**Civil Rights in the Educational Setting Learning Modules**

**These learning modules were created as an alternative to the Oregon Educator Licensure Assessment: Protecting Student and Civil Rights in the Educational Environment (ORELA)**

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December 2021

Revised: February 2023

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### Module 1:

### Federal Protections for Individual Civil Rights and Prohibition of Discrimination

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#### Overview: Federal Protections

In this module, you will learn about federal laws and court rulings that protect individual civil liberties and prohibit discrimination in educational settings. There are laws and rulings that apply to students, parents and/or guardians of students, teachers, and other school personnel. It is important that you are familiar with these laws and rulings and how they are applied in schools because teachers are considered actors on behalf of the state and have a legal duty to uphold the protections afforded by the State of Oregon to all its citizens. It is also important to realize that these laws have evolved over time and court rulings have shaped their implementation and application in schools and your role as an educator to respond appropriately.

#### Learning Outcomes

LO1: Identify federal laws that protect individual civil rights and prohibit discrimination in educational settings.

LO2: Identify federal court rulings that protect individual civil rights and prohibit discrimination in educational settings.

Learning Tasks

* Read content regarding federal laws that apply to educational settings (LO1)
* Complete the Federal Laws Check for Understanding (LO1)
* Read content about federal court rulings that apply to educational settings (LO2)
* Complete the Federal Court Rulings Check for Understanding (LO2)
* Complete the Federal Laws and Court Rulings Application Questions at the end of the module (LO1 & LO2)

#### Learning Materials: Federal Laws for Individual Civil Rights and Prohibition of Discrimination

These learning materials describe foundational concepts and laws that have shaped the civil rights protections afforded to students and/or school personnel in schools. While this list is not exhaustive, it does provide foundational knowledge about discrimination in schools, protected classes, and some federal laws designed to protect students' and/or school personnel's civil rights in schools.

*What does discrimination look like in the classroom?*

Discrimination in the classroom can be overt or covert and can take many forms. The following list provides broad ways that discrimination could be identified in the classroom.

* Treating people unequally based on social categories, e.g., race, nationality, language (see more below about Protected Classes)
* Treating people unequally and/or oppressively because they belong to a marginalized group
* Behavior that results in subordinating or continuing to subordinate a marginalized group

*Protected Classes and Federal Laws Protecting Individuals' Civil Liberties*

Federal laws explicitly protect certain classes of people, called *protected classes,* from discrimination. This means that it is illegal for any federal or state organization or public entity to discriminate against someone based on their protected class(es) status. These protected classes are below with a brief description.

* Race - The socially constructed categorization of people based on heritable characteristics
* Color - The amount of melanin in a person’s skin determining their coloring
* National Origin - The nation where a person was born or where their ancestors come from
* Religion - The US Constitution gives people the right to freedom of religion and schools must accommodate the religious needs of students
* Sex - Gender-based policies that favor a specific gender are prohibited in schools. It is important to note that the state of Oregon has further laws that extend the protected class status to individuals based on sexuality and gender identity.
* Marital Status - A school cannot discriminate against an individual based on their marital status
* Disability - The American with Disabilities Act (ADA) defines disability as any mental or physical impairment that limits major life activity
* Age - Age discrimination particularly relates to personnel in schools in that age cannot be a discriminatory factor in hiring, retaining or compensating employees

*What Protections are Individuals Afforded Under The United States Constitution?*

First Amendment

* *Freedom of speech* is the right for individuals to speak freely without fear of censorship or reprisal from the government or its agents. The right to freedom of speech applies to both school personnel and students. For example, a teacher might bring legal action against a school if they are fired for talking about issues of public interest like a school board election. Another example is that students have the right to exercise their freedom of speech through protests or messages on their clothing.
* *Freedom of exercise* limits government interference and actions on individuals’ religious beliefs and individuals’ practices in relation to their religious beliefs.
* *Freedom of press* protects print and electronic media from censorship. This may apply in certain cases to school newspapers and media releases.
* *Freedom of assembly* ensures the right that people can gather together peacefully as long as they are not engaging in illegal or criminal activities. This may apply in certain cases to students’ right to form and participate in group protests in schools.

Fourteenth Amendment

* The *Incorporation Doctrine* extended the rights guaranteed in the Bill of Rights to state governments. This means that any state laws that violate the rights granted by the Constitution at the federal level would be overturned.
* The *Equal Protection Clause* guaranteed that all citizens and non-citizens in the United States are equally protected under the law.
* The *Due Process Clause* prohibits states from depriving any person of fundamental freedoms and rights guaranteed by the United States Constitution without due process.

*What Federal Laws Protect Students and/or Educational Personnel’s' Civil Rights?*

[*The Civil Rights Act of 1964*](https://secure.sos.state.or.us/oard/viewSingleRule.action)

*Title VI of the Civil Rights Act* prohibits discrimination on the basis of race, color, or national origin by constraining private, nongovernmental parties from discriminatory behavior in any program or activity that receives federal funds, e.g., schools and school related programs

*Title VII of the Civil Rights Act* mandates that it was unlawful for employers to discriminate against an individual in hiring, retention, and compensation because of the individual’s race, color, religion, sex, or national origin.

[*The Individuals with Disabilities Act (IDEA)*](https://www.newberg.k12.or.us/sites/default/files/fileattachments/district/page/3736/ferpa_ppra_parent_notification_august_2017.pdf)

*IDEA* was enacted in 1975 to ensure that children with disabilities had access to a free appropriate public education beginning at age 3 through age 21. The law provides guidance to states and school districts about special education services. One important mandate from the 2004 reauthorization of IDEA provides guidance to states and school districts to analyze and remediate the overrepresentation of racially, ethnically, culturally, and/or linguistically marginalized students in special education services.

[*The Family Educational Rights and Privacy Act (FERPA)*](https://studentprivacy.ed.gov/faq/what-must-consent-disclose-education-records-contain)

*FERPA* was written to ensure the privacy of students’ educational records. It applies to any school or district that is receiving federal funds.

[*Title IX of the Education Amendments of 1972*](https://secure.sos.state.or.us/oard/viewSingleRule.action)

*Title IX* prohibits discrimination on the basis of sex in programs and activities that receive federal funds, including schools. Some example provisions relate to discrimination on the basis of pregnancy, participation in athletic and/or STEM activities, hiring based on gender, and/or sexual harassment.

[*Section 504 of the Rehabilitation Act of 1973*](https://oregon.public.law/rules/oar_584-020-0010)

*Section 504* prohibits employment discrimination against an individual with a disability when they can perform the essential job functions with reasonable accommodations. This act focuses on employers in organizations receiving federal funding, including schools.

[*The Americans with Disabilities Act (The ADA)*](https://ccsso.org/resource-library/intasc-model-core-teaching-standards-and-learning-progressions-teachers-10#:~:text=The%20Americans%20with%20Disabilities%20Act,local%20government'%20programs%20and%20services.)

*ADA* prohibits discrimination against individuals with disabilities in employment, schools, transportation, public and private services, and accommodations. This law applies to all public entities whether or not they receive federal funding.

[*Every Student Succeeds Act (ESSA) | U.S. Department of Education*](https://www.nasdtec.net/general/custom.asp)

The Every Student Succeeds Act (ESSA) was signed by President Obama on December 10, 2015, and represents good news for our nation’s schools. This bipartisan measure reauthorizes the 50-year-old Elementary and Secondary Education Act (ESEA), the nation’s national education law and longstanding commitment to equal opportunity for all students.

*What other Federal regulations Protect Students and/or Educational Personnel’s' Civil Rights?*

These USDA regulations were established to ensure that programs, activities, and institutions that receive financial assistance from the USDA (including school cafeterias) comply with civil rights laws and do not discriminate against individuals based on their protected status. These include Food and Nutrition Services: USDA Departmental Regulations 4330-2 and 7 CFR Part 16

[*Regulation 7 CFR Part 16*](https://secure.sos.state.or.us/oard/displayChapterRules.action)  ensures equal opportunity for religious organizations, to compete on an equal footing with other organizations for USDA assistance.

[*Regulation 4330-2 Nondiscrimination in Programs and Activities Receiving Federal Financial Assistance from USDA | National Institute of Food and Agriculture*](https://www.nasdtec.net/page/MCEE_Doc) ensures compliance with and enforcement of the prohibition against discrimination in programs and activities funded in whole or in part by the USDA.

