[ORS Chapter 244](#)

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

[OAR 584-020-0040](#)

OREGON GOVERNMENT ETHICS COMMISSION, OREGON GOVERNMENT ETHICS LAW, A GUIDE FOR PUBLIC OFFICIALS (2010).

### Cross Reference(s):

KGF/EDC - Authorized Use of School Equipment and Materials

# Evergreen Virtual Academy

Code: GAB  
Adopted: 6/18/19  
Orig. Code: GAB

## Job Descriptions

Job descriptions serve to:

1. 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. Describe attendance standards;
3. Help applicants determine the qualifications needed to fill a position;
4. Help the public charter school administrator determine which candidates to recommend for appointment; and
5. Assist the administrator 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 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 or 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 administrator for each position in the public 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 Evergreen Virtual Academy Charter School*. The document will be available for inspection by any public charter school employee or patron. Each employee shall receive a copy of his or her job description. Each employee shall affix his or her signature and date after having read the job description.

Job descriptions will be reviewed as needed. Initial or revised job descriptions will be approved by the administrator.

END OF POLICY

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**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 (2016); 28 C.F.R. Part 35 (2016).  
The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (2012).  
Title II of the Genetic Information Nondiscrimination Act of 2008.  
Section 503 of the Rehabilitation Act of 1973.  
Americans with Disabilities Act Amendments Act of 2008.

**Cross Reference(s):**

ACA - Americans with Disabilities Act

# Evergreen Virtual Academy

Code: GBA  
Adopted: 6/18/19  
Orig. Code: GBA

## Equal Employment Opportunity

Equal employment opportunity and treatment shall be practiced by the public charter school regardless of race, color, religion, sex, sexual orientation<sup>1</sup>, national origin, marital status, age, veterans' status<sup>2</sup>, familial 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 administrator 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 administrator 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 administrator will develop other specific recruiting, interviewing and evaluation procedures as are necessary to implement this policy.

END OF POLICY

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

<sup>2</sup>The public charter school grants a preference in hiring and promotion to veterans and disabled veterans. A veteran is eligible to use the preference any time when applying for a position at any time after discharge or release from service in the Armed Forces of the United States.

**Legal Reference(s):**

<a href="#"><u>ORS 174.100</u></a>	<a href="#"><u>ORS 659A.003</u></a>	<a href="#"><u>ORS 659A.409</u></a>
<a href="#"><u>ORS 192.630</u></a>	<a href="#"><u>ORS 659A.006</u></a>	<a href="#"><u>ORS 659A.805</u></a>
<a href="#"><u>ORS 243.672</u></a>	<a href="#"><u>ORS 659A.009</u></a>	
<a href="#"><u>ORS 326.051</u></a>	<a href="#"><u>ORS 659A.029</u></a>	<a href="#"><u>OAR 581-021-0045</u></a>
<a href="#"><u>ORS 332.505</u></a>	<a href="#"><u>ORS 659A.030</u></a>	<a href="#"><u>OAR 581-022-2405</u></a>
<a href="#"><u>ORS 338.115</u></a>	<a href="#"><u>ORS 659A.109</u></a>	<a href="#"><u>OAR 839-003-0000</u></a>
<a href="#"><u>ORS 342.934</u></a>	<a href="#"><u>ORS 659A.142</u></a>	<a href="#"><u>OAR 839-006-0435</u></a>
<a href="#"><u>ORS 408.225</u></a>	<a href="#"><u>ORS 659A.145</u></a>	<a href="#"><u>OAR 839-006-0440</u></a>
<a href="#"><u>ORS 408.230</u></a>	<a href="#"><u>ORS 659A.233</u></a>	<a href="#"><u>OAR 839-006-0450</u></a>
<a href="#"><u>ORS 408.235</u></a>	<a href="#"><u>ORS 659A.236</u></a>	<a href="#"><u>OAR 839-006-0455</u></a>
<a href="#"><u>ORS 659.850</u></a>	<a href="#"><u>ORS 659A.309</u></a>	<a href="#"><u>OAR 839-006-0460</u></a>
<a href="#"><u>ORS 659.870</u></a>	<a href="#"><u>ORS 659A.321</u></a>	<a href="#"><u>OAR 839-006-0465</u></a>

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2012).

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

Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634 (2012); 29 C.F.R Part 1626 (2016).

Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6107 (2012).

Equal Pay Act of 1963, 29 U.S.C. § 206(d) (2012).

Rehabilitation Act of 1973, 29 U.S.C. §§ 503, 791, 793-794 (2012).

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2012); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2016).

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2016); 28 C.F.R. Part 35 (2016).

Wygant v. Jackson Bd. of Educ., 476 U.S. 267 (1989).

Americans with Disabilities Act Amendments act of 2008.

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (2012).

Title II of the Genetic Information Nondiscrimination Act of 2008.

**Cross Reference(s):**

AC - Nondiscrimination

ACA - Americans with Disabilities Act

# Evergreen Virtual Academy

Code: GBC  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: GBC

## Staff Ethics

### I. Conflict of Interest

No public charter school employee will use his or 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 Oregon Revised Statutes (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 or her regular working hours or during the additional time that he or 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 or 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 or 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*:

“Member of the household” means any person who resides with the employee.

“Relative” means: the spouse<sup>1</sup>, parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the employee; or the parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the spouse of the employee. Relative also includes any individual for whom the employee has a legal support obligation, whose employment provides benefits<sup>2</sup> to the employee, or who receives any benefit from the employee’s employment.

## **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. “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.

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<sup>1</sup>The term spouse includes domestic partner.

<sup>2</sup>Examples of benefits may include, but not be limited to, elements of an official compensation package including benefits such as insurance, tuition or retirement allotments.

“Relative” means: the spouse<sup>3</sup>, parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the employee; or the parent, step-parent, child, sibling, step-sibling, son-in-law or daughter-in-law of the spouse of the employee. Relative also includes any individual for whom the employee has a legal support obligation, whose employment provides benefits<sup>4</sup> to the employee, or who receives any benefit from the employee’s employment.

“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 or 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:

1. 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.

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<sup>3</sup>The term spouse includes domestic partner.

<sup>4</sup>Examples of benefits may include, but not be limited to, elements of an official compensation package including benefits such as insurance, tuition or retirement allotments.

2. 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.
3. Upon request by the employee, the source will give notice of the value of the merchandise, goods, or services received.
4. 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.

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

3. 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 administrator.
      - (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.
4. 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.
5. 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).
6. 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.
7. 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.
8. 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 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

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### Legal Reference(s):

[ORS 244.010 - 244.400](#)  
[ORS 332.016](#)

[ORS 659A.309](#)

[OAR 199-005-0001 - 199-020-0020](#)  
[OAR 584-020-0040](#)

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

# Evergreen Virtual Academy

Code: GBCA  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: GBCA

## 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 head of school will develop administrative regulations to implement this policy.

END OF POLICY

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### Legal Reference(s):

[ORS 243.650\(7\)](#)  
[ORS 327.109](#)

[ORS 332.107](#)  
[ORS 339.351](#)

[ORS 659.850](#)  
[ORS 659A.030](#)

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

# Evergreen Virtual Academy

Code: GBCA-AR  
Revised/Reviewed: 10/21/13; 6/18/19  
Orig. Code: GBCA-AR

## 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.

# Evergreen Virtual Academy

Code: GBDA  
Adopted: 6/18/19  
Orig. Code: GBDA

## Mother Friendly Workplace

The public charter school recognizes that a normal and important role for mothers is to have the option and ability to express milk and breast-feed in the workplace. The Board directs the public charter school administrator to take measures and develop procedures to ensure that all public charter school employees shall be provided with an adequate location to express milk for her child and breast-feed her child.

The public charter school administrator shall see that the public charter school makes a reasonable effort to provide a private<sup>1</sup> room or other location in close proximity to the employee's work area, other than a restroom, where an employee can express milk and breast-feed in privacy. This policy directs the public charter school administrator to include the following in the development of a procedure to ensure the provisions for employees required by this policy:

1. Advice of a school nurse or health professional in determining the most reasonable facility accommodation;
2. Access to a private room with a lock that would allow a mother to express milk for her child and breast-feed her child during a lunch or other break period;
3. A room which shall include:
  - a. Electrical outlets for electric pumps, as needed; and
  - b. A sign up sheet and a sign posting the room as "private during use."

The public charter school will provide sanitation facilities, including a sink, close by for hand washing and for use to rinse breast pump equipment.<sup>2</sup>

A reasonable effort will be made to provide a flexible work schedule in consideration of the requirements of the staff member's responsibility.

The public charter school shall provide the employee a 30-minute rest period to express milk - and breast-feed during each 4-hour work period, or the major part of a 4-hour work period, to be taken by the employee approximately in the middle of the work period.<sup>3</sup> If feasible, the employee will take the rest period at the same time as the rest periods or meal periods provided by the public charter school.

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<sup>1</sup>A "private location" is a place, other than a public restroom or toilet stall, in close proximity to the employee's work area for the employee to express milk concealed from view and without intrusion by other employees or the public...(OAR 839-020-0051).

<sup>2</sup>Oregon Health Authority, "How to Become a Breastfeeding Friendly Employer" (2015).

<sup>3</sup>Public charter schools should refer to their work agreements to determine if the "rest period" is paid, nonpaid or a combination. The statute states the rest period is unpaid unless the public charter school has language in employee work agreements that addresses paid breaks.

This policy and a list of designated locations will be published in the employee handbook. A list of designated locations must be readily available, upon request, in the central office of each public charter school facility and at the public charter school office.

END OF POLICY

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**Legal Reference(s):**

[ORS 243.650](#)  
[ORS 338.115](#)

[ORS 653.077](#)  
[ORS 653.256](#)

[OAR 839-020-0051](#)

**Cross Reference(s):**

GCBDD/GDBDD - Sick Time

# Evergreen Virtual Academy

Code: GBEB  
Adopted: 6/18/19  
Orig. Code: GBEB

## Communicable Diseases - Staff

The district shall provide reasonable protection against the risk of exposure to communicable disease for employees while engaged in the performance of their duties. Reasonable protection from communicable disease is generally attained through immunization, exclusion or other measures as provided by Oregon law, by the local health department or in the *Communicable Disease Guidance* published by the Oregon Department of Education (ODE) and the Oregon Health Authority (OHA).

An employee who knows that he or she has or has been exposed to any restrictable disease, may not attend work unless authorized by Oregon law. When an administrator has reason to suspect that any employee has or has been exposed to any restrictable disease and exclusion is required, the administrator shall send the employee home. If the disease is a reportable disease, the administrator will report the occurrence to the local health department.

Employees shall comply with all other measures adopted by the public charter school and with all rules adopted by Oregon Health Authority, Public Health Division and the local health department.

Employees shall provide services to students as required by law. In cases when a restrictable or reportable disease is diagnosed and confirmed for a student, the administrator shall inform the appropriate employees with a legitimate educational interest to protect against the risk of exposure.

Employees who have the responsibility to work with or to provide services to persons other than students, shall provide the services to all such persons as required by law.

The public charter school shall protect the confidentiality of an employee's health condition and record to the extent possible and consistent with federal and state law.

The public charter school will include, as part of its emergency plan, a description of the actions to be taken by school staff in the case of a declared public health emergency or other catastrophe that disrupts public charter school operations.

The administrator will develop administrative regulations necessary to implement this policy.

END OF POLICY

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**Legal Reference(s):**

[ORS 338.115\(y\)](#)  
[ORS 431.150 to -431.157](#)  
[ORS 433.001 to -433.526](#)

[OAR 333-018](#)  
[OAR 333-019-0010](#)  
[OAR 333-019-0014](#)

[OAR 437-002-0360](#)  
[OAR 437-002-0377](#)  
[OAR 581-022-2220](#)

OREGON DEPARTMENT OF EDUCATION and OREGON HEALTH AUTHORITY, *Communicable Disease Guidance* (2017).  
Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (2012); Family Educational Rights and Privacy, 34  
C.F.R. Part 99 (2017).

# Evergreen Virtual Academy

Code: GBEB-AR  
Revised/Reviewed: 6/18/19  
Orig. Code: GBEB-AR

## Communicable Diseases – Staff

In accordance with state law, administrative rule, the local health authority and the *Communicable Disease Guidance*, the procedures established below will be followed.

1. “Restrictable diseases” are defined by rule and include but are not limited to chickenpox, diphtheria, hepatitis A, measles, mumps, pertussis, rubella, Salmonella enterica serotype Typhi infection, scabies, Shiga-toxigenic Escherichia coli (STEC) infection, shigellosis and tuberculosis disease, and may include a communicable stage of hepatitis B infection if, in the opinion of the local health officer, the person poses an unusually high risk to others (e.g., a child that exhibits uncontrollable biting or spitting). Restrictable disease also includes any other communicable disease identified in an order issued by the Oregon Health Authority or the local public health officer as posing a danger to the public’s health. A disease is considered to be a restrictable disease if it is listed in Oregon Administrative Rule (OAR) 333-019-0010, or it has been designated to be a restrictable disease by Board policy<sup>1</sup> or by the local health administrator after determining that it presents a significant public health risk in the school setting.
2. “Susceptible” means being at risk of contracting a restrictable disease by virtue of being in one or more categories described in law.
3. “Reportable diseases” means a human reportable disease, infection, microorganism or condition as specified in OAR Chapter 333, Division 18.

### Restrictable Diseases

1. An employee of the public charter school will not attend or work at a public charter school facility while in a communicable stage of a restrictable disease unless authorized to do so under Oregon law.
2. When an administrator has reason to suspect that an employee has or has been exposed to any restrictable disease that requires exclusion, the administrator shall send the employee home. If the disease is reportable, the administrator will report the occurrence to the local health department.
3. An employee will be excluded in such instances until such time as the employee presents a certificate from a physician, a physician assistant licensed under Oregon Revised Statute (ORS) 677.505-677.525, a nurse practitioner licensed under ORS 678.375-678.390, local health department nurse or school nurse stating that the employee does not have or is not a carrier of any restrictable disease.

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<sup>1</sup>“OAR 333-019-0010(7) Nothing in these rules prohibits a school or children’s facility from adopting more stringent exclusion standards under ORS 433.284.”

4. An administrator will exclude a susceptible employee that has been exposed to a restrictable disease that is also a reportable disease unless the local health officer determines that exclusion is not necessary to protect the public's health, or the local health officer states the disease is no longer communicable to others or that adequate precautions have been taken to minimize the risk of transmission. The administrator may request the local health officer to make a determination as allowed by law.
5. An administrator may allow attendance of an employee restricted for chickenpox, scabies, staphylococcal skin infections, streptococcal infections, diarrhea or vomiting if the restriction has been removed by a school nurse or health care provider.
6. More stringent exclusion standards for employees from school or work may be adopted by the local health department or by the public charter school through policy adopted by the Board.
7. The public charter school's emergency plan shall address the school's plan with respect to a declared public health emergency at the local or state level.

### **Reportable Diseases Notification**

1. All employees shall comply with all reporting measures adopted by the public charter school and with all rules set forth by Oregon Health Authority, Public Health Division and the local health department.
2. An administrator may seek confirmation and assistance from the local health officer to determine the appropriate response when the administrator is notified that an employee or a student has been exposed to a restrictable disease that is also a reportable disease.
3. Public charter school staff with impaired immune responses, that are of childbearing age or some other medically fragile condition, should consult with a medical provider for additional guidance.
4. An administrator shall determine other persons with a legitimate educational interest who may be informed of the communicable nature of an individual student's disease, or an employee's communicable disease, within guidelines allowed by law.

### **Equipment and Training**

1. The administrator or designee shall, on a case-by-case basis, determine what equipment and/or supplies are necessary in a particular classroom or other setting in order to prevent disease transmission.
2. The administrator or designee shall consult with the public charter school's nurse or other appropriate health officials to provide special training in the methods of protection from disease transmission.
3. All public charter school personnel will be instructed annually to use the proper precautions pertaining to blood and body fluid exposure per the Occupational Safety and Health Administration (OSHA).

# Evergreen Virtual Academy

Code: GBEBA  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: GBEBA

## 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 HBV<sup>1</sup>.

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

If the staff member reports his or 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, and 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

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### Legal Reference(s):

[ORS 243.650](#)

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

[ORS 342.850\(8\)](#)

[ORS 433.008](#)

[ORS 433.045](#)

[ORS 433.260](#)

[OAR 333-017-0000](#)

[OAR 333-018-0000](#)

[OAR 333-018-0005](#)

[OAR 581-022-2220](#)

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

# Evergreen Virtual Academy

Code: GBEC  
Adopted: 6/18/19  
Orig. Code: GBEC

## Drug-Free Workplace

The public charter school shall provide a drug-free workplace.

The purpose of this policy is to promote safety, health and efficiency by prohibiting the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or alcohol in the workplace.

This policy applies to all employees, including, but not limited to, those exempt, unclassified, management service, classified and temporary employees who are paid directly or indirectly from funds received under a federal grant or contract.

The public charter school shall provide to each employee a copy of this policy.

An employee shall not unlawfully manufacture, distribute, dispense, possess or use a controlled substance or alcohol in the workplace.

No public charter school employee shall knowingly sell, market or distribute steroid or performance enhancing substances to kindergarten through grade 12 students with whom the employee has contact as part of employee's public charter school duties; or knowingly endorse or suggest the use of such drugs. An employee shall, as a condition of employment, abide by the provisions of this policy.

### Definitions

1. "Controlled substance" shall include any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana or other controlled substance.
2. "Alcohol" shall include any form of alcohol for consumption, including beer, wine, wine coolers or liquor.
3. "Conviction" means a finding of guilt (including a plea of no contest) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.
4. "Criminal drug statute" means a federal or state criminal statute involving the manufacture, distribution, dispensation, possession or use of any controlled substance or alcohol.
5. "Drug-free workplace" means a site for the performance of work at which employees are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or alcohol.

## **Sanctions and Remedies<sup>1</sup>**

The public charter school, upon determining that an employee has engaged in the unlawful manufacture, distribution, dispensation or possession of a controlled substance or alcohol, or upon having reasonable suspicion (under the section below), of an employee's unlawful use of a controlled substance or alcohol in the workplace, shall, pending any criminal drug statute conviction for a violation occurring in the workplace, take appropriate action which may include transfer, granting of leave with or without pay or suspension with or without pay.

Within 30 calendar days of learning of an employee's criminal drug statute conviction for a violation occurring in the workplace, the public charter school shall:

1. Take appropriate action, which may include discipline up to and including termination; and/or
2. Require satisfactory participation by the employee in a drug-abuse assistance or rehabilitation program approved for such purpose by a federal, state or local health, law enforcement or other appropriate agency.

## **Basis for Reasonable Suspicion of Employee Use of Controlled Substance/Alcohol**

Reasonable suspicion of employee use of an unlawful controlled substance or alcohol shall be based upon any of the following:

1. Observed abnormal behavior or impairment in mental or physical performance (e.g., slurred speech, difficulty walking);
2. Direct observation of use in the workplace;
3. The opinion of a medical professional;
4. Reliable information concerning use in the workplace, the reliability of any such information shall be determined by the employer;
5. A work-related accident in conjunction with a basis for reasonable suspicion as listed above.

## **Employee Assistance Program**

An employee having a drug or alcohol problem is encouraged to seek assistance, on a confidential basis, under the Employee Assistance Program if such program is provided by the employer.

The public charter school shall, upon employee request, grant leave with or without pay to permit an employee to participate in a drug abuse assistance or rehabilitation program.

## **Establishment of Drug-Free Awareness Program**

The public charter school shall establish a drug-free awareness program to inform employees of the:

1. Dangers of drug abuse in the workplace;
2. Existence of, and content of this policy for maintaining a drug-free workplace;
3. Availability of drug-counseling, rehabilitation and employee assistance programs; and

4. Penalties that may be imposed for drug abuse violations occurring in the workplace.

**Notification by Employee of Conviction<sup>1</sup>**

An employee shall, as a condition of employment, notify the public charter school in writing of any criminal drug statute conviction for a violation occurring in the workplace no later than five calendar days after such conviction.

**Notification by Evergreen Virtual Academy, Public Charter School of an Employee Conviction**

The public charter school shall notify the appropriate federal granting or contracting agency, in writing, of an employee’s criminal drug statute conviction for a violation occurring in the workplace no later than 10 calendar days after receiving notice of such conviction.

END OF POLICY

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**Legal Reference(s):**

[ORS 243.650](#)  
[ORS 336.222](#)  
[ORS 338.115](#)

[ORS Chapter 475](#)  
[ORS 657.176](#)  
[ORS 659A.127](#)

[OAR 584-020-0040\(5\)\(e\)](#)

Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 8101-8106 (2012); General Principles Relating to Suspension and Debarment Actions, 34 C.F.R. §§ 84.100-84.670 (2016).  
Controlled Substances Act, 21 U.S.C. § 812; Schedules of Controlled Substances, 21 C.F.R. §§ 1308.11-1308.15 (2016).  
Safe and Drug-Free Schools and Communities Act, 20 U.S.C. §§ 7101-7117 (2012).

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<sup>1</sup>Ibid. p. 2

# Evergreen Virtual Academy

Code: GBED  
Adopted: 6/18/19  
Orig. Code: GBED

## Medical Examinations and Drug Testing

### Medical Examinations

The public charter school may require medical examinations after an employment offer has been made to a job applicant and before the applicant begins his or her employment duties. Any such requirement will ensure that all entering employees in the same job category will complete a medical examination regardless of disability.

All offers of employment may be made contingent on medical examination results.

Medical examinations will be conducted by a health care professional selected by the public charter school. Public charter school-required medical examination expenses will be paid by the public charter school.

The successful applicant must be qualified and must be able to perform the essential functions of a position with or without reasonable accommodations. The public charter school may withdraw an offer of employment should the medical examination reveal that the individual does not satisfy certain employment criteria under the following conditions:

1. The exclusionary criteria are job related and consistent with business necessity;
2. There is no reasonable accommodation that will enable the individual with a disability to perform the essential functions of the job;
3. The medical condition poses a direct threat to the health or safety of others in the workplace and cannot be eliminated or reduced to an acceptable level by a reasonable modification of policies, practices, procedures or by the provision of auxiliary aids or services;
4. The requested or necessary accommodation would impose an undue hardship on the public charter school, unless funding is available through other sources. Individuals with a disability may be offered an opportunity of paying for a portion of the costs that constitutes an undue hardship or of personally providing the accommodation.

### Drug Testing

Offers of employment for certain positions shall be contingent upon successful passage of a public charter school-required drug test. The public charter school will require drug tests for safety-sensitive positions (e.g., bus drivers, heavy machinery operators) and positions in which the person is responsible for

students' safety and security.<sup>1</sup> The public charter school will designate when and where such testing will be conducted. The cost of the drug test shall be paid by the candidate and reimbursed by the public charter school upon receipt of negative drug test results. The public charter school will not reimburse individuals who test positive for drugs. The offer of employment will be withdrawn from candidates who test positive for drugs.

Information the public charter school receives regarding medical examinations and drug testing will be collected and maintained on separate forms and in separate files apart from personnel files. All such records will be kept confidential, maintained for a minimum of one year and released only in accordance with provisions of the Americans with Disabilities Act or other applicable laws.

END OF POLICY

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**Legal Reference(s):**

[ORS 332.107](#)

[ORS 657.176](#)

[ORS 659A.133](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2016); 28 C.F.R. Part 35 (2016).  
Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. §§ 31301-31317; 49 C.F.R. Parts 40, 382, 391-395 (2016).  
Lanier v. City of Woodburn, 518 F.3d 1147 (9th Cir. 2008).  
Americans with Disabilities Act Amendments Act of 2008.

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<sup>1</sup>Based on Lanier v. City of Woodburn – “Safety sensitive” may also include positions that have heavy student contact and in loco parentis responsibility (e.g., teachers, administrators, paraprofessionals).

# Evergreen Virtual Academy

Code: GBK/JFCG/KGC  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: GBK/JFCG/KGC

## **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 public charter school's curriculum and Oregon law, student possession, use, distribution or sale of tobacco products or inhalant delivery systems in any form on or off public charter school's premises, at public charter school-sponsored activities, on all public charter school grounds, including parking lots, in public charter school-owned, rented or leased vehicles or otherwise, while the student is under the jurisdiction of the public charter school is prohibited at all times.

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, 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 - 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 administrator, 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.

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 431A.175](#)  
[ORS 433.835 to -433.990](#)

[OAR 581-021-0050 to -0075](#)  
[OAR 581-022-2045](#)  
[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 (2016).

# Evergreen Virtual Academy

Code: GBLA  
Adopted: 6/18/19  
Orig. Code: GBLA

## Disclosure of Information

Authorized public charter school officials may disclose information about a former public charter school employee's job performance to a prospective employer. Public charter school officials are immune from civil liability for such disclosures under the following conditions:

1. The disclosure of information regarding the former employee's job performance is upon request of the prospective employer or the former employee. This disclosure is presumed to be in good faith. Presumption of good faith is rebutted by showing the information disclosed was:
  - a. Knowingly false;
  - b. Deliberately misleading;
  - c. Rendered with malicious purpose; or
  - d. Violated civil rights.
2. The disclosure is of the disciplinary records<sup>1</sup> of a public charter school employee who has been convicted of a crime listed in Oregon Revised Statute (ORS) 342.143. These records are generally not exempt from disclosure under ORS 192.501 or ORS 192.502. Prior to the disclosure of a disciplinary record an education provider shall remove any personally identifiable information from the record that would disclose the identity of a child, a crime victim or a school employee who is not the subject of the disciplinary record;
3. The disclosure is the result of a request from a law enforcement agency, the Oregon Department of Human Services or the Teacher Standards and Practices Commission regarding the records of investigations of suspected abuse of a child by a public charter school employee;
4. Not later than 20 days after receiving a request under ORS 339.374, an education provider that has or has had an employment relationship with the applicant shall disclose the information requested and any disciplinary records that must be disclosed as provided by ORS 339.388(7).

END OF POLICY

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### Legal Reference(s):

[ORS 30.178](#)  
[ORS 338.115\(2\)](#)  
[ORS 339.370 to -339.374](#)

[ORS 339.378](#)  
[ORS 339.388\(7\),\(8\),\(9\)](#)  
[ORS Chapter 659](#)

[ORS Chapter 659A](#)

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<sup>1</sup>"Disciplinary records" is defined as records related to a personnel discipline action or materials or documents supporting that action.

# Evergreen Virtual Academy

Code: GBM  
Adopted: 6/18/19  
Orig. Code: GBM

## Staff Complaints

The administrator will develop a complaint procedure which will be available for all employees who believe there is evidence of, and wishes to report a violation, misinterpretation or inappropriate application of public charter school personnel policies and/or administrative regulations; a mismanagement, gross waste of funds or abuse of authority; or believe there is evidence the public charter school created a substantial and specific danger to public health and safety by its actions. The complaint procedure will provide an orderly process for the consideration and resolution of problems in the application or interpretation of public charter school personnel policies.

<sup>1</sup>The complaint procedure will not be used to resolve disputes and disagreements related to the provisions of any collective bargaining agreement, nor will it be used in any instance where a collective bargaining agreement provides a dispute resolution procedure. Disputes concerning an employee's dismissal, contract nonrenewal or contract nonextension will not be processed under this procedure.

Reasonable efforts will be made to resolve complaints informally.

Administrative regulations will be developed to outline procedural timelines and steps under this policy, as necessary. The public charter school will use the complaint process in <sup>2</sup>administrative regulation KL-AR - Public Complaints Procedure to address any alleged violations of this policy.

END OF POLICY

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### Legal Reference(s):

[ORS 338.115](#)  
[ORS 659A.199 to -659A.224](#)

[OAR 581-022-2405](#)

Anderson v. Central Point Sch. Dist., 746 F.2d 505 (9th Cir. 1984).  
Connick v. Myers, 461 U.S. 138 (1983).

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<sup>1</sup>If the district employs the public charter school staff, review any language included in the sample policy to confirm it does not conflict with requirements provided in the related collective bargaining agreements, and keep this language if applicable.

<sup>2</sup>If the district created and has a GBM-AR - Staff Complaints, it may want to consider inserting that language here.

# Evergreen Virtual Academy

Code: GBMA  
Adopted: 6/18/19  
Orig. Code: GBMA

## Whistleblower

When an employee has good faith and reasonable belief the public charter school has violated any federal, state or local, law, rule or regulation; has engaged in mismanagement, gross waste of funds or abuse of authority; or created a substantial and specific danger to public health and safety by its actions, and an employee then discloses or plans to disclose such information, it is an unlawful employment practice for a public charter school to:

1. Discharge, demote, transfer, reassign or take disciplinary action against an employee or threaten any of the previous actions.
2. Withhold work or suspend an employee.
3. Discriminate or retaliate against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment.
4. Direct an employee or to discourage an employee to not disclose or to give notice to the public charter school prior to making any disclosure.
5. Prohibit an employee from discussing, either specifically or generally, the activities of the state or any agency of or political subdivision in the state, or any person authorized to act on behalf of the state or any agency of or political subdivision in the state, with:
  - a. Any member of the Legislative assembly;
  - b. Any Legislative committee staff acting under the direction of any member of the Legislative assembly; or
  - c. Any member of the elected governing body of a political subdivision in the state or any elected auditor of a city, county or metropolitan service district.

An employee's good faith and reasonable belief shall serve as an affirmative defense to civil or criminal charges related to the employee's disclosure of lawfully accessed information related to the violation, including information that is exempt from disclosure by public records law.

The public charter school will use the complaint process in <sup>1</sup>administrative regulation KL-AR - Public Complaints Procedure to address any alleged violations of this policy.

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<sup>1</sup>If the public charter school created and has a GBM-AR - Staff Complaints, it may want to consider inserting that language here.

The public charter school shall deliver a written or electronic copy of this policy to each staff member.

END OF POLICY

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**Legal Reference(s):**

[ORS 192.501 - 192.505](#)

[ORS 659A.199 - 659A.224](#)

[OAR 581-022-2405](#)

Anderson v. Central Point Sch. Dist., 746 F.2d 505 (9th Cir. 1984).

Connick v. Myers, 461 U.S. 138 (1983).

# Evergreen Virtual Academy

Code: GBN/JBA  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: GBN/JBA

## 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 administrator 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 administrator. 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 administrator 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 administrator 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. 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 administrator 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](#)

HB 4150 (2018)

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2012).

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

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2012); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2017).

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

**Cross Reference(s):**

GBNA - Hazing, Harassment, Intimidation, Bullying, Menacing, or Cyberbullying – Staff

JBA/GBN - Sexual Harassment

JFCF - Hazing/Harassment/Intimidation/Bullying/Menacing/Cyberbullying/Teen Dating Violence/Domestic Violence-Student

# Evergreen Virtual Academy

Code: GBN/JBA-AR  
Revised/Reviewed: 10/21/13; 6/18/19  
Orig. Code: GBN/JBA-AR

## Sexual Harassment Complaint Procedure

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

- Step 1 Any sexual harassment information (complaints, rumors, etc.) shall be presented to the public charter school administrator. All such information shall be reduced to writing and will include the specific nature of the sexual harassment and corresponding dates. If the administrator is the subject of the complaint, the complaint will be submitted to the public charter school board.
- Step 2 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 3 If a complainant is not satisfied with the decision at Step 2, he or 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 2 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 administrator 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 administrator 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 Oregon Administrative Rule (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 administrator 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: \_\_\_\_\_

# Evergreen Virtual Academy

Code: GBNA  
Adopted: 6/18/19  
Orig. Code: GBNA

## Hazing, Harassment, Intimidation, Bullying, Menacing, or Cyberbullying – Staff

The Board is committed to providing a positive and productive learning and working environment. Hazing, harassment, intimidation, bullying, menacing and acts of cyberbullying of students, staff or third parties by students, staff or third parties toward staff are 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 administrator 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 Oregon Administrative Rule (OAR) 584-020-0041.

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

END OF POLICY

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### Legal Reference(s):

<a href="#">ORS 163.190</a>	<a href="#">ORS 332.107</a>	<a href="#">ORS 659A.199 - 659A.224</a>
<a href="#">ORS 163.197</a>	<a href="#">ORS 339.250</a>	<a href="#">OAR 839-003-0000</a>
<a href="#">ORS 166.065</a>	<a href="#">ORS 659A.006</a>	<a href="#">OAR 839-005-0021</a>
<a href="#">ORS 166.155 - 166.165</a>	<a href="#">ORS 659A.029</a>	<a href="#">OAR 839-005-0030</a>
<a href="#">ORS 174.100</a>	<a href="#">ORS 659A.030</a>	
<a href="#">ORS 332.072</a>	<a href="#">ORS 659A.103 - 659A.143</a>	

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2012).

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

Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634 (2012); 29 C.F.R. Part 1626 (2018)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2018); 28 C.F.R. Part 35 (2018).

Americans with Disabilities Act Amendments Act of 2008, 42 U.S.C. §§ 12101-12133 (2012).

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

OREGON BUREAU OF LABOR AND INDUSTRIES, *Workplace Bullying* (visited Feb. 26, 2019),

<<https://www.oregon.gov/boli/docs/WorkplaceBullyingPoster-2018.pdf>>.

### Cross Reference(s):

GBN/JBA - Sexual Harassment

JFCM - Threats of Violence

Hazing, Harassment, Intimidation, Bullying, Menacing, or Cyberbullying – Staff –

GBNA

# Evergreen Virtual Academy

Code: GBNA-AR  
Revised/Reviewed: 6/18/19  
Orig. Code: GBNA-AR

## 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, bullying, menacing and acts of cyberbullying.

### 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 interschool 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.
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 perception of the other’s 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 (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 public charter school administrator have responsibility for investigations concerning hazing, harassment, intimidation, bullying, 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 – Hazing, Harassment, Intimidation, Menacing, Bullying, Cyberbullying or Teen Dating Violence – Student shall immediately report his or 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 or she has been hazed, harassed, intimidated, bullied, menaced or cyberbullied 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, bullying, menacing or acts of cyberbullying information (complaints, rumors, etc.) shall be presented to public charter school administrator. Information may be presented anonymously. Complaints against the public charter school administrator 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, bullying, menacing or acts of cyberbullying complaints and documentation will be maintained as a confidential file in the public charter school office.

Complaints against the Board as a whole or against an individual Board member should be made to the Board chair on behalf of the Board. The Board chair shall present the complaint to the Board. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. After receiving the results of the investigation, the Board shall decide in open session what action if any, is warranted.

Complaints against the Board chair may be made directly to the Board vice chair on behalf of the Board. The Board vice chair shall present the complaint to the Board. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete the results will be presented to the Board. After receiving the results of the investigation, the Board shall decide in open session what action, if any, is warranted.

# Evergreen Virtual Academy

Code: GCAB  
Adopted: 6/18/19  
Orig. Code: GCAB

## 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 a 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.<sup>1</sup> 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 discourage. 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.

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<sup>1</sup>Nothing in this policy is intended in any form to limit the right of employees to engage in protected labor activities via the use of social media.

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”<sup>2</sup> 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 of Oregon Educators.

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

END OF POLICY

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**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 C.F.R. Part 133 (2014).

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

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<sup>2</sup>Tbid. p. 1

# Evergreen Virtual Academy

Code: GCBDA/GDBDA-AR(1)  
Revised/Reviewed: 6/18/19  
Orig. Code: GCBDA/GDBDA-AR(1)

## Oregon Family Medical Leave (OFLA)

### Coverage

The Oregon Family Leave Act (OFLA) and the Oregon Military Family Leave Act (OMFLA) covers public charter schools that employ 25 or more part-time or full-time employees in Oregon based on employment during each working day during any of the 20 or more 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. OFLA applies to employees who work an average of 25 hours or more per week during the 180 calendar days or more immediately prior to the first day of the start of the requested leave.<sup>1</sup> 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.

An employee who has previously qualified for and has taken some portion of OFLA leave, may request additional OFLA leave within the same leave year. In such instances, the employee must requalify as an eligible employee for each additional leave requested unless one of the following exceptions apply:

1. A female employee who has taken 12 weeks of pregnancy disability leave need not requalify leave in the same leave year for any other purpose;
2. An employee who has taken 12 weeks of Parental Leave need not requalify to take an additional 12 weeks in the same leave year for sick child leave; and
3. An employee granted leave for a serious health condition for the employee or a family member need not requalify if additional leave is taken in this leave year for the same reason, unless the reason is no longer qualifying.

OMFLA applies to employees who work an average of at least 20 hours per week. There is no minimum number of days worked when determining employee eligibility for OMFLA.

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<sup>1</sup>The requirements of OFLA do not apply to an 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 leave required by OFLA.

In determining if an employee has been employed for the preceding 180 calendar days, when applicable, the employer must consider days, e.g. paid or unpaid, an employee is maintained on payroll for any part of a workweek. Full-time public school teachers who have been maintained on payroll by a public charter school for 180 consecutive calendar days are thereafter deemed to have been employed for an average of at least 25 hours per week during the 180 days immediately preceding the start date of the OFLA leave. This provision is eligible for rebuttal if for example the employee was on a nonpaid sabbatical.

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.

## **Qualifying Reasons**

Eligible employees may access OFLA for the following reasons:

1. Serious health condition of the employee or the employee's covered family member:
  - a. Inpatient care;
  - b. Continuing treatment;
  - c. Chronic conditions;
  - d. Permanent, long-term or terminal conditions;
  - e. Multiple treatments;
  - f. Pregnancy and prenatal care.
2. Parental leave (separate from eligible leave as a result of the child's serious health condition):
  - a. Bonding with and the care for the employee's newborn (within 12 months following birth);
  - b. Bonding with and the care for a newly adopted or newly placed foster child under the age of 18 (within 12 months of placement);
  - c. Care for a newly adopted or newly placed foster child over 18 years of age who is incapable of self-care because of a physical or mental impairment (within 12 months of placement);
  - d. Time to effectuate the legal process required for placement of a foster child or the adoption of a child.
3. Sick Child Leave: leave for non-serious health conditions of the employee's child.
4. Bereavement Leave: leave related to the death of a covered family member.<sup>2</sup>

Eligible employees may access OMFLA for the purpose of spending time with a spouse or same-gender domestic partner who is in the military and has been notified of an impending call or order to active duty or who has been deployed during a period of military conflict.

The eligibility of an employee who takes multiple leaves for different qualified reasons during the same designated leave period may be reconfirm at the start of each qualified leave requested.

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<sup>2</sup>Bereavement leave under OFLA must be completed within 60 days of when the employee received notice of the death.

## Definitions

### 1. Family member:

For the purposes of OFLA, “family member” means:

- a. Spouse<sup>3</sup>;
- b. Same-gender domestic partner;
- c. Parent;
- d. Parent-in-law;
- e. Parent of employee’s same-gender domestic partner;
- f. Child;
- g. Child of employee’s same-gender domestic partner;
- h. Grandchild;
- i. Grandparent;
- j. Persons who are “in loco parentis”.

### 2. Child:

- a. For the purposes of OFLA, “child” means a biological, adopted, foster child or stepchild of the employee, the child of the employee’s same-gender domestic partner, or a child with whom the employee is or was in a relationship of “in loco parentis”.
- b. For the purposes of parental and sick child leave under OFLA, the child must be under the age of 18 or an adult dependent child substantially limited by a physical or mental impairment.