1. Regulation 4330-2 ensures compliance with and enforcement of the prohibition against discrimination in programs and activities funded in whole or in part by the USDA.

2. Regulation 7 CFR Part 16 ensures equal opportunity for religious organizations to compete on an equal footing with other organizations for USDA assistance.

3. These regulations build upon the federal civil rights statutes Title VI, IX and other federal civil rights statutes that prohibit discrimination.

4. The Civil Rights Division (CRD) mission is to ensure compliance with applicable laws, regulations, and policies for Food and Nutrition Services (FNS) customers and employees regardless of race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA. (Not all prohibited bases will apply to all programs and/or employment activities.) CRD also facilitates equal and timely access to FNS programs and services for all customers.

*Have More Questions about Federal Laws Related to Discrimination in Educational Environments?*

* [*Race and National Origin Discrimination (Takes you to*](https://www.oregonlegislature.gov/bills_laws/ors/ors339.html) [*a US Department of Education page)*](https://www.nasdtec.net/general/custom.asp)
* [*Sex Discrimination (Takes you to a US Department of Education page)*](https://www.ed.gov/ESSA/)
* [*Disability Discrimination (Takes you to a US Department of Education page)*](https://www.ecfr.gov/current/title-7/subtitle-A/part-16)
* [*Age Discrimination (Takes you to a US Department of Education page)*](https://oregon.public.law/statutes/ors_chapter_659a)

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#### *Learning Materials: Federal Court Rulings for Individual Civil Rights and Prohibition of Discrimination*

These learning materials describe 10 foundational federal court rulings that have shaped the civil rights protections afforded to students and/or school personnel in schools. While this list is not exhaustive, it does provide foundational knowledge about federal ruling related to Freedom of Speech and discrimination in schools.

*Rulings Related to Freedom of Speech*

[*Tinker v. Des Moines*](https://secure.sos.state.or.us/oard/viewSingleRule.action)

A school district in Des Moines passed a rule that students could not wear armbands to protest the Vietnam War. In Tinker v. Des Moines, the students argued that the district was violating their right to freedom of speech and the Supreme Court ruled in favor of the students. The Court also ruled that the only time school or school personnel could impinge on a student’s right to freedom of speech was if they could show that the behavior significantly interfered with “the requirements of appropriate discipline in the operation of the school”

[*Hazelwood v. Kuhlmeier*](https://secure.sos.state.or.us/oard/viewSingleRule.action)

A student-run newspaper planned to publish two articles related to divorce and teenage pregnancy using quotes and stories from students and families who attended the school. The principal of the school decided to print the newspaper without the pages containing the two articles. The principal was concerned that the content was too mature and that people in the school might be able to identify the students quoted in the articles even though they were not named. In Hazelwood v. Kuhlmeier, the students argued that this violated their right to freedom of speech and unfairly penalized the students who wrote other articles on the removed pages. The Supreme Court ruled in favor of the principal stating that schools had the right to control student speech if they have “legitimate pedagogical concerns,” meaning a justifiable educational reason to censor student speech related to learning and the school environment.

[*Harper v. Poway*](https://secure.sos.state.or.us/oard/viewSingleRule.action)

Harper, a student at Poway High School wore a shirt with homophobic statements and biblical statements to school. The principal asked Harper to remove the shirt, and Harper refused because he felt this violated his right to freedom of speech. In Harper v. Poway, the Supreme Court ruled in favor of the principal’s decision to not allow the shirt in school. This ruling has been used to argue that schools can and should restrict student speech when their speech impinges on the rights of other students.

*Rulings that Address Discrimination in Schools*

[*Plessy v. Ferguson*](https://secure.sos.state.or.us/oard/viewSingleRule.action#:~:text=The%20ruling%20in%20this%20Supreme,numerous%20laws%20passed%20by%20Congress.)

In Plessy v. Ferguson, the Supreme Court upheld the segregationist doctrine of “separate but equal.” This discriminatory doctrine was applied in many aspects of public life, including schooling, for decades.

[*Brown v. Board of Education*](https://secure.sos.state.or.us/oard/viewSingleRule.action)

A group of African-American families sued a Topeka district when the district denied their children the ability to register in some of the district’s all-white schools. The NAACP filed the Brown v. Board of Education case in the Supreme Court, and the Court ruled that “separate but equal is inherently unequal,” thereby overturning Plessy v. Ferguson. Further, the Court ruled that racially segregated schools violated the 14th Amendment’s clause of “equal protection of the laws.”

[*Lau v. Nichols*](http://arcweb.sos.state.or.us/pages/rules/oars_500/oar_581/581_021.html)

A group of Chinese-American students who were learning English as an additional language sued their school system for violating their 14th Amendment rights by not providing them enough language support to be successful in school. The Lau v. Nichols case was grounded in the Civil Rights Act of 1964 as it discriminated against the students based on their national origin. The Court ruled in favor of the students and codified the right to English as a Second Language (ESL) instruction as an appropriate support from schools. Additionally, the Court ruling laid the needed groundwork for the argument that national origin discrimination extends to language-based discrimination because language and national origin are inherently interconnected.

[*U.S. v. Virginia*](https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html)

A woman sued the Virginia Military Institute for violating her 14th Amendment right to equal protection when they denied her admission to the public military college because she was a woman. In response to lower court rulings, the state of Virginia proposed the creation of the Virginia Women's Institute for Leadership, which would be a separate women’s military college. The U.S. took the case to the Supreme Court with U.S. v. Virginia. The Court ruled that the plan would not provide the women with the same military training and educational experience, and therefore was unconstitutional. This ruling made it clear that gender-based exclusion in educational settings could only happen if the institution was able to provide a strong justification that directly connects to the institute’s educational objectives.

[*Childers v. Morgan County Board of Education*](https://caselaw.findlaw.com/us-9th-circuit/1356455.html)

In Childers v. Morgan, a group of bus drivers brought suit against their district that had a mandatory retirement age of 65. The court ruled that forced retirement was discriminatory if there were other ways to test for competency (e.g., a driving test) than age.

[*West Virginia Board of Education v. Barnette*](https://www.archives.gov/milestone-documents/plessy-v-ferguson)

A group of students were expelled from school when they refused to salute the United States’ flag because saluting the flag violated their religious beliefs. In West Virginia Board of Education v. Barnette, the Supreme Court ruled that the students could refrain from an activity based on their religious beliefs because of the religious protections in the First Amendment.

[*Board of Education v. Rowley*](https://sites.ed.gov/idea/)

Amy Rowley, a student with a hearing impairment, was denied a sign language interpreter by her district. The district was already providing regular time with a speech therapist and tutor, and Rowley was doing grade level work. The suit argued that the district was denying Rowley a “free and appropriate education” without the interpreter. In Board of Education v. Rowley, the Supreme Court ruled that the Education of All Handicapped Children Act of 1975 does not mandate an individual interpreter when the school is already providing appropriate services and supports in alignment with a student’s IEP. This ruling afforded school administrators some authority in determining what a “free and appropriate” education actually looks like in practice for students with disabilities.

*Where Can I Find More Information about Federal Court Rulings Related to Discrimination in Educational Environments?*

* [*Case Summaries Related to Protected Classes [Takes you to a United States Department of Justice page*](http://www.tspc.state.or.us/SanctionList/tee.html)*]*
* The Stanford Equality of Opportunity and Education Project *[*[*introduction page*](https://oregon.public.law/rules/oar_584-020-0040)*]* has curated this[*list of landmark US legal cases related to equality and opportunity in K-12 education*](https://www.nasdtec.net/page/MCEE_Doc)

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#### Federal Laws and Court Rulings Application Quiz

1. According to federal antidiscrimination laws and the 14th Amendment of the Constitution, people are protected from discrimination based on the following protected classes (indicate all that apply):
   1. **Race**
   2. **Color**
   3. Language
   4. **National origin**
   5. **Religion**
   6. **Gender**
   7. Sexual Orientation
   8. **Age**
   9. Socioeconomic status
   10. **Disability**
2. Match the federal statute with its abbreviated definition:

Statutes:

Individual with Disabilities Education Act (IDEA)

Section 504 of the Rehabilitation Act of 1973

Title IX of the Educational Amendments of 1972

Title VI of the Civil Rights Act of 1964

Title VII of the Civil Rights Act of 1964

Title III of No Child Left Behind

First Amendment of the US Constitution

Fourteenth Amendment of the US Constitution

Food and Nutrition Services USDA Departmental Regulation 4330-2

Definitions:

1. Requires that children with disabilities have the opportunity to receive a free appropriate public education
2. Prohibits discrimination against people with disabilities in programs that receive federal financial assistance and paved the way for the Individual with Disabilities Education Act
3. States that no individual on the basis of sex shall be excluded from participating in any educational program or activity that receives or benefits from federal assistance, e.g., public schools and programs
4. Extends protections from discrimination on the basis of race, color, or national origin to any program or activity receiving federal financial assistance, e.g., public schools and programs
5. States that it is unlawful for an employer to discriminate against an individual because of that individual’s race, color, religion, sex, or national origin
6. Created the Office of English Language Acquisition and mandates that funding and support should be provided to school districts to meet the needs of students learning English as an additional language
7. Guarantees free exercise of religion, freedom of speech, freedom of the press, and freedom of assembly
8. Grants individuals privileges and immunities, equal protection, and due process
9. Mandates that school cafeterias cannot discriminate against people based on their protected class status.