### 3. In loco parentis:

For the purposes of OFLA, “in loco parentis” means person in the place of the parent having financial or day-to-day responsibility for the care of a child. A legal or biological relationship is not required.

## Leave Period

For the purposes of calculating an employee’s leave period, the public charter school will use a “rolling” 12-month period measured backward from the date the employee uses any family and medical leave. The same method for calculating the 12-month period for OFLA leave entitlement shall be used for all employees. However, in all instances, the leave period for the purposes of OMFLA shall be dependent on the start of any such regardless of the designated 12-month leave period described above.

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<sup>3</sup>“Spouse” means individuals in a marriage, including “common law” marriage, same-sex marriage or same sex individuals with a Certificate of Registered Domestic Partnership.

## Leave Duration

For the purposes of OFLA, an eligible employee is generally entitled to a total of 12 weeks of qualified leave during the designated leave period. However, a woman is entitled to an additional, full 12 weeks of parental leave during the designated leave period following the birth of a child, regardless of how much OFLA qualified leave she has taken prior to the birth of such child during the designated leave period. Likewise, an employee who uses the full 12 weeks of parental leave during the designated leave period, will be entitled to an additional 12 weeks of sick child leave under OFLA during the designated leave period for the purpose of caring for a child(ren) with a non-serious health condition requiring home care.<sup>4</sup> OFLA does not combine the leave entitlement for spouses working for the public charter school. However, under OFLA, family members who work for the public charter school may be restricted from taking concurrent OFLA qualified leave.<sup>5</sup>

For the purposes of OMFLA, an eligible employee is entitled to 14 days of leave per call or order to active duty or notification of a leave from deployment. When an employee also meets the eligibility requirements of OFLA, the duration of the OMFLA leave counts toward that employee's leave entitlement during the designated leave period.

Except as otherwise noted above, qualified leave under OFLA for an eligible employee will run concurrently during the designated leave period.

For the purpose of tracking the number of leave hours an eligible employee is entitled and/or has used during each week of the employee's leave, leave entitlement is calculated by multiplying the number of hours the eligible employee normally works per week by 12<sup>6</sup>. 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<sup>7</sup>. If an employee takes intermittent or reduced work schedule leave, only the actual number of hours of leave taken may be counted toward the 12 weeks of leave to which the employee is entitled.

## Intermittent Leave

With the exception of parental leave, which must be taken in one continuous block of time, an eligible employee is permitted under OFLA to take intermittent leave for any qualifying reason. Intermittent leave is taken in multiple blocks of time (hours, days, weeks, etc.) rather than in one continuous block of time and/or requires a modified or reduced work schedule.

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<sup>4</sup>Sick child leave under OFLA need not be provided if another family member, including a noncustodial biological parent, is willing and able to care for the child.

<sup>5</sup>Exceptions to the ability to require family members from taking OFLA qualified leave at different times are when 1) employee is caring for the other employee who has a serious medical condition; 2) one employee is caring for a child with a serious medical condition when the other employee is suffering a serious medical condition; 3) each family member is suffering a serious medical condition; 4) each family members want to take bereavement leave under OFLA; and 5) the employer allows the family members to take concurrent leave.

<sup>6</sup>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 of leave.

<sup>7</sup>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 of leave.

When an employee is eligible for OFLA leave, the employer:

1. May allow an exempt employee, as defined by state law, with accrued paid time off to take OFLA leave in one-hour blocks or less than a full day, but;
2. May not reduce the salary of an employee who is taking intermittent leave when they do not have accrued paid leave available. To do so would result in the loss of exemption under state law.

An employee's OFLA intermittent leave time is determined by calculating the difference between the employee's normal work schedule and the number of hours the employee actually works during the leave period. The result of such calculation is credited against the eligible employee's leave entitlement.

Holidays or days in which the public charter school is not in operation are not counted against the eligible employee's intermittent leave period unless the employee was scheduled and expected to work on any such day.

### **Alternate Work Assignment**

The public charter school may transfer an employee recovering from a serious health condition to an alternate position which accommodates the serious health condition provided:

1. The employee accepts the position voluntarily and without coercion;
2. The transfer is temporary, lasts no longer than necessary and has equivalent pay and benefits;
3. The transfer is compliant with any applicable collective bargaining agreement;
4. The transfer is compliant with state and federal law, including but not limited to the protections provided for in OFLA; and
5. 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.

The public charter school may transfer an eligible employee who is on a foreseeable intermittent OFLA leave to another position with the same or different duties to accommodate the leave, provided:

1. The employee accepts the transfer position voluntarily and without coercion;
2. The transfer is temporary, lasts no longer than necessary and has equivalent pay and benefits;
3. The transfer is compliant with any applicable collective bargaining agreement;
4. The transfer is compliant with state law, including but not limited to, the protections provided for in OFLA;
5. The 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
6. 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.

If an eligible employee is transferred to an alternative position, and as a result the employee works fewer hours than the employee was working in the original position, the employee's OFLA leave time is determined by calculating the difference between the employee's normal work schedule and the number of hours the employee actually works during the leave period. The result of such calculation is credited against the eligible employee's leave entitlement.

When an employee is transferred to alternate position as described above but such transfer does not result in a reduced schedule, time worked in any such alternate position shall not be considered for the purpose of OFLA leave. 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 exceeds 12 weeks.

### **Special Rules for School Employees**

For the purposes of OFLA, "school employee" means employees employed principally as instructors in public kindergartens, elementary schools, secondary schools or education service districts.

OFLA leave that is taken for a period that ends with the school year and begins with the next semester is considered consecutive rather than intermittent. In any such situation, the eligible school employee will receive any benefits during the break period that employees would normally receive if they had been working at the end of the school year.

#### **1. Foreseeable Intermittent Leave Exceeding 20 Percent of Working Days**

When the qualified leave is foreseeable, will encompass more than 20 percent of the eligible school employee's regular work schedule during the leave period, and the purpose of such leave is to care for a family members with a serious medical condition, for a servicemember with a serious medical condition or because of the employee's own serious medical condition, the public charter school may require the eligible school employee to:

- a. Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
- b. Temporarily transfer the eligible school employee to an alternate position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than the employee's original position.

## 2. Limitation on Leave near the End of the School Year

When an eligible school employee requests leave near the end of the school year, the public charter school may require the following:

- a. When the qualified leave begins more than five weeks before the end of the school year:
  - (1) For the purposes of OFLA leave, if the reason for the leave is because of the eligible school employee's own serious health condition, the eligible school employee may be required to remain in leave until the end of the school year provided:
    - (a) The leave will last at least three weeks; and
    - (b) The employee's return to work would occur within three weeks of the end of the school year.
- b. For the purposes of OFLA leave, when the qualified leave begins within five weeks of the end of the school year and the purpose of such leave is parental leave, for the serious health condition of a family member or for the serious health condition of a servicemember, the eligible school employee may be required to remain on leave until the end of the school year provided:
  - (1) The leave will last more than two weeks; and
  - (2) The employee would return to work during the two-week period before the end of the school year.
- c. For the purposes of OFLA leave, when the qualified leave begins within three weeks of the end of the school year and the purpose of such leave is parental leave, for the serious health condition of a family member or for the serious health condition of a servicemember, the eligible school employee may be required to remain on leave until the end of the school year provided the length of the leave will last more than five working days.

If the public charter school requires an eligible school employee to remain on leave until the end of the school year as described above, additional leave required by the employer until the end of the school year shall not count against the eligible school employee's leave entitlement.

### **Paid/Unpaid Leave**

OFLA does not require the public charter school to pay an eligible employee who is on a qualified leave. Subject to any related provisions in any applicable collective bargaining agreement, an employee may elect to use any available accrued paid leave including personal and sick leave, or available accrued vacation leave during the leave period.

The public charter school will notify the eligible employee that the requested leave has been designated as OFLA leave and, if required by the public charter school, that available 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 eligible employee of its intent to designate the leave as such regardless of whether a request has been made by the eligible employee. Such notification will be given to the eligible employee prior to the commencement of the leave or within two working days of the employee's notice of an unanticipated or emergency leave, whichever is sooner.

When the public charter school does not have sufficient information to make a determination of whether the leave qualifies as OFLA leave, the public charter school 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.

Eligible employees who request OMFLA leave shall not be required to use any available accrued paid time off during the OMFLA leave period.

### **Benefits and Insurance**

When an eligible employee returns to work following a OFLA qualified leave, the employee must be reinstated to the same position the employee held when the leave commenced, or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment.

During an OFLA qualified leave an eligible employee does not accrue seniority or other benefits that would have accrued while the employee was working. The eligible employee is also subject to layoff to the same extent similarly situated employees not taking OFLA leave are subject unless the terms of an applicable collective bargaining agreement, other agreement or the public charter school's policies provides otherwise.

For the purposes of OFLA, the public charter school will continue to pay the employer portion of the eligible employee's group health insurance contribution (if applicable) during the qualified leave period. The eligible employee is required to the employee portion of any such group health insurance contribution as a condition of continued coverage.

For the purposes of OMFLA, the eligible employee is entitled to a continuation of benefits.

### **Fitness-for-Duty Certification**

Prior to the reinstatement of an employee following a leave which was the result of the employee's own serious health condition, the public charter school may require the employee to obtain and present a Fitness-for-Duty Certification. The certification will specifically address the employee's ability to perform the essential functions of the employee's job as they relate to the health condition that was the reason for the leave. If the public charter school is going to require a fitness-for-duty certification upon return to work, the public charter school must notify the employee of such requirement when the leave is designated as an OFLA leave. Failure to provide the fitness-for-duty certification may result in a delay or denial of reinstatement.

For the purposes of OFLA qualified leave, any out of pocket costs associated with obtaining the fitness-for-duty certification shall be borne by the public charter school.

If the leave is qualified under OFLA, any out-of-pocket costs associated with obtaining the fitness-for-duty certification shall be borne by the public charter school.

## **Application**

An eligible 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. When appropriate, the eligible 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.

The public charter school may request additional information to determine that the requested leave qualifies as OFLA leave. The public charter school may designate the employee as provisionally on OFLA leave until sufficient information is received to properly make a determination. An eligible 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.

For the purposes of OFLA, an eligible employee is required 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. Failure of an employee to provide the required notice for leave covered by OFLA 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 procedures.

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

## **Medical Certification**

The public charter school may require an eligible employee to provide medical documentation, when appropriate, to support the stated reason for the leave. 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.

## **Second and Third Opinions**

For the purposes of OFLA and except for leave related to sick child leave under OFLA, the public charter school may require the employee to obtain a second opinion from a health care provider designated by the public charter school. If the first and second verifications conflict, the employer may require the two health care providers to jointly designate a third health care provider for the purpose of providing a verification. This third verification shall be final and binding.

## **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 administrator.

## **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.

# Evergreen Virtual Academy

Code: GCBDA/GDBDA  
Adopted: 6/18/19  
Orig. Code: GCBDA/GDBDA

## Family Medical Leave

When applicable, the public charter school will comply with the provisions of the Family and Medical Leave Act (FMLA) of 1993, the Oregon Family Leave Act (OFLA) of 1995, the Military Family Leave Act as part of the National Defense Authorization Acts of 2008 and for Fiscal Year 2010 (which expanded certain leave to military families and veterans for specific circumstances), the Oregon Military Family Leave Act (OMFLA) of 2009 and other applicable provisions of Board policies and collective bargaining agreements regarding family medical leave.

FMLA applies to public charter schools with 50 or more employees within 75 miles of the employee's work site, based on employment during each working day during any of the 20 or more work weeks in the calendar year in which the leave is to be taken, or in the calendar year preceding the year in which the leave is to be taken. The 50 employee test does not apply to educational institutions for determining employee eligibility.

OFLA and OMFLA applies to public charter schools that employ 25 or more part-time or full-time employees in Oregon, based on employment during each working day during any of the 20 or more work weeks 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.

In order for an employee to be eligible for the benefits under FMLA, he/she must have been employed by the public charter school for at least 12 months and have worked at least 1,250 hours during the past 12-month period.

In order for an employee to be eligible for the benefits under OFLA, he/she must work an average of 25 hours per week and have been employed at least 180 calendar days prior to the first day of the family medical leave of absence. For parental leave purposes, an employee becomes eligible upon completing at least 180 calendar 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.

OMFLA applies to employees who work an average of at least 20 hours per week; there is no minimum number of days worked when determining an employee's eligibility for OMFLA.

Federal and state leave entitlements generally run concurrently.

The administrator 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 342.545](#)

[ORS 659A.090](#)

[ORS 659A.093](#)

[ORS 659A.096](#)

[ORS 659A.099](#)

[ORS 659A.150 to -659A.186](#)

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

Americans with Disabilities Act, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2017); 28 C.F.R. Part 35 (2017).  
Family and Medical Leave Act, 29 U.S.C. §§ 2601-2654 (2012); 5 U.S.C. §§ 6381-6387 (2012); Family and Medical Leave Act, 29 C.F.R. Part 825 (2017).

Americans with Disabilities Act Amendments Act of 2008.

Escriva v. Foster Poultry Farms, Inc. 743 F.3d 1236 (9<sup>th</sup> Cir. 2014).

**Cross Reference(s):**

GCBDD/GDBDD - Sick Time

# Evergreen Virtual Academy

Code: GCBDA/GDBDA-AR(5)  
Revised/Reviewed: 6/18/19  
Orig. Code: GCBDA/GDBDA-AR(5)

## OFLA Medical Certification

### Certification of Health Care Provider (Oregon Family Leave Act)

1. Employee's Name: \_\_\_\_\_
2. Patient's Name (if different from employee): \_\_\_\_\_
3. Does the patient's condition qualify as a serious health condition under any of the following reasons listed?  Yes  No  
  
If yes, please check the applicable reasons:  
 Inpatient care  Continuing treatment  Chronic conditions  Multiple treatments  
 Permanent, long-term or terminal conditions  Pregnancy and prenatal care
4. Provide a brief statement as to how the medical facts meet the criteria of the category you checked above. \_\_\_\_\_  
\_\_\_\_\_
5. What is the common name of the medical condition (e.g., cancer, diabetes, stroke, etc.): \_\_\_\_\_  
\_\_\_\_\_
6. Please state the approximate date the condition commenced: \_\_\_\_\_,  
and the probable date the employee will be able to return to work: \_\_\_\_\_.
7. Will it be necessary for the employee to work only intermittently or to work on a less than full schedule as a result of the condition?  Yes  No  
  
If yes, give the probable duration: \_\_\_\_\_
8. If additional treatments will be required for the condition, provide an estimate of the probable number of such treatments.  
\_\_\_\_\_

If the patient will miss work intermittently, please indicate dates and intervals of treatment, length of treatment, frequency of treatment, recovery time from treatment.  
\_\_\_\_\_

If any of these treatments will be provided by another provider of health services (e.g., physical therapist), please state the nature of the treatments and the provider if known.  
\_\_\_\_\_

9. If the condition is a chronic condition, or pregnancy, state whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity: \_\_\_\_\_

10. If a regimen of continuing treatment by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment). \_\_\_\_\_

11. Is leave required to care for a family member with a serious health condition?  Yes  No  
If the family member will need care only intermittently or on a part-time basis, please indicate the probable duration of this need. \_\_\_\_\_

12. If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation?  Yes  No  
If yes, briefly describe assistance required: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Health Care Provider

\_\_\_\_\_  
Date

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

**To be completed by the employee needing family leave to care for a family member:**

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

# Evergreen Virtual Academy

Code: GCBDA/GDBDA-AR(2)  
Revised/Reviewed: 6/18/19  
Orig. Code: GCBDA/GDBDA-AR(2)

## Employee Request for OFLA Leave

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:<sup>1</sup>

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 member<sup>2</sup> with a serious health condition.  
Leave to start \_\_\_\_\_ Expected return date \_\_\_\_\_

Please check one:  spouse<sup>3</sup>  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, foster child 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 or parent of employee’s registered domestic partner  custodial parent  noncustodial parent  adoptive parent  stepparent  foster parent  grandparent  grandchild

<sup>1</sup>A 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.

<sup>2</sup>“Family member” means the spouse, custodial parent, noncustodial parent, adoptive parent, foster parent, biological parent, stepparent, parents-in-law or parents of the employee’s registered domestic partner, grandparent, grandchild or a person who was “in loco parentis” to the employee when the employee was a child. It also includes the child of the employee (biological, adopted, foster, stepchild, legal ward or the child of an employee’s registered domestic partner, or a child with whom the employee is or was in a relationship of “in loco parentis.”

<sup>3</sup>“Spouse” means individuals in a marriage, including “common law” marriage, same-sex marriage or same-sex individuals with a Certificate of Registered Domestic Partnership.

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, has been deployed or is on leave from deployment.

7.  For the death of a family member.

I understand that [I may use any available accrued paid leave, including personal and sick leave or available accrued vacation leave during the leave period.] [the public charter school requires me to use any available accrued sick leave, vacation, personal leave days or other available paid time established by Board policy(ies) in the order specified by the public charter school, and before taking leave without pay, for the leave period.] [I am required to use any available accrued paid leave, including personal and sick leave or available accrued vacation leave before taking OFLA leave without pay during the leave period. I may select the order in which the available paid leave is used.]

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. (A Fitness-for-Duty Certification may be required.)

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: \_\_\_\_\_

# Evergreen Virtual Academy

Code: GCBDA/GDBDA-AR(3)  
Revised/Reviewed: 6/18/19  
Orig. Code: GCBDA/GDBDA-AR(3)

## 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 that may qualify for protected time under the Oregon Family Leave Act (OFLA). Under our policy, a leave of absence that qualifies for family and medical leave under state law, may run concurrently with other types of leave such as sick leave, vacation leave, and short-term disability leave. OFLA cannot run concurrently with a leave for workers' compensation injury or illness (unless you refuse a light-duty assignment).

[IF APPROVED: [We have determined the purpose of your requested leave qualifies as family or 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, including an estimate of time that will count toward your protected time.] ]

[IF NOT APPROVED: [We have determined the purpose of your requested leave does NOT qualify as family or medical leave under state and/or federal law. You may be entitled to other leave time, under Board policy or the collective bargaining agreement, however, the protections of OFLA will not be observed for this leave.] ]

If you have any questions regarding your leave, now or at any time during your leave, please contact [the personnel office] as soon as possible.

Sincerely,

Administrator

Enclosure (OFLA Notice to Employee form)

# Evergreen Virtual Academy

Code: GCBDA/GDBDA-AR(4)  
Revised/Reviewed: 6/18/19  
Orig. Code: GCBDA/GDBDA-AR(4)

## OFLA Eligibility Notice to Employee

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

To: \_\_\_\_\_  
(Employee's name)

From: \_\_\_\_\_  
(Name of appropriate employer representative)

Subject: Request for OFLA Leave

On \_\_\_\_\_ (date) you notified us of your need to take Oregon Family Leave Act (OFLA) leave due to:

1. \_\_\_\_ The birth of your child, or the placement of a child with you for adoption or foster care.
2. \_\_\_\_ A serious health condition that makes you unable to perform the essential functions of your job.
3. \_\_\_\_ A serious health condition of your  spouse<sup>1</sup>,  child (including the biological, grandchild, adopted, foster or stepchild of an employee or a child with whom the employee is or was in a relationship of "in loco parentis"),  parent (biological parent of an employee or an individual who stood "in loco parentis" to an employee when the employee was a child),  grandparent,  parent-in-law or parent of registered domestic partner,  custodial parent,  stepparent  noncustodial parent,  adoptive parent,  foster parent, for which you are needed to provide care.
4. \_\_\_\_ An illness or injury to your child which requires home care but is not a serious health condition.
5. \_\_\_\_ Your spouse has been notified of an impending call to active duty, has been ordered to active duty, or has been deployed or on leave from deployment.
6. \_\_\_\_ For the death of a family member.<sup>2</sup>

You notified us that you need this leave beginning on \_\_\_\_\_ (date) and that you expect leave to continue until on or about \_\_\_\_\_ (date).

<sup>1</sup>"Spouse" means individuals in a marriage, including "common law" marriage, same-sex marriage or same-sex individuals with a Certificate of Registered Domestic Partnership.

<sup>2</sup>Must be completed within 60 days of on which the eligible employee receives notice of the death of the family member.

Except as explained below, you have a right under the OFLA for up to 12 workweeks of unpaid leave in a 12-month period for the reasons listed above.

OFLA requires that you be reinstated to the same position, or in some cases under state law, to an equivalent position. The public charter school is not required to maintain benefits if you qualify for OFLA leave, unless provided otherwise by Board policy; all such benefits will be restored in full upon your return to the public charter school.

If you do not return to work following OFLA leave for a reason other than: (1) the continuation, recurrence or onset of a serious health condition which would entitle you to OFLA leave; or (2) other circumstances beyond your control, you may be required to reimburse the public charter school for health insurance premiums paid on your behalf during your OFLA leave.

This is to inform you that (*check appropriate boxes, explain where indicated*):

1. You are  eligible  not eligible for leave under the OFLA.
2. The requested leave  will  will not be counted against your annual OFLA leave entitlement.
3. You  will  will not be required to furnish a medical certification of a serious health condition. If required, you must furnish the certification by \_\_\_\_\_ (date) (must be at least 15 days after you are notified of this requirement).
4. You may elect to substitute accrued paid leave for unpaid OFLA leave. We  will  will not require that you substitute accrued paid leave for unpaid OFLA leave. If paid leave will be used the following conditions will apply: (*Explain*)

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- 5a. If you choose to pay the premiums for your health insurance, these payments will continue during the period of leave. Arrangements for payment have been discussed with you and it is agreed that you will make premium payments as follows: (*Set forth dates, e.g., the 10th of each month or pay periods, etc., that specifically cover the agreement with the employee.*)

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- 5b. You have a minimum  30-day  Other \_\_\_\_\_ (*indicate longer period, if applicable*) grace period in which to make premium payments. If payment is not timely made, your group health insurance may be canceled, **provided** we notify you in writing at least 15 days before the date that your health coverage will lapse. At our option, we may pay your share of the premiums during OFLA leave as provided by Board policy, and recover these payments from you upon your return to work.

We  will  will not pay your share of health insurance premiums while you are on OFLA leave.

- 5c. We  will  will not do the same with other benefits (e.g., life insurance, disability insurance, etc.) while you are on OFLA leave. If we do pay your premiums for other benefits, when you return from leave you  will  will not be expected to reimburse us for the payments made on your behalf.

- 5d. In the event you do not return to work for the public charter school after your OFLA leave and the public charter school has paid your share of benefit premiums, you  will  will not be responsible for reimbursing the public charter school the amount paid on your behalf.
6. You  will  will not be required to present a fitness-for-duty certification prior to being restored to employment following leave for your own serious health condition.
7. While on OFLA leave, you  will  will not be required to furnish us with periodic reports every \_\_\_\_\_ (*indicate interval of periodic reports, as appropriate for the particular leave situation*) of your status and intent to return to work. If the circumstances of your leave change and you are able to return to work earlier than the date indicated on this form, you  will  will not be required to notify us at least two workdays prior to the date you intend to report for work.
8. You are notified that all leave taken for the purposes of the death of a family member, counts toward the total period of authorized family leave.

# Evergreen Virtual Academy

Code: GCBDA/GDBDA-AR(6)  
Revised/Reviewed: 6/18/19  
Orig. Code: GCBDA/GDBDA-AR(6)

## Oregon Military Family Leave

### Section 1: (To be completed by the public charter school)

The Oregon Military Family Leave Act provides that a public charter school may require an employee seeking OMFLA leave due to notification of impending call to active duty or deployment, to submit a notification of the intention to take leave within five business days of receiving official notice.

Public Charter School Name and Address: \_\_\_\_\_

Administrator information: \_\_\_\_\_

### Section 2: (To be completed by the employee)

Complete the information below fully and completely. The Oregon Military Family Leave Act permits the public charter school to require that you submit a timely, complete and sufficient notification for Oregon Military Family Leave Act due to notification of impending call to active duty or deployment.

Employee's Name: \_\_\_\_\_  
First Middle Last

Name of covered military member on active duty, called to active duty status or deployed:

\_\_\_\_\_   
First Middle Last

Relationship of covered military member to you: \_\_\_\_\_

Period of covered military member's impending call to active duty or deployment: \_\_\_\_\_

\_\_\_\_\_

Documentation to support a request for Oregon Military Family leave includes written documentation confirming a covered military member's active duty, call to active duty or deployment status. Please check one of the following and attach the indicated document to support that the military member is on covered active duty or called to covered active duty status:

- A copy of the covered military member's active duty orders is attached.
- Other documentation from the military certifying that the covered military member is on active duty (or has been notified of an impending call to active duty).
- I have previously provided the public charter school with sufficient written documentation confirming the covered military member's active duty or call to active duty status.

**Part A: Qualifying Reason for Leave**

1. Describe the reason you are requesting OMFLA (include the specific reason below, either a) an impending call or order to active duty, or b) impending leave for deployment):

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**Part B: Amount of Leave Needed**

1. The approximate date the active duty or deployment commenced: \_\_\_\_\_

The probable duration of such active duty or deployment: \_\_\_\_\_

2. Will you need to be absent from work for a single continuous period of time due to the active duty or deployment?  Yes  No

If yes, estimate the beginning and ending dates for the period of absence: \_\_\_\_\_

3. Will you need to be absent from work periodically to address this active duty or deployment?  Yes  No

If yes, estimate the schedule of leave, including the dates of any scheduled meetings or appointments:

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**Part D: Employee Signature**

I certify that the information I provided above is true and correct. (For Oregon Military Family Leave purposes, notice must be given by the employee within five business days of receiving an official notice.)

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Date

# Evergreen Virtual Academy

Code: GCBDA/GDBDA-AR(7)  
Revised/Reviewed: 6/18/19  
Orig. Code: GCBDA/GDBDA-AR(7)

## Designation Notice – OFLA

Leave covered under the Oregon Family Leave Act (OFLA) must be designated as OFLA-protected and the public charter school must inform the employee of the amount of leave that will be counted against the employee’s OFLA leave entitlement.

In order to determine whether leave is covered under the OFLA, the public charter school may request that the leave be supported by a physician’s certification. If the certification is incomplete or insufficient, the public charter school will state in writing what additional information is necessary to make the certification complete and sufficient.

Employee Name: \_\_\_\_\_ Date: \_\_\_\_\_

We have reviewed your request for leave under the OFLA and any supporting documentation that you have provided. We received your most recent information on \_\_\_\_\_ (date).

Please be advised:

- Your request is approved for OFLA. All leave taken for this reason will be designated as OFLA leave.

The OFLA requires that you notify us as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown. Based on the information you have provided to date, we are providing the following information about the amount of time that will be counted against your entitlement:

- Provided there is no deviation from your anticipated leave schedule, the following number of hours, days or weeks will be counted against your leave entitlement: \_\_\_\_\_
- Because the leave you requested will be rescheduled, it is not possible to provide the hours, days or weeks that will be counted against your OFLA entitlement at this time. You have the right to request this information once in a 30-day period (if leave was taken in the 30-day period).

Please be advised (check if applicable):

- You have requested to use paid leave during your OFLA leave. Any paid leave taken for this reason will count against your OFLA leave entitlement.
- We are requiring you to substitute or use paid leave during your OFLA leave.

- You will be required to present a fitness-for-duty certification to be reinstated to your position. If such certification is not timely received, your return to work may be delayed until certification is provided. The Fitness-for-Duty Certification form is attached, please have your medical provider complete this form prior to the termination of your leave. A list of the essential functions of your position  is  is not attached. If attached, the fitness-for-duty certifications must address your ability to perform these functions.
- Additional information is needed to determine if your OFLA leave request can be approved.
- The certification you have provided is incomplete and insufficient to determine whether the OFLA applies to your leave procedures. You must provide the following information no later than \_\_\_\_\_ (date) (at least 15 calendar days), unless it is not practicable under the particular circumstances despite your diligent good faith efforts, or your leave may be denied. The information needed to make the certification complete and sufficient is:

- 
- We are exercising our right to have you obtain a second or third opinion medical certification at our expense, and we will provide further details at a later time.

\*\*\*\*\*

- Your OFLA leave request is NOT APPROVED.
- The OFLA does not apply to your leave request.
- You have exhausted your OFLA leave entitlement in the applicable 12-month period.

# Evergreen Virtual Academy

Code: GCBDA/GDBDA-AR(8)  
Revised/Reviewed: 6/18/19  
Orig. Code: GCBDA/GDBDA-AR(8)

## Fitness-for-Duty Certification

[NOTE: THESE INSTRUCTIONS ARE NOT INTENDED TO BE INCLUDED WITH THE CERTIFICATION TO THE EMPLOYEE – DELETE THIS PARAGRAPH PRIOR TO REVIEW AND POSTING FOR USE. *Instructions for use of this sample form:* In order to condition an employee's return to work for the employee's own serious health condition on a Fitness-for-Duty Certification form, the public charter school must have notified the employee in the Eligibility Notice that a fitness-for-duty certification would be required before returning to work. If the public charter school did not require a fitness-for-duty certification in the Eligibility Notice, once an employee comes back, if the public charter school has concerns (based on evidence, not speculation) about the employee's ability to perform the job, the public charter school can get a fitness-for-duty certification based on the Americans with Disabilities Act Amendments Act (ADAAA), rather than the Oregon Family Leave Act (OFLA). Under OFLA, the public charter school cannot obtain a second opinion for fitness-for-duty certification, and fitness-for-duty certifications must be sought pursuant to uniformly applied policy. The public charter school must pay any out-of-pocket expenses paid to obtain a fitness-for-duty examination. This is a sample fitness-for-duty certification.]

To: \_\_\_\_\_

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

From: \_\_\_\_\_

Subject: Fitness-for-Duty Certification

Oregon Family Leave Act (OFLA) for your own serious health condition ends on (date) \_\_\_\_\_. Prior to returning to work you must provide a Fitness-for-Duty Certification verifying whether you are able to return to work, if you have any job-related restrictions and the duration of any restrictions. Please take this Fitness-for-Duty Certification to your health care provider for completion. The public charter school will use this Fitness-for-Duty Certification to determine if you are able to return to work after your leave.

**Return the completed Fitness-for-Duty Certification to the public charter school prior to the end of your OFLA leave or by (date) \_\_\_\_\_.**

## Fitness-for-Duty Certification

### Health Care Provider Completes this Section

**Instructions:** Please complete all sections in order for the public charter school to determine if the employee is able to return to duty. The employee's position description or a list of essential duties (public charter school specifies which) is attached to this form.

1. The employee is able to return to work full-time without restrictions:  Yes  No

a. If yes, list the effective date \_\_\_\_\_.

b. If no, complete the following:

(1) The employee will be able to return to work with no limitation on (date) \_\_\_\_\_.

(2) I certify that from (date) \_\_\_\_\_ to (date) \_\_\_\_\_ the above named employee will be:

- (a)  Unable to perform the physical requirements of their work; or  
(b)  Is medically incapacitated:  Totally  Partially\*\*

Fitness-for-Duty Certification – GCBDA/GDBDA-AR(8)

**\*\*If partially medically incapacitated, complete the following:**

(c) Number of hours per day employee is able to work: \_\_\_\_\_.

(d) Number of days per week employee is able to work: \_\_\_\_\_.

(3) List any restrictions on the employee's work: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Printed Name of Health Care Provider

\_\_\_\_\_  
Type of Practice

\_\_\_\_\_  
Signature - Health Care Provider

\_\_\_\_\_  
Date

**Health care provider: Please return the completed form to the employee/patient.**

Attached: Position description/description of essential duties (public charter school specifies which).

# Evergreen Virtual Academy

Code: GCBDC/GDBDC  
Adopted: 6/18/19  
Orig. Code: GCBDC/GDBDC

## Domestic Violence, Harassment, Sexual Assault, or Stalking Leave

### Definitions

1. “Covered employer” means an employer who employs six or more individuals in the state of Oregon for each working day through each of 20 or more calendar workweeks in the year in which the eligible employee takes leave to address domestic violence, harassment, sexual assault or stalking, or in the year immediately preceding the year in which an eligible employee takes leave for domestic violence, harassment, sexual assault or stalking.
2. “Eligible employee” means an employee who is a victim of domestic violence, harassment, sexual assault or stalking or is the parent or guardian of a minor child or dependent who is a victim of domestic violence, harassment, sexual assault or stalking.
3. “Protective order” means an order authorized by Oregon Revised Statutes (ORS) 30.866, 107.095(1)(c), 107.700 to 107.735, 124.005 to 124.040 or 163.730 to 163.750 or any other order that restrains an individual from contact with an eligible employee of the employee’s minor child or dependent.
4. “Victim of domestic violence” means an individual who has been a victim of abuse as defined by ORS 107.705; or an individual designated as a victim of domestic violence by rule adopted under ORS 659A.805.
5. “Victim of harassment” means an individual against whom harassment has been committed as described in ORS 166.805 and any other individual designated as a victim of harassment by rule adopted under ORS 659A.805.
6. “Victim of sexual assault” means an individual against whom a sexual offense has been committed as described in ORS 163.467 or 163.525; or any other individual designated as a victim of sexual assault by rule adopted under ORS 659A.805.
7. “Victim of stalking” means an individual against whom stalking has been committed as described in ORS 163.732; or an individual designated as a victim of stalking by rule adopted under ORS 695A.805; or an individual who has obtained a court’s stalking protective order or a temporary court’s stalking protective order under ORS 30.866.
8. “Victim services provider” means a prosecutor-based victim assistance program or a nonprofit program offering safety planning, counseling, support or advocacy related to domestic violence, harassment, sexual assault or stalking.

A public charter school (covered employer) shall allow an (eligible) employee to take reasonable leave for any of the following reasons:

1. To seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or the employee's minor child or dependent, including preparing for and participating in protective order proceedings or other civil or criminal legal proceedings related to domestic violence, harassment, sexual assault or stalking;
2. To seek medical treatment for or to recover from injuries caused by domestic violence or sexual assault to or harassment or stalking of the eligible employee or the employee's minor child or dependent;
3. To obtain or assist a minor child or dependent in obtaining counseling from a licensed mental health professional related to an experience of domestic violence, harassment, sexual assault or stalking;
4. To obtain services from victims services provider for the eligible employee or the employee's minor child or dependent;
5. To relocate or take steps to secure an existing home to ensure health and safety of the eligible employee or the employee's minor child/dependent.

The public charter school may limit the amount of leave, if the employee's leave creates an undue hardship on the public charter school.

The public charter school shall not deny leave to an employee or discharge, threaten to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regards to promotion, compensation or other terms, conditions or privileges of employment as a result of taking such leave.

The employee shall give the public charter school reasonable advanced notice of their intent to take leave unless giving advance notice is not feasible.

The public charter school may require the employee to provide certification that:

1. The employee or minor child/dependent is a victim of domestic violence, harassment, sexual assault or stalking; and
2. The leave is taken for one of the identified purposes in this policy.

Sufficient certification includes:

1. A copy of a report from law enforcement indicating the employee or child/dependent was a victim of domestic violence, harassment, sexual assault or stalking;
2. A copy of a protective order or other evidence from a court, administrative agency or attorney that the employee appeared in or was preparing for a civil, criminal or administrative proceeding related to domestic violence, harassment, sexual assault or stalking;

3. Documentation from an attorney, law enforcement officer, health care professional, licensed mental professional or counselor, members of the clergy or victim services provider that the employee, employee's child or dependent was undergoing counseling, obtaining services or relocating as a result of domestic violence, harassment, sexual assault or stalking.

All records and information kept by the public charter school regarding the employee's leave, including the request or obtaining of leave is confidential and may not be released without the express permission of the employee unless otherwise required by law. This information will be kept in a file separate from the employee's personnel file.

The employee may use any paid accrued vacation leave or may use any other paid leave that is offered by the public charter school in lieu of vacation leave. The employee may choose the order in which paid accrued leave is to be used when more than one type of paid leave is available.

END OF POLICY

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**Legal Reference(s):**

[ORS 192.355\(38\)](#)

[ORS 659A.270 - 659A.290](#)

# Evergreen Virtual Academy

Code: GCBDC/GDBDC-AR  
Revised/Reviewed: 6/18/19; 8/20/19  
Orig. Code: GCBDC/GDBDC-AR

## Eligible Employee Request for Domestic Violence, Harassment, Sexual Assault or Stalking Leave

PLEASE PRINT

Where the need for the leave may be anticipated, a written request for leave under Oregon Revised Statute (ORS) 659A.270-659A.285 shall be made at least 30 days prior to the date the requested leave is to begin. In emergency situations, oral or written notice as soon as practical is allowed.

Name \_\_\_\_\_ Effective Date of the Leave \_\_\_\_\_

Department/School \_\_\_\_\_ Title \_\_\_\_\_

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

The requested leave is for:

- Myself
- My minor child or dependent

The leave is for:

- To seek legal or law enforcement assistance or remedies to ensure the health and safety of the eligible employee or the eligible employee's minor child or dependent.
- To seek medical treatment for or to recover from injuries caused by domestic violence, harassment, sexual assault or stalking for the eligible employee or the eligible employee's minor child or dependent.
- To obtain or assist the eligible employee's minor child or dependent in obtaining counseling from a licensed mental health professional related to an experience of domestic violence, harassment, sexual assault or stalking.
- To obtain services from a victim services provider for the eligible employee or the eligible employee's minor child or dependent.
- To relocate or take step to secure an existing home to ensure the health and safety of the eligible employee or the eligible employee's minor child or dependent.

The following has been provided by the employee to certify the leave:

- A copy of a police report indicating that the eligible employee or the eligible employee's minor child or dependent was a victim or alleged victim of domestic violence, harassment, sexual assault or stalking.
- A copy of a protective order or any other order that restrains an individual from contact with an eligible employee or the employee's minor child or dependent, evidence from a court, administrative agency or attorney that the eligible employee appeared in or is preparing for a civil or criminal proceeding related to domestic violence, harassment, sexual assault or stalking or other order authorized by ORS 30.866, 107.095(1)(c), 107.700 to 107.735, 124.005 to 120.040 or 163.730 to 163.750.
- Documentation from an attorney, law enforcement officer, health care professional, licensed mental health professional or counselor, member of the clergy or victim services provider with or from whom the eligible employee or the eligible employee's minor child or dependent is receiving services.

Eligible Employee Request for Domestic Violence, Harassment,  
Sexual Assault or Stalking Leave – GCBDC/GDBDC-AR

I understand that I may use accrued paid leave, including personal and sick leave or accrued vacation leave for the OFLA leave period. I may use accrued paid leave, including personal and sick leave or accrued vacation leave.

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 understand if I am unable to return to work following the period of authorized leave I will notify my employer as soon as practical and provide any required information which will allow my employer to determine my eligibility for an extension of leave.

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.

Signature of Employee: \_\_\_\_\_

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

# Evergreen Virtual Academy

Code: GCBDD/GDBDD  
Adopted: 6/18/19; 8/20/19  
Orig. Code: GCBDD/GDBDD

## Sick Time

“Employee” means an individual who is employed by the public charter school and who is paid on an hourly, stipend or salary basis, and for whom withholding is required under Oregon Revised Statute (ORS) 316.162-316.221. The definition does not include volunteers or independent contractors.

Employees qualify to begin earning and accruing sick time on the first day of employment with the public charter school.

A public charter school employing 10 or more employees shall allow an eligible employee to access up to 80 hours of paid sick time per year. Paid sick time of 80 hours shall be front-loaded to an employee at the beginning of each year.