#### 

2. Match the federal statute with its abbreviated definition:

* 1. **Individual with Disabilities Education Act (IDEA):** Requires that children with disabilities have the opportunity to receive a free appropriate public education
  2. **Section 504 of the Rehabilitation Act of 1973:** Prohibits discrimination against people with disabilities in programs that receive federal financial assistance and paved the way for the Individual with Disabilities Education Act
  3. **Title IX of the Educational Amendments of 1972**: States that no individual on the basis of sex shall be excluded from participating in any educational program or activity that receives or benefits from federal assistance, e.g., public schools and programs
  4. **Title VI of the Civil Rights Act of 1964:** Extends protections from discrimination on the basis of race, color, or national origin to any program or activity receiving federal financial assistance, e.g., public schools and programs
  5. **Title VII of the Civil Rights Act of 1964:** States that it is unlawful for an employer to discriminate against an individual because of that individual’s race, color, religion, sex, or national origin
  6. **Title III of No Child Left Behind:** Created the Office of English Language Acquisition and mandates that funding and support should be provided to school districts to meet the needs of students learning English as an additional language
  7. **First Amendment of the US Constitution:** Guarantees free exercise of religion, freedom of speech, freedom of the press, and freedom of assembly
  8. **Fourteenth Amendment of the US Constitution:** Grants individuals privileges and immunities, equal protection, and due process
  9. **Food and Nutrition Services USDA Departmental Regulation 4330-2**: Mandates that school cafeterias cannot discriminate against people based on their protected class status.

Match the federal court ruling with its abbreviated implications:

Federal Court Ruling

* + 1. Plessy v. Ferguson
    2. Tinker v. Des Moines
    3. Brown v. Board of Education of Topeka
    4. Lau v. Nichols
    5. United States v. Virginia
    6. Childers v. Morgan County Board of Education
    7. West Virginia State Board of Education v. Barnette
    8. Board of Education v. Rowley

Abbreviated implications of the Court Ruling

1. Establish the racial segregation through the “separate but equal” doctrine
2. The Tinkers were students who argued that their school district’s ban on the wearing of black armbands to protest the Vietnam War was a violation of their First Amendment Right to freedom of speech. The Supreme Court agreed but added the caveat that schools could infringe on this right in cases where they can show that the student behavior seriously interferes with the educational environment.
3. The Supreme Court ended the policy of racially segregated schools, ruling that “separate but equal is inherently unequal” and that racial segregation violates the 14th Amendment of the Constitution.

d. This case was initiated by a group of Chinese-American students that argued

that their school was not providing them enough support to develop their English language skills which was discriminatory under the Civil Rights Act of 1964 as discrimination based on national origin. The court agreed with the students which resulted in the mandate that schools must support students learning English as an additional language.

e. The court established the precedent that gender-based exclusion was

permissible in cases where there was a strong justification for the exclusion based on the in relation to the objectives of the program.

f. This case challenged a school district policy of forced retirement for school

bus drivers over 65. The court ruled that the policy was discriminatory if there was a way to test drivers for their skill competency regardless of age.

g. The Supreme Court’s decision allowed for students to not participate in

certain school-based routines, e.g., saluting the flag of the United States, if it violates their religious beliefs.

h. In this case, a student with a hearing impairment was denied a sign language

interpreter from the district. Ultimately, the Supreme Court ruled that the

student was receiving adequate services and making sufficient progress, so

she was receiving a free and appropriate education and the district did not

have to provide a sign language interpreter.

Match the federal court ruling with its abbreviated implications

* 1. **Plessy v. Ferguson:** Establish the racial segregation through the “separate but equal” doctrine
  2. **Tinker v. Des Moines:** The Tinkers were students who argued that their school district’s ban on the wearing of black armbands to protest the Vietnam War was a violation of their First Amendment Right to freedom of speech. The Supreme Court agreed but added the caveat that schools could infringe on this right in cases where they can show that the student behavior seriously interferes with the educational environment.
  3. **Brown v. Board of Education of Topeka:** The Supreme Court ended the policy of racially segregated schools but ruling that “separate but equal is inherently unequal” and that racial segregation violates the 14th Amendment of the Constitution.
  4. **Lau v. Nichols:** This case was initiated by a group of Chinese-American students that argued that their school was not providing them enough support to develop their English language skills which was discriminatory under the Civil Rights Act of 1964 as discrimination based on national origin. The court agreed with the students which resulted in the mandate that schools must support students learning English as an additional language.
  5. **United States v. Virginia:** The court established the precedent that gender-based exclusion was permissible in cases where there was a strong justification for the exclusion based on the in relation to the objectives of the program.
  6. **Childers v. Morgan County Board of Education:** This case challenged a school district policy of forced retirement for school bus drivers over 65. The court ruled that the policy was discriminatory if there was a way to test drivers for their skill competency regardless of age.
  7. **West Virginia State Board of Education v. Barnette:** The Supreme Court’s decision allowed for students to not participate in certain school-based routines, e.g., saluting the flag of the United States, if it violates their religious beliefs.
  8. **Board of Education v. Rowley:** In this case, a student with a hearing impairment was denied a sign language interpreter from the district. Ultimately, the Supreme Court ruled that the student was receiving adequate services and making sufficient progress, so she was receiving a free and appropriate education and the district did not have to provide a sign language interpreter.

4. The first amendment of the US Constitution guarantees “freedom of expression,” but later court decisions limited that right in instances where free expression would do undue harm to others or incite someone to commit violent or illegal acts. Which of the following illustrates a case where free expression would likely be limited and could result in disciplinary action against a teacher?

1. Discussing an upcoming school board election at a social event
2. **Discussing a student’s academic performance with community members without permission**
3. Emailing a colleague to encourage them to join a teachers union
4. Assigning a controversial book for students to read and discuss in class

**Sharing of student information with community members is unethical and potentially in violation of FERPA.**

5. A high school’s Gay-Straight Alliance club is organizing students and faculty to show their support of LGBTQ communities and issues during October, and particularly on National Coming Out Day. The club is encouraging students and faculty to show support by wearing gay pride symbols and flags. However, the school principal decides that this type of display might be offensive so the principal informs the club advisor that students will not be allowed to wear the gay pride symbols but may instead compose an article for the school newspaper discussing LGBT issues. The principal is:

1. **in violation of the students‟ right to free speech**
2. in violation of the students’ civil rights
3. within her right to prohibit the wearing of the gay pride symbols as student speech in schools does not receive the same protection under the First Amendment that traditional public forum speech does
4. within her right to prohibit the wearing of the gay pride symbols as schools must make sure that they do not offend students and families

**Students are entitled to the Constitutional right to free speech. However, when similar cases have been brought to the courts, courts have made rulings that prioritized the schools obligation to create and maintain an educational setting free of disruption.**

6. For a student who uses a wheelchair, the teacher should

1. Ask if the student could be placed in another classroom
2. Create alternative assignments for the student to complete
3. Have the student sit at a table in the back of the room away from the other students
4. **Arrange the classroom so that the student can fully and meaningfully participate**

**The Individual with Disabilities Act extended Section 504 of the Rehabilitation Act of 1973 by mandating that students with disabilities are entitled to a “free and appropriate education” in public schools which includes modifying the classroom layout to maximize participation.**

7. Why do educators need to be aware of relevant laws (e.g., due process clause of the Constitution or IDEA) and court rulings?

1. **Educators are considered “state actors” who act on behalf of the state**
2. Educators are citizens who need to know more about the government than others
3. Educators will need to teach their students about these laws and rulings
4. Educators need to know that they could be asked to explain federal legislation to parents during an IEP meeting.

**In the United States, public educators are considered state actors as they are employed by the state.**

8. During an interview, a principal tells the 45-year-old candidate that they are looking for “young” and “enthusiastic” teachers because they need someone with enough energy to work with the kindergarten classroom. This statement is:

1. Reasonable given the school’s needs
2. Within a principal’s discretion for hiring
3. **Discriminatory and unlawful**
4. Nondiscriminatory

**Age is a protected class according to federal antidiscrimination laws and the Constitution.**

9. A teacher works in a classroom with native English-speaking students and students learning English as an additional language. The teacher primarily calls on the native English-speaking students because they do not want to embarrass the students learning English as an additional language by having them speak in front of the class. This instructional approach is:

1. Supported by research on learning a language
2. Nondiscriminatory because the students likely have an accent that makes it harder for other students to understand them
3. **Discriminatory to students who are learning English as an additional language**
4. Understandable as it helps create a supportive environment for all learners

**This pedagogical choice discriminates against students who are learning English as an additional language and limits their ability to participate in the classroom community.**

10. The school board has approved a new dress policy for the district that bans hats in schools. This policy is:

1. Unlawful because school districts cannot control student dress
2. Lawful because school districts have the right to mandate student dress in order to avoid disruption in the school environment
3. Unlawful because the school board did not ask the community for their opinion
4. **Lawful as long as students who wear head coverings for religious reasons are exempt**

**Religion is a protected class according to federal antidiscrimination laws and the Constitution.**

11. When a student has an Individualized Education Plan (IEP) or a 504 plan, they will likely have accommodations and/or modifications. Which of the following are true (check all that apply)?

1. **A modification changes *what* a student is expected to be taught or learned**
2. An accommodation is legally mandated while a modification is optional.
3. **An accommodation changes *how* a student is taught and learns the material.**
4. Modifications and accommodations are suggestions that teachers can decide to follow or not.

**A & C: Modifications and accommodations are legally binding education plans for students and must be implemented in the classroom in order to support students in accessing a free and appropriate education fully.**

12. Most students who struggle in school are eligible for special education and related

services under IDEA.

1. True
2. **False** (A student must meet the qualifying criteria for at least one of the 13

disability categories specified in the act)

13. Title IX of the Education Amendments of 1972 prohibits discrimination based on gender in

public educational settings and some private schools. Select all of the following scenarios

that would likely be Title IX violations.

1. **Max has let his teacher know multiple times that crude, sexually explicit graffiti in the bathroom makes him uncomfortable. Despite his repeated requests for action, nothing has yet been done to remedy the situation.**
2. **Mariana is a pregnant 18 year-old student who wants to continue attending classes during the regular day session. However, one of her teachers suggested that she may be more comfortable either transferring to an online only school or getting her GED.**
3. **Jamie and Olivia are transgender students who have requested that their teachers call them by their preferred pronouns and allow them to use the single-sex restrooms of their choice. Their teachers have complied with using their pronouns of choice, however building administration hasn’t allowed Jamie and Olivia to use their restrooms of choice.**
4. Shung wanted to play soccer at her high school. Her high school only had a boys’ soccer team and although Shung would be the first female to play on the boys’ soccer team, her school administration encouraged her to do so.
5. **Brian and Anna both had a similar history of behavioral incidents at school. However, when the school counselor was reviewing their files, he noticed that Brian was sent home for out of school suspensions at twice the rate Anna was.**

### Module 2:

### State Protections for Individual Civil Rights and Prohibition of Discrimination

#### Overview: State Protections

In this module, you will learn about state laws that protect individual civil liberties and prohibit discrimination in educational settings. It is important that you are familiar with these laws and how they are applied in schools because teachers are considered “state actors” who act on behalf of the state.

*Learning Outcomes*

LO1: Understand state laws that further protect individual civil rights and prohibit discrimination in educational settings.

*Learning Tasks*

* Review state laws that apply to educational settings (LO1)
* Complete the State Laws Application Questions at the end of the module (LO1)

#### Learning Materials: State Statutory Protections for Civil Rights and Prohibition of Discrimination

These learning materials provide an overview of Oregon Civil Rights Laws and describe foundational laws that have further shaped the civil rights protections afforded to students and/or school personnel in schools in the state of Oregon. The following list provides foundational knowledge about some Oregon laws designed to protect students' and/or school personnel's civil rights in schools. This [*overview of Civil Rights Laws*](https://www.nasdtec.net/page/MCEE_Doc) summarizes major legislation related to civil rights..

***Oregon Revised Statutes Relevant to Educational Settings***

Oregon Revised Statutes (ORS) are codified laws of the State of Oregon. These are released every two years so it is important to know current laws related to discrimination in educational settings, and also that you can access the ORSs in future through this [*Oregon Legislative website*](https://www.nasdtec.net/general/custom.asp)*.*

[*ORS Chapter 659 - Prohibited Discrimination*](http://justice.gov/crt/case-summaries)

Chapter 659 has laws containing prohibitions relating to employment and discrimination, some of which are outlined below.

#### Discrimination in Education

* 659.850 Discrimination in education prohibited
* 659.855 Sanctions for noncompliance with discrimination prohibitions
* 659.860 Enforcement of ORS 659.850

#### Discrimination Against Athletes

* 659.865 Discrimination for participation in sanctioned athletic events prohibited

#### Prohibition Against Certain Local Laws Relating to Sexual Orientation

* 659.870 Political subdivisions prohibited from enacting or enforcing certain laws relating to sexual orientation

[*ORS Chapter 339 - School Safety*](https://www.nasdtec.net/general/custom.asp)

ORS Chapter 339 contains laws relating to school attendance, admissions, discipline, safety, harassment, intimidation, and bullying, some of which are outlined below.

* 339.351 Definitions for ORS 339.351 to 339.364
* 339.353 Findings
* 339.356 District policy required
* 339.359 Training programs; prevention task forces, programs and other initiatives are required
* 339.362 Retaliation against victims and witnesses prohibited; school employee immunity
* 339.364 Victim may seek redress under other laws

State Rules - Oregon Administrative Rules (OAR) - Chapter 581

The full listing of Oregon Administrative Ruling (OARs) for Chapter 581 can be found [*here*](https://edeq.stanford.edu/sections/landmark-us-cases-related-equality-opportunity-education?selectedChapter=137)*.* In the following, there are links to some specific OARs for select Divisions. It is important that you are familiar with where to access all the OARs so please take some time exploring the [*Chapter 581*](https://www.oregon.gov/ode/students-and-family/equity/civilrights/Pages/OverviewLaws.aspx?selectedChapter=137) [*website*](https://www.nasdtec.net/general/custom.asp?selectedChapter=137) before reviewing the specific OARs linked below.

[*Division 15*](https://www.loc.gov/item/usrep458176/?selectedChapter=137): *Hearings Under Section 504*

* OAR [*581-015*](https://www.oregonlegislature.gov/bills_laws/pages/orsarchive.aspx?ruleVrsnRsn=143531)[*-*](https://www.nasdtec.net/general/custom.asp?ruleVrsnRsn=143531)[*2390*](https://www.youtube.com/watch?ruleVrsnRsn=143531) Review the definitions for Hearings Under Section 504 of the Rehabilitation Act OAR by clicking the link
* OAR [*581-015-*](https://www.nasdtec.net/general/custom.asp?ruleVrsnRsn=143537)[*2395*](https://secure.sos.state.or.us/oard/displayChapterRules.action?ruleVrsnRsn=143537) Review the procedures for a Hearing under Section 504 OAR of the Rehabilitation Act of 1973 by clicking the link

[*Division 21*](https://secure.sos.state.or.us/oard/viewSingleRule.action): *School Governance and Student Conduct*

* OAR [*581-021-0009*](https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=261242) Review the Exemptions OAR by clicking the link
* OAR [*581-021-0038*](https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=271328) Review the minimum Requirements for School District Sexual Harassment Policies OAR by clicking the link
* OAR [*581-021-0041*](https://www.justice.gov/crt/fcs/TitleVI?ruleVrsnRsn=144620) Review the Form and Protocol for Sports Physical Examinations OAR by clicking the link
* OAR [*581-021-0045*](https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/de9061.pdf?ruleVrsnRsn=256780) Review the Discrimination Prohibited OAR by clicking the link
* OAR [*581-021-0046*](https://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html?ruleVrsnRsn=144638) Review the Program Compliance Standards OAR by clicking the link
* OAR [*581-021-0050*](https://www.childwelfare.gov/topics/responding/reporting/mandated/?ruleVrsnRsn=144647) Review the Minimum Standards for Student Conduct OAR and Discipline by clicking the link