The employee may carry up to 80 hours of unused sick time from one year to the subsequent year.

Sick time shall be taken in hourly increments and may be used for the employee’s or a family member’s<sup>1</sup> mental or physical illness, injury or health condition, need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition or need for preventive care, or for reasons consistent with the Family Medical Leave Act (FMLA) or OFLA. Sick time may also be used in the event of a public health emergency.

The use of sick time may not lead to, or result in, an adverse employment action against the employee.

The public charter school reserves the right, to require proof of personal illness or injury from an employee, including a medical examination by a physician chosen and paid for by the public charter school. An employee refusing to submit to such an examination or to provide other evidence as required by the public charter school, shall be subject to appropriate disciplinary action, up to and including dismissal.

When the reason for sick time is consistent with FMLA/OFLA leave, the sick time and the FMLA/OFLA leave may run concurrently.

If the reason for sick time is a foreseeable absence, the public charter school may require the employee to provide advance notice of their intention to use sick time within 10 days of the requested sick time, or as soon as practicable. When the employee uses sick time for a foreseeable absence, the employee shall take reasonable effort to schedule the sick time in a manner that does not unduly disrupt the operations of the public charter school (e.g., grading deadlines, inservice training, mandatory meetings).

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<sup>1</sup>“Family member” is defined by the Oregon Family Leave Act (OFLA).

If the reason for sick time is unforeseeable, such as an emergency, accident or sudden illness, the employee shall notify the public charter school consistent with the reporting time established by the public charter school or as soon as practicable.

The public charter school shall establish a standard process to track the eligibility for sick time of a substitute.

END OF POLICY

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**Legal Reference(s):**

[ORS 332.507](#)

[ORS 342.610](#)

[ORS 659A.150 to -659A.186](#)

[ORS 342.545](#)

[ORS 653.601 to -653.661](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2016); 28 C.F.R. Part 35 (2016).  
Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601-2654 (2012); Family and Medical Leave Act of 1993, 29 C.F.R. Part 825 (2016).

Americans with Disabilities Act Amendments Act of 2008.

**Cross Reference(s):**

ACA - Americans with Disabilities Act

GBDA - Mother Friendly Workplace

GCBDA/GDBDA - Family Medical Leave

# Evergreen Virtual Academy

Code: GCDA/GDDA  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: GCDA/GDDA

## Criminal Records Checks/Fingerprinting

In a continuing effort to further ensure the safety and welfare of students and staff, the public charter school shall require all newly hired full-time and part-time employees not requiring licensure to undergo a criminal records checks and fingerprinting. Others individuals, as determined by the public charter school, that will have direct, unsupervised contact with students shall also have criminal records checks and/or fingerprinting, as required by law.

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

As required by state law, a criminal records check and fingerprinting shall be required of the following individual or individuals (subject individuals and requirements are further outlined in GCDA/GDDA-AR - Criminal Records Checks and Fingerprinting):

1. All public charter school contractors and/or their employees, whether employed part-time or full-time, considered by the public charter school to have unsupervised access to students;
2. All contractors and/or their employees who provide early childhood special education or early intervention services in accordance with rules established by the Oregon Department of Education (ODE), Child Care Division;
3. Any community college faculty member providing instruction at the site of an early childhood education program or at a school site as part of an early childhood program, or at a grade K through 12 school site during the regular school day;
4. Any individual considered for volunteer service with the public charter school who is to have direct, unsupervised contact with students.

The identity of an individual requiring fingerprinting will be provided by the public charter school to the authorized fingerprinter for verification.

An individual shall be subject to fingerprinting only after acceptance of an offer of employment or contract.

A subject individual who has failed to disclose the presence of convictions, that would not otherwise prevent his or her employment with the public charter school as provided by law, will not be employed or contracted with, by the public charter school. The public charter school’s use of criminal history must be relevant to the specific requirements of the position, services or employment.

The public charter school shall begin the employment of an individual or terms of a public charter school contractor on a probationary basis, pending the return and disposition of criminal records checks and/or fingerprinting.

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

An individual who knowingly made a false statement as to the conviction of any crime on public charter school volunteer forms, as determined by the public charter school, will result in immediate termination from the ability to volunteer in the public charter school.

Fees associated with a criminal records check and/or fingerprinting may be charged.

The public charter school administrator shall develop administrative regulations as necessary to meet the requirements of law.

END OF POLICY

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**Legal Reference(s):**

[ORS 181A.180](#)  
[ORS 181A.230](#)  
[ORS 326.603](#)  
[ORS 326.607](#)  
[ORS 336.631](#)

[ORS 338.115\(h\)](#)  
[ORS 342.127](#)  
[ORS 342.143](#)  
[ORS 342.223](#)

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

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

# Evergreen Virtual Academy

Code: GCDA/GDDA-AR  
Revised/Reviewed: 10/21/13; 6/18/19  
Orig. Code: GCDA/GDDA-AR

## Criminal Records Checks/Fingerprinting

### Subject Requirements

1. An individual who is an employee of a public charter school, full-time or part-time, shall be required to undergo a nationwide criminal records check and fingerprinting
2. Any individual newly hired, full-time or part-time and not requiring licensure as a teacher, administrator, personnel specialist or school nurse shall be required to undergo a nationwide criminal records check and fingerprinting.
3. Individuals applying for reinstatement of an Oregon license with the Teacher Standards and Practices Commission (TSPC) that has lapsed for more than three years shall be required to undergo a nationwide criminal records check and fingerprinting with TSPC.
4. Any individual registering with TSPC for student teaching, practicum or internship as a teacher, administrator or personnel specialist shall be required to undergo a nationwide criminal records check and fingerprinting with TSPC.
5. Any public charter school contractor<sup>1</sup>, whether part-time or full-time, or an employee of a public charter school contractor, whether part-time or full-time, hired into a position having direct, unsupervised contact with students shall be required to undergo a nationwide criminal records check and fingerprinting.
6. The public charter school administrator will identify contractors who are present on public charter school property and regularly interact with students and are subject to such requirements.
7. Any contractor or an employee of the contractor who provides early childhood special education or early intervention services shall be required to undergo a nationwide criminal records check and fingerprinting with the Oregon Department of Education (ODE), Child Care Division.
8. Any community college faculty member providing instruction at the site of an early childhood education program or at a school site as part of an early childhood program, or at a grade K through 12 school site during the regular school day, shall be required to undergo a nationwide criminal records check and fingerprinting.

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<sup>1</sup>Contractor employees may not be required to submit fingerprinting until the contractor has been offered a contract.

9. <sup>2</sup>Any individual authorized by the public charter school for volunteer service into a position having direct, unsupervised contact with students shall be required to undergo an Oregon criminal records check.
10. Any individual authorized by the public charter school for volunteer service that does not have direct, unsupervised contact with students will not be required to undergo an Oregon criminal records check.

### **Exceptions**

A newly hired employee is not subject to fingerprinting if the public charter school has on file evidence that the newly hired employee previously and successfully completed an Oregon and a FBI criminal records check for a previous employer that was a public charter school, ESD or school district.

Evidence will be either a copy of the records check or a written statement of verification from a supervisor or officer of the previous employer. Furthermore:

1. The ODE or TSPC verification of a previous check shall be acceptable only in the event the public charter school can demonstrate records are not otherwise available;
2. The public charter school shall maintain evidence that the employee has not resided outside the state between the two periods of time working in the public charter school shall be maintained.

### **Notification**

1. The public charter school will provide notification to individuals subject to criminal records checks and fingerprinting of the following:
  - a. Such criminal records checks and/or fingerprinting are required by law and/or Board policy;
  - b. Any action resulting from those checks that impact employment or contract may be appealed as a contested case;
  - c. All employment or contract offers are contingent upon the results of such checks;
  - d. A refusal to consent to criminal records checks and/or fingerprinting shall result in immediate termination from employment contract status or the ability to volunteer in the public charter school.
  - e. An individual determined to have knowingly made a false statement as to the conviction of any crime on public charter school employment applications, contractor ODE forms or public charter school volunteer forms(written or electronic)will result in immediate termination from employment or contract status or the ability to volunteer in the public charter school.
2. The public charter school will provide written notice through such means as employment applications contract or volunteer forms.

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<sup>2</sup>If the public charter school allows volunteer service and the volunteers have direct, unsupervised contact with students, this policy language is required, and public charter schools are required to conduct background checks on these volunteers.

## **Processing/Reporting Procedures**

1. Any individual subject to criminal records checks and/or fingerprinting shall complete the approved forms as provided by ODE (information available from the public charter school).
2. If the individual is subject to fingerprinting per state law, he/she will be required by the public charter school, and is responsible to report within three working days to an authorized fingerprinter for fingerprinting as directed by the public charter school.

Fingerprints may be collected by one of the following:

- a. Employing public charter school staff;
- b. Contracted agent of employing public charter school; or
- c. Local or state law enforcement agency.

The individual subject to fingerprinting, shall be subject only after acceptance of an offer of employment or contract.

3. To ensure the integrity of the fingerprinting collection and prevent any compromise of the process, the public charter school will provide the name of the individual to be fingerprinted to the authorized fingerprinter.
4. The authorized fingerprinter will obtain the necessary identification and fingerprinting and notify the ODE with the results. The ODE will notify the public charter school of said results and any subject individual it believes has knowingly made a false statement as to conviction of a crime prohibiting employment or contract.
5. A copy of the form to authorize fingerprinting, and results of such, will be kept in the employee's personnel file.

## **Fees**

1. Fees associated with criminal records checks and/or fingerprinting for individuals applying for employment with the public charter school including contractors<sup>3</sup> and their employees shall be paid by the public charter school. Licensed staff are individually responsible for their fingerprinting as part of their licensure process.
2. Fees are payable three working days prior to beginning employment or contract.
3. Individuals may request that the amount of the fee be withheld from the employee's paycheck, including a periodic payroll deduction rather than a lump sum payment, in accordance with Oregon law. The public charter school may withhold such fees only upon the request of the individual.
4. Fees associated with required criminal records checks for volunteers shall be paid by the public charter school.

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<sup>3</sup>Contractor employees may not be required to submit fingerprinting until the contract has been offered a contract.

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

1. Any individual required to submit to criminal records checks and/or fingerprinting in accordance with law and/or Board policy will be terminated from employment or contract status or withdrawal of offer of employment or contract will be made by the public charter school administrator upon:
  - a. Refusal to consent to a criminal records check and/or fingerprinting; or
  - b. Notification by the Superintendent of Public Instruction or his/her designee that the employee has a conviction of any crime prohibiting employment with the public charter school as specified in law.
2. Any individual required to submit to a criminal records check and/or fingerprinting in accordance with law will be terminated from employment or contract status, or withdrawal of offer of employment or contract will be made by the superintendent upon notification from the Superintendent of Public Instruction or his/her designee that the employee has knowingly made a false statement as to the conviction of any crime.
3. Employment termination shall remove the individual from any public charter school policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of Accountability for Schools for the 21st Century Law.
4. Any volunteer who will have direct, unsupervised contact with students that refuses to submit to a required, criminal records check to acquire or maintain a volunteer status in the public charter school in accordance with law and/or Board policy will be denied the ability to volunteer in the public charter school.
5. If the public charter school has completed a required criminal records check and the public charter school has been notified by the Superintendent of Public Instruction that the individual knowingly made a false statement on an ODE form as to conviction of any crime that may otherwise prevent a volunteer status in the public charter school, the individual will be denied the ability to volunteer.
6. Any volunteer who knowingly makes a false statement, as determined by the public charter school, on a public charter school volunteer application form will be denied the ability to volunteer in the public charter school.

### **Appeals**

An individual may appeal a determination that prevents his/her employment or eligibility to contract with the public charter school to the Superintendent of Public Instruction as a contested case and will be notified in writing by the ODE.

# Evergreen Virtual Academy

Code: GCN/GDN  
Adopted: 6/18/19  
Orig. Code: GCN/GDN

## Evaluation of Staff

An effective evaluation program is essential to a quality educational program. It is an important tool to determine the current level of a teacher's performance of the teaching responsibilities. It is also an important assessment of nonlicensed employees and current performance of their job assignments. Under Board policy, administrators are charged with the responsibility of evaluating the staff. An evaluation program provides a tool for supervisors who are responsible for making decisions about promotion, demotion, contract extension, contract nonextension, contract renewal or nonrenewal, dismissal and discipline.

### Licensed Staff

The evaluation for licensed staff shall be based on the core teaching standards adopted by the Oregon State Board of Education. The standards shall be customized based on collaborative efforts with teachers and any exclusive representatives of the licensed staff.

Evaluation and support systems established by the public charter school for teachers must be designed to meet or exceed the requirements defined in the Oregon Framework for Teacher and Administrator Evaluation and Support Systems, including:

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

An evaluation using the core teaching standards must attempt to:

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

Evaluation and support systems established by the public charter school must evaluate teachers on a regular cycle. The administrator shall regularly report to the Board on implementation of the evaluation and support systems and educator effectiveness.

Each probationary teacher shall be evaluated at least annually, but with multiple observations. The purpose of the evaluation is to aid the teacher in making continuing professional growth and to determine the teacher's performance of the teaching responsibilities. Evaluations shall be based upon at least two observations and other relevant information developed by the public charter school.

### **Nonlicensed Staff**

All nonlicensed employees will be formally evaluated by their immediate supervisor at least twice during their first year of employment and at least once each year thereafter.

# Evergreen Virtual Academy

Code: IGAEB  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: IGAEAB

## **Drug, Alcohol and Tobacco Prevention, Health Education\*\***

Students have a right to attend school in an environment conducive to learning. The public charter school will not tolerate the possession, selling or use of unlawful and harmful drugs (illicit drugs, nontherapeutic uses of prescribed drugs, misuse of solvents and other dangerous substances) alcohol or tobacco in the schools, on public charter school property or during public charter school-sponsored activities including athletic events, dances, field trips, etc.

After consulting with staff, parents and students, through such groups as community agencies and representatives from drug, alcohol or health service agencies, student councils, MADD, ministerial association, chamber of commerce, local school committee and the county youth services team, the Board will adopt a written plan for a drug, alcohol and tobacco prevention and intervention program.

### **Drug Prevention Program**

Each classroom K-8<sup>1</sup> shall receive drug, alcohol and tobacco prevention instruction as part of the health education program.

A curriculum for students 9-12 will be consistent with the State Board of Education adopted Health Education Academic Content Standards and will include age-appropriate instruction about drug and alcohol prevention. For students not enrolled in health education, the public charter school administrator will ensure a program of activities which reflects current research and meets the requirements of the public charter school's prevention and intervention program.

Each year the public charter school will review the curriculum in consultation with the public charter school's drug, alcohol and tobacco prevention committee and revise as necessary to reflect current research and state standards.

The public charter school is committed to an aggressive intervention and referral program to eliminate prohibited drug, alcohol and tobacco use.

The program shall include training for staff and a compilation of information on school and community resources and procedures for responding to drug-related medical emergencies.

Parents, students and staff shall annually receive annually in handbooks information and detailed procedures regarding the public charter school's intervention/referral program.

Each year students and parents shall receive a code of conduct explaining expected behaviors and related consequences for violations of the conduct code which may include discipline up to and including expulsion. Students violating the code of conduct prohibiting substance abuse, possessing, selling and/or

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<sup>1</sup>If the public charter school offers instruction to grades K-8 only, it may say K-8. If the public charter school offers instruction to all grades, this must say K-12 per OAR 581-022-0413.

using unlawful drugs or alcohol may be subject to an assessment and, if appropriate, referred to law enforcement officials. When considering disciplinary action for a child 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 or placement, manifestation determination and an interim alternative educational setting.

Each year the public charter school will actively seek funds to support the activities identified in the public charter school’s drug, alcohol and tobacco prevention program.

The public charter school administrator shall provide staff development activities for all employees addressing the public charter school’s drug, alcohol and tobacco prevention and intervention program or plan, the employee’s responsibilities within the program or plan and current drug, alcohol and tobacco information.

The public charter school will develop a public information plan for students, staff and parents.

The public charter school’s Drug, Alcohol and Tobacco Prevention, Health Education policy, related policies, rules and procedures will be reviewed annually and updated, as needed.

END OF POLICY

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**Legal Reference(s):**

<a href="#">ORS 163.575</a>	<a href="#">OAR 581-015-2060</a>	<a href="#">OAR 581-015-2420</a>
<a href="#">ORS 336.067</a>	<a href="#">OAR 581-015-2070</a>	<a href="#">OAR 581-015-2425</a>
<a href="#">ORS 336.222</a>	<a href="#">OAR 581-015-2075</a>	<a href="#">OAR 581-015-2430</a>
<a href="#">ORS 339.873</a>	<a href="#">OAR 581-015-2205</a>	<a href="#">OAR 581-015-2435</a>
<a href="#">ORS Chapter 475</a>	<a href="#">OAR 581-015-2220</a>	<a href="#">OAR 581-015-2440</a>
	<a href="#">OAR 581-015-2225</a>	<a href="#">OAR 581-015-2600</a>
<a href="#">OAR 581-011-0052</a>	<a href="#">OAR 581-015-2230</a>	<a href="#">OAR 581-015-2605</a>
<a href="#">OAR 581-015-2000</a>	<a href="#">OAR 581-015-2235</a>	<a href="#">OAR 581-021-0050</a>
<a href="#">OAR 581-015-2040</a>	<a href="#">OAR 581-015-2240</a>	<a href="#">OAR 581-021-0055</a>
<a href="#">OAR 581-015-2045</a>	<a href="#">OAR 581-015-2325</a>	<a href="#">OAR 581-022-2030</a>
<a href="#">OAR 581-015-2050</a>	<a href="#">OAR 581-015-2410</a>	<a href="#">OAR 581-022-2045</a>
<a href="#">OAR 581-015-2055</a>	<a href="#">OAR 581-015-2415</a>	

Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 8101-8106 (2012); General Principles Relating to Suspension and Debarment Actions, 34 C.F.R. §§ 84.100-84.670; 86.1-86.7 (2017).

Controlled Substances Act, 21 U.S.C. § 812 (2012); Schedules of Controlled Substances, 21 C.F.R. §§ 1308.11-1308.15 (2017).

Safe and Drug-Free Schools and Communities Act, 20 U.S.C. §§ 7101-7117 (2012).

# Evergreen Virtual Academy

Code: IGBAB/JO  
Adopted: 10/21/13  
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Orig. Code: IGBAB/JO

## **Education Records/Records of Students with Disabilities\*\***

Education records are those records maintained by the public charter school that are directly related to a student.

The primary reason for the keeping and maintaining of education records for students is to help the individual student in his/her educational development by providing pertinent information for the student, his/her teachers and his/her parents. These records also serve as an important source of information to assist students in seeking productive employment and/or post-high school education.

The public charter school shall maintain confidential education records of students in a manner that conforms with state and federal laws and regulations.

Information recorded on official education records should be carefully selected, accurate, verifiable and should have a direct and significant bearing upon the student's educational development.

The public charter school annually notifies parents or adult students that it forwards educational records requested by an educational agency or institution in which the student seeks to enroll or receive services, including special education evaluation services.

The public charter school shall comply with a request from parents or an adult student to inspect and review records without unnecessary delay. The public charter school provides to parents of a student with a disability or to an adult student with a disability the opportunity at any reasonable time to examine all of the records of the public charter school pertaining to the student's identification, evaluation, educational placement and free appropriate public education. The public charter school provides parents or an adult student, on request, a list of the types and locations of education records collected, maintained and used by the public charter school.

The public charter school annually notifies parents of all students, including adult students, currently in attendance that they have to right to:

1. Inspect and review the student's records;
2. Request the amendment of the student's educational records to ensure that they are not inaccurate, misleading or otherwise in violation of the student's privacy or other rights;
3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the student educational record rules authorize disclosure without consent. (See Board policy JOB – Personally Identifiable Information);
4. File with the U.S. Department of Education a complaint concerning alleged failures by the public charter school to comply with the requirements of the Family Educational Rights and Privacy Act; and

5. Obtain a copy of the public charter school’s education records policy.

Regarding records to be released to public charter school officials within the agency, the public charter school’s notice includes criteria for determining legitimate educational interest and the criteria for determining which school officials have legitimate educational interests. School officials may also include a volunteer or contractor who performs an institutional service on behalf of the public charter school.

The public charter school annually notifies parents and adult students of what it considers to be directory information and the disclosure of such. (See Board policy JOA – Directory Information).

The public charter school shall give full rights to education records to either parent, unless the public charter school has been provided legal evidence that specifically revokes these rights. Once the student reaches age 18 those rights transfer to the student.

A copy of this policy and administrative regulation shall be made available upon request to parents and students 18 years of age or older or emancipated and the general public.

END OF POLICY

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**Legal Reference(s):**

[ORS 30.864](#)  
[ORS 107.154](#)  
[ORS 326.565](#)  
[ORS 326.575](#)

[ORS 338.115\(a\)](#)  
[ORS 339.270](#)  
[ORS 343.177\(3\)](#)

[OAR 166-400-0010 to 166-400-0065](#)  
[OAR 581-021-0220 to -0430](#)  
[OAR 581-022-2260](#)  
[OAR 581-022-2270](#)

Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400-1419 (2012).

Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (2012); Family Educational Rights and Privacy, 34 C.F.R. Part 99 (2017).

Assistance to States for the Education of Children with Disabilities, 34 C.F.R. § 300.501 (2017).

**Cross Reference(s):**

JO/IGBAB - Education Records/Records of Students with Disabilities  
JOA - Directory Information  
JOB - Personally Identifiable Information  
JN - Student Fees, Fines and Charges

# Evergreen Virtual Academy

Code: IGBAB/JO-AR  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: IGBAB/JO-AR

## Education Records/Records of Students with Disabilities Management

### 1. Student Education Record

Student education records are those records that are directly related to a student and maintained by the public charter school, or by a party acting for the public charter school; however, this does not include the following:

- a. Records of instructional, supervisory and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker of the record, used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
- b. Records of the law enforcement unit of the public charter school subject to the provisions of Oregon Administrative Rule (OAR) 581-021-0225;
- c. Records relating to an individual who is employed by the public charter school that are made and maintained in the normal course of business, that relate exclusively to the individual in that individual's capacity as an employee and that are not available for use for any other purpose. Records relating to an individual in attendance at the public charter school who is employed as a result of his/her status as a student are education records and are not accepted under this section;
- d. Records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, that are:
  - (1) Made or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in his/her professional capacity or assisting in a paraprofessional capacity;
  - (2) Made, maintained or used only in connection with treatment of the student; and
  - (3) Disclosed only to individuals providing the treatment. For purposes of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the public charter school.
- e. Records that only contain information relating to activities in which an individual engaged after he/she is no longer a student at the public charter school;
- f. Medical or nursing records which are made or maintained separately and solely by a licensed health-care professional who is not employed by the public charter school, and which are not used for education purposes or planning.

The public charter school shall keep and maintain a permanent record on each student which includes the:

- a. Name and address of educational agency or institution;
- b. Full legal name of the student;

- c. Student birth date and place of birth;
- d. Name of parents;
- e. Date of entry in school;
- f. Name of school previously attended;
- g. Courses of study and marks received;
- h. Data documenting a student's progress toward achievement of state standards and must include a student's Oregon State Assessment results;
- i. Credits earned;
- j. Attendance;
- k. Date of withdrawal from school; and
- l. Such additional information as the public charter school may prescribe.

The public charter school may also request the social security number of the student and will include the social security number on the permanent record only if the eligible student or parent complies with the request. The request shall include notification to the eligible student or the student's parent(s) that the provision of the social security number is voluntary and notification of the purpose for which the social security number will be used.

The public charter school shall retain permanent records in a minimum one-hour fire-safe place in the public charter school, or keep a duplicate copy of the permanent records in a safe depository in another public charter school location.

## 2. Confidentiality of Student Records

- a. The public charter school shall keep confidential any record maintained on a student in accordance with OAR 581-021-0220 through 581-021-0430.
- b. The public charter school shall protect the confidentiality of personally identifiable information at collection, storage, disclosure and destruction stages.
- c. The public charter school shall identify one official to assume responsibility for ensuring the confidentiality of any personally identifiable information.
- d. All persons collecting or using personally identifiable information shall receive training or instruction on state policies and procedures.

## 3. Rights of Parents and Eligible Students

The public charter school shall annually notify parents and eligible students through the public charter school student/parent handbook or any other means that are reasonably likely to inform the parents or eligible students of their rights. This notification shall state that the parent(s) or eligible student has a right to:

- a. Inspect and review the student's education records;
- b. Request the amendment of the student's education records to ensure that they are not inaccurate, misleading or otherwise in violation of the student's privacy or other rights;
- c. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the applicable state or federal law authorizes disclosure without consent;
- d. Pursuant to OAR 581-021-0410, file with the Family Policy Compliance Office, United States Department of Education a complaint under 34 C.F.R. § 99.64 concerning alleged failures by the public charter school to comply with the requirements of federal law; and
- e. Obtain a copy of the public charter school policy with regard to student education records.

The notification shall also inform parents or eligible students that the public charter school forwards education records requested under OAR 581-021-0255. The notification shall also indicate where copies of the public charter school policy are located and how copies may be obtained.

If the eligible student or the student's parent(s) has a primary or home language other than English, or has a disability, the public charter school shall provide effective notice.

These rights shall be given to either parent unless the public charter school has been provided with specific written evidence that there is a court order, state statute or legally binding document relating to such matters as divorce, separation or custody that specifically revokes these rights.

When a student becomes an eligible student, which is defined as a student who has reached 18 years of age or is attending only an institution of postsecondary education and is not enrolled in a secondary school, the rights accorded to, and the consent required of, the parents transfer from the parents to the student. Nothing prevents the public charter school from giving students rights in addition to those given to parents.

#### 4. Parent's or Eligible Student's Right to Inspect and Review

The public charter school shall permit an eligible student or student's parent(s) or a representative of a parent or eligible student, if authorized in writing by the eligible student or student's parent(s), to inspect and review the education records of the student, unless the education records of a student contain information on more than one student. In that case the eligible student or student's parent(s) may inspect, review or be informed of only the specific information about the student.

The public charter school shall comply with a request for access to records:

- a. Within a reasonable period of time and without unnecessary delay;
- b. For children with disabilities before any meeting regarding an individualized education program (IEP), or any due process hearing, or any resolution session related to a due process hearing;
- c. In no case more than 45 days after it has received the request.

The public charter school shall respond to reasonable requests for explanations and interpretations of the student's education record.

The parent(s) or eligible student shall comply with the following procedure to inspect and review a student's education record:

- a. Provide a written, dated request to inspect a student's education record; and
- b. State the specific reason for requesting the inspection.

The written request will be permanently added to the student's education record.

The public charter school shall not destroy any education record if there is an outstanding request to inspect and review the education record.

While the public charter school is not required to give an eligible student or student's parent(s) access to treatment records under the definition of "education records" in OAR 581-021-

0220(6)(b)(D), the eligible student or student’s parent(s) may, at his/her expense, have those records reviewed by a physician or other appropriate professional of his/her choice.

If an eligible student or student’s parent(s) so requests, the public charter school shall give the eligible student or student’s parent(s) a copy of the student’s education record. The public charter school may recover a fee for providing a copy of the record, but only for the actual costs of reproducing the record unless the imposition of a fee effectively prevents a parent or eligible student from exercising the right to inspect and review the students educational records. The public charter school may not charge a fee to search for or to retrieve the education records of a student.

The public charter school shall not provide the eligible student or student’s parent(s) with a copy of test protocols, test questions and answers and other documents described in Oregon Revised Statutes (ORS) 192.501(4) unless authorized by federal law.

The public charter school will maintain a list of the types and locations of education records maintained by the public charter school and the titles and addresses of officials responsible for the records.

Students’ education records will be maintained at the public charter school building at which the student is in attendance except for special education records which may be located at another designated location within the public charter school or the district<sup>1</sup>. The operations administrator shall be the person responsible for maintaining and releasing the education records.

## 5. Release of Personally Identifiable Information

Personally identifiable information shall not be released without prior written consent of the eligible student or student’s parent(s) except in the following cases:

- a. The disclosure is to other school officials, including teachers, within the public charter school or district who have a legitimate educational interest.

As used in this section, “legitimate educational interest” means a public charter school or district<sup>1</sup> official employed by the public charter school or district<sup>1</sup> as an administrator, supervisor, instructor or staff support member; a person serving on a public charter school or district<sup>1</sup> board; a person or company with whom the public charter school or district<sup>1</sup> has contracted to perform a special task; or a parent or student serving on a special committee such as a disciplinary or grievance committee, or assisting another public charter school or district<sup>1</sup> official in performing his or her tasks needed to review an educational record in order to fulfill his or her professional responsibility (definition from FERPA).

The public charter school shall maintain, for public inspection, a listing of the names and positions of individuals within the public charter school or district<sup>1</sup> who have access to personally identifiable information with respect to students with disabilities.

- b. The disclosure is to officials of another school within the district<sup>1</sup>;
- c. The disclosure is to authorized representatives of:

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<sup>1</sup>“District,” for the purpose of this policy, means the district in which the public charter school is located.

The U.S. Comptroller General, U.S. Attorney General, U.S. Secretary of Education or state and local education authorities or the Oregon Secretary of State Audits Division in connection with an audit or evaluation of federal or state-supported education programs or the enforcement of or compliance with federal or state-supported education programs or the enforcement of or compliance with federal or state regulations.

- d. The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:
  - (1) Determine eligibility for the aid;
  - (2) Determine the amount of the aid;
  - (3) Determine the conditions for the aid; or
  - (4) Enforce the terms and condition of the aid.

As used in this section “financial aid” means any payment of funds provided to an individual that is conditioned on the individual’s attendance at an educational agency or institution.

- e. The disclosure is to organizations conducting studies for, or on behalf of, the district to:
  - (1) Develop, validate or administer predictive tests;
  - (2) Administer student aid programs; or
  - (3) Improve instruction.
- f. The public charter school may disclose information under this section only if disclosure is to an official listed in paragraph c. above and who enters into a written agreement with the district that:
  - (1) Specifies the purpose, scope and duration of the study and the information to be disclosed;
  - (2) Limits the organization to using the personally identifiable information only for the purpose of the study;
  - (3) The study is conducted in a manner that does not permit personal identification of parents or students by individuals other than representatives of the organization; and
  - (4) The information is destroyed when no longer needed for the purposes for which the study was conducted.

For purposes of this section, the term “organization” includes, but is not limited to, federal, state and local agencies and independent organizations.

The district may disclose information under this section only if the disclosure is to an official listed in paragraph c. above who is conducting an audit related to the enforcement of or compliance with federal or state legal requirements and who enters into a written agreement with the district that:

- (1) Designates the individual or entity as an authorized representative;
- (2) Specifies the personally identifiable information being disclosed;
- (3) Specifies the personally identifiable information being disclosed in the furtherance of an audit, evaluation or enforcement or compliance activity of the federal or state supported education programs;

- (4) Describes the activity with sufficient specificity to make clear it falls within the audit or evaluation exception, this must include a description of how the personally identifiable information will be used;
  - (5) Requires information to be destroyed when no longer needed for the purpose for which the study was conducted;
  - (6) Identifies the time period in which the personally identifiable information must be destroyed; and
  - (7) Establishes policies and procedures which are consistent with Family Education Rights and Privacy Act (FERPA) and other federal and state confidentiality and privacy provisions to insure the protection of the personally identifiable information from further disclosure and unauthorized use.
- g. The disclosure is to accrediting organizations to carry out their accrediting functions;
  - h. The disclosure is to comply with a judicial order or lawfully issued subpoena. The public charter school may disclose information under this section only if the public charter school makes a reasonable effort to notify the eligible student or student's parent(s) of the order or subpoena in advance of compliance, unless an order or subpoena of a federal court or agency prohibits notification to the parent(s) or student;
  - i. The disclosure is to comply with a judicial order or lawfully issued subpoena when the parent is a party to a court proceeding involving child abuse and neglect or dependency matters;
  - j. The disclosure is to the parent(s) of a dependent student, as defined in Section 152 of the Internal Revenue Code of 1986;
  - k. The disclosure is in connection with a health or safety emergency. The public charter school shall disclose personally identifiable information from an education record to law enforcement, child protective services and health-care professionals, and other appropriate parties in connection with a health and safety emergency if knowledge of the information is necessary to protect the health and safety of the student or other individuals.

As used in this section a "health or safety emergency" includes, but is not limited to, law enforcement efforts to locate a child who may be a victim of kidnap, abduction or custodial interference and law enforcement or child protective services efforts to respond to a report of abuse of a child or neglect pursuant to applicable state law.

- l. The disclosure is information the district has designated as "directory information" (See Board policy JOA – Directory Information);
- m. The disclosure is to the parent(s) of a student who is not an eligible student or to an eligible student;
- n. The disclosure is to officials of another school, school system, institution of postsecondary education, an education service district (ESD), state regional program or other educational agency that has requested the records and in which the student seeks or intends to enroll or is enrolled or in which the student receives services. The term "receives services" includes, but is not limited to, an evaluation or reevaluation for purposes of determining whether a student has a disability;
- o. The disclosure is to the Board during an executive session pursuant to ORS 332.061.
- p. The disclosure is to a caseworker or other representative, who has the right to access the student's case plan, of a state or local child welfare agency or tribal organization that are legally responsible for the care and protection of the student, provided the personally identifiable information will not be disclosed unless allowed by law.

The public charter school will use reasonable methods to identify and authenticate the identity of the parents, students, school officials and any other parties to whom the public charter school discloses personally identifiable information from educational records;

## 6. Record-Keeping Requirements

The public charter school shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student. Exceptions to the record keeping requirements shall include the parent, eligible student, school official or his/her designee responsible for custody of the records and parties authorized by state and federal law for auditing purposes. The public charter school shall maintain the record with the education records of the student as long as the records are maintained. For each request or disclosure the record must include:

- a. The party or parties who have requested or received personally identifiable information from the education records; and
- b. The legitimate interests the parties had in requesting or obtaining the information.

The following parties may inspect the record of request for access and disclosure to a student's personally identifiable information:

- a. The parent(s) or eligible student;
- b. The school official or his/her designee who are responsible for the custody of the records;
- c. Those parties authorized by state or federal law for purposes of auditing the record keeping procedures of the public charter school.

## 7. Request for Amendment of Student's Education Record

If an eligible student or student's parent(s) believes the education records relating to the student contain information that is inaccurate, misleading or in violation of the student's rights of privacy or other rights, he/she may ask the administrator where the record is maintained to amend the record.

The administrator shall decide, after consulting with the necessary staff, whether to amend the record as requested within a reasonable time after the request to amend has been made.

The request to amend the student's education record shall become a permanent part of the student's education record.

If the administrator decides not to amend the record as requested, the eligible student or the student's parent(s) shall be informed of the decision and of his/her right to appeal the decision by requesting a hearing.

## 8. Hearing Rights of Parents or Eligible Students

If the administrator decides not to amend the education record of a student as requested by the eligible student or the student's parent(s), the eligible student or student's parent(s) may request a formal hearing for the purpose of challenging information in the education record as inaccurate, misleading or in violation of the privacy or other rights of the student. The public charter school shall appoint a hearings officer to conduct the formal hearing requested by the eligible student or student's parent. The hearing may be conducted by any individual, including an official of the public charter school, who does not have a direct interest in the outcome of the hearing. The hearings

officer will establish a date, time and location for the hearing, and give the student's parent or eligible student notice of date, time and location reasonably in advance of the hearing. The hearing will be held within 10 working days of receiving the written or verbal request for the hearing.

The hearings officer will convene and preside over a hearing panel consisting of:

- a. The administrator or his/her designee;
- b. A member chosen by the eligible student or student's parent(s); and
- c. A disinterested, qualified third party appointed by the administrator.

The parent or eligible student may, at his/her own expense, be assisted or represented by one or more individuals of his/her own choice, including an attorney. The hearing shall be private. Persons other than the student, parent, witnesses and counsel shall not be admitted. The hearings officer shall preside over the panel. The panel will hear evidence from the public charter school staff and the eligible student or student's parent(s) to determine the point(s) of disagreement concerning the records. Confidential conversations between a licensed employee or public charter school or district counselor and a student shall not be part of the records hearing procedure. The eligible student or student's parent(s) has the right to insert written comments or explanations into the record regarding the disputed material. Such inserts shall remain in the education record as long as the education record or contested portion is maintained and exists. The panel shall make a determination after hearing the evidence and make its recommendation in writing within 10 working days following the close of the hearing. The panel will make a determination based solely on the evidence presented at the hearing and will include a summary of the evidence and the reason for the decision. The findings of the panel shall be rendered in writing not more than 10 working days following the close of the hearing and submitted to all parties.

If, as a result of the hearing, the panel decides that the information in the education record is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall inform the eligible student or the student's parent(s) of the right to place a statement in the record commenting on the contested information in the record or stating why he/she disagrees with the decision of the panel. If a statement is placed in an education record, the public charter school will ensure that the statement:

- a. Is maintained as part of the student's records as long as the record or contested portion is maintained by the public charter school or the district<sup>1</sup>; and
- b. Is disclosed by the public charter school to any party to whom the student's records or the contested portion are disclosed.

If, as a result of the hearing, the panel decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall:

- a. Amend the record accordingly; and
- b. Inform the eligible student or the student's parent(s) of the amendment in writing.

9. Duties and Responsibilities When Requesting Education Records

The public charter school shall, within 10 days of a student seeking initial enrollment in or services from the public charter school, notify the public or private school, ESD, institution, agency or detention facility or youth care center in which the student was formerly enrolled and shall request the student's education records.

10. Duties and Responsibilities When Transferring Education Records

The public charter school shall transfer originals of all requested student education records, including any ESD records, relating to the particular student to the new educational agency when a request to transfer the education records is made to the district. The transfer shall be made no later than 10 days after receipt of the request. For students in substitute care programs, the transfer must take place within five days of a request. Readable copies of the following documents shall be retained:

- a. The student's permanent records, for one year;
- b. Such special education records as are necessary to document compliance with state and federal audits, for five years after the end of the school year in which the original was created. In the case of records documenting speech pathology and physical therapy services, until the student reaches age 21 or 5 years after last seen, whichever is longer.

Note: Education records shall not be withheld for student fees, fines and charges if requested in circumstances described in ORS 326.575 and applicable rules of the State Board of Education or such records are requested for use in the appropriate placement of a student.

## **Disclosure Statement**

Required for use in collecting personally identifiable information related to social security numbers.

On any form that requests the social security number (SSN), the following statement shall appear just above the space for the SSN:

“Providing your social security number (SSN) is voluntary. If you provide it, the public charter school will use your SSN for record keeping, research, and reporting purposes only. The public charter school will not use your SSN to make any decision directly affecting you or any other person. Your SSN will not be given to the general public. If you choose not to provide your SSN, you will not be denied any rights as a student. Please read the statement on the back of this form that describes how your SSN will be used. Providing your SSN means that you consent to the use of your SSN in the manner described.”

The public charter school, district and Oregon Department of Education may also match your SSN with records from other agencies as follows:

The Oregon Department of Education uses information gathered from the Oregon Employment Division to learn about education, training and job market trends. The information is also used for planning, research and program improvement.

State and private universities, colleges, community colleges and vocational schools use the information to find out how many students go on with their education and their level of success.