[Division 22](https://youtu.be/nhlDkS8hvMU): *School Administration*

* OAR [*581-022-*](https://www.oregon.gov/dhs/abuse/pages/mandatory_report.aspx?ruleVrsnRsn=145301)[*2310*](https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=145301) Review the Equal Educational Opportunities OAR by clicking the link
* OAR [*581-022-2312*](https://apps.rainn.org/policy/compare/children.cfm?ruleVrsnRsn=282669) Review the Every Student Belongs OAR by clicking the link
* OAR [*581-022-2370*](https://www2.ed.gov/policy/rights/guid/ocr/raceoverview.html?ruleVrsnRsn=256782) Review the Complaints Procedures OAR by clicking the link
* OAR[*581-022-2405*](http://arcweb.sos.state.or.us/pages/rules/oars_500/oar_581/581_022.html?ruleVrsnRsn=145347)Review the Personnel Policies OAR by clicking the link

***Protected Classes and State Laws Protecting Individuals' Civil Liberties***

In the State of Oregon, sexual orientation is a protected class. This extends the federally recognized protected classes to include sexual orientation. Sexual orientation is an individual’s physical and/or emotional attraction to other individual(s) or not. Some terms used to describe a person’s sexual orientation may be heterosexual (straight), gay, lesbian, bisexual, pansexual or asexual.

***What Protections are Individuals Afforded Under The Oregon Constitution?***

*Article I of the Oregon Constitution* is a bill of rights of the privileges, immunities, and authorities that may be legally and morally claimed by the citizens of the state within the bounds of reason, truth, and the accepted standards of behaviors. These rights include:

* Natural rights inherent in people
* Freedom of worship
* Freedom of religion
* No religious qualification for office
* No money to be appropriated for religion
* No religious test for witnesses or jurors
* Freedom of speech and freedom of the press
* Equality of privileges and immunities of citizens
* Assemblages of people; instruction of representatives; application to legislature
* Emigration
* Taxes and duties; uniformity of taxation
* Enumeration of rights not exclusive

*Section 1 of the Oregon Constitution: Natural rights inherent in people.* We declare that all men, when they form a social compact are equal in right: that all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; and they have at all times a right to alter, reform, or abolish the government in such manner as they may think proper.

*ARTICLE VIII Education and School Lands*

* *Section 3. System of common schools.* The Legislative Assembly shall provide by law for the establishment of a uniform, and general system of Common schools.
* *Section 4. Distribution of school fund income.* Provision shall be made by law for the distribution of the income of the common school fund among the several Counties of this state in proportion to the number of children resident therein between the ages, four and twenty years.

*What State Laws Prohibit Employment Discrimination in the State of Oregon?*

* [*ORS 659.010 to 659.030*](https://oregon.public.law/statutes/ors_659.860) prohibit discrimination in employment on the basis of an employee's race, religion, color, sex, national origin, marital status, juvenile arrest record or age if the employee is age 18 or older. Under these laws, it is an "unlawful employment practice" to fire, refuse to hire, pay differential wages or benefits on the basis of any of the above factors. It is also an unlawful employment practice for a labor union to exclude a worker for one of these reasons or for an employer to retaliate against an employee who files a complaint alleging discrimination.
* *ORS 659.400-659.460* [*ORS Chapter 659A - Unlawful Discrimination in Employment, Public Accommodations and Real Property Transactions*](https://www.wrightslaw.com/) prohibits employment discrimination based on a person’s disability. If a person is able to perform the duties of their job adequately with reasonable accommodations, then the employer is required to provide said accommodations.
* ORS 659.850[ORS 659.850 - Discrimination in education prohibited (public.law)](https://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/index.html), ORS 659.852 [ORS 659.852 - Retaliation against student prohibited (public.law)](https://youtu.be/eIOmskTvp08), ORS 659.855, [ORS 659.855 - Sanctions for noncompliance with discrimination prohibitions (public.law)](https://www.nasdtec.net/general/custom.asp), and ORS 659.860 [ORS 659.860 - Enforcement of ORS 659.850 (public.law)](https://www.wrightslaw.com/) all relate to discrimination in public schools.These statutes prohibit discrimination by any public school, whether elementary, high school or post-secondary against any person. Discrimination is defined as: "any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form or discriminatory in operation, either of which is based on age, disability, national origin, race, marital status, religion or sex." If a school is found to have engaged in discrimination, then the state could impose a cut in funding or other sanctions. The school could also be sued by individuals who were discriminated against.

*Where Can I Find More Information about Oregon State Laws Related to Discrimination in Educational Environments?*

* [*The Oregon Secretary of State keeps an archive of all Oregon Administrative Rules (OARs) for the Oregon Department of Education*](https://www.frontlineeducation.com/blog/top-5-ferpa-hipaa-misconceptions-for-schools/?selectedChapter=137)
* [*The Oregon State Legislature maintains an archive of Oregon Revised*](https://www.nasdtec.net/general/custom.asp) [*Statutes*](https://oregon.public.law/statutes/ors_659.852)(ORSs)

#### 

#### State Law Application Quiz

***Protected Classes and State Laws Protecting Individuals' Civil Liberties***

1. In the State of Oregon, sexual orientation is a protected class. Which of the following terms does not describe a person’s sexual orientation?
   1. Heterosexual
   2. Homosexual
   3. Asexual
   4. **Transgender**

1. *ARTICLE VIII Education and School Lands, establishes that* The Legislative Assembly shall provide by law for the establishment of which of the following: (check all that apply)
   1. ***Provides for a superintendent of public instruction.***
   2. ***Ensures a common school fund***
   3. ***Ensures a system of common schools***
   4. ***Stipulates that there is a division of the common school fund***

*3. ORS 659.150 to 659.160* apply specifically to education. These statutes prohibit

discrimination in public school contexts. Discrimination is defined as:

1. Any act that unreasonably differentiates treatment, intended or unintended
2. Any act that is fair in form or discriminatory in operation
3. Harmful acts based on age, disability, national origin, race, marital status, religion or sex.
4. **All of the above**

4. According to ORS 339.351, “Harassment, intimidation or bullying” (choose all that apply):

1. **Substantially interferes with a student’s educational benefits, opportunities or performance**
2. **Takes place on or immediately adjacent to school grounds, at any school-sponsored activity, on school provided, transportation or at any official bus stop**
3. **Has the effect of physically harming a student or damaging a student’s property**
4. **Has the effect of creating a hostile educational environment, including interfering with the psychological well-being of a student**
5. Is not based on the protected class of a person.

5. Oregon’s Anti-Bullying Statutes only apply to in-person instruction (and not the virtual

environment).

* 1. True
  2. **False**

### Module 3: Mandatory Reporting

#### Overview: Mandatory Reporting

In this module, you will learn about vital information you need as a mandatory reporter.

*Learning Outcomes*

LOI: Identify types of child abuse.

LO2: Identify signs of child abuse.

LO3: Identify who is required to report and when.

LO4: Explain responsibilities of mandatory reporters.

LO5: Knowledge of Erin’s Law

*Learning Tasks*

* Review content about Mandatory Reporting of Child Abuse (LO1, LO2, LO3, LO4)
* Complete the assessment application questions (LO1, LO2, LO3, LO4)

#### Learning Materials: Mandatory Reporting

Watch[*this video*](https://studentprivacy.ed.gov/faq/may-educational-agency-or-institution-disclose-directory-information-without-prior-consent) about Mandatory Reporting of Child Abuse from the Oregon Department of Health Services (30 minutes).

Read this [*guidance document*](https://www.nasdtec.net/page/MCEE_Doc?) from the Oregon Department of Human Services: Child Welfare detailing what you can do about child abuse.