Other state agencies use the information to help state and local agencies plan educational and training services to help Oregon citizens get the best jobs available.

Your SSN will be used only for statistical purposes as listed above. State and federal law protects the privacy of your records.

# Evergreen Virtual Academy

Code: IGBB  
Adopted: 6/18/19  
Orig. Code: IGBB

## Talented and Gifted Program

The public charter school is committed to an educational program that recognizes, identifies and serves the unique needs of talented and gifted students. Talented and gifted students are those who have been identified as academically talented and/or intellectually gifted.

The Board directs the administrator to develop a written identification process for identifying academically talented and intellectually gifted students K-12.

A written plan that identifies programs or services needed to address the assessed levels of learning and accelerated rates of learning of identified students shall be similarly developed.

The public charter school may also identify and provide programs for students who demonstrate creative abilities, leadership abilities or unusual abilities in visual or performing arts.

END OF POLICY

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### Legal Reference(s):

[ORS 343.391](#)  
[ORS 343.395](#)  
[ORS 343.396](#)  
[ORS 343.397](#)  
[ORS 343.401](#)  
[ORS 343.407](#)  
[ORS 343.409](#)  
[ORS 343.413](#)

[OAR 581-022-1310 to -1330](#)

# Evergreen Virtual Academy

Code: IGBBA  
Adopted: 6/18/19  
Revised/Readopted: 8/20/19  
Orig. Code: IGBBA

## Identification-Talented and Gifted Students\*\*

In order to serve academically talented and intellectually gifted students in grades K-12, the public charter school directs the administrator to establish a written identification process.

This process of identification shall include as a minimum:

1. Use of research based best practices to identify talented and gifted students from under-represented populations such as ethnic minorities, students with disabilities, students who are culturally and/or linguistically diverse or economically disadvantaged.
2. Behavioral, learning and/or performance information.
3. A nationally standardized mental ability test for assistance in the identification of intellectually gifted students.
4. A nationally standardized academic achievement test of reading or mathematics on the Smarter Balanced Assessment for assistance in identifying academically talented students.

Identified students shall score at or above the 97th percentile on one of these tests. Other students who demonstrate the potential to perform at the eligibility criteria, as well as additional students who are talented and gifted may be identified.

If a parent is dissatisfied with the identification process or placement of their student, they may appeal the decision through the accompanying administrative regulation, IGBBA-AR. After exhausting the school's appeal procedure and receiving a final decision, a parent may appeal the decision to the State Superintendent of Public Instruction.

END OF POLICY

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### Legal Reference(s):

[ORS 343.395](#)  
[ORS 343.407](#)  
[ORS 343.411](#)  
[OAR 581-021-0030](#)  
[OAR 581-022-1310 to -1330](#)  
[OAR 581-022-1940](#)  
[OAR 581-022-1941](#)

# Evergreen Virtual Academy

Code: IGBBA-AR  
Adopted: 6/18/19  
Orig. Code: IGBBA-AR

## Appeal Procedure for Talented and Gifted Student Identification and Placement\*\*

The Board has established an appeal process for a parent to utilize if they are dissatisfied with the identification process and/or placement of their student in the public charter school program for talented and gifted (TAG) students, and wish to request reconsideration. The public charter school's desire and intent is to reach satisfactory solutions during the informal process:

### Informal Process

1. A parent will contact the TAG coordinator to request reconsideration.
2. The TAG coordinator will confer with the parent and may include any additional appropriate persons (e.g., administrator/principal, counselor, teacher, etc.). At this time, information pertinent to the selection or placement will be shared.
3. If an agreement cannot be reached, the parent may initiate the Formal Process.

### Formal Process

1. A parent shall submit a written request for reconsideration of the identification and/or placement to the program supervisor.
2. The program supervisor shall acknowledge in writing the receipt of the request within five working days and shall forward copies of the request and acknowledgment to the TAG coordinator.
3. The program supervisor, TAG coordinator and other appropriate administrator shall review the student's file and earlier decisions within 10 working days of the original request. Additional data may be gathered to support or change the earlier decision.
4. The parent may be provided an opportunity to present additional evidence.
5. If deemed necessary, a formal hearing will be conducted by the hearings officer designated by the public charter school, utilizing the appropriate procedures.
6. A decision will be made within 20 working days after receipt of the written request for reconsideration. The parent shall be notified of the decision in writing and the decision shall be forwarded to the administrator.
7. The decision may be appealed to the Board.

If the parent is still dissatisfied, an appeal to the State Superintendent of Public Instruction following the procedures outlined in the Oregon Administrative Rules (OAR) may be used. The public charter school shall provide a copy of the appropriate OAR upon request.

# Evergreen Virtual Academy

Code: IIBGA  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: IIBGA

## Electronic Communications System

The public charter school board is committed to the development and establishment of a quality, equitable and cost-effective electronic communications system. The system's sole purpose shall be for the advancement and promotion of learning and teaching.

The public charter school system will be used to provide statewide, national and global communications opportunities for staff and students.

The public charter school administrator will establish administrative regulations for the use of the public charter school's system including compliance with the following provisions of the Children's Internet Protection Act:

1. Technology protection measures, installed and in continuous operation, that protect against Internet access by both adults and minors to visual depictions that are obscene, child pornography or, with respect to the use of the computers by minors, harmful to minors;
2. Educating minors about appropriate online behavior, including cyberbullying awareness and response, and how to interact with other individuals on social networking sites and in chat rooms;
3. Monitoring the online activities of minors;
4. Denying access by minors to inappropriate matter on the Internet and World Wide Web;
5. Ensuring the safety and security of minors when using electronic mail, chat rooms and other forms of direct electronic communications;
6. Prohibiting unauthorized access, including so-called "hacking" and other unlawful activities by minors online;
7. Prohibiting unauthorized disclosure, use and dissemination of personal information regarding minors;
8. Installing measures designed to restrict minors' access to materials harmful to minors.

The administrator will establish administrative regulations for use of the public charter school's system by staff using their own personal electronic devices to download and store public charter school proprietary information including personally recognizable information about the public charter school students or staff. Regulations shall insure compliance with privacy rights under applicable federal and state laws and regulations, including but not limited to the Age Discrimination in Employment Act of 1967 (ADEA), the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act of 2008 (GINA) and the Health Insurance Portability and Accountability Act of 1996 (HIPPA).

The administrative regulations will be consistent with sound guidelines as may be provided by the education service district, the Oregon Department of Education and/or the Oregon Government Ethics Commission and will include a complaint procedure for reporting violations.

The public charter school administrator will also establish administrative regulations for use of the public charter school's electronic communications system to comply with copyright law.

Failure to abide by public charter school policy and administrative regulations governing use of the public charter school's system may result in the suspension and/or revocation of system access. Additionally, student violations will result in discipline up to and including expulsion. Staff violations will also result in discipline up to and including dismissal. Violations of law will be reported to law enforcement officials and may result in criminal or civil sanctions. Fees, fines or other charges may also be imposed.

END OF POLICY

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**Legal Reference(s):**

[ORS 30.765](#)  
[ORS 133.739](#)  
[ORS 163.435](#)  
[ORS 164.345](#)  
[ORS 164.365](#)  
[ORS 167.060](#)  
[ORS 167.065](#)  
[ORS 167.070](#)

[ORS 167.080](#)  
[ORS 167.087](#)  
[ORS 167.090](#)  
[ORS 167.095](#)  
[ORS Chapter 192](#)  
[ORS 336.222](#)  
[ORS 338.115\(a\)](#)  
[ORS 339.250](#)

[ORS 339.270](#)  
  
[OAR 581-021-0050](#)  
[OAR 581-021-0055](#)  
[OAR 584-020-0040](#)  
[OAR 584-020-0041](#)

Children's Internet Protection Act, 47 U.S.C. Sections 254 (h) and (l) (2008); 47 CFR Section 54.520 (2001).  
Copyrights, Title 17, as amended, United States Code; 19 CFR Part 133 (2000).  
*Oregon Attorney General's Public Records and Meetings Manual*, pp. 24-26, Appendix H, Department of Justice (2001).  
Safe and Drug-Free Schools and Communities Act, 20 U.S.C. Sections 7101-7117.  
Drug-Free Workplace Act of 1988, 41 U.S.C. Sections 701-707; 34 CFR Part 85, Subpart F.  
Controlled Substances Act, 21 U.S.C. Section 812, schedules I through V, 21 CFR 1308.11-1308.15 (2000).  
Drug-Free Schools and Communities Act Amendments of 1989, P.L. 101-226, 103 Stat. 1928.  
Americans with Disabilities Act of 1990, 42 U.S.C. Sections 12101-12213; 29 CFR Part 1630 (2000); 28 CFR Part 35 (2000).  
Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g; 34 CFR Part 99 (2000).  
Oregon Government Standards and Practices Commission, Advisory Opinion No. 98A-1003 (July 9, 1998).  
No Child Left Behind Act of 2001, P.L. 107-110, Title II, Section 2441.  
Americans with Disabilities Act Amendments Act of 2008.

# Evergreen Virtual Academy

Code: IIBGA-AR  
Revised/Reviewed: 6/18/19; 8/20/19  
Orig. Code: IIBGA-AR

## Electronic Communications System

### Definitions

1. “Technology protection measure,” as defined by the Children’s Internet Protection Act (CIPA), means a specific technology that blocks or filters Internet access to visual depictions that are:
  - a. Obscene, as that term is defined in Section 1460 of Title 18, United States Code;
  - b. Child pornography, as that term is defined in Section 2256 of Title 18, United States Code; or
  - c. Harmful to minors.
2. “Harmful to minors,” as defined by CIPA, means any picture, image, graphic image file or other visual depiction that:
  - a. Taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex or excretion;
  - b. Depicts, describes or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and
  - c. Taken as a whole, lacks serious literary, artistic, political or scientific value to minors.
3. “Sexual act; sexual contact,” as defined by CIPA, have the meanings given such terms in Section 2246 of Title 18, United States Code.
4. “Minor,” as defined by CIPA, means an individual who has not attained the age of 17. For the purposes of Board policy and this administrative regulation, minor will include all students enrolled in the public charter school.
5. “Inappropriate matter,” as defined by the public charter school, means material that is inconsistent with general public education purposes, the public charter school’s mission and goals.<sup>1</sup>
6. “Public charter school proprietary information” is defined as any information created, produced or collected by school staff for the business or education purposes of the public charter school including but not limited to student information, staff information, parent or patron information, curriculum, forms and like items used to conduct the public charter school’s business.
7. “School software” is defined as any commercial or staff developed software acquired using public charter school resources.

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<sup>1</sup>As inappropriate matter is not defined in the CIPA or regulations, public charter schools should define the scope of what it will regard as inappropriate matter. The language provided in #5. is intended as a guide only.

## General Public Charter School Responsibilities

The public charter school will:

1. Designate staff as necessary to ensure coordination and maintenance of the public charter school's electronic communications system which includes all public charter school computers, e-mail and Internet access;
2. Provide staff training in the appropriate use of the public charter school's system including copies of public charter school policy and administrative regulations. Staff will provide similar training to authorized system users;
3. Provide a system for authorizing staff use of personal electronic devices to download or access public charter school proprietary information, that insures the protections of said information and insures its removal from the device when its use is no longer authorized;
4. Provide a system for obtaining prior written agreement from staff for the recovery of public charter school proprietary information downloaded to staff personal electronic devices as necessary to accomplish public charter school purposes, obligations or duties, and when the use on the personal electronic device is no longer authorized, to insure verification that information downloaded has been properly removed from the personal electronic device;
5. Cooperate fully with local, state or federal officials in any investigation relating to misuse of the public charter school's system;
6. Use only properly licensed software, audio or video media purchased by the public charter school or approved for use by the public charter school. The public charter school will comply with the requirements of law regarding the use, reproduction and distribution of copyrighted works and with applicable provisions of use or license agreements;
7. Provide technology protection measures that protect against Internet access by both adults and minors to visual depictions that are obscene, child pornography, or with respect to the use of computers by minors, harmful to minors. A supervisor or other individual authorized by the principal may disable the technology protection measures to enable access for bona fide research or other lawful purposes, as deemed appropriate;
8. Prohibit access by minors, as defined by CIPA and this regulation, to inappropriate matter on the Internet and World Wide Web;
9. Provide staff supervision to monitor the online activities of students to prevent unauthorized access, including "hacking" and other unlawful activities online, and ensure the safety and security of minors when authorized to use e-mail, social media, chat rooms and other forms of direct electronic communication;
10. Provide student education about appropriate online behavior, including cyberbullying awareness and response, and how to interact with other individuals on social networking and social media websites and in chat rooms;

11. Determine which users and sites accessible as part of the public charter school's system are most applicable to the curricular needs of the public charter school and may restrict user access, accordingly;
12. Determine which users will be provided access to the public charter school's e-mail system;
13. Program its computers to display a message reinforcing key elements of the public charter school's Electronic Communications System policy and regulation when accessed for use;
14. Notify appropriate system users that:
  - a. The public charter school retains ownership and control of its computers, hardware, software and data at all times. All communications and stored information transmitted, received or contained in the public charter school's information system are the public charter school's property and are to be used for authorized purposes only. Use of public charter school equipment or software for unauthorized purposes is strictly prohibited. To maintain system integrity, monitor network etiquette and ensure that those authorized to use the public charter school's system are in compliance with Board policy, administrative regulations and law, the school administrators may routinely review user files and communications;
  - b. Files and other information, including e-mail, sent or received, generated or stored on public charter school servers are not private and may be subject to monitoring. By using the public charter school's system, individuals consent to have that use monitored by authorized public charter school personnel. The public charter school reserves the right to access and disclose, as appropriate, all information and data contained on public charter school computers and public charter school-owned e-mail system;
  - c. The public charter school may establish a retention schedule for the removal of e-mail;
  - d. E-mail sent or received by a Board member or employee in connection with the transaction of public business may be a public record and subject to state archivist rules for retention and destruction;
  - e. Information and data entered or stored on the public charter school's computers and e-mail system may become discoverable evidence if a public records request is made or a lawsuit is filed against the public charter school. "Deleted" or "purged" data from public charter school computers or e-mail system may be retrieved for later public records disclosure or disciplinary purposes, as deemed necessary by the public charter school;
  - f. The public charter school may set quotas for system disk usage. The public charter school may allow system users to increase their quota by submitting a written request to the supervising teacher or system coordinator stating the need for the increase;
  - g. Passwords used on the public charter school's system are the property of the public charter school and must be provided to their supervisor or designated public charter school personnel, as appropriate. Passwords that have not been provided to the public charter school are prohibited;
  - h. Transmission of any materials regarding political campaigns is prohibited.
15. Ensure all student, staff and nonschool system users complete and sign an agreement to abide by the public charter school's electronic communications policy and administrative regulations. All such agreements will be maintained on file in the school office;
16. Notify users of known copyright infringing activities and deny access to or remove the material.

## **System Access**

1. Access to the public charter school's system is authorized to:
2. Board members, public charter school employees, students in grades K-12, with parent approval and when under the direct supervision of staff, and public charter school volunteers, public charter school contractors or other members of the public as authorized by the system coordinator or public charter school administrators consistent with the public charter school's policy governing use of public charter school equipment and materials.
3. Students, staff, Board members, volunteers, public charter school contractors and other members of the public may be permitted to use the public charter school's system for personal use, in addition to official public charter school business, consistent with Board policy, general use prohibitions/guidelines/etiquette and other applicable provisions of this administrative regulation. Personal use of public charter school-owned computers including Internet and e-mail access by employees is prohibited during the employee's work hours. Additionally, Board member and employee use of public charter school-owned computers may be permitted only when such use does not violate the provisions of ORS 244.040 and use is under the same terms and conditions that access is provided to the general public under the public charter school's policy governing use of public charter school equipment and materials.

## **General Use Prohibitions/Guidelines/Etiquette**

Operation of the public charter school's system relies upon the proper conduct and appropriate use of system users. Students, staff and others granted system access are responsible for adhering to the following prohibitions and guidelines which require legal, ethical and efficient utilization of the public charter school's system.

### **1. Prohibitions**

The following conduct is strictly prohibited:

- a. Attempts to use the public charter school's system for:
  - (1) Unauthorized solicitation of funds;
  - (2) Distribution of chain letters;
  - (3) Unauthorized sale or purchase of merchandise and services;
  - (4) Collection of signatures;
  - (5) Membership drives;
  - (6) Transmission of any materials regarding political campaigns.
- a. Attempts to upload, download, use, reproduce or distribute information, data, software, or file share music, videos or other materials on the public charter school's system in violation of copyright law or applicable provisions of use or license agreements;
- b. Attempts to degrade, disrupt or vandalize the public charter school's equipment, software, materials or data or those of any other user of the public charter school's system or any of the agencies or other networks connected to the public charter school's system;
- c. Attempts to evade, change or exceed resource quotas or disk usage quotas;
- d. Attempts to send, intentionally access or download any text file or picture or engage in any communication that includes material which may be interpreted as:

- (1) Harmful to minors;
  - (2) Obscene or child pornography as defined by law or indecent, vulgar, profane or lewd as determined by the public charter school;
  - (3) A product or service not permitted to minors by law;
  - (4) Harassment, intimidation, menacing, threatening or constitutes insulting or fighting words, the very expression of which injures or harasses others;
  - (5) A likelihood that, either because of its content or the manner of distribution, it will cause a material or substantial disruption of the proper and orderly operation of the school or school activity;
  - (6) Defamatory, libelous, reckless or maliciously false, potentially giving rise to civil liability, constituting or promoting discrimination, a criminal offense or otherwise violates any law, rule, regulation, Board policy and/or administrative regulation.
- b. Attempts to gain unauthorized access to any service via the public charter school's system which has a cost involved or attempts to incur other types of costs without specific approval. The user accessing such services will be responsible for these costs;
  - c. Attempts to post or publish personal student contact information unless authorized by the system coordinator or teacher and consistent with applicable Board policy pertaining to student directory information and personally identifiable information. Personal contact information includes photograph, age, home, school, work or e-mail addresses or phone numbers or other unauthorized disclosure, use and dissemination of personal information regarding students;
  - d. Attempts to arrange student meetings with anyone on the public charter school's system, unless authorized by the system coordinator or teacher and with prior parent approval;
  - e. Attempts to use the public charter school's name in external communication forums such as chat rooms without prior public charter school authorization;
  - f. Attempts to use another individual's account name or password, failure to provide the public charter school with individual passwords or to access restricted information, resources or networks to which the user has not been given access.

## 2. Guidelines/Etiquette

System users will:

- a. Adhere to the same standards for communicating online that are expected in the classroom and consistent with Board policy and administrative regulations;
- b. Respect other people's time and cyberspace. Use real-time conference features such as talk/chat/Internet relay chat only as approved by the supervising teacher or system coordinator. Avoid downloading excessively large files. Remain on the system long enough to get needed information then exit the system. Act as though every byte sent costs somebody time and money, because it does;
- c. Take pride in communications. Check spelling and grammar;
- d. Respect the privacy of others. Do not read the mail or files of others without their permission;
- e. Cite all quotes, references and sources;
- f. Adhere to guidelines for managing and composing effective e-mail messages:
  - (1) One subject per message - avoid covering various issues in a single e-mail message;
  - (2) Use a descriptive heading;
  - (3) Be concise - keep message short and to the point;
  - (4) Write short sentences;

- (5) Use bulleted lists to break up complicated text;
  - (6) Conclude message with actions required and target dates;
  - (7) Remove e-mail in accordance with established guidelines;
  - (8) Remember, there is no expected right to privacy when using e-mail. Others may read or access mail;
  - (9) Always sign messages;
  - (10) Always acknowledge receipt of a document or file.
- g. Protect password confidentiality. Passwords are the property of the public charter school and are not to be shared with others. Using another user's account or password or allowing such access by another may be permitted with supervising teacher or system coordinator approval only. No system user may use a password on the public charter school's computers, e-mail system or Internet access which is unknown to the public charter school;
  - h. Communicate only with such users and/or sites as may be authorized by the public charter school;
  - i. Be forgiving of the mistakes of others and share your knowledge. Practice good mentoring techniques;
  - g. Report violations of the public charter school's policy and administrative regulation or security problems to the supervising teacher, system coordinator or administrator, as appropriate.

## **Complaints**

Complaints regarding use of the public charter school's Electronic Communications System may be made to the teacher, principal, employee's supervisor or system coordinator. The public charter school's established complaint procedure will be used for complaints concerning violations of the public charter school's Electronic Communications System policy and/or administrative regulation. See Board policy KL - Public Complaints and accompanying administrative regulation.

## **Violations/Consequences**

1. Students
  - a. Students who violate general system user prohibitions shall be subject to discipline up to and including expulsion and/or revocation of public charter school system access up to and including permanent loss of privileges.
  - b. Violations of law will be reported to law enforcement officials and may result in criminal or civil sanctions.
  - c. Disciplinary action may be appealed by parents, students and/or a representative in accordance with established public charter school procedures.
2. Staff
  - a. Staff who violate general system user prohibitions shall be subject to discipline up to and including dismissal in accordance with Board policy, collective bargaining agreements and applicable provisions of law.
  - b. Violations of law will be reported to law enforcement officials and may result in criminal or civil sanctions.
  - c. Violations of applicable Teacher Standards and Practices Commission (TSPC), Standards for Competent and Ethical Performance of Oregon Educators will be reported to TSPC as provided by OAR 584-020-0041.
  - d. Violations of ORS 244.040 will be reported to OGEC.

3. Others

- a. Other guest users who violate general system user prohibitions shall be subject to suspension of system access up to and including permanent revocation of privileges.
- b. Violations of law will be reported to law enforcement officials or other agencies, as appropriate, and may result in criminal or civil sanctions.

**Telephone/Membership/Other Charges**

1. The public charter school assumes no responsibility or liability for any membership or phone charges including, but not limited to, long distance charges, per minute (unit) surcharges and/or equipment or line costs incurred by any home usage of the public charter school's system.
2. Any disputes or problems regarding phone services for home users of the public charter school's system are strictly between the system user and their local phone company and/or long distance service provider.

**Information Content/Third Party Supplied Information**

1. System users and parents of student system users are advised that use of the public charter school's system may provide access to materials that may be considered objectionable and inconsistent with the public charter school's mission and goals. Parents should be aware of the existence of such materials and monitor their student's home usage of the public charter school's system accordingly.
2. Opinions, advice, services and all other information expressed by system users, information providers, service providers or other third-party individuals are those of the providers and not the public charter school.
3. System users may, with supervising teacher or system coordinator approval, order services or merchandise from other individuals and agencies that may be accessed through the public charter school's system. These individuals and agencies are not affiliated with the public charter school. All matters concerning merchandise and services ordered including, but not limited to, purchase terms, payment terms, warranties, guarantees and delivery are solely between the seller and the system user. The public charter school makes no warranties or representation whatsoever with regard to any goods or services provided by the seller. Public charter school staff and administration shall not be a party to any such transaction or be liable for any costs or damages arising out of, either directly or indirectly, the actions or inactions of sellers.
4. The public charter school does not warrant that the functions or services performed by or that the information or software contained on the system will meet the system user's requirements or that the system will be uninterrupted or error-free or that defects will be corrected. The public charter school's system is provided on an "as is, as available" basis. The public charter school does not make any warranties, whether express or implied including, without limitation, those of merchantability and fitness for a particular purpose with respect to any services provided by the system and any information or software contained therein.

## Sample Parent Letter

Dear Parents:

Your student has requested to participate in the public charter school's electronic communications program and needs your permission to do so. Your student will be able to communicate with other schools, colleges, organizations and individuals around the world through the Internet and other electronic information systems/networks.

The Internet is a system which links networks creating a large and diverse communications network. Internet access allows your student the opportunity to reach out to many other people to share information, learn concepts and research subjects by the sending and receiving of messages using a computer, modem and phone lines.

With this educational opportunity also comes responsibility. It is important that you and your student read the enclosed public charter school policy, administrative regulation and agreement form and discuss these requirements together. Inappropriate system use will result in discipline up to and including expulsion from school, suspension or revocation of your student's access to the public charter school's system and/or referral to law enforcement officials.

Although the public charter school is committed to practices that ensure the safety and welfare of system users, including the use of technology protection measures such as Internet filtering, please be aware that there may still be material or communications on the Internet that public charter school staff, parents and students may find objectionable. While the public charter school neither encourages nor condones access to such material, it is not possible for us to eliminate that access completely.

Attached to this letter are the following important documents:

1. An agreement for your student to read and sign stating his/her agreement to follow the public charter school's Electronic Communications System policy and administrative regulation. This agreement requires your signature. It must be signed and renewed each year and will be kept on file at the school;
2. The public charter school's Electronic Communications System policy and administrative regulation.

Please review these materials carefully with your student and return the attached agreement form to the school office indicating your permission or denial of permission for your student to participate in the public charter school's electronic communications system.

Sincerely,

System Administrator

**Student Agreement for an Electronic Communications System Account**  
Academic Year [2019-2020]

Student agreement must be renewed each academic year.

**Student Section**

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

School \_\_\_\_\_

I have read the public charter school's Electronic Communications System policy and administrative regulation and agree to abide by their provisions. I understand that violation of these provisions will result in discipline up to and including expulsion from school and/or suspension or revocation of system access and related privileges and/or referral to law enforcement officials.

Student Signature \_\_\_\_\_ Date \_\_\_\_\_

**Sponsoring Parent**

I have read the public charter school's Electronic Communications System policy and administrative regulation. I will monitor my student's use of the system and his/her potential access to the Internet and will accept responsibility for supervision in that regard if and when my student's use is not in a school setting. In consideration for the privilege of using the public charter school's Electronic Communications System and in consideration for having access to the public networks, I hereby release the public charter school, its operators and any institutions with which they are affiliated from any and all claims and damages of any nature arising from my, or my student's use, or inability to use, the system including, without limitation, the type of damages identified in the public charter school's policy and administrative regulation.

- I give my permission to issue an account for my student and certify that the information contained on this form is correct.
- I do not give my permission for my student to participate in the public charter school's communications system.

Signature of Parent \_\_\_\_\_

Home Address \_\_\_\_\_

Date \_\_\_\_\_ Home Phone Number \_\_\_\_\_

This space reserved for System Coordinator

Assigned Username: \_\_\_\_\_ Assigned Password: \_\_\_\_\_

**Agreement for an Electronic Communications System Account**  
(Nonschool System User)

I have read the public charter school's Electronic Communications System policy and administrative regulation and agree to abide by their provisions. I understand that violation of these provisions will result in suspension or revocation of system access and related privileges and/or referral to law enforcement officials.

In consideration for the privilege of using the public charter school's Electronic Communications System and in consideration for having access to the public networks, I hereby release the public charter school, its operators and any institutions with which they are affiliated from any and all claims and damages of any nature arising from my use or inability to use the system including, without limitation, the type of damages identified in the public charter school's policy and administrative regulation.

Signature \_\_\_\_\_

Home Address \_\_\_\_\_

Date \_\_\_\_\_ Home Phone Number \_\_\_\_\_

This space reserved for System Coordinator

Assigned Username: \_\_\_\_\_ Assigned Password: \_\_\_\_\_

**Agreement for an Electronic Communications System Account**  
(Staff System User)

I have read the public charter school's Electronic Communications System policy and administrative regulation and agree to abide by their provisions. I understand that violation of these provisions will result in suspension or revocation of system access and related privileges, and may include discipline, up to and including dismissal and/or referral to law enforcement officials.

I understand that I may use my personal electronic device (PED) for education related purposes and that certain public charter school proprietary information may be downloaded to my PED. I agree that any public charter school proprietary information downloaded on my PED will only be as necessary to accomplish public charter school purposes, obligations or duties, and will be properly removed from my PED when the use on my PED is no longer authorized. I insure that the personal electronic device in use is owned by me, and I am in complete control of the device at all times.

In consideration for the privilege of using the public charter school's Electronic Communications System and in consideration for having access to the public networks, I hereby release the public charter school, its operators and any institutions with which they are affiliated from any and all claims and damages of any nature arising from my use or inability to use the system including, without limitation, the type of damages identified in the public charter school's policy and administrative regulation.

Signature \_\_\_\_\_

Home Address \_\_\_\_\_

Date \_\_\_\_\_ Home Phone Number \_\_\_\_\_

This space reserved for System Coordinator

Assigned Username: \_\_\_\_\_ Assigned Password: \_\_\_\_\_

# Evergreen Virtual Academy

Code: IKF  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: IKF

## Graduation Requirements

The public charter school board will establish graduation requirements for the awarding of a high school diploma, a modified diploma, an extended diploma and an alternative certificate which meet or exceed state requirements. A student may satisfy graduation requirements in less than four years. The public charter school will award a diploma to a student fulfilling graduation requirements in less than four years if consent is received by the student's parent or guardian or by the student if they are 18 years of age or older or emancipated.

If the public charter school requires diploma requirements beyond the state requirements, the public charter school shall grant a waiver for those requirements to any student who, at any time from grade 9 to 12, was:

1. A foster child<sup>1</sup>;
2. Homeless;
3. A runaway;
4. A child in a military family covered by the Interstate Compact on Educational Opportunity for Military Children;
5. A child of a migrant worker; or
6. Enrolled in the Youth Corrections Education Program or the Juvenile Detention Education Program.

For any student identified above, the public charter school shall accept any credits earned by the student in another district or public charter school, applying those credits toward the state requirements for a diploma if the credits satisfied those requirements in that district or public charter school<sup>2</sup>.

The public charter school will ensure that students have onsite access to the appropriate resources to achieve a diploma, a modified diploma, an extended diploma or alternative certificate at each high school. The public charter school will provide age appropriate and developmentally appropriate literacy instruction to all students until graduation.

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<sup>1</sup>As defined in ORS 30.297.

<sup>2</sup>For a diploma awarded on or after January 1, 2018.

## Essential Skills

The public charter school will allow English Language Learner (ELL) students to demonstrate proficiency in Essential Skills of Apply Mathematics, in a variety of settings, in the student's language of origin for those ELL students who by the end of high school:

1. On track to meet all other graduation requirements; and
2. Unable to demonstrate proficiency in the Essential Skills in English.

The public charter school will allow ELL students to demonstrate proficiency in Essential Skills other than Apply Mathematics, in a variety of settings, in the student's language of origin for those ELL students who by the end of high school:

1. Are on track to meet all other graduation requirements;
2. Are unable to demonstrate proficiency in the Essential Skills in English;
3. Have been enrolled in a U.S. school for five years or less; and
4. Have demonstrated sufficient English language skill using the English Language Proficiency Assessment for the 21<sup>st</sup> Century (ELPA21)<sup>3</sup>.

The public charter school will develop procedures to provide assessment options as described in the *Essential Skills and Local Performance Assessment Manual*, in the ELL student's language of origin for those ELL students who meet the criteria above, and will develop procedures to ensure that locally scored assessment options administered in an ELL student's language of origin are scored by a qualified rater.

The public charter school may not deny a student, who has the documented history of an inability to maintain grade level achievement due to significant learning and instructional barriers, or of a medical condition that creates a barrier to achievements, the opportunity to pursue a diploma with more stringent requirements than a modified diploma or an extended diploma for the sole reason the student has the documented history.

The public charter school may award a modified diploma or extended diploma to a student only upon the written consent of the student's parent or guardian. The public charter school shall receive the written consent during the school year in which the modified diploma or extended diploma is awarded. A student who is emancipated or has reached the age of 18 at the time the modified diploma or extended diploma is awarded may sign the consent.

A student shall have the opportunity to satisfy the requirements for a modified diploma, an extended diploma or an alternative certificate in either four years after starting the ninth grade, or until the student reaches the age of 21, if the student is entitled to a public education until the age of 21 under state or federal law.

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<sup>3</sup>This criteria does not apply to students seeking a diploma in 2017-2018.

A student may satisfy the requirements for a modified diploma, an extended diploma or an alternative certificate in less than four years but not less than three years. In order to satisfy the requirements for a modified diploma, an extended diploma or an alternative certificate in less than four years, the student's parent or guardian or a student who is emancipate or has reached the age of 18 must provide written consent which clearly states the parent, guardian or student is waiving the fourth year and/or years until the student reaches the age of 21. A copy of the consent will be forwarded to the district's superintendent in which the public charter school is located, who will annually report to the Superintendent of Public Instruction the number of such consents.

Beginning in grade five or after a documented history to qualify for an extended diploma has been established, the public charter school will annually provide to the parents or guardians of the student, information of the availability of a modified diploma, an extended diploma, and an alternative certificate.

A student who qualifies to receive or receives a modified diploma, an extended diploma or an alternative certificate will have the option of participating in a high school graduation ceremony with the student's class.

A student who receives an extended diploma or an alternative certificate shall have access to individually designed instructional hours, hours of transition services and hours of other services that equals at least the total number of instructional hours that is required to be provided to students who are attending a public charter high school, as determined by the individualized education program (IEP) team.

A student who qualifies to receive a modified diploma but has not yet been awarded the modified diploma shall continue to have access to individually designed instructional hours, hours of transition services and hours of other services that are designed to meet the unique needs of the student.<sup>4</sup>

The public charter school will award to students with disabilities a document certifying successful completion of program requirements. No document issued to students with disabilities educated in full or in part in a special education program shall indicate that the document is issued by such a program. When a student who has an IEP completes high school, the public charter school will give the student an individualized summary of performance.

Eligible students with disabilities are entitled to a Free Appropriate Public Education ("FAPE") until the age of 21, even if they have earned a modified diploma, an extended diploma, an alternate certificate or completion of a General Education Development document. The continuance of services for students with disabilities for a modified diploma, an extended diploma or an alternative certificate is contingent on the IEP team determining the student's continued eligibility and special education services are needed.

Students and their parents will be notified of graduation and diploma requirements.

The public charter school may not deny a diploma to a student who has opted-out of the statewide assessments if the student is able to satisfy all other requirements for the diploma. Students who opt-out will need to meet the Essential Skills graduation requirements using another approved assessment option.

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<sup>4</sup>A student who received a modified diploma prior to July1, 2018 shall continue to have access to instructional hours, hours of transition services and hours of other services that are designed to meet the unique needs of the student.

The public charter school will issue a high school diploma, upon request and pursuant to Oregon law (ORS 332.114), to a person or representative of a deceased person who served in the U.S. Armed Forces<sup>5</sup> was discharged or released under honorable conditions.

The public charter school shall establish conduct and discipline consequences for student-initiated test impropriety. “Student-initiated test impropriety” means student conduct that is inconsistent with the *Test Administration Manual* or accompanying guidance; or results in a score that is invalid.

END OF POLICY

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**Legal Reference(s):**

[ORS 329.045](#)  
[ORS 329.451](#)  
[ORS 329.479](#)  
[ORS 332.114](#)  
[ORS 339.115](#)  
[ORS 339.505](#)

[ORS 343.295](#)  
[OAR 581-021-0009](#)  
[OAR 581-022-2000](#)  
[OAR 581-022-2005](#)  
[OAR 581-022-2010](#)  
[OAR 581-022-2015](#)

[OAR 581-022-2020](#)  
[OAR 581-022-2025](#)  
[OAR 581-022-2030](#)  
[OAR 581-022-2115](#)  
[OAR 581-022-2120](#)  
[OAR 581-022-2505](#)

*Test Administration Manual*, published by the OREGON DEPARTMENT OF EDUCATION.

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<sup>5</sup>The policy applies to any person who:

1. Served in the Armed Forces of the U.S. at any time during:
  - a. World War I;
  - b. World War II;
  - c. The Korean Conflict; or
  - d. The Vietnam War;
2. Served in the Armed Forces of the U.S. and was physically present in:
  - a. Operation Urgent Fury (Grenada);
  - b. Operation Just Cause (Panama);
  - c. Operation Desert Shield/Desert Storm (Persian Gulf War);
  - d. Operation Restore Hope (Somalia);
  - e. Operation Enduring Freedom (Afghanistan); or
  - f. Operation Iraqi Freedom (Iraq);
3. Served in the Armed Forces of the U.S. in an area designated as a combat zone by the President of the U.S.

# Evergreen Virtual Academy

Code: IKF-AR  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: IKF-AR

## Graduation Requirements

### Diploma

A high school diploma will be awarded to students in grades 9 through 12 who complete a minimum of 24 credits which include at least:

1. Four credits of English (shall include the equivalent of one unit in written composition);
2. Three credits of mathematics (shall include one unit at the Algebra I level and two units that are at a level higher than Algebra I);
3. Three credits of science;
4. Three credits of social sciences (including history, civics, geography and economics (including personal finance));
5. One credit in health education;
6. One credit in physical education; and
7. Three credits in career and technical education, the arts or world language (units shall be earned in any one or a combination).

The public charter school shall offer students credit options provided the method for obtaining such credit is described in the student's personal education plan and the credit is earned by meeting requirements described in OAR 581-022-1131.

To receive a diploma, in addition to credit requirements as outlined in OAR 581-022-2000, a student must:

1. Demonstrate proficiency in the Essential Skills of Reading, Writing and Apply Mathematics;
2. Develop an education plan and build an education profile;
3. Demonstrate extended application through a collection of evidence; and
4. Participate in career-related learning experiences outlined in the education plan.

## **Essential Skills Appeal**

The public charter school will follow Board policy KL - Public Complaints in the event of an appeal for the denial of a diploma based on the Essential Skills graduation requirement. The public charter school will retain student work samples and student performance data to ensure that sufficient evidence is available in the event of an appeal.

## **Modified Diploma**

A modified diploma will be awarded only to students who have demonstrated the inability to meet the full set of state board adopted academic standards adopted by the State Board of Education for a high school diploma even with reasonable modifications and accommodations. A modified diploma may only be awarded to a student who meets the eligibility criteria listed below:

1. Has a documented history of an inability to maintain grade level achievement due to significant learning and instructional barriers; or
2. Has a documented history of a medical condition that creates a barrier to achievement.

Having met the above eligibility criteria, a modified diploma will be awarded to students who, while in grade nine through completion of high school, complete 24 credits which shall include:

1. Three credits in English;
2. Two credits in mathematics;
3. Two credits in science;
4. Two credits in social sciences (which may include history, civics, geography and economics (including personal finances));
5. One credit in health education;
6. One credit in physical education; and
7. One credit in career technology, the arts or a world language (units may be earned in any one or a combination).
8. In addition to credit requirements as outlined in OAR 581-022-2010, a student must:
9. Develop an education plan and build an education profile; and
10. Demonstrate extended application through a collection of evidence.

A student must also demonstrate proficiency in the Essential Skills with reasonable modifications and accommodations.

Public charter schools may make modifications to the assessment for students who seek a modified diploma when the following conditions are met:

1. For a student on an individualized education program (IEP), any modifications to work samples must be consistent with the requirements established in the IEP. Modifications are changes to the achievement level, construct, or measured outcome of an assessment. This means that IEP or school teams responsible for approving modifications for a student's assessment may adjust the administration of the assessment and/or the assessment's achievement standard.
2. For a student not on IEP's, any modifications to work samples must have been provided to the student during his/her instruction in the content area to be assessed, and in the year in which the student is being assessed and modifications must be approved by the school team that is responsible for monitoring the student's progress toward the modified diploma.

Students not on an IEP or a 504 Plan may not receive a modified OAKS assessment.

A student's school team shall decide that a student should work toward a modified diploma no earlier than the end of grade six and no later than two years before the student's anticipated exit from high school. A student's school team may decide to revise a modified diploma decision.

A student's school team may decide that a student who was not previously working towards a modified diploma should work towards one when the student is less than two years from anticipated exit from high school if the documented history has changed.

### **Extended Diploma**

An extended diploma will be awarded only to students who have demonstrated the inability to meet the full set of academic content standards for a diploma while receiving modifications and accommodations. To be eligible for an extended diploma, a student must:

1. While in grade nine through completion of high school, complete 12 credits, which may not include more than six credits in a self-contained special education classroom and will include:
  - a. Two credits of mathematics;
  - b. Two credits of English;
  - c. Two credits of science;
  - d. Three credits of history, geography, economics or civics;
  - e. One credit of health;
  - f. One credit of physical education;
  - g. One credit of the arts or a second language.
2. Have a documented history of:
  - a. An inability to maintain grade level achievement due to significant learning and instructional barriers;
  - b. A medical condition that creates a barrier to achievement; or
  - c. A change in the student's ability to participate in grade level activities as a result of a serious illness or injury that occurred after grade eight.

## **Alternative Certificates**

Alternative certificates will be awarded to students who do not satisfy the requirements for a diploma, modified diploma or extended diploma if the students meet minimum credit requirements established by the public charter school. Alternative certificates will be awarded based on individual student needs and achievement.

## **Assessment**

Students may opt-out of the Smarter Balanced or alternate Oregon Extended Assessment by completing the Oregon Department of Education's Opt-out Form<sup>1</sup> and submitting the form to the public charter school.

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<sup>1</sup>[www.ode.state.or.us](http://www.ode.state.or.us): or navigate to Teaching & Learning > Testing - Student Assessment > Smarter Balanced

# Evergreen Virtual Academy

Code: IL  
Adopted: 6/18/19  
Orig. Code: IL

## Assessment Program\*\*

The public charter school assessment program shall be designed for the purpose of determining public charter school program improvement and individual student needs including the requirements of the Oregon Administrative Rules. Each year the public charter school shall determine each student's progress toward achieving federal, state and local achievement requirements.

Assessments shall be used to measure the academic content standards and Essential Skills and to identify students who meet or exceed the performance standards and Essential Skills adopted by the State Board of Education.

Accordingly, the public charter school shall maintain the following assessment program:

1. Criterion-reference assessments, including performance-based assessments, content-based assessments and other valid methods as may be required by state and federal requirements;
2. Assessment of Essential Skills;
3. Individual diagnostic and ability evaluations in all grades when students have been referred and parental permission obtained;
4. Assessments by individual teachers;
5. Optional public charter school and grade levelwide assessments, as recommended by the administrator and as approved by the Board.

It is the intent of the Board that progress be measured in a manner that clearly enables the student and parents to know whether the student is making progress toward meeting or exceeding academic content standards and Essential Skills. School and individual results shall be reported to the Board, parents and the community, as prescribed by law.

The public charter school shall not discriminate in the methods, practices and materials used for assessment, evaluating and counseling students on the basis of race, color, national origin, religion, sex, sexual orientation, age, disability or marital status. Discrimination complaints shall be processed in accordance with established procedures. Staff will receive in-service education in the use of designated assessments and interpretation of assessment results.

A student may opt-out of the Smarter Balanced and/or alternate Oregon Extended Assessments in English language arts and mathematics as provided in state law. The public charter school shall provide the required notice and necessary forms to the student. The public charter school shall provide supervised study time for students who are excused from participating in the assessment. A student may be excused from the Oregon Statewide Assessment Program for disability or religious reasons. Parents and adult students will be provided the required notices<sup>1</sup> that include a time frame in which statewide assessments will take place, and an adult student's or parent's right to request an exemption from taking the statewide summative assessments.

The public charter school shall establish conduct and discipline consequences for student-initiated test impropriety. "Student-initiated test impropriety" means student conduct that is inconsistent with the *Test Administration Manual* or accompanying guidance; or results in a score that is invalid.

The administrator shall ensure a periodic review and evaluation of the public charter school's assessment program is conducted.

END OF POLICY

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**Legal Reference(s):**

[ORS 40.245](#)

[ORS 326.565](#)

[ORS 326.575](#)

[ORS 329.479](#)

[ORS 329.485](#)

[ORS 336.187](#)

[ORS 659.870](#)

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

[OAR 581-021-0030](#)

[OAR 581-022-2030](#)

[OAR 581-022-2060](#)

[OAR 581-022-2100](#)

[OAR 581-022-2250](#)

[OAR 581-022-2270](#)

[OAR 581-022-2310](#)

Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (2012); Family Educational Rights and Privacy, 34 C.F.R. Part 99 (2017).

Protection of Pupil Rights, 20 U.S.C. § 1232h (2012); Student Rights in Research, Experimental Programs and Testing, 34 C.F.R. Part 98 (2017).

Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400-1419 (2012).

Every Student Succeeds Act, 20 U.S.C. §§ 6311-6322 (2012).

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<sup>1</sup>Public charter schools are required to provide notice twice each year: once at the beginning of the year; and second time at least 30 days prior to the administration of the test. The 30-day notice must first be provided during the 2015-2016 school year. The beginning of the year notice must first be provided during the 2016-2017 school year.

# Evergreen Virtual Academy

Code: JB  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JB

## Equal Educational Opportunity

Every student of the public charter school will be given equal educational opportunities regardless of age, sex, sexual orientation<sup>1</sup>, race, religion, color, national origin, disability and marital status.

A public charter school may not limit student admission based on ethnicity, national origin, race, religion, disability, gender, income level, proficiency in English language or athletic ability, but may limit admission to students within a given age group or grade level.

Further, no student will be excluded from participating in, denied the benefits of, or subjected to discrimination under any educational program or activity conducted by the public charter school. The public charter school will treat its students without discrimination on the basis of sex as this pertains to course offerings, athletics, counseling, employment assistance and extracurricular activities.

The public charter school administrator will designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX. 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 board will adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints under Title IX.

END OF POLICY

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<sup>1</sup>“Sexual orientation” means an individual’s actual or perceived heterosexuality, homosexuality, bisexuality or gender identity, regardless of whether the individual’s gender identity, appearance, expression or behaviors differs from that traditionally associated with the individual’s sex at birth.

**Legal Reference(s):**

[ORS 174.100](#)  
[ORS 192.630](#)  
[ORS 326.051](#)  
[ORS 329.025](#)  
[ORS 336.067](#)  
[ORS 336.082](#)

[ORS 336.086](#)  
[ORS 342.123](#)  
[ORS 659.850](#)  
[ORS Chapter 659](#)  
[ORS Chapter 659A](#)  
[ORS 659A.003](#)

[ORS 659A.006](#)  
[ORS 659A.030](#)  
[OAR 581-021-0045](#)  
[OAR 581-021-0046](#)  
[OAR 581-022-2310](#)  
[OAR 839-003-0000](#)

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2012).

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

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

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683, 1701, 1703-1705 (2012); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2017).

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

Americans with Disabilities Act Amendments Act of 2008.

**Cross Reference(s):**

AC - Nondiscrimination

ACA - Americans with Disabilities Act

# Evergreen Virtual Academy

Code: JBA/GBN  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JBA/GBN

## 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 administrator 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 administrator. 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 administrator 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 administrator 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. 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 administrator will establish a process of reporting incidents of sexual harassment.

END OF POLICY

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**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](#)

HB 4150 (2018)

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2012).

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

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2012); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2017).

Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999).

Gebser v. Lago Vista Indep. Sch. Dist., 524 U.S. 274 (1998).

**Cross Reference(s):**

GBN/JBA - Sexual Harassment

JFCF - Hazing/Harassment/Intimidation/Bullying/Menacing/Cyberbullying/Teen Dating Violence/Domestic Violence-Student

# Evergreen Virtual Academy

Code: JBA/GBN-AR  
Revised/Reviewed: 10/21/13; 6/18/19  
Orig. Code: JBA/GBN-AR

## Sexual Harassment Complaint Procedure

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

- Step 1 Any sexual harassment information (complaints, rumors, etc.) shall be presented to the public charter school administrator. All such information shall be reduced to writing and will include the specific nature of the sexual harassment and corresponding dates. If the administrator is the subject of the complaint, the complaint will be submitted to the public charter school board.
- Step 2 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 3 If a complainant is not satisfied with the decision at Step 2, he or 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 2 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 administrator 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 administrator 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 Oregon Administrative Rule (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 administrator 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: \_\_\_\_\_

# Evergreen Virtual Academy

Code: JEA  
Adopted: 6/18/19  
Orig. Code: JEA

## Compulsory Attendance\*\*

Except when exempt by Oregon law, all students between ages 6 and 18 who have not completed the 12th grade are required to regularly attend a public, full-time school during the entire school term.

All students five years of age who have been enrolled in a public school are required to attend regularly while enrolled in the public school.

Persons having legal control of a student between the ages 6 and 18, who has not completed the 12th grade, are required to have the student attend and maintain the child in regular attendance during the entire school term. Persons having legal control of a student, who is five years of age and has enrolled the child in a public school, are required to have the student attend and maintain the child in regular attendance during the school term.

Attendance supervisors shall monitor and report any violation of the compulsory attendance law to the administrator or designee. Failure to send a student and to maintain a student in regular attendance is a Class C violation.

The public charter school will develop procedures for issuing a citation.

A parent who is not supervising his/her student by requiring school attendance may also be in violation of Oregon Revised Statute (ORS) 163.577(1)(c). Failing to supervise a child is a Class A violation.

### Exemptions from Compulsory School Attendance

In the following cases, students shall not be required to attend public, full-time schools:

1. Students being taught in a private or parochial school in courses of study usually taught in kindergarten through grade 12 in the public schools, and in attendance for a period equivalent to that required of students attending public schools.
2. Students proving to the Board's satisfaction that they have acquired equivalent knowledge to that acquired in the courses of study taught in kindergarten through grade 12 in the public schools.
3. Students who have received a high school diploma or a modified diploma.
4. Students being taught, by a private teacher, the courses of study usually taught in kindergarten through grade 12 in the public school for a period equivalent to that required of students attending public schools.
5. Students being educated in the home by a parent or guardian.

6. Children whose sixth birthday occurred on or before September 1 immediately preceding the beginning of the current school year, if the parent or guardian notified the child's resident district in writing that the parent or guardian is delaying the enrollment of their child for one school year to better meet the child's needs for cognitive, social or physical development, as determined by the parent or guardian.
7. Children who are present in the United States on a nonimmigrant visa and who are attending a private, accredited English language learner program in preparation for attending a private high school or college.
8. Students excluded from attendance as provided by law.
9. An exemption may be granted to the parent or guardian of any student 16 or 17 years of age who is lawfully employed full-time, or who is lawfully employed part-time and enrolled in school, a community college or an alternative education program as defined in ORS 336.615.
10. An exemption may be granted to any child who is an emancipated minor or who has initiated the procedure for emancipation under ORS 419B.550 to 419B.558.

END OF POLICY

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**Legal Reference(s):**

[ORS 153.018](#)  
[ORS 163.577](#)  
[ORS 336.615 to -336.665](#)  
[ORS 339.010 to -339.090](#)  
[ORS 339.095](#)

[ORS 339.257](#)  
[ORS 339.990](#)  
[ORS 419B.550 to -419B.558](#)  
[ORS 807.065](#)  
[ORS 807.066](#)

[OAR 581-021-0026](#)  
[OAR 581-021-0029](#)  
[OAR 581-021-0071](#)  
[OAR 581-021-0077](#)

# Evergreen Virtual Academy

Code: JEBA  
Adopted: 6/18/19  
Revised/Readopted: 8/20/19  
Orig. Code: JEBA

## Early Entrance\*\*

A student is considered six years of age and will be admitted into a public school if his/her sixth birthday occurs on or before September 1. A student whose sixth birthday occurs after that date may be admitted to the first grade if he/she has maintained regular attendance in any grade of a public full-time school during the entire school term.

A student will be admitted to kindergarten if his or her fifth birthday occurs on or before September 1, or is a kindergarten student transferring from a public school or from a private school.

Early entry into school may be allowed for a student whose needs would best be met in the public charter school program based on an analysis by qualified professional staff of his/her:

1. Cognitive development;
2. Social development;
3. Physical development.

The public charter school administrator shall identify screening processes and instruments which will provide a dependable assessment of the preceding criteria.

Parents will be required to pay the cost of the special testing involved.

END OF POLICY

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### Legal Reference(s):

[ORS 327.006](#)  
[ORS 336.092](#)

[ORS 336.095](#)  
[ORS 339.010](#)

[ORS 339.115](#)  
[ORS 343.395](#)

# Evergreen Virtual Academy

Code: JED  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JED

## Student Absences and Excuses\*\*

It is the student's responsibility to maintain regular attendance in all assigned classes. Absence from school or class will be excused under the following circumstances:

1. Illness of the student;
2. Illness of an immediate family member when the student's presence at home is necessary;
3. Emergency situations that require the student's absence;
4. Field trips and school-approved activities;
5. Medical (dental) appointments. Confirmation of appointments may be required;
6. Other reasons deemed appropriate by the public school administrator when satisfactory arrangements have been made in advance of the absence.

The public charter school shall notify parents/guardians within five school days if their child has an unplanned absence. An unplanned absence includes but is not limited to no contact with the teacher and/or no activity in their course. The notification will be either in person, by telephone or another method identified in writing by the parent/guardian. If the parent/guardian cannot be notified by the above methods, a message shall be left, if possible.

END OF POLICY

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### Legal Reference(s):

[ORS 109.056](#)  
[ORS 332.107](#)  
[ORS 339.030](#)  
[ORS 339.055](#)

[ORS 339.065](#)  
[ORS 339.071](#)  
[ORS 339.250](#)  
[ORS 339.420](#)

[OAR 581-021-0046](#)  
[OAR 581-021-0050](#)  
[OAR 581-023-0006\(11\)](#)

# Evergreen Virtual Academy

Code: JEDA  
Adopted: 6/18/19  
Orig. Code: JEDA

## Truancy

Truancy is defined as absence from school without permission.

The public charter school believes irregular attendance is one of the factors associated with student failure and frustration with the school experience. A fundamental purpose for insisting on punctual, regular school attendance is to help each student develop habits of responsibility.

With these beliefs in mind, the public charter school will develop procedures that foster a partnership with parents in the early detection of truancy, related counseling and appropriate consequences<sup>1</sup>.

END OF POLICY

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### Legal Reference(s):

[ORS 338.115\(2\)](#)  
[ORS 339.040 to -339.090](#)

[ORS 339.240](#)  
[ORS 339.250](#)

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

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<sup>1</sup>Expulsion may not be used to address truancy. (ORS 339.250(2)(b)(B))

# Evergreen Virtual Academy

Code: JF/JFA  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JF/JFA

## Student Rights and Responsibilities

The public charter school board has the responsibility to afford students the rights that are theirs by virtue of guarantees offered under federal and state constitutions and statutes. In connection with rights are responsibilities that must be assumed by students.

Among these student rights and responsibilities are the following:

1. Civil rights — including the rights to equal educational opportunity and freedom from discrimination; the responsibility not to discriminate against others;
2. Once admitted, the responsibility to attend school regularly and to observe school rules essential for permitting others to learn at school;
3. The right to due process of law with respect to suspension, expulsion and decisions which the student believes injure his/her rights;
4. The right to free inquiry and expression; the responsibility to observe reasonable rules regarding these rights;
5. The right to privacy, which includes privacy with respect to the student's education records.

Students have the right to know the behavior standards expected of them as well as to know the consequences of misbehavior.

Students' rights and responsibilities, including standards of conduct, will be made available to students and their parents through information distributed annually.

END OF POLICY

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### Legal Reference(s):

<a href="#">ORS 332.061</a>	<a href="#">ORS 339.240</a>	<a href="#">OAR 581-021-0045</a>
<a href="#">ORS 332.072</a>	<a href="#">ORS 339.250</a>	<a href="#">OAR 581-021-0046</a>
<a href="#">ORS 337.150</a>	<a href="#">ORS 659.850</a>	<a href="#">OAR 581-021-0050 to -0075</a>
<a href="#">ORS 339.155</a>	<a href="#">ORS 659.865</a>	<a href="#">OAR 581-022-2310</a>

Hazelwood Sch. District v. Kuhlmeier, 484 U.S. 260 (1988).  
Bethel Sch. Dist. v. Fraser, 478 U.S. 675 (1986).

### Cross Reference(s):

JFC - Student Conduct

# Evergreen Virtual Academy

Code: JFC  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JFC

## Student Conduct

The public charter school board expects student conduct to contribute to a productive learning climate. Students shall comply with the public charter school's written rules, pursue the prescribed course of study, submit to the lawful authority of public charter school staff and conduct themselves in an orderly manner at the public charter school during the school day or during public charter school-sponsored activities.

Careful attention shall be given to procedures and methods whereby fairness and consistency without bias in discipline shall be assured each student. The objectives of disciplining any student must be to help the student develop a positive attitude toward self-discipline, realize the responsibility of one's actions and maintain a productive learning climate. All staff members have responsibility for consistency in establishing and maintaining an appropriate behavioral atmosphere.

A student code of conduct, developed under the leadership of the public charter school administration, and in cooperation with staff, will be made available and distributed to parents, students and employees outlining student conduct expectations and possible disciplinary actions, including consequences for disorderly conduct. In addition, each school may publish a student/parent handbook detailing additional rules specific to that school. All rules applying to student conduct shall be posted in a prominent place in the public charter school building.

Students in violation of public charter school board policy, administrative regulation and/or code of conduct provisions will be subject to discipline up to and including expulsion. Students may be denied participation in extracurricular activities. Titles and/or privileges available to, or granted to, students may also be denied and/or revoked (e.g., valedictorian, salutatorian, student body, class or club office positions, senior trip, prom, etc.). A referral to law enforcement may also be made.

END OF POLICY

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### Legal Reference(s):

[ORS 338.115](#)  
[ORS 659.850](#)

[OAR 581-021-0060\(2\)](#)  
[OAR 581-021-0061](#)

Tinker v. Des Moines Sch. Dist., 393 U.S. 503 (1969).  
Hazelwood Sch. District v. Kuhlmeier, 484 U.S. 260 (1988).  
Bethel Sch. Dist. v. Fraser, 478 U.S. 675 (1986).  
Shorb v. Grotting and Powers Sch. Dist., Case No. 00CV-0255 (Coos County Circuit Ct.) (2000).  
Ferguson v. Phoenix Talent Sch. Dist. #4, 172 Or. App. 389 (2001).  
Morse v. Frederick, 551 U.S. 393, 127 S. Ct. 2618 (2007).  
C.R. v. Eugene S.D. 4J, No. 12-1042, U.S. District Court of OR (2013).

### Cross Reference(s):

JF/JFA - Student Rights and Responsibilities  
JG - Student Discipline

# Evergreen Virtual Academy

Code: JFCF  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JFCF

## **Hazing/Harassment/Intimidation/Bullying/Menacing/Cyberbullying/Teen Dating Violence/Domestic Violence-Student\*\***

The Board, in its commitment to providing a positive and productive learning environment, will consult with parents/guardians, employees, volunteers, students, administrators and community representatives in developing this policy compliance with applicable Oregon Revised Statutes. Hazing, harassment, intimidation or bullying, menacing and acts of cyberbullying by students, staff and third parties toward students is strictly prohibited. Teen dating violence is unacceptable behavior and prohibited. 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. False charges shall also be regarded as a serious offense and will result in disciplinary action or other appropriate sanctions.

Students whose behavior is found to be in violation of this policy will be subject to discipline, up to and including expulsion. The public charter school may also file a request with the Oregon Department of Transportation to suspend the driving privileges or the right to apply for driving privileges of a student 15 years of age or older who has been suspended or expelled at least twice for menacing another student or employee, willful damage or injury to district property or for the use of threats, intimidation, harassment or coercion. Students may also be referred to law enforcement officials.

The administrator is responsible for ensuring that this policy is implemented.

### **Definitions**

“Public charter school” includes public charter school facilities, public charter school premises and non-public charter school property if the student 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.

“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-public charter school and intra-public charter school athletic competitions or other school events.

“Hazing” includes, but is not limited to, any act that recklessly or intentionally endangers the mental health, physical health or safety of a student for the purpose of initiation or as a condition or precondition of attaining membership in, or affiliation with, any public charter school-sponsored activity or grade level attainment, (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); 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. It is not a defense against hazing that the student subjected to hazing consented to or appeared to consent to the hazing.

“Harassment, intimidation or bullying” means any act that substantially interferes with a student’s educational benefits, opportunities or performance, that takes place on or immediately adjacent to public charter school grounds, at any public charter school-sponsored activity, on public charter school-provided transportation or at any official public charter school bus stop, that may be based on, but not limited to, the protected class status of a person, having the effect of:

1. Physically harming a student or damaging a student’s property;
2. Knowingly placing a student in reasonable fear of physical harm to the student or damage to the student’s property;
3. Creating a hostile educational environment including interfering with the psychological well being of the student.

“Protected class” means a group of persons distinguished, or perceived to be distinguished, by race, color, religion, sex, sexual orientation<sup>1</sup>, national origin, marital status, familial status, source of income or disability.

“Teen dating violence” means:

1. A pattern of behavior in which a person uses or threatens to use physical, mental or emotional abuse to control another person who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age; or
2. Behavior by which a person uses or threatens to use sexual violence against another person who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age.

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<sup>1</sup>“Sexual orientation” means an individual’s actual or perceived heterosexuality, homosexuality, bisexuality or gender identity, regardless of whether the individual’s gender identity, appearance, expression or behaviors differs from that traditionally associated with the individual’s sex at birth.

“Domestic violence” means abuse by one or more of the following acts between family and household members<sup>2</sup>:

1. Attempting to cause or intentionally, knowingly or recklessly causing bodily injury;
2. Intentionally, knowingly or recklessly placing another in fear of imminent bodily injury;
3. Causing another to engage in involuntary sexual relations by force or threat of force.

“Cyberbullying” is the use of any electronic communication device to harass, intimidate or bully.

“Retaliation” means harassment, intimidation or bullying, teen dating violence and acts of cyberbullying toward a person in response to a student for actually or apparently reporting or participating in the investigation of harassment, intimidation or bullying and acts of cyberbullying, teen dating violence or retaliation.

“Menacing” includes, but is not limited to, any act intended to place a district employee, student or third party in fear of imminent serious physical injury.

## **Reporting**

The public charter school administrator will take reports and conduct a prompt investigation of any report of an act of hazing, harassment, intimidation or bullying, menacing and acts of cyberbullying. Any employee who has knowledge of conduct in violation of this policy shall immediately report his/her concerns to the public charter school administrator who has overall responsibility for all investigations. Any employee who has knowledge of incidents of teen dating violence that took place on public charter school property, at a public charter school-sponsored activity or in a public charter school vehicle or vehicle used for transporting students to a public charter school activity shall immediately report the incident to the public charter school administrator. Failure of an employee to report an act of hazing, harassment, intimidation or bullying, menacing or an act of cyberbullying to public charter school administrator may subject to remedial action, up to and including dismissal. Remedial action may not be based solely on an anonymous report.

Any student who has knowledge of conduct in violation of this policy or feels he/she has been hazed, harassed, intimidated or bullied, menaced, a victim of teen dating violence and acts of being cyberbullied in violation of this policy is encouraged to immediately report his/her concerns to the public charter school administrator who has overall responsibility for all investigations. Any volunteer who has knowledge of conduct in violation of this policy is encouraged to immediately report his/her concerns to the public charter school administrator who has overall responsibility for all investigations.

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<sup>2</sup>“Family or household members” [as defined in ORS 107.705] OR [means any of the following:

1. Spouses;
2. Former spouses;
3. Adult persons related by blood, marriage or adoption;
4. Persons who are cohabiting or who have cohabited with each other;
5. Persons who have been involved in a sexually intimate relationship with each other within two years immediately preceding the filing by one of them of a petition under Oregon Revised Statute 107.710;
6. Unmarried parents of a child.]

This report may be made anonymously. A student may also report concerns to a teacher or counselor who will be responsible for notifying the appropriate public charter school official.

Complaints against the administrator shall be filed with the Board chair.

The complainant shall be notified of the findings of the investigation and, as appropriate, that remedial action has been taken. The complainant may request that the administrator review the actions taken in the initial investigation, in accordance with administrative regulations.

The public charter school shall incorporate into existing training programs for students and staff information related to the prevention of, and the appropriate response to, acts of harassment, intimidation or bullying and acts of cyberbullying.

The public charter school shall incorporate age-appropriate education about teen dating violence into new or existing training programs for students in grade 7 through 12.

The public charter school shall incorporate into existing training programs for staff information related to the prevention of, and the appropriate response to, acts of harassment, intimidation or bullying, teen dating violence and acts of cyberbullying.

The administrator shall be responsible for ensuring annual notice of this policy is provided in a student or employee handbook, school and district website, and school and public charter school office and the development of administrative regulations, including reporting and investigative procedures.

Domestic violence posters provided by the Oregon Department of Education (ODE) shall be posted in clearly visible locations on school campuses in accordance with rules adopted by the ODE.

END OF POLICY

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**Legal Reference(s):**

[\[ORS 163.190\]](#)

[\[ORS 163.197\]](#)

[ORS 166.065](#)

[ORS 166.155 - 166.165](#)

[ORS 174.100\(7\)](#)

[ORS 332.072](#)

[ORS 339.240](#)

[ORS 339.250](#)

[ORS 339.351 - 339.366](#)

[OAR 581-021-0045](#)

[OAR 581-021-0046](#)

[OAR 581-021-0055](#)

[OAR 581-022-2310](#)

[OAR 581-022-2370](#)

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2012).

**Cross Reference(s):**

GBN/JBA - Sexual Harassment

JBA/GBN - Sexual Harassment

JFCM - Threats of Violence

# Evergreen Virtual Academy

Code: JFCF-AR  
Revised/Reviewed: 10/21/13; 6/18/19  
Orig. Code: JFCF-AR

## **Hazing/Harassment/Intimidation/Bullying/Menacing/Cyberbullying/Teen Dating Violence Complaint Procedures-Student**

Public charter school administrators have responsibility for investigations concerning hazing, harassment, intimidation or bullying, menacing, acts of cyberbullying and incidents of teen dating violence. The investigator(s) shall be a neutral party having had no involvement in the complaint presented.

All complaints will be investigated in accordance with the following procedures:

- Step 1 Any hazing, harassment, intimidation or bullying, menacing, acts of cyberbullying and incidents of teen dating violence information (complaints, rumors, etc.) shall be presented to the public charter school administrator. Complaints against the administrator shall be filed with the head of school. Complaints against the head of school shall be filed with the public charter school 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, he/she may submit a written appeal to the head of school. Such appeal must be filed within 10 working days after receipt of the Step 2 decision. The head of school will arrange such meetings with the complainant and other affected parties as deemed necessary to discuss the appeal. The head of school shall provide a written decision to the complainant's appeal within 10 working days.
- Step 4 If the complainant is not satisfied with the decision at Step 3, a written appeal may be filed with the Board. Such appeal must be filed within 10 working days after receipt of the Step 3 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 educational programs and services may be made to the U.S. Department of Education, Office for Civil Rights.

Documentation related to the incident may be maintained as a part of the student's education records. Additionally, a copy of all harassment, intimidation or bullying, acts of cyberbullying and incidents of teen dating violence complaints and documentation will be maintained as a confidential file in the public charter school office.

# Evergreen Virtual Academy

Code: JFCJ  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JFCJ

## Weapons in the Schools\*\*

Students shall not bring, possess, conceal or use a weapon on or at public charter school property, activities under the jurisdiction of the public charter school or interscholastic activities administered by a voluntary organization approved by the State Board of Education (i.e., Oregon School Activities Association).

For purposes of this policy, and as defined by state and federal law, weapon includes:

1. A “dangerous weapon” means any weapon, device, instrument, material or substance, which under the circumstances in which it is used, attempted to be used or threatened to be used is readily capable of causing death or serious physical injury;
2. A “deadly weapon” means any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury;
3. A “firearm” means any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive, frame or receiver of any such weapon or any firearm silencer or destructive device;
4. A “destructive device” means any explosive, incendiary or poison gas component or any combination of parts either designed or intended for use in converting any device into any destructive device or from which a destructive device may be readily assembled. A destructive device does not include any device which is designed primarily or redesigned primarily for use as a signaling, pyrotechnic, line-throwing, safety or similar device.

Weapons may also include, but not be limited to, knives, metal knuckles, straight razors, noxious or irritating gases, poisons, unlawful drugs or other items fashioned with the intent to use, sell, harm, threaten or harass students, staff members, parents and patrons.

Replicas of weapons, fireworks and pocket knives are also prohibited by public charter school board policy. Exceptions to the public charter school’s replicas prohibition may be granted only with prior public charter school administrator approval for certain curriculum or public charter school-related activities.

Prohibited weapons, replicas of weapons, fireworks and pocket knives are subject to seizure or forfeiture.

In accordance with Oregon law, any employee who has reasonable cause to believe a student or other person has, within the previous 120 days, unlawfully been in possession of a firearm or destructive device as defined by this policy, shall immediately report such violation to a public charter school administrator, his or her designee or law enforcement. Employees who report directly to law enforcement shall also immediately inform the administrator.

Public charter school administrators shall promptly notify the appropriate law enforcement agency of staff reports received and at any other time there is reasonable cause to believe violations have occurred or that a student has been expelled for bringing, possessing, concealing or using a dangerous or deadly weapon, firearm or destructive device. Parents will be notified of all conduct by their student that violates this policy.

Employees shall promptly report all other conduct prohibited by this policy to the administrator.

Students found to have brought, possessed, concealed or used firearm in violation of this policy or state law shall be expelled for a period of not less than one year. All other violations of the policy will result in discipline up to and including expulsion and/or referral to law enforcement, as appropriate. The public charter school administrator may, on a case-by-case basis, modify this expulsion requirement. The public charter school may also request suspension of a student's driving privileges or the right to apply for driving privileges with the Oregon Department of Transportation, as provided by law. Appropriate disciplinary and/or legal action will be taken against students or others who assist in activity prohibited by this policy.

Special education students shall be disciplined in accordance with federal law and Board policy JGDA/JGEA - Discipline of Students with Disabilities, and accompanying administrative regulation.

Weapons under the control of law enforcement personnel are permitted. The public charter school administrator may authorize other persons to possess weapons for courses, programs and activities approved by the public charter school and conducted on public charter school property including, but not limited to, hunter safety courses, weapons-related vocational courses or weapons-related sports.

The public charter school may post a notice at any site or premise off public charter school grounds that at the time is being used exclusively for a public charter school program or activity. The notice shall identify the public charter school as the sponsor, the activity as a public charter school function and that the possession of firearms or dangerous weapons in or on the site or premises is prohibited under ORS 166.370.

In accordance with the federal Gun-Free School Zone Act, possession or discharge of a firearm in a school zone is prohibited. A "school zone," as defined by federal law, means in or on school grounds or within 1,000 feet of school grounds, including public charter schools.

"Gun-Free School Zone" signs may be posted in cooperation with city and/or county officials as appropriate. Violations, unless otherwise accepted by law or this policy, shall be reported to the appropriate law enforcement agency.

END OF POLICY

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**Legal Reference(s):**

[ORS 161.015](#)  
[ORS 166.210 - 166.370](#)  
[ORS 166.382](#)  
[ORS 338.115](#)  
[ORS 339.115](#)  
[ORS 339.240](#)

[ORS 339.250](#)  
[ORS 339.315](#)  
[ORS 339.327](#)  
[ORS 809.135](#)  
[ORS 809.260](#)

[OAR 581-021-0050 – 021-0075](#)  
[OAR 581-053-0010\(5\)](#)  
[OAR 581-053-0230\(9\)\(k\)](#)  
[OAR 581-053-0330\(1\)\(r\)](#)  
[OAR 581-053-0430\(17\)](#)  
[OAR 581-053-0531\(16\)](#)

Gun-Free School Zones Act of 1990, 18 U.S.C. §§ 921(a)(25)-(26), 922(q) (2012).  
Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400-1419 (2012).  
Youth Handgun Safety Act, 18 U.S.C. §§ 922(x), 924(a)(6) (2012).  
Safe and Drug-Free Schools and Communities Act, 20 U.S.C. §§ 7101, 7111-7121 (2012).

**Cross Reference(s):**

JFCM - Threats of Violence  
JGDA/JGEA - Discipline of Students with Disabilities

# Evergreen Virtual Academy

Code: JFCG/JFCH/JFCI  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JFCG/JFCH/JFCI

## **Use of Tobacco Products, Alcohol, Drugs or Inhalant Delivery Systems\*\***

Student substance abuse, possession, use, distribution or sale of tobacco, alcohol products, inhalant delivery systems or unlawful drugs, including drug paraphernalia or any substance purported to be an unlawful drug, on or near any public charter school property or while participating in public charter school-sponsored activities, is prohibited and will result in disciplinary action. If possession, use, distribution or sale occurred near public charter school property or at public charter school-sponsored activities or otherwise while the student was under the jurisdiction of the public charter school, students will be subject to discipline up to and including expulsion. Denial and/or removal from any or all extracurricular activities and/or forfeiture of any school honors or privileges may also be imposed. A student may be referred to law enforcement officials. Parents will be notified of all violations involving their student and subsequent action taken by the school.

A referral to community resources and/or cessation programs designed to help the student overcome tobacco, alcohol or unlawful drug use may also be made. The cost of such programs are the individual responsibility of the parent and the private health-care system.

Clothing, bags, hats and other personal items used to display, promote or advertise tobacco products, inhalant delivery systems, alcohol or unlawful drugs are prohibited on all public charter school properties and at public charter school-sponsored activities.

Any person under age 21 possessing a tobacco product or inhalant delivery system on public charter school property, in a school facility or while attending a school-sponsored activity is in violation of state law and is subject to a court-imposed fine.

Any person who distributes, sells or allows to be sold, tobacco products or any substance sold for the purpose of being smoked, vaporized or aerosolized, in any form, a tobacco-burning or inhalant delivery system device, to a person under 21 years of age is in violation of state law and is subject to a court-imposed fine.

An “unlawful drug” is any drug as defined by the Controlled Substances Act including, but not limited to, marijuana, cocaine, opiates, amphetamines and phencyclidine (PCP). As used in this policy, an unlawful drug also means possession, use, sale or supply of prescription and nonprescription drugs in violation of Board policy and any accompanying administrative regulations.

Unlawful delivery of a controlled substance to a student or minor within 1,000 feet of school property is a Class A felony, as provided by ORS 475.904.

END OF POLICY

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**Legal Reference(s):**

<a href="#">ORS 153.018</a>	<a href="#">ORS 339.883</a>	<a href="#">OAR 581-053-0230(9)(s)</a>
<a href="#">ORS 161.605</a>	<a href="#">ORS 431.840</a>	<a href="#">OAR 581-053-0330(1)(m)-(o)</a>
<a href="#">ORS 161.625</a>	<a href="#">ORS 431.845</a>	<a href="#">OAR 581-053-0430(12)-(14)</a>
<a href="#">ORS 163.575</a>	<a href="#">ORS 431A.175</a>	<a href="#">OAR 581-053-0531(11)-(13)</a>
<a href="#">ORS 336.067</a>	<a href="#">ORS 433.835 to -433.990</a>	<a href="#">OAR 581-053-0630</a>
<a href="#">ORS 336.222</a>	<a href="#">ORS Chapter 475</a>	<a href="#">OAR 584-020-0040</a>
<a href="#">ORS 336.227</a>		
<a href="#">ORS 338.115(a)(w)</a>	<a href="#">OAR 581-021-0050 to -0075</a>	SB 754 (2017)
<a href="#">ORS 339.240</a>	<a href="#">OAR 581-021-0110</a>	
<a href="#">ORS 339.250</a>	<a href="#">OAR 581-022-2045</a>	

Controlled Substances Act, 21 U.S.C. § 812 (2012); Schedules of Controlled Substances, 21 C.F.R. §§ 1308.11-1308.15 (2017).  
Pro-Children Act of 1994, 20 U.S.C. §§ 6081-6084 (2012).  
Safe and Drug-Free Schools and Communities Act, 20 U.S.C. §§ 7101-7117 (2012).

# Evergreen Virtual Academy

Code: JFCG/KGC/GBK  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JFCG/KGC/GBK

## **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 public charter school's curriculum and Oregon law, student possession, use, distribution or sale of tobacco products or inhalant delivery systems in any form on or off public charter school's premises, at public charter school-sponsored activities, on all public charter school grounds, including parking lots, in public charter school-owned, rented or leased vehicles or otherwise, while the student is under the jurisdiction of the public charter school is prohibited at all times.

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, 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 - 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 administrator, 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.

END OF POLICY

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**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 581-021-0110](#)  
[OAR 581-022-2045](#)  
[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).

# Evergreen Virtual Academy

Code: JFCM  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JFCM

## Threats of Violence\*\*

The public charter school board is committed to promoting healthy relationships and a safe learning environment. To this end, student threats of harm to self or others, threatening behavior or acts of violence, including threats to severely damage public charter school property, shall not be tolerated on public charter school property or at activities under the jurisdiction of the public charter school.

Students shall be instructed of the responsibility to inform a teacher, counselor or administrator regarding any information or knowledge relevant to conduct prohibited by this policy. Parents and others will be encouraged to report such information to the public charter school. Staff shall immediately notify the administrator of any threat, threatening behavior or act of violence he or she has knowledge of, has witnessed or received. All reports will be promptly investigated.

Students found in violation of this policy shall be subject to discipline up to and including expulsion. A referral to law enforcement shall be made for any infraction involving a student bringing, possessing, concealing or using a weapon or destructive device as prohibited by state and federal law and public charter school board policy.

The public charter school administrator shall, in determining appropriate disciplinary action, consider:

1. Immediately removing from the classroom setting any student who has threatened to injure another person or to severely damage public charter school property;
2. Placing the student in a setting where the behavior will receive immediate attention from an administrator, counselor, licensed mental health professional or others;
3. Requiring the student to be evaluated by a licensed mental health professional before allowing the student to return to the classroom setting.

The public charter school administrator shall ensure notification is provided to:

1. The parent of any student in violation of this policy and the disciplinary action imposed;
2. The parent of a student, when the student's name appears on a targeted list that threatens violence or harm to the students on the list, or when threats of violence or harm to the student are made by another student;
3. Any school employee whose name appears on a targeted list threatening violence or harm to the public charter school employee and when threats of violence or harm are made by a student or others.

Notification to the above shall be attempted by telephone or in person within 12 hours of discovery of a targeted list or learning of a threat. Regardless, a written follow-up notification shall be sent within 24 hours of discovery of a targeted list or learning of a threat.

The public charter school administrator will provide necessary information regarding threats of violence to law enforcement, child protective services and health-care professionals in connection with a health and safety emergency if knowledge of the information is necessary to protect the health and safety of the student or other individuals. Additionally, he or she may provide such information to other school officials, including teachers, within the public charter school who have a legitimate educational interest in the student(s) consistent with state and federal education records laws. "Legitimate educational interest" means a licensed staff member having the student in class, the student's counselor or other licensed or nonlicensed staff due to special referral or participating in staffing, programming or case review of a specifically named student.

The public charter school may enter into contracts with licensed mental health professionals to perform student evaluations. Funds for evaluations or other disciplinary options as may be required by law and this policy shall be provided by the public charter school.