*Who is required to report?*

***Find out about mandatory reporting requirements by State at*** [*RAINN.org*](https://www.nifa.usda.gov/resource/nondiscrimination-programs-activities-receiving-federal-financial-assistance-usda)

Any “public or private official,” which means:

* Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician, including any intern or resident;
* Dentist;
* School employee, including an employee of a higher education institution;
* Licensed practical nurse or registered nurse;
* Nurse practitioner;
* Nurse’s aide;
* Home health aide or employee of an in-home health service;
* Employee of the Department of Human Services, Oregon Health Authority, Early Learning Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a child-caring agency or an alcohol and drug treatment program;
* Peace officer;
* Psychologist;
* Member of the clergy;
* Regulated social worker;
* Optometrist;
* Chiropractor;
* Certified provider of foster care (or an employee thereof);
* Attorney;
* Licensed professional counselor;
* Licensed marriage and family therapist;
* Firefighter or emergency medical technician;
* Court-appointed special advocate;
* Registered or certified childcare provider;
* Member of the Legislative Assembly;
* Physical, speech or occupational therapist;
* Audiologist;
* Speech-language pathologist;
* Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission;
* Pharmacist;
* Operator of a preschool recorded program;
* Operator of a school-age recorded program;
* Employee of a private agency or organization facilitating the provision of respite services for parents pursuant to a properly executed power of attorney;
* A coach, assistant coach or trainer of an amateur, semi-professional or professional athlete, if compensated and if the athlete is a child;
* Personal support worker;
* Home care worker; and
* Employee of a public or private organization providing child-related services or activities, which include, but are not limited to, youth groups or centers, scout groups or camps, summer or day camps, survival camps or groups, centers or camps that are operated under the guidance, supervision or auspices of religious, public or private educational systems or community service organizations.
* Specifically excluded are employees of community-based, nonprofit organizations whose primary purpose is to provide confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.

*When must reports be made?*

Reports must be made immediately.

Reports should be oral and can be made by telephone or otherwise.

*Have more questions about your role as a mandatory reporter?*

* Visit the Child Welfare Information Gateway for more information and tools [Mandated Reporting of Child Abuse and Neglect - Child Welfare Information Gateway](https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/statutes/section-504-rehabilitation-act-of-1973)***.***

#### Mandatory Reporting Application Quiz

1. The Oregon Department of Human Services identifies five types of child abuse in its guidance document, “What You Can Do About Child Abuse.” What are they? Select all that apply.
   1. **Physical abuse**
   2. **Sexual abuse and sexual exploitation**
   3. **Neglect**
   4. Internal
   5. **Mental injury**
   6. **Threat of harm**
2. What are some signs of child abuse?
   1. Bruising
   2. Burns and scalds
   3. Delay in language skills
   4. Distended abdomen
   5. Broken and fractured bones
   6. **All of the above**

3. Any public or private official is a mandatory reporter.

1. **True**
2. False

4. Reports must be made immediately.

1. **True**
2. False

5. Which of the following individuals are mandatory reporters?

1. Attorney
2. Chiropractor
3. Nurse practitioner
4. Dentist
5. Pharmacist
6. **All of the above**

6. What is Erin’s Law? Select all that apply.

1. Legislation specific to Oregon about child abuse
2. **A child sexual abuse prevention law**
3. **Legislation that requires public schools to implement a prevention-oriented child sexual abuse program**
4. Legislation that requires that all schools notify guardians of sex offenders in the area

7. Which of the following is required under Oregon State Law? (More educators in Oregon are disciplined for sexual misconduct than for any other offense - *The Oregonian, Oct. 21, 2007*).

1. Confer with a colleague about your concerns to decide whether it is necessary to report your concerns.
2. Report your concerns immediately to a school principal.
3. Wait and gather more information about your concerns before reporting them.
4. **Report your concerns immediately to the Oregon Department of Human Services.**

### Module 4: Privacy Rights and Confidentiality

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#### Overview: Privacy Rights & Confidentiality

In this module, you will learn about federal laws and responsibilities that cover and protect educational information and educational records. These laws, often referred to as FERPA, protect privacy and ensure confidentiality and appropriate treatment of all personally identifiable educational records and information. It is important that you are familiar with these laws and responsibilities because as teachers you will be responsible for operating within the guidelines of FERPA to ensure that all student records are kept confidential. It is essential for you to understand the impact of FERPA and other privacy laws to ensure that the day-to-day decisions that you make in your future classroom falls within these guidelines and responsibilities.

*Learning Outcomes*

LO1: Identify laws and regulations related to educational records.

LO2: Accurately identify what is considered an educational record.

LO3: Explain my own responsibilities related to educational information and records.

*Learning Tasks*

* Read and view content about privacy rights & confidentiality laws that apply to educational settings (LO1)
* Complete the check for understanding (LO1)
* Read content about educational records (LO2)
* Complete the check for understanding (LO2)
* Read and view content about the three D's of confidentiality (LO3)
* Complete the check for understanding (LO3)
* Complete the assessment application questions at the end of the module (LO1, LO2, LO3)

#### Learning Materials: What Teachers Need to Know about FERPA

These learning materials describe the law known as FERPA (Family Educational Rights & Privacy Act), when it applies in educational settings, and how compliance is managed in elementary and secondary schools.

*What is FERPA?*

This brief yet comprehensive video will outline what the Family Educational Rights and Privacy Act is and how it impacts students both at the K-12 and higher education levels.

**Video Link:** [*What is FERPA? Student Privacy 101*](https://www.oregon.gov/dhs/abuse/pages/mandatory_report.aspx)

*When does FERPA apply?*

FERPA is a federal law that protects the privacy of student education records. All schools that receive federal funds from a United States Department of Education Program are required to abide by the privacy rules covered by FERPA. This means that nearly all K-12 public schools are covered by FERPA and FERPA regulations must be carefully followed, especially when it comes to the sharing of potentially personally identifiable information.

The big picture of FERPA is that schools, in general, need to have written permission/consent from parents (if the student is under age 18) or the student (if the student is age 18 or older) to release any personally identifiable information from a student's educational record. The United States Department of Education does lay out a few exceptions to this rule, including:

* School officials with legitimate educational interest;
* Other schools to which a student is transferring;
* Specified officials for audit or evaluation purposes;
* Appropriate parties in connection with financial aid to a student;
* Organizations conducting certain studies for or on behalf of the school;
* Accrediting organizations;
* To comply with a judicial order or lawfully issued subpoena;
* Appropriate officials in cases of health and safety emergencies; and
* State and local authorities, within a juvenile justice system, pursuant to specific State law.

Schools may also provide "directory" information such as name, address, and telephone number without written permission or consent from families as this is not considered an "education record". Despite this exception, schools must still inform parents and/or eligible students about the release of directory information and allow time for families to remove their consent to have directory information shared.

*What is personally identifiable information? What makes something an educational record?*

Personally identifiable information can include (but is not limited to only these things): student and parent names, address of the student and their family, personally identifying information, such as a social security number or student number, date of birth or other personally identifying information. The Department of Homeland Security defines personally identifiable information in this brief video clip: [*What is Personally Identifiable Information*](https://studentprivacy.ed.gov/frequently-asked-questions)

*What are education records?*

Education records are generally defined as any records, files, documents, and similar material which contain personally identifiable information about a student that are kept by an educational agency OR by a person acting under contract for an educational agency. Education records include "all instructional materials, including teacher's manuals, films, tapes, or other supplemental material which will be used in connection with any survey, analysis, or evaluation as any part of any applicable program shall be available for inspection by the parents or guardians of the children".

The resource [*w*](https://studentprivacy.ed.gov/audience/school-officials-k-12)[*riteslaw.com*](https://secure.sos.state.or.us/oard/displayChapterRules.action) reminds us that within this definition, teachers need to keep in mind that: the transcript of a hearing is an education record for the purpose of developing a Section 504 plan. Other materials, such as due process decisions, recordings of IEP meetings, letters between parents and school are also considered education records. Personal notes or other materials only become education records if they are shared with any other. member of the educational community, including parents and other staff.

*What can we learn about FERPA as it applies to emergencies?*

In their [*Letter to Wachter*](https://www.nasdtec.net/general/custom.asp), the United States Department of Education, lays out whether or not surveillance video from school hallways and other locations can be considered "educational records" under FERPA. You will note that the letter indicates that video recordings of students engaged in acts during school hours or on school property, especially when used for disciplinary purposes, can become a part of a student’s "educational record" even if the personally identifiable information (student faces or voices on the video) cannot be redacted without destroying the meaning that the video provides.

The letter also reminds that while students and parents (through age 18) have the right to review educational records, districts are not required to provide copies of materials considered "educational records" under FERPA.