END OF POLICY

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**Legal Reference(s):**

[ORS 161.015](#)  
[ORS 166.210 to -166.370](#)  
[ORS 338.115\(j\)](#)  
[ORS 339.115](#)  
[ORS 339.240](#)  
[ORS 339.250](#)

[ORS 339.327](#)  
[ORS 809.135](#)  
[ORS 809.260](#)  
  
[OAR 581-021-0050 to -0075](#)  
[OAR 581-053-0010\(5\)](#)

[OAR 581-053-0230\(9\)\(k\)](#)  
[OAR 581-053-0330\(1\)\(r\)](#)  
[OAR 581-053-0430\(17\)](#)  
[OAR 581-053-0531\(16\)](#)  
[OAR 581-053-0630](#)

Gun-Free School Zones Act of 1990, 18 U.S.C. §§ 921(a)(25)-(26), 922(q) (2012).  
Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400-1419 (2012).  
Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (2012); Family Educational Rights and Privacy, 34 C.F.R. Part 99 (2017).

**Cross Reference(s):**

GBNA - Hazing, Harassment, Intimidation, Bullying, Menacing, or Cyberbullying – Staff  
JFCF - Hazing/Harassment/Intimidation/Bullying/Menacing/Cyberbullying/Teen Dating Violence/Domestic Violence-Student

# Evergreen Virtual Academy

Code: JG  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JG

## Student Discipline

Discipline in the public charter school is based upon a philosophy designed to produce behavioral changes that will enable students to develop the self-discipline necessary to function successfully in their educational and social environments.

The major objectives of the public charter school's discipline program are to teach the following fundamental concepts for living:

1. Understanding and respect for individual rights, dignity and safety;
2. Understanding and respect for the law, Board policies, administrative regulations and school rules;
3. Understanding of and respect for public and private property rights.

The public charter school board seeks to ensure a school climate which is appropriate for learning and which assures the safety and welfare of personnel and students. The public charter school administrator will develop administrative regulations whereby those students who disrupt the educational setting or who endanger the safety of others will be offered corrective counseling and be subject to disciplinary sanctions that are age appropriate, and to the extent practicable, use approaches that are shown through research to be effective to correct behavioral problems, while supporting a students' attendance to school and classes. Examples include, but are not limited to, reprimands, conferences, detention and denial of participation in cocurricular and extracurricular activities. Titles and/or privileges available to or granted to students may be denied and/or revoked (e.g., valedictorian, salutatorian, student body, class or club office positions, field trips, senior trip, prom, etc.).

The public charter school shall enforce consistently and fairly all student conduct policies, administrative regulations and school rules.

A student whose conduct or condition is seriously detrimental to the school's best interests may be suspended. Students may be expelled for any of the following circumstances: a) when a student's conduct poses a threat to the health or safety of students or employees; b) when other strategies to change student behavior have been ineffective, except that expulsion may not be used to address truancy; or c) when required by law. The public charter school shall consider the age of the student and the past pattern of the student's behavior prior to imposing the suspension or expulsion. The public charter school will ensure careful consideration of the rights and needs of the individual concerned, as well as the best interests of other students and the school program as a whole.

Parents, students and employees shall be notified by handbook, code of conduct or other document of the acceptable behavior, behavior subject to discipline and the procedures to address behavior. These procedures will include a system of consequences designed to correct student misconduct and promote acceptable behavior.

END OF POLICY

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**Legal Reference(s):**

[ORS 243.650](#)  
[ORS 332.061](#)  
[ORS 332.072](#)

[ORS 338.115](#)  
[ORS 339.115](#)  
[ORS 339.240](#) to -339.280  
[ORS 659.850](#)

[OAR 581-021-0045](#)  
[OAR 581-021-0050](#) to -0075

Tinker v. Des Moines Sch. Dist., 393 U.S. 503 (1969).

Shorb v. Grotting and Powers Sch. Dist., Case No. 00CV-0255 (Coos County Circuit Ct.) (2000).

Ferguson v. Phoenix Talent Sch. Dist. #4, 172 Or. App. 389 (2001).

**Cross Reference(s):**

JFC - Student Conduct  
JGD - Suspension  
JGE - Expulsion

# Evergreen Virtual Academy

Code: JGA  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JGA

## Corporal Punishment\*\*

The use of corporal punishment in any form is strictly prohibited in the public charter school. No student will be subject to the infliction of corporal punishment.

Corporal punishment is defined as the willful infliction of, or willfully causing the infliction of, physical pain.

No teacher, administrator, other school personnel or school volunteer will subject a student to corporal punishment or condone the use of corporal punishment by any person under his or her supervision or control. Permission to administer corporal punishment will not be sought or accepted from any parent or public charter school official.

A staff member is authorized to employ physical force when, in his/her professional judgment, the physical force is necessary to prevent a student from harming self, others or doing harm to public charter property. Physical force shall not be used to discipline or punish a student. The public charter school shall inform all staff members and volunteers of this policy.

END OF POLICY

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### Legal Reference(s):

[ORS 161.205](#)  
[ORS 338.115\(o\)](#)  
[ORS 339.240](#)

[ORS 339.250](#)  
[OAR 581-021-0050 to -0075](#)

[OAR 584-020-0040](#)

# Evergreen Virtual Academy

Code: JGD  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JGD

## Suspension\*\*

The Board authorizes student suspension for one or more of the following reasons:

1. Willful violation of Board policies, administrative regulations or school rules;
2. Willful conduct which materially and substantially disrupts the rights of others to an education;
3. Willful conduct which endangers the student, other students or staff members;
4. Willful conduct which endangers public charter school property.

Students and parents are given notice of possible discipline actions result from student misconduct that may result in suspension in the [*Student/Parent Handbook*] [code of conduct] made available by the public charter school.

Each suspension will include a statement of the reasons for suspension, the length of the suspension and a plan for readmission and may include a plan for the student to make up school work. No suspension shall extend beyond 10 school days. The public charter school may require a student to attend school during nonschool hours as an alternative to suspension. Every reasonable and prompt effort must be made to notify the parents of suspended students.

In emergency situations that are a result of risk to health and safety, the public charter school may postpone the suspension notice process above until the emergency condition has passed.

Students who are suspended may not attend after-school activities and athletic events, be present on public charter school property without a parent or participate in activities directed or sponsored by the public charter school.

Suspensions may be appealed to the Board.

END OF POLICY

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### Legal Reference(s):

[ORS 338.115\(j\)](#)  
[ORS 339.240](#)  
[ORS 339.250](#)

[OAR 581-021-0050](#)  
[OAR 581-021-0055](#)  
[OAR 581-021-0060](#)

[OAR 581-021-0065](#)  
[OAR 581-021-0075](#)

### Cross Reference(s):

JG - Student Discipline

# Evergreen Virtual Academy

Code: JGDA  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JGDA/JGEA

## Discipline of Students with Disabilities\*\*

When considering student disciplinary procedures that may result in removal of the student, the public charter school follows all special education procedures and ensures the parent and the student are afforded the procedural safeguards of the Individuals with Disabilities Education Act (IDEA) if:

1. The student is receiving IEP services; or
2. The student has not yet been identified as a student with a disability but the public charter school had knowledge that the student had a disability and needed special education.

For a violation of a code of conduct, the district<sup>1</sup> may remove a student with a disability from a current educational placement to an appropriate interim alternative educational setting, another setting, or suspension, for up to 10 school days in a school year to the same extent, and with the same notice, as for students without disabilities, if the removals do not constitute a pattern. The district may remove a student with disabilities for additional periods of up to 10 days if the removals do not constitute a pattern. The determination regarding whether a series of removals constitutes a pattern is subject to review in an expedited due process hearing.

Disciplinary removal of a student with a disability constitutes a change in the student's educational placement when the removal is for more than 10 consecutive school days, or the removal is for more than 10 cumulative school days and constitutes a pattern of removals. When considering whether to order a disciplinary change of placement the district may consider any unique circumstances on a case-by-case basis. Any decision to initiate a disciplinary change in placement requires a determination of whether the conduct leading to the disciplinary removal was caused by, or was substantially related to, the student's disability or was a direct result of the district's failure to implement the student's IEP.

For a violation involving drugs, weapons or the infliction of serious bodily injury, the district may remove a student with a disability from the student's current educational placement to an appropriate interim alternative educational setting for the same amount of time that a student without a disability would be subject to discipline, but for not more than 45 school days in a school year without regard to whether the behavior is a manifestation of the student's disability. This removal is considered a change in placement.

The district will provide educational services to a student who is suspended or expelled for more than 10 school days in a school year. These services may be provided in a different location or interim alternative educational setting as determined by the IEP and placement teams.

END OF POLICY

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<sup>1</sup>"District," for the purpose of this policy, means the district in which the public charter school is located.

**Legal Reference(s):**

[ORS 326.565](#)

[ORS 326.575](#)

[ORS 336.187](#)

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

[ORS 339.240](#)

[ORS 339.250](#)

[ORS 339.252](#)

[ORS 343.177](#)

[OAR 581-015-2400](#)

[OAR 581-015-2405](#)

[OAR 581-015-2410](#)

[OAR 581-015-2415](#)

[OAR 581-015-2420](#)

[OAR 581-015-2425](#)

[OAR 581-015-2430](#)

[OAR 581-015-2435](#)

[OAR 581-015-2440](#)

Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1415(k) (2012).

Assistance to States for the Education of Children with Disabilities, 34 C.F.R. § 300.507, § 300.508(a)-(c); §§ 300.510-300.514; §§ 300.530-300.536 (2017).

# Evergreen Virtual Academy

Code: JGDA/JGEA-AR  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JGDA/JGEA-AR

## Discipline of Students with Disabilities\*\*

### 1. Definition

- a. The district<sup>1</sup> applies the following definitions when considering disciplinary action:
  - (1) “Behavioral intervention plan” means an individualized plan, including positive interventions, designed to assist a student to decrease inappropriate behavior and increase or teach an alternative appropriate behavior.
  - (2) “Current educational placement” means the type of educational placement of the student as described in the student’s “annual determination of placement” document at the time of the disciplinary removal. It does not mean the specific location or school but the types of placement on the continuum of placement options.
  - (3) “Disciplinary removal” means suspension, expulsion or other removal from school for disciplinary reasons, including removals pending completion of a risk assessment. It does not include:
    - (a) Removals by other agencies;
    - (b) Removals for public health reasons (e.g., head lice, immunizations, communicable diseases, etc.);
    - (c) In-school suspensions if the student continues to have access to the general curriculum and to special education and related services as described in the student’s IEP, and continues to participate with nondisabled students to the extent they would in their current placement; or
    - (d) Bus suspensions, unless the student’s IEP includes transportation as a related service, the district makes no alternative transportation arrangements for the student, and the student does not attend school as a result of the bus suspension.
- b. “Functional behavioral assessment” means an individualized assessment of the student that results in a team hypothesis about the function of a student’s behavior and, as appropriate, recommendations for a behavior intervention plan.
- c. “Suspension” means any disciplinary removal other than expulsion.

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<sup>1</sup>“District,” for the purpose of this administrative regulation, means the district in which the public charter school is located.

2. Disciplinary Change of Placement

- a. Disciplinary removal of a student with a disability constitutes a change in the student's educational placement when:
  - (1) The removal is for more than 10 consecutive school days; or
  - (2) The removal is for more than 10 cumulative school days and constitutes a pattern of removals.
- b. The district may consider any unique circumstances on a case-by-case basis when determining whether to order a disciplinary change in placement.

3. Manifestation Determination

- a. Within 10 days of any decision to initiate a disciplinary change in placement of a student with a disability, the district convenes a manifestation determination meeting.
- b. The district follows all required special education procedures for determining whether a student's conduct that led to a disciplinary removal from the public charter school was caused by, or had a substantial relationship to, the student's disability or was a direct result of the district's failure to implement the student's IEP.

4. Disciplinary Removals for up to 10 School Days

- a. The district may remove students with disabilities from their current educational placement, to an appropriate interim alternative educational setting, another setting, or suspension, for up to 10 school days in a school year to the same extent, and with the same notice, for violation of a code of conduct as for students without disabilities. These removals are not considered a change in placement.
- b. During disciplinary removals for up to 10 school days:
  - (1) The district is not required to provide access to special education and the general curriculum unless students without disabilities are provided access during this time.
  - (2) The district is not required to determine whether the student's behavior resulting in the disciplinary removal is a manifestation of the student's disability.
  - (3) The district counts days of suspension for the purposes of procedural safeguards as follows:
    - (a) Suspensions of a half day or less will be counted as a half day; and
    - (b) Suspensions of more than a half day will be counted as a whole day;
    - (c) If a student moves from another district in Oregon, any days of suspension from the former district apply, unless the district does not have knowledge of previous suspensions.

5. Disciplinary Removals of More than 10 Cumulative School Days and Pattern of Removal
  - a. The district may remove students with disabilities from their current educational placement to an appropriate interim alternative educational setting, another setting or suspension for additional periods of up to 10 days in a school year to the same extent, and with the same notice as for students without disabilities, if the removals do not constitute a pattern. These removals do not constitute a change in placement.
  - b. In determining whether removals of additional periods of up to 10 school days constitute a pattern or removals, public charter and district school personnel will consider, on a case by case basis:
    - (1) Whether the behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and
    - (2) Additional factors such as the length of each removal, the total number of days of removal, and the proximity of removals to one another.
  - c. During removals of additional periods of up to 10 school days in a school year that do not constitute a pattern, the district will provide services that are necessary to enable the student to:
    - (1) Continue to participate in the general education curriculum;
    - (2) Progress toward achieving the goals in the student's IEP; and
    - (3) The services and location for delivery of services in this section will be determined by school personnel, in consultation with at least one of the student's teachers, or by the student's IEP team.
  - d. The determination regarding whether a series of removal constitutes a pattern is subject to review in an expedited due process hearing.
6. Removal to an Interim Alternative Educational Setting for Not More Than 45 Days by the District under Special Education Circumstances
  - a. The district may remove a student with a disability from the student's current educational placement to an appropriate interim alternative educational setting for the same amount of time that a student without a disability would be subject to discipline, but for not more than 45 school days in a school year for a drug or weapon violation, or for infliction of serious bodily injury, without regard to whether the behavior is manifestation of the student's disability. This removal is considered a change in placement. School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order such a removal.
  - b. For the purpose of determining a drug or weapon violation or serious bodily injury, the district will apply the following definitions:
    - (1) "Drug" means an illegal drug or controlled substance but does not include a substance that is legally possessed or used under the supervision of a licensed health care professional or otherwise legally possessed. It does not include alcohol or tobacco;
    - (2) "Drug violation" means the use, possession, sale or solicitation of drugs at school or a school function;
    - (3) "Infliction of serious bodily injury" means serious bodily injury caused by a student to another person while at school, on school premises or at a school function under the jurisdiction of ODE or public charter school or district;
    - (4) "Serious bodily injury" means bodily injury, which involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty;
    - (5) "Weapon" means a weapon, device, instrument, material or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that it does not include a pocket knife with a blade of less than 2 ½ inches in length;

- (6) “Weapon violation” means carrying a weapon to school or to a school function or acquiring a weapon at school.
  - c. On the date that the district decides to remove a student to an interim alternative educational placement because of a drug or weapon violation or for serious bodily injury, the resident district notifies that parent(s) of the decision and gives the parent(s) a Procedural Safeguards Notice.
  - d. Within 10 school days of any decision to remove the student to an interim alternative educational placement because of a drug or weapon violation or for serious bodily injury, the district:
    - (1) Convenes a meeting to determine whether the behavior is a manifestation of the student’s disability; and
    - (2) Conducts, as appropriate, a functional behavior assessment, and develops a behavior intervention plan based on the functional behavior assessment that is designed to address the behavior so it does not recur.
7. Removal to an Interim Alternative Educational Setting for Not More than 45 Days by Administrative Law Judge for Injurious Behavior
- a. The district may request an expedited due process hearing to obtain an administrative law judge’s order to remove a student to an interim alternative educational setting for not more than 45 school days if the student is exhibiting injurious behavior. For the purpose of this request, “injurious behavior” is defined as behavior that is substantially likely to result in injury to the student or to others.
  - b. The interim alternative educational setting must meet the requirements of the “Interim Alternative Educational Setting” section.
8. Interim Alternative Educational Setting

When a student with a disability is placed in an interim alternative educational setting, the setting:

- a. Is determined by the student’s IEP; and
- b. Enables the student to:
  - (1) Continue to participate in the general curriculum, although in another setting;
  - (2) Progress toward achieving the goals in the student’s IEP; and
  - (3) Receive services and modifications designed to address the misconduct that led to placement in the interim alternative educational setting and to prevent the misconduct from recurring.

9. Placement Pending Appeal

If a parent disagrees with the manifestation determination or any decision about placement related to the disciplinary removal and requests a due process hearing, the student will remain in the interim alternative educational setting pending the decision of the administrative law judge, or until the end of the disciplinary removal, whichever is shorter, unless the parent and district agree to another placement pending the hearing.

10. Conduct and Outcome of a Manifestation Determination

- a. Within 10 school days of any decision to change the placement of a student with a disability for disciplinary reasons, the district convenes a manifestation determination meeting.
- b. The team that determines whether a student's behavior that led to a disciplinary removal from school was caused by, or had a substantial relationship to the student's disability or was a direct result of the district's, failure to implement the student's IEP, includes the parent(s), district representatives and other relevant members of the IEP team, as determined by the parent and district.
  - (1) The team reviews all relevant student information, including the student's IEP, teacher observations and information provided by the parent.
  - (2) The team concludes that the conduct in question is a manifestation of the student's disability if it determines the behavior was caused by, or had a substantial relationship to, the child's disability, or if it was the direct result of the district's, failure to implement the IEP.
- c. If the team determines that the district did not implement the student's IEP or identifies other deficiencies in the student's IEP or placement, the district corrects the identified deficiencies immediately.
- d. Regardless of whether the behavior was a manifestation of the student's disability, the district may remove the student to an interim alternative educational setting for weapons or drug violations or for infliction of serious bodily injury for up to 45 days.
- e. When behavior is a manifestation of disability.

If the team concludes that the behavior was a manifestation of the student's disability:

- (1) The district will not proceed with a disciplinary removal for more than 10 days.
  - (2) The district conducts a functional behavioral assessment and develops a behavior plan to address the behavior that led to the disciplinary action. If the district has already conducted a functional behavioral assessment or if the student already has a behavior intervention plan regarding that behavior, the district reviews, modifies as necessary and implements the plan to address the behavior.
  - (3) The district may review and revise the student's IEP and placement through normal IEP and placement processes.
  - (4) The district may enter into an agreement with the parent to change the student's placement as part of the modification of the behavioral intervention plan.
  - (5) If the district believes that maintaining the current placement of the child is substantially likely to result in injury to the student or to others, the district may appeal the decision of the manifestation determination team by requesting an expedited due process hearing. An administrative law judge who concludes that maintaining the current educational placement is substantially likely to result in injury to the student or to others may order a change in placement to an interim alternative educational setting for no more than 45 days.
- f. When behavior is not a manifestation of disability.

If the IEP team determines that the student's behavior is not a manifestation of the student's disability the district may proceed with disciplinary removals, in the same manner and for the same duration, as would be applied to students without disabilities. If the district takes such action, applicable to all students, the district:

- (1) Notifies the parent(s) of the decision to remove the student on the date that decision is made and gives the parents a Procedural Safeguards Notice;
- (2) Gives the parent(s) prior written notice of any proposed change in placement;
- (3) Provides services to the student in an interim alternative educational setting that is determined by the IEP team; and
- (4) Provides, as appropriate, a functional behavioral assessment, develops appropriate behavioral interventions to address the behavior and implements those interventions.

11. Protections for Students not yet Eligible for Special Education

- a. The district will follow all special education disciplinary procedures for a student who has not yet been identified as a student with a disability if the district had knowledge that the student had a disability and needed special education.
- b. The district is presumed to have such knowledge if, before the behavior that precipitated the disciplinary action occurred:
  - (1) The student's parent(s) expressed a concern in writing to supervisory or administrative school personnel, or to a teacher of the student, that the student is in need of special education and related services;
  - (2) The student's parent(s) requested a special education evaluation of the student; or
  - (3) The student's teacher or other school personnel expressed specific concerns about a pattern of behavior demonstrated by the student directly to the district's, special education director or other district supervisory personnel.
- c. The district is not presumed to have knowledge of a disability if:
  - (1) The parent has not allowed an evaluation of the student or has refused the initial provision of special education services to the student; or
  - (2) The student has been evaluated and found not eligible for special education services.
- d. If the district did not have knowledge before taking disciplinary action against the student, the district may take the same disciplinary actions as applied to students without disabilities who engaged in comparable behaviors. However:
  - (1) If a special education evaluation is requested, or if the district initiates a special education evaluation, the evaluation will be conducted in an expedited manner.
  - (2) Until the evaluation is completed, the student may remain in the educational placement determined by school personnel, which may include suspension, expulsion or placement in alternative education.
  - (3) Upon completion of the evaluation, if the student is determined to be a student with a disability, the district will conduct an IEP meeting to develop an IEP and determine placement and will provide special education and related services in accordance with the IEP.
  - (4) The district will apply the IDEA discipline protections beginning on the date of the eligibility determination.

# Evergreen Virtual Academy

Code: JGE  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JGE

## Expulsion\*\*

A public charter school administrator, after reviewing available information, may recommend to the Board that a student be expelled. Expulsion of a student shall not extend beyond one calendar year.

No student may be expelled without a hearing unless the student's parents, or the student if 18 years of age, waive the right to a hearing, either in writing or by failure to appear at a scheduled hearing. By waiving the right to a hearing, the student and parent agree to abide by the findings of a hearings officer.

When an expulsion hearing is not waived, the following procedure is required:

1. Notice will be given to the student and the parent by personal service or by certified mail at least five days prior to the scheduled hearing. Notice will include:
  - a. The specific charge or charges;
  - b. The conduct constituting the alleged violation, including the nature of the evidence of the violation;
  - c. A recommendation for expulsion;
  - d. The student's right to a hearing;
  - e. When and where the hearing will take place; and
  - f. The right to representation.
2. The public charter school board may expel, or delegate the authority to decide on an expulsion to the public charter school administrator who will act as hearings officer. The public charter school board may contract with an individual who is not employed by the public charter school to serve as the hearings officer. The hearings officer designated by the board will conduct the hearing and will not be associated with the initial actions of the public charter school administrators;
3. Expulsion hearing will be conducted in private and will not be open to the general public, unless the student or the student's parents request otherwise;
4. In case the parent or student has difficulty understanding the English language or has other serious communication disabilities, the public charter school will provide a translator;
5. The student will be permitted to have a representative present at the hearing to advise and to present arguments. The representative may be an attorney and/or parent. The public charter school's attorney may be present;
6. The student will be afforded the right to present his/her version of the events underlying the expulsion recommendation and to introduce evidence by testimony, writings or other exhibits;
7. The student will be permitted to be present and to hear the evidence presented by the public charter school;
8. The hearings officer or the student may make a record of the hearing;

9. Strict rules of evidence shall not apply to the proceedings. However, this shall not limit the hearings officer's control of the hearing;
10. If the Board is conducting the expulsion hearing, the Board may designate the Board chair or a third party as the hearings officer. The hearings officer will determine the facts of each case on the evidence presented at the hearing. Evidence may include the relevant past history and student education records. The hearings officer will provide to the Board, findings as to the facts, the recommended decision and whether or not the student has committed the alleged conduct. This will include the hearings officer's recommended decision on disciplinary action, if any, including the duration of any expulsion. This material will be available in identical form to the Board, the student if age 18 or over and the students' parents at the same time. Following the review by the Board of the hearings officer's recommendation, the Board will make the final decision regarding the expulsion;
11. If the Board has delegated authority to the administrator or designee to act as the hearings officer, the administrator may designate him or herself, or a third party, as the hearings officer. The hearings officer's decision is final. However, a decision of the hearings officer may be appealed by the parent or the student if age 18 or over to the public charter school board for review. If the decision of the hearings officer is appealed to the Board for review, the findings of fact and the hearings officer's decision will be submitted to the Board, and will be available in identical form to the Board, the student if age 18 or over and the student's parents at the same time. At its next regular or special meeting the Board will review the hearings officer's decision and will affirm, modify or reverse the decision;
12. A Board review of the hearings officer's decision will be conducted in executive session unless the student or the student's parent requests a public hearing. If an executive session is held by the Board or a private hearing by the hearings officer, the following will not be made public:
  - a. The name of the minor student;
  - b. The issues involved, including a student's confidential medical record and that student's educational record;
  - c. The discussion;
  - d. The vote of Board members, which may be taken in executive session when considering an expulsion.

Prior to expulsion, the public charter school must notify the resident district of the student of the impending expulsion.

END OF POLICY

**Legal Reference(s):**

[ORS 192.660](#)  
[ORS 332.061](#)  
[ORS 336.615 to -336.665](#)  
[ORS 338.115\(j\)](#)

[ORS 339.115](#)  
[ORS 339.240](#)  
[ORS 339.250](#)

[OAR 581-021-0050](#)  
[OAR 581-021-0070](#)  
[OAR 581-021-0071](#)

**Cross Reference(s):**

JG - Student Discipline

# Evergreen Virtual Academy

Code: JHCC  
Adopted: 6/18/19  
Orig. Code: JHCC

## Communicable Diseases - Students

The public charter school shall provide reasonable protection against the risk of exposure to communicable disease for students. Reasonable protection from communicable disease is generally attained through immunization, exclusion or other measures as provided by Oregon law, by the local health department or in the *Communicable Disease Guidance* published by the Oregon Department of Education (ODE) and the Oregon Health Authority (OHA). Services will be provided to students as required by law.

When an administrator has reason to suspect that a student has or has been exposed to any restrictable disease for which the student is required to be excluded, the administrator involved shall exclude the student from school and if the disease is a reportable disease, will report the occurrence to the local health department. The administrator will also take whatever reasonable steps it considers necessary to organize and operate its programs in a way which both furthers the education and protects the health of students and others.

In cases when a restrictable or reportable disease is diagnosed and confirmed for a student, the administrator shall inform the appropriate employees with a legitimate educational interest to protect against the risk of exposure.

The public charter school may, for the protection of both the student who has a restrictable disease and the exposed student, provide an educational program in an alternative setting.

The public charter school will include, as a part of its emergency plan, a description of the actions to be taken by school personnel in the case of a declared public health emergency or other catastrophe that disrupts public charter school operations.

The public charter school shall protect the confidentiality of each student's health condition and record to the extent possible and consistent with federal and state law.

The administrator will develop administrative regulations necessary to implement this policy.

END OF POLICY

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### Legal Reference(s):

[ORS 431.150](#) to -431.157  
[ORS 433.001](#) to -433.526

[OAR 333-018](#)  
[OAR 333-019-0010](#)  
[OAR 333-019-0014](#)

[OAR 437-002-0360](#)  
[OAR 437-002-0377](#)  
[OAR 581-022-2220](#)

OREGON DEPARTMENT OF EDUCATION and OREGON HEALTH AUTHORITY, *Communicable Disease Guidance* (2017).  
Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (2012); Family Educational Rights and Privacy, 34 C.F.R. Part 99 (2017).

# Evergreen Virtual Academy

Code: JHCC-AR  
Adopted: 6/18/19  
Orig. Code: JHCC-AR

## Communicable Diseases – Student\*\*

In accordance with state law, administrative rule, the local health authority and the *Communicable Disease Guidance*, the procedures established below will be followed.

1. “Restrictable diseases” are defined by rule and include but are not limited to chickenpox, diphtheria, hepatitis A, measles, mumps, pertussis, rubella, Salmonella enterica serotype Typhi infection, scabies, Shiga-toxigenic Escherichia coli (STEC) infection, shigellosis and tuberculosis disease, and may include a communicable stage of hepatitis B infection if, in the opinion of the local health officer, the person poses an unusually high risk to others (e.g., a child that exhibits uncontrollable biting or spitting). Restrictable disease also includes any other communicable disease identified in an order issued by the Oregon Health Authority or the local public health officer as posing a danger to the public’s health. A disease is considered to be a restrictable disease if it is listed in Oregon Administrative Rule (OAR) 333-019-0010, or it has been designated to be a restrictable disease by Board policy<sup>1</sup> or by the local health administrator, after determining that it presents a significant public health risk in the school setting.
2. “Susceptible” means being at risk of contracting a restrictable disease by virtue of being in one or more categories described in law.
3. “Reportable diseases” means a human reportable disease, infection, microorganism or condition as specified in OAR Chapter 333, Division 18.

### Restrictable Diseases

1. An administrator that has reason to suspect that a student has or has been exposed to any restrictable disease for which the student is required to be excluded, shall exclude that student from school and send him/her home. If the disease is reportable, the administrator will report the occurrence to the local health department.
2. The student will be excluded in such instances until such time as the student or the parent or guardian of the student presents a certificate from a physician, a physician assistant licensed under Oregon Revised Statute (ORS) 677.505-677.525, a nurse practitioner licensed under ORS 678.375-678.390, local health department nurse or school nurse stating that the student does not have or is not a carrier of any restrictable diseases.
3. An administrator will exclude a susceptible student that has been exposed to a restrictable disease that is also a reportable disease unless the local health officer determines that exclusion is not necessary to protect the public’s health, or the local health officer states the disease is no longer communicable to others or that adequate precautions have been taken to minimize the risk of transmission. The administrator may request the local health officer to make a determination as allowed by law.

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<sup>1</sup>“OAR 333-019-0010(7) Nothing in these rules prohibits a school or children’s facility from adopting more stringent exclusion standards under ORS 433.284.”

4. The public charter school may, for the protection of both the student who has a restrictable disease and the exposed student, provide an educational program in an alternative setting. A student may remain in an alternative educational setting until such time as a certificate from a physician, physician assistant, nurse practitioner, local health department nurse or school nurse states that the student does not have or is not a carrier of any restrictable disease, or until such time as a local health officer states that the disease is no longer communicable to others or that adequate precautions have been taken to minimize the risk of transmission. A restrictable disease exclusion for chickenpox, scabies, staphylococcal skin infections, streptococcal infections, diarrhea or vomiting may also be removed by a school nurse or health care provider.
5. More stringent exclusion standards for students from school may be adopted by the local health department or by the public charter school through Board adopted policy.
6. A disease is considered to be a restrictable disease if it is listed in OAR 333-019-0010, or it has been designated to be a restrictable disease through Board policy or by the local health administrator, after determining that it presents a significant public health risk in the school setting.
7. The public charter school's emergency plan shall address the school's plan with respect to a declared public health emergency at the local or state level.

### **Reportable Diseases Notification**

1. All employees shall comply with all reporting measures adopted by the public charter school and with all rules set forth by the Oregon Health Authority, Public Health Division and the local health department.
2. An administrator may seek confirmation and assistance from the local health officer to determine the appropriate response when the administrator is notified that a student or an employee has been exposed to a restrictable disease that is also a reportable disease.
3. An administrator shall determine other persons with a legitimate educational interest who may be informed of the communicable nature of an individual student's disease, or an employee's communicable disease, within guidelines allowed by law.

### **Education**

1. The administrator or designee shall seek information from the school's nurse or other appropriate health officials regarding the health needs/hazards of all students and the impact on the educational needs of a student diagnosed with a restrictable disease or exposed to a restrictable disease.
2. The administrator or designee shall, utilizing information obtained above, determine an educational program for such a student and implement the program in an appropriate (i.e., regular or alternative) setting.
3. The administrator or designee shall review the appropriateness of the educational program and the educational setting of each individual student.

## **Equipment and Training**

1. The administrator or designee shall, on a case-by-case basis, determine what equipment and/or supplies are necessary in a particular classroom or other setting in order to prevent disease transmission.
2. The administrator or designee shall consult with the school's nurse or other appropriate health officials to provide special training in the methods of protection from disease transmission.
3. All public charter school personnel will be instructed annually [by the school health nurse] to use the proper precautions pertaining to blood and body fluid exposure per the Occupational Safety and Health Administration (OSHA).

# Evergreen Virtual Academy

Code: JHCCA  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JHCCA

## Students - HIV, HBV and AIDS\*\*

The public charter school will adhere strictly in policies and procedures to the Oregon Revised Statutes and the Oregon Administrative Rules as they relate to a student infected with HIV or HBV or diagnosed with AIDS<sup>1</sup>.

The public charter school recognizes a parent (student) has no obligation to inform the public charter school of an HIV, HBV or AIDS condition and that the student has a right to attend school. If the public charter school is informed of such a student, written guidelines shall be requested of the parent (student). These guidelines shall include who may have the information, who will give the information, how the information will be given and where and when the information will be given.

When informed of the infection, and with written permission from the parent (student), the 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 student's condition.

Notification shall be made to student's resident district if the student with HIV, HBV or AIDS, withdraws from the public charter school.

END OF POLICY

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### Legal Reference(s):

<a href="#">ORS 326.565</a>	<a href="#">ORS 339.030</a>	<a href="#">OAR 333-018-0000</a>
<a href="#">ORS 326.575</a>	<a href="#">ORS 339.250</a>	<a href="#">OAR 333-018-0005</a>
<a href="#">ORS 332.061</a>	<a href="#">ORS 433.008</a>	<a href="#">OAR 581-022-2220</a>
<a href="#">ORS 336.187</a>	<a href="#">ORS 433.045</a>	<a href="#">OAR 581-022-2260</a>
<a href="#">ORS 338.115(w)</a>		

OREGON SCHOOL HEALTH SERVICES MANUAL: COMMUNICABLE DISEASES APPENDIX IV. GUIDELINES FOR SCHOOLS WITH CHILDREN WHO HAVE BLOODBORNE PATHOGENS, OREGON DEPARTMENT OF EDUCATION 2012.

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<sup>1</sup>HIV - Human Immunodeficiency Virus; HBV - Hepatitis B Virus

# Evergreen Virtual Academy

Code: JHCD/JHCDA  
Adopted: 6/18/19  
Revised/Readopted: 8/20/19  
Orig. Code: JHCD/JHCDA

## Medications\*\*

The public charter school recognizes that administering a medication to a student and/or permitting a student to administer a medication to themselves, may be necessary when the failure to take such medication during a school-sponsored activity would prevent the student from attending the activity, and recognizes a need to ensure the health and well-being of a student who requires regular doses or injections of a medication as a result of experiencing a life-threatening allergic reaction or adrenal crisis<sup>1</sup>, or a need to manage hypoglycemia, asthma or diabetes. Accordingly, the public charter school may administer or a student may be permitted to administer to themselves a prescription (injectable and noninjectable) and/or nonprescription (noninjectable) medication during the school-sponsored activity.

The public charter school shall designate personnel authorized to administer medications to students. Training shall be provided to designated personnel as required by law in accordance with guidelines approved by the Oregon Department of Education (ODE).

Current first-aid and CPR cards are strongly encouraged for designated personnel.

When a licensed health care professional is not immediately available, personnel designated by the public charter school may administer to a student, epinephrine, glucagon or another medication to a student as prescribed and/or allowed by Oregon law.

The public charter school reserves the right to reject a request for designated personnel to administer, or to permit a student to administer to themselves, a medication when such medication is not necessary for the student to attend a school-sponsored activity.

The administrator and/or designee will require that an individualized health care plan and allergy plan is developed for every student with a known life-threatening allergy, and an individualized health care plan for every student for whom the public charter school has been given proper notice of a diagnosis of adrenal insufficiency. Such a plan will include provisions for administering medication and/or responding to emergency situations while the student is at a school-sponsored activity, under the supervision of school personnel and in transit to or from a school-sponsored activity.

A student may be allowed to self-administer a medication for asthma, diabetes, hypoglycemia or severe allergies as prescribed by an Oregon licensed health care professional, upon written and signed request of the parent or guardian and subject to age-appropriate guidelines. This self-administration provision also requires a written and signed confirmation the student has been instructed by the Oregon licensed health care professional on the proper use of and responsibilities for the prescribed medication.

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<sup>1</sup>Under proper notice given to the public charter school by a student or student's parent or guardian.

A request to the public charter school to administer or allow a student to self-administer prescription medication or a nonprescription medication that is not approved by the Food and Drug Administration (FDA) shall include a signed prescription and treatment plan from a prescriber<sup>2</sup> or an Oregon licensed health care professional.

A written request and permission form signed by a student's parent or guardian, unless the student is allowed to access medical care without parental consent under state law<sup>3</sup>, is required and will be kept on file.

If the student is deemed to have violated Board policy or medical protocol by the public charter school, the public charter school may revoke the permission given to a student to self-administer medication.

Prescription and nonprescription medication will be handled, stored, monitored, disposed of and records maintained in accordance with established public charter school administrative regulations governing the administration of prescription or nonprescription medications to students, including procedures for the disposal of sharps and glass.

A premeasured dose of epinephrine may be administered by designated personnel to any student or other individual during a school-sponsored activity who a staff member believes, in good faith, is experiencing a severe allergic reaction, regardless of whether the student or individual has a prescription for epinephrine.

This policy shall not prohibit, in any way, the administration of recognized first aid to a student by public charter school employees in accordance with established state law, Board policy and administrative regulation.

A school administrator, teacher or other public charter school employee designated by the school administrator is not liable in a criminal action or for civil damages as a result of the administration of prescription and/or nonprescription medication, subject to state law.

A school administrator, school nurse, teacher or other public charter school employee designated by the school administrator is not liable in a criminal action or for civil damages as a result of a student's self-administration of medication, when that person in good faith assisted the student in self-administration of the medication, subject to state law.

A school administrator, school nurse, teacher or other public charter school employee designated by the school administration is not liable in a criminal action or for civil damages, when that person in good faith administers autoinjectable epinephrine to a student or other individual with a severe allergy, who is unable to self administer the medication, subject to state law.

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<sup>2</sup>A registered nurse who is employed by a public or private school, ESD or local public health authority to provide nursing services at a public or private school may accept an order from a physician licensed to practice medicine or osteopathy in another state or territory of the U.S. if the order is related to the care or treatment of a student who has been enrolled at the school for not more than 90 days.

<sup>3</sup>Subject to ORS 109.610, 109.640 and 109.675.

The public charter school and the members of the public charter school Board are not liable in a criminal action or for civil damages when a student or individual is unable to self-administer medication, when any person in good faith administers autoinjectable epinephrine to a student or individual, subject to state law. The administrator shall develop administrative regulations as needed to meet the requirements of law, Oregon Administrative Rules and the implementation of this policy.

END OF POLICY

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**Legal Reference(s):**

[ORS 109.610](#)

[ORS 109.640](#)

[ORS 109.675](#)

[ORS 338.115\(1\)\(y\)](#)

[ORS 339.866 to -339.871](#)

[ORS 433.800 to -433.830](#)

[ORS 475.005 to -475.285](#)

[OAR 166-400-0010\(17\)](#)

[OAR 166-400-0060\(29\)](#)

[OAR 333-055-0000 to -0035](#)

[OAR 581-021-0037](#)

[OAR 581-022-2220](#)

[OAR 851-047-0030](#)

[OAR 851-047-0040](#)

Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (2012); Family Educational Rights and Privacy, 34 C.F.R. Part 99 (2017).

OREGON HEALTH AUTHORITY AND OREGON DEPARTMENT OF EDUCATION, *Medication Administration in Oregon Schools: A Manual for School Personnel* (2016).