*What are the rights of parents (for students under age 18)?*

According to the United States Department of Education, full rights to review educational records are given to either parent unless some sort of evidence has been provided to suggest that these rights should be revoked, such as a divorce, separation, or custody hearing that revokes parental rights. NOTE: This does not mean divorced parents do not have the same right as other parents. It simply means that teachers need to be aware of whether or not parents or guardians have the right to personally identifiable information that could be found in an "educational record".

*Do parents/guardians have the right to review ALL documentation about their child?*

Review this video from the Comegno Law Group that addresses this question. [*FERPA & HIPAA Myth #3*](https://www.nasdtec.net/general/custom.asp)

*What are the rights of students (for students aged 18 and over)?*

According to the United States Department of Education when a student becomes eligible (at age 18) all parental rights transfer from the parents or guardians to the student.

*Have more questions about the role of FERPA in educational settings?*

* United States Department of Education: [*Protecting Student Privacy: Frequently Asked Questions*](https://www.oregonlegislature.gov/bills_laws/pages/orsarchive.aspx)
* United States Department of Education: [*Protecting Student Privacy: K-12 School Officials*](https://secure.sos.state.or.us/oard/viewSingleRule.action)

#### Learning Materials: What Teachers Need to Know about HIPAA

These learning materials describe the law known as HIPAA (Health Insurance Portability and Accountability Act), when it applies in educational settings, and how compliance is managed in elementary and secondary schools.

*When does HIPAA apply?*

In most cases, HIPAA does not apply to educational settings. This occurs when the school is either not a HIPAA covered entity or if the school is a HIPAA covered entity, the school keeps health information on students only in records that are also considered "education records'' and thus are covered by FERPA and not HIPAA.

*What about school nurses??*

* According to the US Department of Health and Human Services, *schools are not generally considered a HIPAA covered entity* because the providers do not engage in actions such as billing a health plan electronically for their services.
* When a person or entity, such as a school nurse, provides some sort of health service to students and *is under contract from the school district*, they are acting on behalf of the school, so these records are considered education records. As education records, they are protected under FERPA guidelines and are treated as such.
* When an outside person or entity provides some sort of health service to students and *is not under contract from the school district,* they are not acting on behalf of the school, thus these records are not considered education records. Even if the service is provided on school property, the person providing the service is not acting on behalf of the school, so these records cannot be considered education records. (Consider, for example, public health services such as dental vans, immunizations services, etc.) In these situations, HIPAA must be followed to protect those records - a school that wants to disclose this information to an outside health care provider would have to obtain parental consent before sharing such records.

*What about schools that are HIPAA covered entities?*

* *Most* schools are not required to comply with the *HIPAA* Privacy Rule because the school maintains health information only in student health records that are “education records” under *FERPA* and, thus, not “protected health information” under *HIPAA*. (See bullet point two above.)
* Remember, student health information in education records is protected by *FERPA*, so the *HIPAA* Privacy Rule excludes such information from its coverage (US Department of Health and Human Services).

*Wait. So, does that mean that FERPA supersedes HIPAA in educational environments?*

* Generally, yes.

*What about private schools? Are they considered under FERPA or under HIPAA for medical records?*

HIPAA - private schools generally do not receive federal funding which means FERPA does not apply to them. In this instance, the medical records of private schools generally need to be HIPAA compliant.

Per the US Department of Health and Human Services, "A school that is not subject to *FERPA* and is a *HIPAA* covered entity must comply with the *HIPAA* Privacy Rule with respect to any individually identifiable health information it has about students and others to whom it provides health care."

*Have more questions about the role of HIPAA in educational settings?*

* Frontline Education: [*Top Five FERPA & HIPAA Misconceptions for Schools*](https://www.nasdtec.net/general/custom.asp)
* US Department of Health and Human Services: [*Summary of the HIPAA Privacy Rule*](https://studentprivacy.ed.gov/sites/default/files/resource_document/file/Letter%20to%20Wachter%20(Surveillance%20Video%20of%20Multiple%20Students)_0.pdf)

#### Learning Materials: Important Terms for Privacy and Confidentiality

These learning materials describe three essential concepts that allow teachers and schools to consider how to ensure privacy and confidentiality for all students and families in educational settings.

***The Three D's of Privacy and Confidentiality***

As you reflect on the importance of privacy and confidentiality for all students in your care, three essential concepts must be considered and understood to ensure confidentiality. It is important that you understand what makes something a direct identifier, what directory information consists of, and what it actually means to disclose information under FERPA.

*DIRECT IDENTIFIER*

* + Definition: Direct identifiers are any information that directly reveals information about or names an individual. This includes the individual’s residence, including for example, name, address, Social Security Number or other identifying number or code, telephone number, e-mail address, or biometric records.
  + For a reminder on personally identifiable information, watch the video link[*FERPA: What you should know*](https://youtu.be/RHqQUDnU89c)*.*

Why do direct identifiers matter in educational settings?

* + In certain situations, direct identifiers can intentionally or unintentionally reveal the identity of students and/or families. There are various reasons why parents/guardians do not want their student directly identified, even as a part of a campaign or promotion materials that contain little to no personally identifiable information.
  + Direct identifiers work in contrast to indirect identifiers, something that may be true about a student, but not necessarily unique to them. Consider for example, being identified as a second grader in a named district, a second grader in a named school, a second grader in a named teacher's classroom, and a second grader in a named district, school, and teacher's classroom, while also being identified by name. The more specific and closer to an individual revealed information gets, the more likely it is to be a direct identifier (something that cannot be disclosed without consent) versus an indirect identifier (something that can be said or shared because it does not directly reveal any information about a student).

*DIRECTORY INFORMATION*

* Definition: FERPA defines directory information as information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed.
  + Watch the video link: [*The ABC's of Student Directory Information*](https://www.edweek.org/technology/de-identifying-student-data-is-key-for-protecting-privacy/2015/08?v=TJr2nIJQ6Ls)

Can directory information be shared without family/student consent*?*

* + Under FERPA, schools may disclose directory information IF it has given public notice of what the school district considers directory information.
  + Under FERPA, parents/guardians DO have the right to restrict the disclosure of directory information, but the school must be notified in writing.
  + For additional information, see: [*May an educational agency or institution disclose directory information without prior consent?*](https://www.fetaweb.com/04/ferpa.summary.htm)

What could public notice about directory information look like*?*

* + Review this example of [*Notice for Directory Information*](https://secure.sos.state.or.us/oard/viewSingleRule.action) from an Oregon school district.

*DISCLOSURE*

Definition: Disclosure is defined by the United States Department of Education as "to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record."

* + Essentially, this means that under FERPA, teachers and schools are not allowed to permit access to a student's personally identifiable information for anyone outside of the school community and the parents of the student. School employees who need to know information about a student in order to provide instruction or services can have access to the student's education record, but outside of this, parents must give consent before information can be disclosed, or shared with others.
  + As explained in the link [*What Must Consent to Disclose Educational Records Contain*](https://oregon.public.law/rules/oar_584-020-0035), there are specific formats and requirements for permitting access to education records. Remember to consult with a supervisor or administrative support person before allowing access to a student's educational record.

*Have more questions about how to manage the three D's?*

* + United States Department of Education: [*What are the Rights of Inspection and Review of Educational Records*](https://ccsso.org/sites/default/files/2017-12/2013_INTASC_Learning_Progressions_for_Teachers.pdf#0.1_sp34.1.99.b)
  + Education Week: [*De-identifying Student Data is Key for Protecting Privacy*](https://secure.sos.state.or.us/oard/viewSingleRule.action)
  + [*Wrightslaw: From Emotions To Advocacy - Law - Learning About the Family Education Rights and Privacy Act (FERPA)*](https://secure.sos.state.or.us/oard/viewSingleRule.action)

#### 

#### Privacy and Confidentiality Application Quiz

1. Is the intended purpose of FERPA to protect parent privacy in all K-12 educational settings?
   1. Yes
   2. **No**
   3. Only in certain circumstances
2. Are educational institutions required to inform students and parents about their rights under FERPA?
   1. **Yes**
   2. No
   3. Only in certain circumstances
3. In the case of an emergency, do educational institutions have to record statements disclosed (under FERPA’s health or safety exception)?
   1. **Yes**
   2. No
   3. Only in certain circumstances
4. Do FERPA protections extend to community-based organizations that provide tutoring or other educational services within an educational institution?
   1. Yes
   2. **No**
   3. Only in certain circumstances

***FERPA 99.31a1iB permits schools to outsource institutional services or functions that involve the disclosure of educational records to contractors, consultations, volunteers, or other third parties.***

1. Do grandparents have access to educational records under FERPA?
   1. Yes
   2. No
   3. **Only in certain circumstances**

***A grandparent (or other caregiver) who is acting in the absence of the parent(s) may be considered a ‘parent’ under FERPA.***

1. Does FERPA require public pre-K through higher education institutions to keep specific records or data about student performance?
   1. Yes
   2. **No**
   3. Only in certain circumstances
2. Does HIPAA apply to educational settings?
   1. Yes
   2. No
   3. **Only in certain circumstances**

8. A school nurse is under contract with a district, are they acting on behalf of the school?

1. **Yes**
2. No
3. Only in certain circumstances

9. If an outside provider, someone not under contract from the school, gives some sort of health service to students, is this record covered under FERPA?