# Evergreen Virtual Academy

Code: JHCD/JHCDA-AR  
Adopted: 6/18/19  
Revised/Readopted: 8/20/19  
Orig. Code: JHCD/JHCDA-AR

## Medications\*\*

Students may, subject to the provisions of this administrative regulation, have prescription or nonprescription medication administered by designated personnel, or may be permitted to administer prescription or nonprescription medication to themselves.

### 1. Definitions

- a. “Medication” means any drug, chemical compound, suspension or preparation in suitable form for use as a curative or remedial substance taken internally or externally but not injected except for premeasured doses of epinephrine, medication to treat adrenal insufficiency and glucagon to treat severe hypoglycemia. Medication includes any prescription for bronchodilators or autoinjectable epinephrine prescribed by a student’s Oregon licensed health care professional for asthma or severe allergies.
- b. “Prescription medication” means any medication that under federal law requires a prescription by a prescriber.
- c. “Nonprescription medication” means medication that under federal law does not require a prescription from a prescriber.
- d. “Adrenal crisis” means adrenal crisis as defined in Oregon Revised Statute (ORS) 433.800.
- e. “Adrenal insufficiency” means adrenal insufficiency as defined in ORS 433.800.
- f. “Notice of a diagnosis of adrenal insufficiency” means written notice to the public charter school from a student or the parent or guardian of a student who has been diagnosed as adrenal insufficient with a copy of an order from the student’s primary care provider that includes the student’s diagnosis, description of symptoms indicating the student is in crisis, prescription for medication to treat adrenal insufficiency crisis and instructions for follow-up care after medication to treat adrenal insufficiency crisis has been administered.
- g. “Prescriber<sup>1</sup>” means a doctor of medicine or osteopathy, a physician assistant licensed to practice by the Board of Medical Examiners for the state of Oregon, an Oregon-licensed, advance practice registered nurse with prescriptive authority, a dentist licensed by the Board of Dentistry for the state of Oregon, an optometrist licensed by the Board of Optometry for the state of Oregon, a naturopathic physician licensed by the Board of Naturopathy for the state of Oregon or a pharmacist licensed by the Board of Pharmacy for the state of Oregon.
- h. “Qualified trainer” means a person who is familiar with the delivery of health services in a school setting and who is a registered nurse licensed by the Oregon State Board of Nursing, a doctor of medicine or osteopathy or a physician assistant licensed by the Board of Medical Examiners for the state of Oregon or a pharmacist licensed by the Board of Pharmacy for the state of Oregon.
- i. “Severe allergy” means a life-threatening hypersensitivity to a specific substance such as food, pollen, dust or insect sting.

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<sup>1</sup>A registered nurse who is employed by a public or private school, ESD or local public health authority to provide nursing services at a public or private school may accept an order from a physician licensed to practice medicine or osteopathy in another state or territory of the U.S. if the order is related to the care or treatment of a student who has been enrolled at the school for not more than 90 days.

- j. “Asthma” means a chronic inflammatory disorder of the airways that requires ongoing medical intervention.
- k. “Designated personnel” means the school personnel designated to administer medication pursuant to public charter school policy and procedure.

## 2. Designated Staff/Training

- a. The administrator will designate personnel authorized to administer prescription or nonprescription medication to a student while the student is at a school-sponsored activity, under the supervision of school personnel, and in transit to or from a school-sponsored activity. The administrator will supervise and ensure activity practices and procedures are consistent with the requirements of law, rules and this administrative regulation.
- b. The administrator will ensure the training required by Oregon law is provided to designated personnel. Training must be conducted by a qualified trainer. Training will be provided annually to designated personnel authorized to administer medication to students. The first year and every third year of training requires in-person instruction; during the intervening years, designated personnel may complete an online training that has been approved by the Oregon Department of Education (ODE) so long as a trainer is available within a reasonable amount of time following the training to answer questions and provide clarification.
- c. Training will provide an overview of applicable provisions of Oregon law, administrative rules, public charter school policy and administrative regulations and include, but not be limited to, the following: safe storage, handling, monitoring medication supplies, disposing of medications, record keeping and reporting of medication administration and errors in administration, emergency medical response for life-threatening side effects, allergic reactions or adrenal insufficiency and student confidentiality. Materials as recommended and/or approved by the ODE will be used.
- d. A copy of the public charter school policy and administrative regulation will be provided to all staff authorized to administer medication to students and others, as appropriate.

## 3. Administering Premeasured Doses of Epinephrine to a Student or Other Individual

A premeasured dose of epinephrine may be administered by designated personnel to any student or other individual at a school-sponsored activity who the personnel believe, in good faith, is experiencing a severe allergic reaction, regardless of whether the student or individual has a prescription for epinephrine.

## 4. Administering of Medication to a Student Experiencing Symptoms of Adrenal Crisis

A student experiencing symptoms of adrenal crisis while the student is at a school-sponsored activity, while under the supervision of school personnel and in transit to or from a school-sponsored activity, may be treated by designated personnel and shall be subject to the following:

- a. Upon notice of a diagnosis of adrenal insufficiency, as defined in Oregon Administrative Rule (OAR) 581-021-0037, the administrator will designate one or more school personnel to be responsible for administering the medication to treat adrenal insufficiency;
- b. The designated personnel will successfully complete training to administer medication to treat a student who has adrenal insufficiency and is experiencing symptoms of adrenal crisis in accordance with the rules adopted by the Oregon Health Authority;
- c. The student or the student’s parent or guardian must provide adequate supply of the student’s prescribed medication to the public charter school;
- d. The public charter school will require the development of an individualized health care plan for the student that includes protocols for preventing exposures to allergens, and establishes if

or when a student may self-carry prescription medication when the student has not been approved to self-administer medication;

- e. In the event that a student experiences symptoms of adrenal crisis and the designated personnel determines the medication to treat adrenal insufficiency should be administered, any available staff member will immediately call 911 and the student's parent or guardian.

## 5. Administering Medication to a Student

- a. A request to permit designated personnel to administer medication to a student may be approved by the public charter school and is subject to the following:

- (1) A written request for designated personnel to administer prescription medication to a student, if because of the prescribed frequency or schedule, the medication must be given while the student is at a school-sponsored activity, while under the supervision of school personnel or in transit to or from a school-sponsored activity, must be submitted to the public charter school office and shall include:
  - (a) The written permission of the student's parent or guardian or the student if the student is allowed to seek medical care without parental consent pursuant to ORS 109.610, 109.640 or 109.675; and
  - (b) The written instruction from the prescriber for the administration of the medication to the student that includes:
    - (i) Name of the student;
    - (ii) Name of the medication;
    - (iii) Method of administration;
    - (iv) Dosage;
    - (v) Frequency of administration;
    - (vi) Other special instructions from the prescriber, if any; and
    - (vii) Signature of the prescriber.

The prescription label prepared by a pharmacist at the direction of the prescriber, will be considered to meet this requirement if it contains the information listed in (i)-(vi) above.

- (2) A written request for designated personnel to administer nonprescription medication to a student must be submitted to the public charter school office and is subject to the following:
  - (a) The nonprescription medication is necessary for the student to attend a school-sponsored activity;
  - (b) The nonprescription medication is provided in the original manufacturer's container by the parent or guardian of the student;
  - (c) The written instruction from the student's parent or guardian for the administration of the nonprescription medication includes:
    - (i) Name of the student;
    - (ii) Name of the medication;
    - (iii) Method of administration;
    - (iv) Dosage;
    - (v) Frequency of administration;
    - (vi) Other special instructions, if any; and

(vii) Signature of the student's parent or guardian.

If the written instruction is not consistent with the manufacturer's guidelines for the nonprescription medication, the written instruction must also include a written order allowing the inconsistent administration signed by a prescriber.

(d) If the nonprescription medication is not approved by the Food and Drug Administration (FDA), a written order from the student's prescriber is required and will include:

- (i) Name of the student;
- (ii) Name of the medication;
- (iii) Dosage;
- (iv) Method of administration;
- (v) Frequency of administration;
- (vi) A statement that the medication must be administered while the student is attending a school-sponsored activity;
- (vii) Other special instructions, if any; and
- (viii) Signature of the prescriber.

- b. An individualized health care and allergy plan will be developed for a student with a known life-threatening allergy and will include protocols for preventing exposures to allergens and procedures for responding to life-threatening allergic reactions while the student is at a school-sponsored activity, while under the supervision of school personnel or in transit to or from a school-sponsored activity and will include a determination on if or when the student may self-carry prescription medication if the student has not been approved to self-administer medication.
- c. It is the student's parent or guardian's, or the student's, responsibility to ensure that an adequate amount of medication is on hand at the school for the duration of the student's need to take medication;
- d. It is the student's parent or guardian's, or the student's, responsibility to ensure that the school is informed in writing of any changes in medication instructions;
- e. In the event a student refuses medication, the parent or guardian will be notified immediately, except where a student is allowed to seek medical care without parental consent. No attempt will be made to administer medication to a student who refuses a medication;
- f. Any error in administration of a medication will be reported to the parent or guardian, except where a student is allowed to seek medical care without parental consent, immediately. Errors include, but are not limited to, administering medication to the wrong student, administering the wrong medication, dosage, frequency of administration or method of administration;
- g. Medication shall not be administered until the necessary permission form and written instructions have been submitted as required by the public charter school.

6. Administration of Medication by a Student to Themselves

- a. A student, including a student in grade K through 12 with asthma or severe allergies, may be permitted to administer medication to themselves without assistance from designated personnel and is subject to the following:
- (1) A student must demonstrate the ability, developmentally and behaviorally, to self-administer prescription medication and must have:
    - (a) A parent or guardian, except when the student is allowed to seek medical care without parental consent pursuant to ORS 109.610, 109.640 or 109.675, written permission form and other documentation requested by the public charter school must be submitted for self-medication of all prescription medications;
    - (b) If the student has asthma, diabetes and/or a severe allergy, a medication that is prescribed by a prescriber and a written treatment plan developed by a prescriber or other Oregon licensed health care professional for managing of the student's asthma, diabetes and/or severe allergy, and directs use by the student while the student is at a school-sponsored activity, while under the supervision of school personnel and in transit to or from a school-sponsored activity. The prescriber will include acknowledgment that the student has been instructed in the correct and responsible use of the prescribed medication;
    - (b) The permission to self-administer the medication from the administrator and a prescriber or registered nurse practicing in a school setting.
  - (2) A student must demonstrate the ability, developmentally and behaviorally, to self-administer nonprescription medication and must have:
    - (a) The written permission of the student's parent or guardian, except when the student is allowed to seek medical care without parental consent pursuant to ORS 109.610, 109.640 or 109.675;
    - (b) The medication must have the student's name affixed to the manufacturer's original container; and
    - (c) The permission to self-administer medication from an administrator.
  - (3) A student must demonstrate the ability, developmentally and behaviorally, to self-administer nonprescription medication that is not approved by the FDA and must have:
    - (a) The written permission of the student's parent or guardian, except when the student is allowed to seek medical care without parental consent pursuant to ORS 109.610, 109.640 or 109.675; and
    - (b) A written order from the student's prescriber that includes:
      - (i) Name of the student;
      - (ii) Name of the medication;
      - (iii) Dosage;
      - (iv) Method of administration;
      - (v) Frequency of administration;
      - (vi) A statement that the medication must be administered while the student is in school;
      - (vii) Other special instructions, if any; and
      - (viii) Signature of the prescriber.

- b. The student may have in his/her possession only the amount of medication needed for that school activity, except for manufacturer's packaging that contains multiple dosage, the student may carry one package, such as, but not limited to, autoinjectable epinephrine or bronchodilators/inhalers;
  - c. Sharing and/or borrowing of any medication with another student is strictly prohibited;
  - d. For a student who has been prescribed bronchodilators or epinephrine, the designated personnel will request that the parent or guardian provide backup medication for emergency use by that student;
  - e. A student shall not administer medication to themselves until the necessary permission form and written instructions have been submitted as required by the public charter school;
  - f. Permission for a student to administer medication to themselves may be revoked if the student violates the Board policy and/or this administrative regulation;
  - g. A student may be subject to discipline, up to and including expulsion, as appropriate;
  - h. A student permitted to administer medication to themselves may be monitored by designated personnel to monitor the student's response to the medication.
7. Handling, Monitoring and Safe Storage of Medication Supplies for Administering Medication to Students
- a. Medication administered by designated personnel to a student, must be delivered to the school in its original container, accompanied by the permission form and written instructions, as required above.
  - b. Medication in capsule or tablet form and categorized as a sedative, stimulant, anticonvulsant, narcotic analgesic or psychotropic medication will be counted by designated personnel in the presence of another public charter school employee upon receipt, documented in the student's medication log and routinely monitored during storage and administration. Discrepancies will be reported to the principal immediately and documented in the student's medication log. For such medication not in capsule or tablet form, standard measuring and monitoring procedures will apply.
  - c. Designated personnel will follow the written instructions of the prescriber and the student or the student's parent or guardian, and training guidelines as may be recommended by the ODE for administering all forms of prescription and/or nonprescription medications.
  - d. Medication will be secured as follows:
    - (1) Nonrefrigerated medications will be stored in a locked cabinet, drawer or box;
    - (2) Medications requiring refrigeration will be stored in a locked box in a refrigerator;
    - (3) Access to medication storage keys will be limited to the principal and designated personnel.
  - e. Designated personnel will be responsible for monitoring all medication supplies and for ensuring medication is secure at all times, not left unattended after administering and that the medication container is properly sealed and returned to storage.
  - f. In the event medication is running low or an inadequate dosage is on hand to administer the medication, the designated personnel will notify the student's parent or guardian or the student (in situations involving ORS 109.610, 109.640 and 109.675) immediately.

## 8. Emergency Response

- a. Designated personnel will notify 911 or other appropriate emergency medical response systems and administer first aid, as necessary, in the event of life-threatening side effects that result from the administered medication or from student self-medication or allergic reactions. The parent or guardian and administrator will be notified immediately.
- b. Minor adverse reactions that result from the administered medication or from student self-medication will be reported to the parent or guardian immediately, except when the student is allowed to seek medical care without parental consent pursuant to ORS 109.610, 109.640 or 109.675.
- c. Any available public charter school staff will immediately call 911 and the student's parent or guardian if the designated personnel believes the student is experiencing symptoms of adrenal crisis and plans to administer medication.

## 9. Disposal of Medications

- a. Medication not picked up by the student's parent or guardian, or the student when allowed pursuant to ORS 109.610, 109.640 and 109.675, at the end of the school year or within five school days of the end of the medication period, whichever is earlier, will be disposed of by designated personnel in a nonrecoverable fashion as follows:
  - (1) Medication will be removed from its original container and destroy any personal information;
  - (2) Solid medications will be crushed, mixed or dissolved in water, liquid medications will be mixed or dissolved in water; and
  - (3) Mixed with an undesirable substance, e.g., coffee grounds, kitty litter, flour; and
  - (4) Placed in impermeable non-descriptive containers, e.g., empty cans or sealable bags, and placed in the trash.

Prescriptions will be flushed down the toilet **only** if the accompanying patient information specifically instructs it is safe to do so.

Other medication will be disposed of in accordance with established training procedures including sharps and glass.

- b. All medication will be disposed of by designated personnel in the presence of another public charter school employee and documented as described in Section 10, below.

## 10. Transcribing, Recording and Record Keeping

- a. A medication log will be maintained for each student administered medication by the public charter school. The medication log will include, but not be limited to:
  - (1) The name of the student, name of medication, dosage, method of administration, date and time of administration, frequency of administration and the name of the person administering the medication;
  - (2) Student refusals of medication;
  - (3) Errors in administration of medication;
  - (4) Incidents of emergency and minor adverse reaction by a student to medication;
  - (5) Discrepancies in medication supply;
  - (6) Disposal of medication including date, quantity, manner in which the medication was destroyed and the signature of the staff involved.

- b. All records relating to administration of medications, including permissions and written instructions, will be maintained in a separate medical file apart from the student's education record file unless otherwise related to the student's educational placement and/or individualized education program. Records will be retained in accordance with applicable provisions of OAR 166-400-0010(17) and OAR 166-400-0060(29).
- c. Student health information will be kept confidential. Access shall be limited to those designated personnel authorized to administer medication to students, the student and his/her parent or guardian. Information may be shared with other staff with a legitimate educational interest in the student or others as may be authorized by the parent or guardian in writing or others as allowed under state and federal law.

# Evergreen Virtual Academy

Code: JHFE  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JHFE

## Reporting of Suspected Abuse of a Child

Any public charter school employee who has reasonable cause or reasonable suspicion to believe that any child with whom the employee has come in contact has suffered abuse or neglect, as defined in state law, by any adult or by a student with whom he/she is in contact has abused a child, will immediately notify the Oregon Department of Human Services, Community Human Services or the local law enforcement agency. The school employee shall also immediately inform his/her supervisor or public charter school administrator.

Abuse of a child by public charter school employees or by students will not be tolerated. All public charter school employees are subject to this policy and the accompanying administrative regulation. If a public charter school employee is a suspected abuser, reporting requirements remain the same.

The head of school will implement such regulations as are necessary to accomplish the intent of this policy and to comply with state law. The public charter school will designate the administrator to receive reports of abuse. In the event the designated person is the suspected abuser, the public charter school board chair shall receive the report of abuse. The public charter school will post in the building the name and contact information of the person designated to receive abuse reports, as well as the procedures the head of school or Board chair will follow upon receipt of a report. When the head of school or Board chair takes action on the report, the person who initiated the report must be notified.

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

Upon request, the public charter school shall provide records of investigations of suspected abuse of a child by a public charter school employee or former employee to law enforcement, Oregon Department of Human Services or Teacher Standards and Practices Commission.

Any public charter school employee participating in good faith in the making of a report, pursuant to this policy and Oregon law and who has reasonable grounds for the making thereof, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of any such report. Further, the initiation of a report in good faith about suspected abuse of a child may not adversely affect any terms or conditions of employment or the work environment of the complainant. If a student initiates a report of suspected abuse of a child by a public charter school employee or a student, in good faith, the student will not be disciplined by the Board or any public charter school employee.

Public charter school staff shall receive training each school year in the prevention and identification of abuse of a child and on the obligations of school employees under ORS 419B.005 and as directed by public charter school board policy to report suspected abuse of a child. In addition, an annual training for parents and legal guardians of students attending public charter schools shall be provided on the prevention, identification of abuse of a child and the obligation of school employees to report suspected abuse of a child.

Annual training designed to prevent abuse of a child will be made available to students attending a public charter school.

Intentionally making a false report of abuse of a child is a Class A violation.

The public charter school shall develop written procedures for all required training.

END OF POLICY

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**Legal Reference(s):**

[ORS 338.115](#)

[ORS 339.370 to-339.400](#)

[ORS 418.746 to-418.751](#)

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

[OAR 581-022-2205](#)

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

# Evergreen Virtual Academy

Code: JHFE-AR  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JHFE-AR

## Reporting of Suspected Abuse of a Child

### Reporting

All public charter school employees having reasonable cause to believe that any child with whom the employee comes in contact has suffered abuse, or that any person with whom the employee comes in contact has abused a child, shall orally report or cause an oral report to be immediately made by telephone or otherwise to the local office of the Oregon Department of Human Services, Community Human Services or to a law enforcement agency within the county where the person making the report is at the time of his/her contact. The public charter school employee should also immediately inform his/her supervisor or administrator.

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

A written record of the abuse report shall be made by the employee suspecting the abuse of a child. The written record may be made using Evergreen Virtual Academy's abuse reporting form which includes at a minimum:

1. The name and position of the person making the report;
2. The name, address of the child, the parents or other person responsible for the child's care;
3. The name and position of any witness to the report;
4. A description of the nature and extent of the abuse, including any information which could be helpful in establishing cause of abuse and identity of the abuser;
5. A description of how the report was made (i.e., phone or other method);
6. The name of the agency and individual who took the report;
7. The date and time that the report was made; and
8. The names of persons who received a copy of the written report.

The written record of the abuse report shall not be placed in the student’s educational record. A copy of the written report shall be retained by the employee making the report and a copy shall be provided to the public charter school administrator.

When the public charter school receives a report of suspected abuse of a child by one of its employees or by students, and the administrator determines that there is reasonable cause to support the report, the public charter school shall place the school employee on paid administrative leave until the Department of Human services or a law enforcement agency either: 1) determines that the report is unfounded or that the report will not be pursued; or 2) determines that the report is founded and the education provider takes the appropriate disciplinary action against the school employee. If the Department of Human services or a law enforcement agency is unable to determine whether the abuse of a child occurred the public charter school may either reinstate the employee or take disciplinary action at the public charter school’s discretion.

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

### **Definitions**

1. Oregon law recognizes these types of abuse:
  - a. Physical;
  - b. Neglect;
  - c. Mental injury;
  - d. Threat of harm;
  - e. Sexual abuse and sexual exploitation.
  
2. “Child” means an unmarried person who is under 18 years of age.

### **Confidentiality of Records**

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

The disciplinary records of a public charter school employee or former public charter school employee convicted of a crime listed in ORS 342.143 are not exempt from disclosure under ORS 192.501 or 192.502. Therefore, if a public charter school employee or former employee is convicted of a crime listed in ORS 342.143, the public charter school that is or was the employer of that employee when the crime was committed shall disclose the disciplinary records of the employee to any person upon request. However, prior to the disclosure of a disciplinary record the administrator shall remove any personally identifiable information from the record that would disclose the identity of a child, a crime victim or a school employee who is not the subject of the disciplinary record.

### **Failure to Comply**

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

## **Cooperation with Investigator**

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

1. When the subject matter of the interview or investigation is identified to be related to suspected abuse of a child, public charter school employees shall not notify parents;
2. The administrator or representative shall advise the investigator of any conditions of disability prior to any interview with the affected child;
3. Public charter school employees are not authorized to reveal anything that transpires during an investigation in which the employee participates, nor shall the information become part of the student's education records, except that the employee may testify at any subsequent trial resulting from the investigation and may be interviewed by the respective litigants prior to any such trial.

# Evergreen Virtual Academy

Code: JHFF  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JHFF

## Reporting Requirements Regarding Sexual Conduct with Students

Sexual conduct by public charter school employees as defined by Oregon law will not be tolerated. All public charter school employees are subject to this policy.

*“Sexual conduct” as defined by Oregon law is any verbal or physical or other conduct by a school employee that is sexual in nature; directed toward a kindergarten through grade 12 student; unreasonably interferes with a student’s educational performance; and creates an intimidating, hostile or offensive educational environment. The definition for sexual conduct does not include behavior that would be considered child abuse as outlined by Oregon law and district Board policy JHFE and JHFE-AR - Reporting of Suspected Abuse of a Child.*

Any public charter school employee who has reasonable cause to believe that another public charter school employee has engaged in sexual conduct with a student must immediately notify the public charter school administrator.

When the public charter school receives a report of suspected sexual conduct by a public charter school employee, the public charter school may decide to place the employee on paid administrative leave or in a position that does not involve direct, unsupervised contact with students while conducting an investigation. An investigation is a detailed inquiry into the factual allegations of a report of suspected sexual conduct that is based on interviews with the complainant, witnesses, the public charter school employee or student who is the subject of the report. If the subject of the report is a school employee, the investigation must meet any negotiated standards of an employment contract or agreement.

If, following the investigation, the report is substantiated, the public charter school will inform the employee that the report has been substantiated and provide information regarding the appeal process. The employee may appeal the public charter school decision to the public charter school board. A substantiated report is one that: a) an educational provider has reasonable cause to believe is founded based on the available evidence after conducting an investigation; and b) involves conduct that the educational provider determines is sufficiently serious to be documented in the employee’s personnel file.

If the employee decides not to appeal the determination or if the determination is sustained after an appeal, a record of the substantiated report will be placed in the employee’s personnel file. The employee will be notified that this information may be disclosed to a potential employer.

The public charter school will post in each school building the name and contact information of the person designated to receive sexual conduct reports, as well as the procedures the public charter school administrator will follow upon receipt of a report. In the event that the designated person is the suspected perpetrator, the head of school or the public charter school Board chair shall receive the report. When the public charter school administrator takes action on the report, the person who initiated the report must be notified.

The initiation of a report in good faith about suspected sexual conduct may not adversely affect any terms or conditions of employment or the work environment of the complainant. If a student initiates a report of suspected sexual conduct by a public charter school employee in good faith, the student will not be disciplined by the public charter school board or any public charter school employee.

The public charter school will provide annual training to public charter school employees, parents and students regarding the prevention and identification of sexual conduct. The public charter school will provide to employees at the time of hire a description of conduct that may constitute sexual conduct and a description of records subject to disclosure if a sexual conduct report is substantiated.

Educational providers shall follow hiring and reporting procedures as outlined in ORS 339.374 for all public charter school employees.

END OF POLICY

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**Legal Reference(s):**

[ORS 338.115\(1\)\(x\)](#)  
[ORS 339.370 - 339.400](#)

[ORS 418.746 - 418.751](#)  
[ORS 419B.005 - 419B.045](#)

Every Student Succeeds Act, 20 U.S.C. § 7926 (2012).

**Cross Reference(s):**

GCAB - Personal Electronic Devices and Social Media - Staff  
JHFE - Reporting of Suspected Abuse of a Child

# Evergreen Virtual Academy

Code: JHFF-AR  
Revised/Reviewed: 10/21/13; 6/18/19  
Orig. Code: JHFF-AR

## Sexual Conduct Complaint Form

Name of complainant: \_\_\_\_\_

Position of complainant: \_\_\_\_\_

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

Name of person allegedly engaging in sexual conduct: \_\_\_\_\_

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

\_\_\_\_\_

Description of sexual conduct: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

Evidence of sexual conduct, 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: \_\_\_\_\_

# Evergreen Virtual Academy

Code: JN  
Adopted: 6/18/19  
Revised/Readopted: 8/20/19  
Orig. Code: JN

## Student Fees, Fines and Charges\*\*

The Board recognizes the need for student fees to fund certain school activities which are not sufficiently funded by the public charter school.

No student will be denied an education because of his or her inability to pay supplementary fees.

No student, however, is exempt from charges for lost or damaged books, locks, materials, supplies and equipment.

All student fees and charges, both optional and required, will be listed and described annually in the *Student/Parent Handbook*, or in some other written form, and distributed to each student. Students will be advised of the due dates for such fees and charges as well as of possible penalties for failure to pay them.

In accordance with the law and with Board policy, certain restrictions and/or penalties may be imposed until payment of the debt.

The public charter school may waive all or a portion of the debt if one of the following conditions are met:

1. The public charter school determines that the student or the parent or guardian of the student is unable to pay the debt;
2. The payment of the debt could impact the health or safety of the student;
3. The cost to notify the student and his/her parents would cost more than the potential total debt collected relating to the notice; or
4. There are mitigating circumstances as determined by the administrator of the public charter school that preclude the collection of the debt.

Education records shall not be withheld for student fees, fines and charges if requested in circumstances described in ORS 326.575 and applicable rules of the State Board of Education or such records are requested for use in the appropriate placement of a student.

Prior to collection of debts, the administrator will ensure that notice has been provided as required by ORS 339.270.

END OF POLICY

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### Legal Reference(s):

[ORS 326.565](#)  
[ORS 326.575](#)

[ORS 338.115\(2\)](#)  
[ORS 339.115](#)

[ORS 339.155](#)  
[ORS 339.270](#)

### Cross Reference(s):

IGBAB/JO - Education Records/Records of Students with Disabilities

# Evergreen Virtual Academy

Code: JO/IGBAB-AR  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JO/IGBAB-AR

## Education Records/Records of Students with Disabilities Management

### 1. Student Education Record

Student education records are those records that are directly related to a student and maintained by the public charter school, or by a party acting for the public charter school; however, this does not include the following:

- a. Records of instructional, supervisory and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker of the record, used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
- b. Records of the law enforcement unit of the public charter school subject to the provisions of Oregon Administrative Rule (OAR) 581-021-0225;
- c. Records relating to an individual who is employed by the public charter school that are made and maintained in the normal course of business, that relate exclusively to the individual in that individual's capacity as an employee and that are not available for use for any other purpose. Records relating to an individual in attendance at the public charter school who is employed as a result of his/her status as a student are education records and are not accepted under this section;
- d. Records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, that are:
  - (1) Made or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in his/her professional capacity or assisting in a paraprofessional capacity;
  - (2) Made, maintained or used only in connection with treatment of the student; and
  - (3) Disclosed only to individuals providing the treatment. For purposes of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the public charter school.
- e. Records that only contain information relating to activities in which an individual engaged after he/she is no longer a student at the public charter school;
- f. Medical or nursing records which are made or maintained separately and solely by a licensed health-care professional who is not employed by the public charter school, and which are not used for education purposes or planning.

The public charter school shall keep and maintain a permanent record on each student which includes the:

- a. Name and address of educational agency or institution;
- b. Full legal name of the student;
- c. Student birth date and place of birth;
- d. Name of parents;
- e. Date of entry in school;
- f. Name of school previously attended;
- g. Courses of study and marks received;
- h. Data documenting a student's progress toward achievement of state standards and must include a student's Oregon State Assessment results;
- i. Credits earned;
- j. Attendance;
- k. Date of withdrawal from school; and
- l. Such additional information as the public charter school may prescribe.

The public charter school may also request the social security number of the student and will include the social security number on the permanent record only if the eligible student or parent complies with the request. The request shall include notification to the eligible student or the student's parent(s) that the provision of the social security number is voluntary and notification of the purpose for which the social security number will be used.

The public charter school shall retain permanent records in a minimum one-hour fire-safe place in the public charter school, or keep a duplicate copy of the permanent records in a safe depository in another public charter school location.

## 2. Confidentiality of Student Records

- a. The public charter school shall keep confidential any record maintained on a student in accordance with OAR 581-021-0220 through 581-021-0430.
- b. The public charter school shall protect the confidentiality of personally identifiable information at collection, storage, disclosure and destruction stages.
- c. The public charter school shall identify one official to assume responsibility for ensuring the confidentiality of any personally identifiable information.
- d. All persons collecting or using personally identifiable information shall receive training or instruction on state policies and procedures.

## 3. Rights of Parents and Eligible Students

The public charter school shall annually notify parents and eligible students through the public charter school student/parent handbook or any other means that are reasonably likely to inform the parents or eligible students of their rights. This notification shall state that the parent(s) or eligible student has a right to:

- a. Inspect and review the student's education records;
- b. Request the amendment of the student's education records to ensure that they are not inaccurate, misleading or otherwise in violation of the student's privacy or other rights;

- c. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the applicable state or federal law authorizes disclosure without consent;
- d. Pursuant to OAR 581-021-0410, file with the Family Policy Compliance Office, United States Department of Education a complaint under 34 C.F.R. § 99.64 concerning alleged failures by the public charter school to comply with the requirements of federal law; and
- e. Obtain a copy of the public charter school policy with regard to student education records.

The notification shall also inform parents or eligible students that the public charter school forwards education records requested under OAR 581-021-0255. The notification shall also indicate where copies of the public charter school policy are located and how copies may be obtained.

If the eligible student or the student's parent(s) has a primary or home language other than English, or has a disability, the public charter school shall provide effective notice.

These rights shall be given to either parent unless the public charter school has been provided with specific written evidence that there is a court order, state statute or legally binding document relating to such matters as divorce, separation or custody that specifically revokes these rights.

When a student becomes an eligible student, which is defined as a student who has reached 18 years of age or is attending only an institution of postsecondary education and is not enrolled in a secondary school, the rights accorded to, and the consent required of, the parents transfer from the parents to the student. Nothing prevents the public charter school from giving students rights in addition to those given to parents.

#### 4. Parent's or Eligible Student's Right to Inspect and Review

The public charter school shall permit an eligible student or student's parent(s) or a representative of a parent or eligible student, if authorized in writing by the eligible student or student's parent(s), to inspect and review the education records of the student, unless the education records of a student contain information on more than one student. In that case the eligible student or student's parent(s) may inspect, review or be informed of only the specific information about the student.

The public charter school shall comply with a request for access to records:

- a. Within a reasonable period of time and without unnecessary delay;
- b. For children with disabilities before any meeting regarding an individualized education program (IEP), or any due process hearing, or any resolution session related to a due process hearing;
- c. In no case more than 45 days after it has received the request.

The public charter school shall respond to reasonable requests for explanations and interpretations of the student's education record.

The parent(s) or eligible student shall comply with the following procedure to inspect and review a student's education record:

- a. Provide a written, dated request to inspect a student's education record; and
- b. State the specific reason for requesting the inspection.

The written request will be permanently added to the student's education record. The public charter school shall not destroy any education record if there is an outstanding request to inspect and review the education record.

While the public charter school is not required to give an eligible student or student's parent(s) access to treatment records under the definition of "education records" in OAR 581-021-0220(6)(b)(D), the eligible student or student's parent(s) may, at his/her expense, have those records reviewed by a physician or other appropriate professional of his/her choice.

If an eligible student or student's parent(s) so requests, the public charter school shall give the eligible student or student's parent(s) a copy of the student's education record. The public charter school may recover a fee for providing a copy of the record, but only for the actual costs of reproducing the record unless the imposition of a fee effectively prevents a parent or eligible student from exercising the right to inspect and review the students educational records. The public charter school may not charge a fee to search for or to retrieve the education records of a student.

The public charter school shall not provide the eligible student or student's parent(s) with a copy of test protocols, test questions and answers and other documents described in Oregon Revised Statutes (ORS) 192.501(4) unless authorized by federal law.

The public charter school will maintain a list of the types and locations of education records maintained by the public charter school and the titles and addresses of officials responsible for the records.

Students' education records will be maintained at the public charter school building at which the student is in attendance except for special education records which may be located at another designated location within the public charter school or the district<sup>1</sup>. The operations administrator shall be the person responsible for maintaining and releasing the education records.

## 5. Release of Personally Identifiable Information

Personally identifiable information shall not be released without prior written consent of the eligible student or student's parent(s) except in the following cases:

- a. The disclosure is to other school officials, including teachers, within the public charter school or district who have a legitimate educational interest.

As used in this section, "legitimate educational interest" means a public charter school or district<sup>1</sup> official employed by the public charter school or district<sup>1</sup> as an administrator, supervisor, instructor or staff support member; a person serving on a public charter school or district<sup>1</sup> board; a person or company with whom the public charter school or district<sup>1</sup> has contracted to perform a special task; or a parent or student serving on a special committee such as a disciplinary or grievance committee, or assisting another public charter school or district<sup>1</sup> official in performing his or her tasks needed to review an educational record in order to fulfill his or her professional responsibility (definition from FERPA).

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<sup>1</sup>"District," for the purpose of this policy, means the district in which the public charter school is located.

The public charter school shall maintain, for public inspection, a listing of the names and positions of individuals within the public charter school or district<sup>1</sup> who have access to personally identifiable information with respect to students with disabilities.

- b. The disclosure is to officials of another school within the district<sup>1</sup>;
- c. The disclosure is to authorized representatives of:

The U.S. Comptroller General, U.S. Attorney General, U.S. Secretary of Education or state and local education authorities or the Oregon Secretary of State Audits Division in connection with an audit or evaluation of federal or state-supported education programs or the enforcement of or compliance with federal or state-supported education programs or the enforcement of or compliance with federal or state regulations.

- d. The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:

- (1) Determine eligibility for the aid;
- (2) Determine the amount of the aid;
- (3) Determine the conditions for the aid; or
- (4) Enforce the terms and condition of the aid.

As used in this section “financial aid” means any payment of funds provided to an individual that is conditioned on the individual’s attendance at an educational agency or institution.

- e. The disclosure is to organizations conducting studies for, or on behalf of, the district to:

- (1) Develop, validate or administer predictive tests;
- (2) Administer student aid programs; or
- (3) Improve instruction.

- f. The public charter school may disclose information under this section only if disclosure is to an official listed in paragraph c. above and who enters into a written agreement with the district that:

- (1) Specifies the purpose, scope and duration of the study and the information to be disclosed;
- (2) Limits the organization to using the personally identifiable information only for the purpose of the study;
- (3) The study is conducted in a manner that does not permit personal identification of parents or students by individuals other than representatives of the organization; and
- (4) The information is destroyed when no longer needed for the purposes for which the study was conducted.

For purposes of this section, the term “organization” includes, but is not limited to, federal, state and local agencies and independent organizations.

The district may disclose information under this section only if the disclosure is to an official listed in paragraph c. above who is conducting an audit related to the enforcement of or

compliance with federal or state legal requirements and who enters into a written agreement with the district that:

- (1) Designates the individual or entity as an authorized representative;
  - (2) Specifies the personally identifiable information being disclosed;
  - (3) Specifies the personally identifiable information being disclosed in the furtherance of an audit, evaluation or enforcement or compliance activity of the federal or state supported education programs;
  - (4) Describes the activity with sufficient specificity to make clear it falls within the audit or evaluation exception, this must include a description of how the personally identifiable information will be used;
  - (5) Requires information to be destroyed when no longer needed for the purpose for which the study was conducted;
  - (6) Identifies the time period in which the personally identifiable information must be destroyed; and
  - (7) Establishes policies and procedures which are consistent with Family Education Rights and Privacy Act (FERPA) and other federal and state confidentiality and privacy provisions to insure the protection of the personally identifiable information from further disclosure and unauthorized use.
- g. The disclosure is to accrediting organizations to carry out their accrediting functions;
- h. The disclosure is to comply with a judicial order or lawfully issued subpoena. The public charter school may disclose information under this section only if the public charter school makes a reasonable effort to notify the eligible student or student's parent(s) of the order or subpoena in advance of compliance, unless an order or subpoena of a federal court or agency prohibits notification to the parent(s) or student;
- i. The disclosure is to comply with a judicial order or lawfully issued subpoena when the parent is a party to a court proceeding involving child abuse and neglect or dependency matters;
- j. The disclosure is to the parent(s) of a dependent student, as defined in Section 152 of the Internal Revenue Code of 1986;
- k. The disclosure is in connection with a health or safety emergency. The public charter school shall disclose personally identifiable information from an education record to law enforcement, child protective services and health-care professionals, and other appropriate parties in connection with a health and safety emergency if knowledge of the information is necessary to protect the health and safety of the student or other individuals.

As used in this section a "health or safety emergency" includes, but is not limited to, law enforcement efforts to locate a child who may be a victim of kidnap, abduction or custodial interference and law enforcement or child protective services efforts to respond to a report of abuse of a child or neglect pursuant to applicable state law.

- l. The disclosure is information the district has designated as "directory information" (See Board policy JOA – Directory Information);
- m. The disclosure is to the parent(s) of a student who is not an eligible student or to an eligible student;
- n. The disclosure is to officials of another school, school system, institution of postsecondary education, an education service district (ESD), state regional program or other educational agency that has requested the records and in which the student seeks or intends to enroll or is enrolled or in which the student receives services. The term "receives services" includes, but is

not limited to, an evaluation or reevaluation for purposes of determining whether a student has a disability;

- o. The disclosure is to the Board during an executive session pursuant to ORS 332.061.
- p. The disclosure is to a caseworker or other representative, who has the right to access the student's case plan, of a state or local child welfare agency or tribal organization that are legally responsible for the care and protection of the student, provided the personally identifiable information will not be disclosed unless allowed by law.

The public charter school will use reasonable methods to identify and authenticate the identity of the parents, students, school officials and any other parties to whom the public charter school discloses personally identifiable information from educational records;

## 6. Record-Keeping Requirements

The public charter school shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student. Exceptions to the record keeping requirements shall include the parent, eligible student, school official or his/her designee responsible for custody of the records and parties authorized by state and federal law for auditing purposes. The public charter school shall maintain the record with the education records of the student as long as the records are maintained. For each request or disclosure the record must include:

- a. The party or parties who have requested or received personally identifiable information from the education records; and
- b. The legitimate interests the parties had in requesting or obtaining the information.

The following parties may inspect the record of request for access and disclosure to a student's personally identifiable information:

- a. The parent(s) or eligible student;
- b. The school official or his/her designee who are responsible for the custody of the records;
- c. Those parties authorized by state or federal law for purposes of auditing the record keeping procedures of the public charter school.

## 7. Request for Amendment of Student's Education Record

If an eligible student or student's parent(s) believes the education records relating to the student contain information that is inaccurate, misleading or in violation of the student's rights of privacy or other rights, he/she may ask the administrator where the record is maintained to amend the record.

The administrator shall decide, after consulting with the necessary staff, whether to amend the record as requested within a reasonable time after the request to amend has been made.

The request to amend the student's education record shall become a permanent part of the student's education record.

If the administrator decides not to amend the record as requested, the eligible student or the student's parent(s) shall be informed of the decision and of his/her right to appeal the decision by requesting a hearing.

## 8. Hearing Rights of Parents or Eligible Students

If the administrator decides not to amend the education record of a student as requested by the eligible student or the student's parent(s), the eligible student or student's parent(s) may request a formal hearing for the purpose of challenging information in the education record as inaccurate, misleading or in violation of the privacy or other rights of the student. The public charter school shall appoint a hearings officer to conduct the formal hearing requested by the eligible student or student's parent. The hearing may be conducted by any individual, including an official of the public charter school, who does not have a direct interest in the outcome of the hearing. The hearings officer will establish a date, time and location for the hearing, and give the student's parent or eligible student notice of date, time and location reasonably in advance of the hearing. The hearing will be held within 10 working days of receiving the written or verbal request for the hearing.

The hearings officer will convene and preside over a hearing panel consisting of:

- a. The administrator or his/her designee;
- b. A member chosen by the eligible student or student's parent(s); and
- c. A disinterested, qualified third party appointed by the administrator.

The parent or eligible student may, at his/her own expense, be assisted or represented by one or more individuals of his/her own choice, including an attorney. The hearing shall be private. Persons other than the student, parent, witnesses and counsel shall not be admitted. The hearings officer shall preside over the panel. The panel will hear evidence from the public charter school staff and the eligible student or student's parent(s) to determine the point(s) of disagreement concerning the records. Confidential conversations between a licensed employee or public charter school or district counselor and a student shall not be part of the records hearing procedure. The eligible student or student's parent(s) has the right to insert written comments or explanations into the record regarding the disputed material. Such inserts shall remain in the education record as long as the education record or contested portion is maintained and exists. The panel shall make a determination after hearing the evidence and make its recommendation in writing within 10 working days following the close of the hearing. The panel will make a determination based solely on the evidence presented at the hearing and will include a summary of the evidence and the reason for the decision. The findings of the panel shall be rendered in writing not more than 10 working days following the close of the hearing and submitted to all parties.

If, as a result of the hearing, the panel decides that the information in the education record is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall inform the eligible student or the student's parent(s) of the right to place a statement in the record commenting on the contested information in the record or stating why he/she disagrees with the decision of the panel. If a statement is placed in an education record, the public charter school will ensure that the statement:

- a. Is maintained as part of the student's records as long as the record or contested portion is maintained by the public charter school or the district<sup>1</sup>; and
- b. Is disclosed by the public charter school to any party to whom the student's records or the contested portion are disclosed.

If, as a result of the hearing, the panel decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall:

- a. Amend the record accordingly; and
- b. Inform the eligible student or the student's parent(s) of the amendment in writing.

9. Duties and Responsibilities When Requesting Education Records

The public charter school shall, within 10 days of a student seeking initial enrollment in or services from the public charter school, notify the public or private school, ESD, institution, agency or detention facility or youth care center in which the student was formerly enrolled and shall request the student's education records.

10. Duties and Responsibilities When Transferring Education Records

The public charter school shall transfer originals of all requested student education records, including any ESD records, relating to the particular student to the new educational agency when a request to transfer the education records is made to the district. The transfer shall be made no later than 10 days after receipt of the request. For students in substitute care programs, the transfer must take place within five days of a request. Readable copies of the following documents shall be retained:

- a. The student's permanent records, for one year;
- b. Such special education records as are necessary to document compliance with state and federal audits, for five years after the end of the school year in which the original was created. In the case of records documenting speech pathology and physical therapy services, until the student reaches age 21 or 5 years after last seen, whichever is longer.

Note: Education records shall not be withheld for student fees, fines and charges if requested in circumstances described in ORS 326.575 and applicable rules of the State Board of Education or such records are requested for use in the appropriate placement of a student.

## **Disclosure Statement**

Required for use in collecting personally identifiable information related to social security numbers.

On any form that requests the social security number (SSN), the following statement shall appear just above the space for the SSN:

“Providing your social security number (SSN) is voluntary. If you provide it, the public charter school will use your SSN for record keeping, research, and reporting purposes only. The public charter school will not use your SSN to make any decision directly affecting you or any other person. Your SSN will not be given to the general public. If you choose not to provide your SSN, you will not be denied any rights as a student. Please read the statement on the back of this form that describes how your SSN will be used. Providing your SSN means that you consent to the use of your SSN in the manner described.”

The public charter school, district and Oregon Department of Education may also match your SSN with records from other agencies as follows:

The Oregon Department of Education uses information gathered from the Oregon Employment Division to learn about education, training and job market trends. The information is also used for planning, research and program improvement.

State and private universities, colleges, community colleges and vocational schools use the information to find out how many students go on with their education and their level of success.

Other state agencies use the information to help state and local agencies plan educational and training services to help Oregon citizens get the best jobs available.

Your SSN will be used only for statistical purposes as listed above. State and federal law protects the privacy of your records.

# Evergreen Virtual Academy

Code: JO/IGBAB  
Adopted: 6/18/19  
Orig. Code: 10/21/13

## Education Records/Records of Students with Disabilities\*\*

Education records are those records maintained by the public charter school that are directly related to a student.

The primary reason for the keeping and maintaining of education records for students is to help the individual student in his/her educational development by providing pertinent information for the student, his/her teachers and his/her parents. These records also serve as an important source of information to assist students in seeking productive employment and/or post-high school education.

The public charter school shall maintain confidential education records of students in a manner that conforms with state and federal laws and regulations.

Information recorded on official education records should be carefully selected, accurate, verifiable and should have a direct and significant bearing upon the student's educational development.

The public charter school annually notifies parents or adult students that it forwards educational records requested by an educational agency or institution in which the student seeks to enroll or receive services, including special education evaluation services.

The public charter school shall comply with a request from parents or an adult student to inspect and review records without unnecessary delay. The public charter school provides to parents of a student with a disability or to an adult student with a disability the opportunity at any reasonable time to examine all of the records of the public charter school pertaining to the student's identification, evaluation, educational placement and free appropriate public education. The public charter school provides parents or an adult student, on request, a list of the types and locations of education records collected, maintained and used by the public charter school.

The public charter school annually notifies parents of all students, including adult students, currently in attendance that they have to right to:

1. Inspect and review the student's records;
2. Request the amendment of the student's educational records to ensure that they are not inaccurate, misleading or otherwise in violation of the student's privacy or other rights;
3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the student educational record rules authorize disclosure without consent. (See Board policy JOB – Personally Identifiable Information);
4. File with the U.S. Department of Education a complaint concerning alleged failures by the public charter school to comply with the requirements of the Family Educational Rights and Privacy Act; and
5. Obtain a copy of the public charter school's education records policy.

Regarding records to be released to public charter school officials within the agency, the public charter school's notice includes criteria for determining legitimate educational interest and the criteria for determining which school officials have legitimate educational interests. School officials may also include a volunteer or contractor who performs an institutional service on behalf of the public charter school.

The public charter school annually notifies parents and adult students of what it considers to be directory information and the disclosure of such. (See Board policy JOA – Directory Information).

The public charter school shall give full rights to education records to either parent, unless the public charter school has been provided legal evidence that specifically revokes these rights. Once the student reaches age 18 those rights transfer to the student.

A copy of this policy and administrative regulation shall be made available upon request to parents and students 18 years of age or older or emancipated and the general public.

END OF POLICY

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Legal Reference(s):

[ORS 30.864](#)

[ORS 107.154](#)

[ORS 326.565](#)

[ORS 326.575](#)

[ORS 326.580](#)

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

[ORS 339.270](#)

[ORS 343.177\(3\)](#)

[OAR 166-400-0010 to -166-400-0065](#)

[OAR 581-021-0220 to -0430](#)

[OAR 581-022-2260](#)

[OAR 581-022-2270](#)

Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400-1419 (2012).

Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (2012); Family Educational Rights and Privacy, 34 C.F.R. Part 99 (2017).

Assistance to States for the Education of Children with Disabilities, 34 C.F.R. § 300.501 (2017).

**Cross Reference(s):**

IGBAB/JO - Education Records/Records of Students with Disabilities

JOA - Directory Information

JOB - Personally Identifiable Information

# Evergreen Virtual Academy

Code: JOA  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JOA

## Directory Information\*\*

Directory information means those items of personally identifiable information contained in a student education record which is not generally considered harmful or an invasion of privacy if released. The following categories are designated as directory information. The following directory information may be released to the public through appropriate procedures:

1. Student's name;
2. Student's address including electronic address;
3. Student's telephone listing;
4. Student's photograph;
5. Grade level.

### Public Notice

The public charter school will give annual public notice to parents of students in attendance and students 18 years of age or emancipated. The notice shall identify the types of information considered to be directory information, the public charter school's option to release such information and the requirement that the public charter school must, by law, release secondary students' names, addresses and telephone numbers to military recruiters and/or institutions of higher education, unless parents or eligible students request the public charter school withhold this information. Such notice will be given prior to release of directory information.

### Exclusions

Exclusions from any or all directory categories named as directory information or release of information to military recruiters and/or institutions of higher education must be submitted in writing to the public charter school administrator by the parent, student 18 years of age or emancipated student within 15 days of annual public notice. A parent or student 18 years of age or emancipated student may not opt out of directory information to prevent the public charter school from disclosing or requiring a student to disclose their name or from requiring a student to disclose a student ID card or badge that exhibits information that has been properly designated directory information by the public charter school in this policy.

Directory information shall be released only with administrative direction.

Directory information considered by the public charter school to be detrimental will not be released.

Information will not be given over the telephone except in health and safety emergencies.

At no point will a student's Social Security Number or student identification number be considered directory information. The public charter school shall not, in accordance with state law, disclose personal information for the purpose of enforcement of federal immigration laws.

END OF POLICY

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**Legal Reference(s):**

[ORS 30.864](#)  
[ORS 107.154](#)  
[ORS 180.805](#)  
[ORS 326.565](#)

[ORS 326.575](#)  
[ORS 336.187](#)  
[ORS 338.115\(1\)\(a\)](#)

[OAR 581-021-0220 to -0430](#)  
[OAR 581-022-2260](#)

Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400-1419 (2012).

Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (2012); Family Educational Rights and Privacy, 34 C.F.R. Part 99 (2017).

Every Student Succeeds Act of 2015, 20 U.S.C. § 7908 (2012).

**Cross Reference(s):**

IGBAB/JO - Education Records/Records of Students with Disabilities

JO/IGBAB - Education Records/Records of Students with Disabilities

# Evergreen Virtual Academy

Code: JOB  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: JOB

## Personally Identifiable Information\*\*

Personally identifiable information includes, but is not limited to:

1. Student's name, if excluded from directory information, as requested by the student/parent in writing;
2. Name of the student's parent(s) or other family member;
3. Address of the student or student's family, if excluded from directory information, as requested by the student/parent in writing;
4. Personal identifier such as the student's social security number or student ID number or biometric record;
5. A list of personal characteristics that would make the student's identity easily traceable such as student's date of birth, place of birth and mother's maiden name;
6. Other information alone or in combination that would make the student's identity easily traceable;
7. Other information requested by a person who the public charter school reasonably believes knows the identity of the student to whom the educational record relates.

### Prior Consent to Release

Personally identifiable information will not be released without prior signed and dated consent of the parent, student 18 years of age or older or emancipated.

Notice of and/or request for release of personally identifiable information shall specify the records to be disclosed, the purpose of disclosure and the identification of person(s) to whom the disclosure is to be made. Upon request of the parent or eligible student, the public charter school will provide a copy of the disclosed record.

## Exceptions to Prior Consent

The public charter school may disclose personally identifiable information without prior consent under the following conditions:

1. To personnel within the public charter school or district<sup>1</sup> who have legitimate educational interests;
2. To personnel of an education service district or state regional program where the student is enrolled or is receiving services;
3. To personnel of another school, another district, state regional program or institution of postsecondary education where the student seeks or intends to enroll;
4. To authorized representatives of the U.S. Comptroller General, U.S. Attorney General, U.S. Secretary of Education or state and local education authorities or the Oregon Secretary of State Audits Division in connection with an audit or evaluation of federal or state-supported education programs or the enforcement of or compliance with federal or state supported education programs or the enforcement of or compliance with federal or state regulations;
5. To personnel determining a financial aid request for the student;
6. To personnel conducting studies for or on behalf of the public charter school or district<sup>1</sup>;
7. To personnel in accrediting organizations fulfilling accrediting functions;
8. To comply with a judicial order or lawfully issued subpoena;
9. For health or safety emergency;
10. By request of a parent of a student who is not 18 years of age;
11. By request of a student who is 18 years of age or older or emancipated;
12. Because information has been identified as “directory information;”
13. To the courts when legal action is initiated;
14. To a court and state and local juvenile justice agencies;
15. A judicial order or lawfully issued subpoena when the parent is a party to a court proceeding involving child abuse and neglect or dependency matters;
16. To a caseworker or other representative of a state or local child welfare agency or tribal organization that are legally responsible for the care and protection of the student including educational stability of children in foster care.

END OF POLICY

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<sup>1</sup>“District” for the purpose of this policy, means the district in which the public charter school is located.

**Legal Reference(s):**

[ORS 30.864](#)  
[ORS 107.154](#)  
[ORS 326.565](#)  
[ORS 326.575](#)

[ORS 336.187](#)  
[ORS 338.115\(a\)](#)  
  
[OAR 581-015-2000](#)

[OAR 581-021-0220 to -0430](#)  
[OAR 581-022-2260](#)

Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400-1419 (2012).  
Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (2012); Family Educational Rights and Privacy, 34 C.F.R. Part 99 (2017). 2012Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (2017).  
Uninterrupted Scholars Act (USA), 2013 (P.L. 112-278, Jan. 14, 2013), 20 U.S.C. § 1221 (2012).

**Cross Reference(s):**

IGBAB/JO - Education Records/Records of Students with Disabilities  
JO/IGBAB - Education Records/Records of Students with Disabilities

# Evergreen Virtual Academy

Code: KAB  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: KAB

## Parental Rights\*\*

The public charter school board recognizes the importance of promoting parental input in decision making related to their student's health and general well-being, in determining public charter school and student needs for educational services, in program development and public charter school operations. To assist the public charter school in this effort, and in accordance with the Every Student Succeeds Act (ESSA), the public charter school affirms the right of parents, upon request, to inspect:

1. A survey created by a third party before the survey is administered or distributed by the public charter school to a student, including any district survey containing "covered survey items"<sup>1</sup> as defined by ESSA;
2. Any instructional material used by the public charter school as part of the educational curriculum for the student;
3. Any instrument used in the collection of personal information from students for the purpose of marketing or for selling that information or otherwise providing that information to others for that purpose.

As provided by law, parents of public charter school students will also, upon request, be permitted to excuse their student from "covered activities"<sup>2</sup> as defined by. The rights provided to parents under this policy, transfer to the student when the student turns 18 years of age, or is an emancipated minor under applicable state law.

The public charter school administrator will ensure that activities requiring parental notification are provided as required by law and that reasonable notice of the adoption or continued use of this policy is provided to parents of students enrolled in the public charter school. The input of parents will be encouraged in the development, adoption and any subsequent revision of this policy.

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<sup>1</sup>"Covered survey items," under ESSA, includes one or more of the following items: political affiliations or beliefs of the student or the student's family; mental and psychological problems of the student or the student's family; sex behavior or attitudes; illegal, antisocial, self-incriminating or demeaning behavior; critical appraisals of other individuals with whom respondents have close family relationships; legally recognized privileged or analogous relationships, such as those of lawyers, physicians and ministers; religious practices, affiliations or beliefs of the student or the student's parent; and income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such a program.

<sup>2</sup>"Covered activities," requiring notification under ESSA, include activities involving the collection, disclosure or use of personal information collected from students for the purpose of marketing or for selling that information or otherwise providing that information to others for that purpose; the administration of any survey containing one or more of covered survey items; and any nonemergency, invasive physical examination or screening that is required as a condition of attendance and administered and scheduled by the school in advance. See the administrative regulation for additional definitions.

The public charter school administrator shall develop administrative regulations to implement this policy, including provisions as may be necessary to ensure appropriate notification to parents of their rights under federal law and public charter school procedures to request review of covered materials, excuse a student from participating in covered activities and protect student privacy in the event of administration or distribution of a survey to a student.

END OF POLICY

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**Legal Reference(s):**

[ORS 338.115\(1\)\(w\)](#)

Protection of Pupil Rights, 20 U.S.C. § 1232h (2012); Student Rights in Research, Experimental Programs and Testing, 34 C.F.R. Part 98 (2015).

Every Student Succeeds Act of 2015, 20 U.S.C. § 7928 (2012).

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

# Evergreen Virtual Academy

Code: KAB-AR  
Revised/Reviewed: 10/21/13; 6/18/19  
Orig. Code: KAB-AR

## Parental Rights

The following definitions and procedures will be used to implement the parental rights requirements of the Every Student Succeeds Act (ESSA):

### Definitions

1. “Survey,” as defined by federal law and as used in Board policy and this regulation, includes an evaluation. It does not apply to a survey administered to a student in accordance with the Individuals with Disabilities Education Act (IDEA);
2. “Covered survey items” means one or more of the following items: political affiliations or beliefs of the student or the student’s family; mental and psychological problems of the student or the student’s family; sex behavior or attitudes; illegal, antisocial, self-incriminating or demeaning behavior; critical appraisals of other individuals with whom respondents have close family relationships; legally recognized privileged or analogous relationships, such as those of lawyers, physicians and ministers; religious practices, affiliations or beliefs of the student or the student’s parent; and income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such a program;
3. “Covered activities” requiring notification under ESSA means those activities involving the collection, disclosure or use of personal information collected from students for the purpose of marketing or for selling that information or otherwise providing that information to others for that purpose; the administration of any survey containing one or more covered survey items; and any nonemergency, invasive physical examination or screening that is required as a condition of attendance, administered and scheduled by the school in advance and not necessary to protect the immediate health and safety of the student, or of other students. This provision does not apply to physical examinations or screenings that are permitted or required by law, including physical examinations or screenings permitted without parental notification;
4. “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 control;
5. “Instructional material” means instructional content that is provided to a student, regardless of its format, including printed or representational materials, audiovisual materials and materials in electronic or digital formats (such as materials accessible through the Internet). The term does not include academic tests or academic assessments;
6. “Personal information” means individually identifiable information including a student or parent’s first and last name; a home or other physical address (including street name and the name of the city or town); telephone number; or a social security identification number;

7. “Invasive physical examination” means any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion or injection into the body. It does not include a hearing, vision or scoliosis screening and does not apply to any physical examination or screening that is permitted or required by an applicable state law, including physical examinations or screenings that are permitted without parental notification.

### **Requests to Inspect Materials**

Parents may inspect surveys, instructional materials or instruments used to collect personal student information for marketing purposes before such items are administered or distributed by a public charter school to a student as follows:

1. Requests may be directed to the public charter school office by phone or in person;
2. Requests must be received by the public charter school no later than five working days following receipt of notification by the public charter school of its intent to administer or distribute such items;
3. Materials may be reviewed at the public charter school office or mailed by the public charter school;
4. Requests to mail materials must be accompanied by a self-addressed, stamped envelope.

### **Requests to Excuse Student from Covered Activities**

A parent may request that his/her student be excused from participation in any of the following covered activities:

1. The collection, disclosure or use of personal information collected from students for the purpose of marketing or selling that information to others;
2. Any public charter school or third party survey;
3. The administration of nonemergency, invasive physical examinations or screenings.

All such requests must be:

1. Directed to the public charter school administrator in writing;
2. Received by the public charter school no later than five working days following receipt of notification by the public charter school of its intent to administer or distribute such items.

## **Student Privacy**

The public charter school recognizes its responsibility to protect student privacy in the event of administration or distribution of a survey to a student containing one or more covered survey items.

A student's personal information that may be collected as a result of such surveys will be released only with prior, written parental permission. The public charter school will use reasonable methods to identify and authenticate the identity of the parents, students, school officials, and any other parties to whom the public charter school discloses personally identifiable information from educational records.

## **Notification**

The public charter school administrator shall be responsible for ensuring appropriate notification to parents of their rights under federal law, Board policy and this regulation. Accordingly, notification will:

1. Be made at least annually at the beginning of the public charter school year or at other times during the public charter school year when enrolling students for the first time in school;
2. Include the specific or approximate dates during the public charter school year when covered activities are scheduled or expected to be scheduled.

# Evergreen Virtual Academy

Code: KBA  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: KBA

## Public Records\*\*

“Public record” means any information that:

1. Is prepared, owned, used or retained by the public charter school;
2. Is related to an activity, transaction or function of the public charter school; and
3. Is necessary to satisfy the fiscal, legal, administrative or historical policies, requirements or needs of the public charter school.

Public record does not include messages on voice mail or on other telephone message storage and retrieval systems or spoken communication that is not recorded.

A request to inspect or receive a copy of a public record shall be in writing and will be presented to the administrator’s office.

Board meetings and records will be matters of public information subject to such restrictions as are set by federal law or regulation, by state statute or by pertinent court rulings.

The Board’s official minutes, its written policies and its financial records will be available at the head of school’s office for inspection by any citizen desiring to examine them during hours when the head of school’s office is open. All such information will be made available to individuals with disabilities in any appropriate format upon request and with appropriate advanced notice. Auxiliary aids and services available to ensure equally effective communications to qualified persons with disabilities may include large print, Braille, audio recordings, readers, assistance in locating materials or other equally effective accommodations.

The Board supports the right of the people to know about programs and services of their schools and will make every effort to disseminate information. The administrator is authorized to use all means available to keep parents and others of his or her particular charter school’s community informed about the public charter school’s program and activities.

No records will be released for inspection by the public or any unauthorized persons – either by the administrator any other person designated as custodian for public charter school records – if such disclosure would be contrary to the public interest, as described in state law.

The Board reserves the right to establish a fee schedule which will reasonably reimburse the public charter school for the actual cost of making public records available pursuant to law. The public charter school will not be obligated to complete a request for which the requester has not paid the fee as permitted by state law. There will be no additional charge for auxiliary aids and services provided for qualified persons with disabilities.

Public charter school employee and volunteer addresses, electronic mail addresses (other than public charter school electronic mail addresses assigned by the public charter school to employees), social security numbers, dates of birth and telephone numbers contained in personnel records maintained by the public charter school are exempt from public disclosure pursuant to Oregon Revised Statutes (ORS) 192.445 and ORS 192.502 (3). Such information may be released only upon the written request of the employee or volunteer or as otherwise provided by law. This exemption does not apply to a substitute teacher, as defined in ORS 342.815, when requested by a professional education association of which the substitute teacher may be a member. Public charter school electronic mail addresses assigned by the public charter school to employees are not exempt.

The public charter school will not disclose the identification badge or card of an employee without the employee's written consent if the badge or card contains the employee's photograph and the badge or card was prepared solely for internal use by the public charter school to identify public charter school employees. A duplicate of the photograph used on the badge or card shall not be disclosed.

The public charter school shall not, in accordance with state law, disclose personal information for the purpose of enforcement of federal immigration laws.

The public charter school shall retain and maintain its public records in accordance with OAR 166, Division 400.

END OF POLICY

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**Legal Reference(s):**

[ORS Chapter 192](#)  
[ORS 338.115\(2\)](#)

[OAR 137-004-0800\(1\)](#)  
[OAR 166-400](#)

SB 481 (2017)  
HB 3464 (2017)

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

OREGON DEP'T OF JUSTICE, OREGON ATTORNEY GENERAL'S, *Public Records and Meetings Manual* (2014).  
Americans with Disabilities Act Amendments Act of 2008.

# Evergreen Virtual Academy

Code: KBA-AR  
Revised/Reviewed: 6/18/19  
Orig. Code: KBA-AR

## Public Records

In compliance with Oregon law the following guidelines apply to the dissemination, inspection and examination of the public records of the public charter school:

1. A public records request shall be submitted in writing through the administrator's office at 400 Virginia Avenue, Suite 210, North Bend, OR 97459.
2. Upon receipt of a written request, the public charter school shall respond within five business days<sup>1</sup> acknowledging receipt of the request or completing<sup>2</sup> the public charter school's response to the request. If the public charter school provides an acknowledgment of the request, it must:
  - a. Confirm that the public charter school is the custodian of the requested record;
  - b. Inform the requester that the public charter school is not the custodian of the requested record; or
  - c. Notify the requester that the public charter school is uncertain whether the public charter school is the custodian of the requested record.
3. If the public charter school is the custodian of the requested record, as soon as reasonably possible but not later than 10 business days after the date the public charter school is required to acknowledge receipt of the request as described above, the public charter school shall:
  - a. Complete its response to the public records request. If the public charter school determines that a record is exempt from public disclosure, the public charter school will include a statement to that effect, and that the requester may appeal the decision pursuant to state law; or
  - b. Provide a written statement that the public charter school is still processing the request and a reasonable estimated date by which the public charter school expects to complete its response based on the information currently available.
4. The time periods, established by Oregon law and identified above in Section 2 or 3, will not apply to the public charter school if compliance would be impracticable because:
  - a. The staff or volunteers<sup>3</sup> necessary to complete a response to the public records request are unavailable;
  - b. Compliance would demonstrably impede the public charter school's ability to perform other necessary services; or

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<sup>1</sup>"Business day" means a day other than Saturday, Sunday or a legal holiday, and on which at least one paid employee of the public charter school is scheduled to and does report to work. Business day does not include any day on which the public charter school is closed.

<sup>2</sup>The public charter school response to a public records request will be considered complete pursuant to criteria in Oregon law (ORS 192.410-192.505).

<sup>3</sup>Staff member or volunteers who are on leave or are not scheduled to work are considered to be unavailable.

- c. Of the volume of the public records request being simultaneously processed by the public charter school.

The public charter school shall, as soon as practicable and without unreasonable delay, acknowledge a public records request and complete the response to the request.

- 5. The public charter school may request additional information or clarification from the requester for the purpose of expediting the public charter school's response to the request as permitted by law. If the public charter school requests additional information or clarification, in good faith, the obligation to complete the request is suspended until the requester provides the requested information or clarification or affirmatively declines to provide the information or clarification.
- 6. If a copy of a public record is requested, the public charter school will provide a single certified copy. If a request to inspect a public record is made and the record is maintained in a machine readable or electronic form, the custodian shall provide the record in the form requested, if available. If the public record is not available in the form requested, it will be provided in the form the record is maintained. If a person who is a party to a civil judicial proceeding to which the public charter school is a party or who has filed notice under Oregon Revised Statute (ORS) 30.275(5)(a) asks to inspect or to receive a copy of a public record that the person knows relates to the proceeding or notice, the individual must submit the request in writing to the designated custodian of public charter school records and at the same time to the public charter school's attorney.
- 7. Information will be made available to individuals with disabilities in an appropriate format upon request and advance notice. Auxiliary aids and services available to qualified persons with disabilities may include large print, Braille, audio recordings, readers, assistance in locating materials or other equally effective accommodations.
- 8. Where the labor effort exceeds 30 minutes, labor, material and out-of-pocket charges will be reimbursed to the public charter school. Labor will be calculated at the hourly rate of the employee affected. Materials and out-of-pocket charges will be reimbursed at the established rate of \$.25 per page. Auxiliary aids and services for qualified persons with disabilities will be available at no additional charge.

If the public charter school has informed the requester of a permitted fee, the obligation of the public charter school to complete its response to the request is suspended until the fee has been received by the public charter school. If the requester fails to pay the fee within 60 days of the date he/she was informed of the fee or fails to pay the fee within 60 days of the date on which the public charter school informed them of the denial of the fee waiver, the public charter school shall close the request.

- 9. The public charter school reserves the right to restrict the inspection of some public records to the public charter school's facilities.

# Evergreen Virtual Academy

Code: KGC/GBK/JFCG  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: KGC/GBK/JFCG

## **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 public charter school's curriculum and Oregon law, student possession, use, distribution or sale of tobacco products or inhalant delivery systems in any form on or off public charter school's premises, at public charter school-sponsored activities, on all public charter school grounds, including parking lots, in public charter school-owned, rented or leased vehicles or otherwise, while the student is under the jurisdiction of the public charter school is prohibited at all times.

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, 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 - 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 administrator, 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.

END OF POLICY

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**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 581-021-0110](#)  
[OAR 581-022-2045](#)  
[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).

# Evergreen Virtual Academy

Code: KGF/EDC  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: KGF/EDC

## Authorized Use of School Equipment and Materials

Public charter school materials and equipment will be used only for school purposes by public charter school personnel.

Exceptions to this policy must be approved by the administrator and authorized use shall be consistent with ORS Chapter 244.

END OF POLICY

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### Legal Reference(s):

[ORS Chapter 244](#)

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

[OAR 584-020-0040](#)

OREGON GOVERNMENT ETHICS COMMISSION, OREGON GOVERNMENT ETHICS LAW, A GUIDE FOR PUBLIC OFFICIALS (2010).

### Cross Reference(s):

EDC/KGF - Authorized Use of School Equipment and Materials

# Evergreen Virtual Academy

Code: KJA  
Adopted: 6/18/19  
Orig. Code: KJA

## Materials Distribution\*\*

Requests by individuals or groups to distribute pamphlets, booklets, flyers, brochures and other similar materials to students for classroom use or to take home shall be submitted to the charter school administration. Materials and the proposed method of distribution shall be subject to review.

Materials shall be reviewed based on legitimate educational concerns. Such concerns include: the material is or may be defamatory; the material is inappropriate based on the age, grade level and/or maturity of the reading audience; the material is poorly written, inadequately researched, biased or prejudiced; the material contains information that is not factual; the material is not free of racial, ethnic, religious or sexual bias; or the material contains advertising that violates public school laws, rules and/or policy, is deemed inappropriate for students or that the public might reasonably perceive to bear the sanction or approval of the public charter school administrator.

The administrator shall determine distribution procedures. Such procedures may include:

1. Distribution to each student before or after class if materials are not directly related to the instructional goals;
2. Notification to students or parents of the availability of the materials in a specified location if this procedure is deemed less disruptive to the educational process; or
3. Solicitation of school-related groups such as parent organizations to distribute materials.

The practice of distributing pamphlets, booklets, flyers, brochures and other similar materials shall be periodically reviewed to ensure that the mere volume of requests has not become an interruption to the educational process.

END OF POLICY

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### Legal Reference(s):

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

46 OR. ATTY. GEN. OP. 239 (1989).

# Evergreen Virtual Academy

Code: KL  
Adopted: 10/21/13  
Revised/Readopted: 6/18/19  
Orig. Code: KL

## Public Complaints

Members of the public, parents staff and students are encouraged to make their concerns known to the public charter school and to afford the public charter school an opportunity to review those concerns and respond to them.

Complaints about instructional materials, staff members alleged violation of state standards or retaliation against a student or a student's parent who in good faith reported information that the student believes is evidence of violation of state and/or federal law, rule or regulation, should approach the administrator and, if possible, resolve the problems at this level.

The complainant must follow the complaint procedure as outlined in administrative regulation KL-AR - Public Complaint Procedure.

Complaints about Board policy or administrative regulations should be referred directly to the administrator.

Complaints about the head of school may start at step 3 and should be reported to the Board chair on behalf of the Board.

Complaints against the Board as a whole or against an individual Board member may start at step4 and should be made to the Board chair on behalf of the Board.

Complaints against the Board chair may start at step 4 and should be made directly to Board vice chair on behalf of the Board.

If the person(s) having a complaint fails to resolve the concern with the administrator, the person may request that the matter be referred to the Board. If the Board deems it advisable it may provide for a hearing of the complaint at an official meeting of the Board.

When a complaint is made directly to the Board or to an individual Board member, it will generally be referred to the head of school for study and possible solution. Complaints about the administrator should be reported to the head of school. Complaints about the head of school should be reported to the Board chair.

The head of school shall development administrative regulations designed to encourage the timely resolution of public complaints while providing a system of review which will allow both the complainant and other affected parties an opportunity to be heard.

If a student, parent or guardian of a student who attends the public charter school or a person who resides in the district where the school is located alleges a violation of Oregon Administrative Rules, Chapter 581, Division 22 (Standards), Oregon Revised Statute (ORS) 339.285 to 339.383 or OAR 581-021-0550 to 581-021-0570 (Restraint and Seclusion) or ORS. 659.852 (Retaliation) and the complaint is not resolved through the complaint process, the complainant may have appeal rights with the Deputy Superintendent of Public Instruction as outlined in OAR 581-002-0040[ (See KL-AR(2) - Appeal to the Deputy Superintendent of Public Instruction).

If the complaint alleges discrimination pursuant to ORS 659.850 (Discrimination) and the complaint is not resolved at the local level through administrative regulation AC-AR - Discrimination Complaint Procedure, the complaint may meet the criteria to file an appeal with the Superintendent of Public Instruction as outlined in OAR 581-021-0049.

END OF POLICY

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**Legal Reference(s):**

[ORS 192.610 to -192.690](#)  
[ORS 338.115\(2\)](#)

[ORS 659.852](#)

[OAR 581-022-2370](#)

Anderson v. Central Point Sch. Dist., 746 F.2d 505 (9th Cir. 1984).  
Connick v. Myers, 461 U.S. 138 (1983).

# Evergreen Virtual Academy

Code: KL-AR(1)  
Revised/Reviewed: 10/21/13; 6/18/19  
Orig. Code: KL-AR

## Public Complaint Procedure

### Step One

Any member of the public who wishes to express a concern should discuss the matter with the public charter school employee involved. The employee shall respond within five working days.

### The Administrator: Step Two:

If the individual is unable to resolve a problem or concern with the employee the individual may file a written, signed complaint with the administrator clearly stating the nature of the complaint and a suggested remedy. (A form is available, but is not required.)

The administrator shall investigate the complaint, confer with the complainant and the parties involved and prepare a report of his or her findings and conclusion and provide a report in writing or in an electronic form to the complainant within five working days of receipt of the written complaint.

### The Head of School: Step Three

If the complainant is unable to resolve the complaint, within 10 working days of the meeting with the administrator, the complainant, if he/she wishes to pursue the action, shall file a signed, written complaint with the head of school clearly stating the nature of the complaint and a suggested remedy. (A form is available, but is not required.)

The head of school shall investigate the complaint, confer with the complainant and the parties involved and prepare a report of his/her findings and conclusion and provide the report in writing or in an electronic form to the complainant within 10 working days after receiving the written complaint.

### The Board: Step Four

If the complainant is dissatisfied with the head of school's or designee's findings and conclusion, the complainant may appeal the decision to the Board within five working days of receiving the head of school's decision. The Board may hold a hearing to review the findings and conclusion of the head of school, to hear the complaint and to hear and evaluate any other evidence as it deems appropriate. All parties involved may be asked to attend such hearing for the purposes of making further explanations and clarifying the issues.

If the Board chooses not to hear the complaint, the head of school's decision is final.

The Board may hold the hearing in executive session if the subject matter qualifies under Oregon law.

The complainant shall be informed in writing or in electronic form of the Board's decision within 20 working days from the hearing of the appeal to the Board. The Board's decision will address each allegation in the complaint and contain reasons for the Board's decision.

The complaint procedure will not be longer than 90 days from the filing date of the original complaint with the head of school.<sup>1, 2</sup>

<sup>3</sup>Complaints against the administrator may start at step 3 and may be filed with the head of school. Complaints against the head of school may start at step 4 and should be referred to the Board chair on behalf of the Board. The Board chair shall present the complaint to the Board. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. After receiving the results of the investigation, the Board shall decide, within 20 days, in open session what action, if any, is warranted.

Complaints against the Board as a whole or against an individual Board member may start at step 4 and should be made to the Board chair on behalf of the Board. The Board chair shall present the complaint to the Board. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. After receiving the results of the investigation, the Board shall decide, within 20 days, in open session what action if any, is warranted.

Complaints against the Board chair may start at step 4 and be made directly to the Board vice chair on behalf of the Board. The Board vice chair shall present the complaint to the Board. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete the results will be presented to the Board. After receiving the results of the investigation, the Board shall decide, within 20 days, in open session what action, if any, is warranted.

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<sup>1</sup>The timelines may be extended upon written agreement between both parties.

<sup>2</sup>This applies to complaints filed against the [administrator][director] or any Board member.

<sup>3</sup>If there is only a public charter school administrator, the complainant may file with the Board chair. Please make appropriate bracketed language selections in the first sentence then delete second sentence. If there is an administrator and a director, make the appropriate bracketed language selections in this paragraph using the first and second sentences to outline to whom a complaint is filed.

The final decision for a complaint processed under this administrative regulation that alleges a violation of OAR Chapter 581, Division 22 (Standards), ORS 339.285 to 339.383 or OAR 581-021-0550 to 581-021-0570 (Restraint and Seclusion) or ORS 659.852 (Retaliation), will be issued in writing or electronic form. The final decision will address each allegation in the complaint and contain reasons for the school's decision. If the complainant is a student, parent or guardian of a student attending the public charter school or a person that resides in the district where the school is located, and this complaint alleges a violation of Oregon Administrative Rule (OAR) Chapter 581, Division 22 (Standards), ORS 339.285 to 339.383 or OAR 581-021-0550 to 581-021-0570 (Restraint and Seclusion) or ORS 659.852 (Retaliation), and is not resolved through the complaint process, the complainant may have appeal rights with the Deputy Superintendent of Public Instruction as outlined in OAR 581-002-0040.

If the complaint alleges discrimination pursuant to ORS 659.850 (Discrimination) and the complaint is not resolved at the local level through the Board's administrative regulation AC-AR - Discrimination Complaint Procedure, the complaint may meet the criteria to file an appeal with the Deputy Superintendent of Public Instruction as outlined in OAR 581-021-0049.

[ ]Charter School

COMPLAINT FORM

To: \_\_\_\_\_ (Name of school)

Person Making Complaint \_\_\_\_\_

Phone Number \_\_\_\_\_ Date \_\_\_\_\_

Nature of Complaint \_\_\_\_\_

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

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

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Signature of Complainant: \_\_\_\_\_ Date: \_\_\_\_\_

Office Use: Disposition of Complaint: \_\_\_\_\_

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