1. Yes
2. **No**
3. Only in certain circumstances

10. You have been asked to collect additional information about a student’s performance with

the intention of determining whether or not the student may be eligible for additional support/enrichment services based on their classroom performance. As a teacher, you know that FERPA doesn’t allow you to share personally identifiable information drawn from education records. Is the information you’ve learned about a student’s performance based on your ongoing classroom observations protected under FERPA?

* 1. Yes - FERPA protects any and all information about the student collected at school by any adult.
  2. Yes - FERPA requires that anything a teacher knows about a student must be kept confidential.
  3. No - FERPA does not cover information heard orally from others.
  4. **No - FERPA covers educational records, not information from personal knowledge or observations.**

***NO: FERPA generally prohibits the improper sharing of personally identifiable information drawn from education records. Thus, information that an official obtained through personal knowledge or observation, or has heard orally from others, is not protected under FERPA.***

11. You have been working for several weeks on a performance assessment task that includes students recording videos of themselves and the work that they have been creating. In each of these videos, the student faces the camera, states their name, explains their work, and reflects on the growth or changes they’ve noticed in their learning throughout the task. Are these videos considered an educational record under FERPA?

**a. Yes - FERPA protects all personally identifiable student information from anyone not**

**enrolled in the class.**

b. Yes - FERPA requires that no personally identifiable videos be taken of students in schools at any time.

c. No - FERPA does not cover information personally recorded by students onto a Learning Management System.

d. No - FERPA does not cover video or audio recordings only paper records.

12. You are working with a student who concurrently attends high school and community college classes. In this situation, do the parents still have legal access to the student’s educational records?

a. Yes - If the student is under 18, the parents retain the right to all educational records

from an educational institution.

**b. Yes - If the student is under 18, the parents retain the right to the high school**

**records and any records sent from the community college to the high school (as a**

**part of the high school educational record).**

c. No - When a student attends a post-secondary institution, at any age, all FERPA rights are

transferred to the student.

d. No - Post-secondary FERPA rights are only transferred to the student when a student is

over the age of 18.

13. About halfway through the school year, the parents of a student in your class decide to divorce. The parents cannot harmoniously attend conferences together, so they request two separate conference times to meet with you, including a discussion about the student’s 504 documents and other personally identifiable information. In this situation, based on FERPA, do both parents have a right to legal access to the educational records?

1. Yes - If the custodial parent gives their consent for the noncustodial parent to review the child’s educational records.
2. **Yes - FERPA gives custodial and noncustodial parents the right to legal access to their child’s educational records.**
3. No - FERPA does not allow you to share information about the child with anyone outside of the educational institution and the child’s household.
4. No - FERPA requires all non-custodial parents to provide legal documentation before they are allowed access to their child’s educational records.

14. In order to better understand and document a student’s behavior, you have been keeping anecdotal notes about the patterns of specific behaviors in your classroom. As a part of the IEP meeting for the student, you shared some of the patterns and information that you noticed with the adults in the meeting, which allowed the team to have a meaningful conversation about how to best continue to support the student in your classroom. You know that FERPA covers all educational records, which are generally considered to be files, records, or documents that relate directly to a student and are personally identifiable. You also know that personal notes, memory tools, and other documentation kept by an individual are not covered by FERPA because they are not educational records. The parents now believe that your anecdotal notes are a part of the child’s educational record and that they should be able to review the information that you documented as a part of the preparation for the IEP meeting. Is the parent correct?

1. **Yes - If personal notes or anecdotal information are shared with others in the educational institution, these notes then become a part of the educational record, which is reviewable at any time by the legal guardians of the student.**
2. Yes - Anything a teacher observes or collects throughout the school day automatically becomes a part of the student’s educational record.
3. No - A teacher’s personal notes, including anecdotal records, are not considered part of the educational record, even when shared with a team working on behalf of the student.
4. No - As the child’s teacher, you are not required to share anything with the parents that would not have been collected for all students in your class as a part of the educational record.

### Module 5:

### Professional Ethics Standards That Include Educator Responsibilities

#### Overview: Professional Ethics and Standards

Professional ethics standards are applicable to all educators and school personnel. It is your role as an educator to understand these standards and the robust legal and moral responsibilities that you have towards protecting the rights and dignity of the students in your charge. The main purpose of this module is to expand upon and enhance the learning that you have done in Modules 1-4 about federal and state laws that protect individual civil rights and prohibit discrimination in educational settings, strategies for ensuring equity, inclusion, and cultural awareness in all aspects of a students’ educational experience, and how to interact with all students in ways that promote their self-confidence and achievement of educational goals. After completing this module, you will be able to identify and apply state and national professional ethics standards required for professional practice and teacher licensure in Oregon.

As mentioned in Module 1, teachers are considered actors on behalf of the state and have a legal duty to uphold the protections afforded by the State of Oregon to all its citizens. Some of these regulations are clearly more immediately relevant to a classroom teacher than others such as the statutes and codes related to discrimination, privacy, safety, bullying, sexual harassment, child abuse, and mandatory reporting. You are encouraged to refer back to both state and federal statutes and regulations that you learned about in the previous modules as you proceed through this final module and reflect upon your role as an educator tasked to uphold high ethical standards.

You will first read about professional ethics standards for the state of Oregon, and will then learn about the national professional standards of National Association of Directors of Teacher Education and Certification (NASDTEC)Model Code of Ethics for Educators (MCEE and Interstate Teacher Assessment and Support Consortium (InTASC) Model Core Teaching Standards and Learning Progressions for Teachers 1.0: A Resource for Ongoing Teacher Development. A short quiz will conclude this module on professional ethics standards.

*Learning Outcomes*

LO1: Identify the applicable Oregon Teacher Standards and Practices Commission standards as promulgated in the Oregon Administrative Rules (OARs) that protect individual civil rights and prohibit discrimination in educational settings.

LO2: Identify national professional standards that address teachers’ professional practice with respect to students' civil rights.

*Learning Tasks*

* Identify and apply Oregon professional ethics standards as well as laws that affect
* Identify and apply national ethics standards as well as laws that affect professional standards (LO2)
* Complete the assessment application questions at the end of the module (LO1)

#### Learning Materials : Professional Ethics and Standards

**Oregon Professional Standards**

You will learn to apply standards and guidelines for acting fairly, ethically, and with integrity in varied educational contexts, as outlined in the Standards for Competent and Ethical Performance of Oregon Educators.

Oregon Administrative Rule 584-020-0035 provides a definition of an ethical educator [*OAR 584-020-0035 - The Ethical Educator — Oregon Administrative Rules (public.law)*](https://www.nasdtec.net/general/custom.asp) and Oregon Administrative Rule 584-020-0010 defines a competent educator [*OAR 584-020-0010 - The Competent Educator — Oregon Administrative Rules (public.law)*](https://studentprivacy.ed.gov/ferpa).

The Oregon Teacher Standards and Practices Commission (TSPC) provides additional guidelines on being a competent and ethical educator. The highlights of TSPCs guidelines on being a competent and ethical educator are outlined below. Additional information including information on what happens when a complaint of an educator being unfit to perform professional duties, the investigative process, and disciplinary sanctions can be found here : [*The Ethical Educator & Professional Practices (state.or.us)*](https://www.nasdtec.net/general/custom.asp)

What is a Competent and Ethical Educator*?*

The competent educator demonstrates:

* + Knowledge and use of curriculum and instruction to meet the needs of all students;
  + Ability to provide a climate for students that is conducive to learning and respects the rights of all persons without discrimination;
  + An understanding of students and ability to establish and maintain good rapport and assist the growth of students;
  + Ability to work effectively with students, staff, parents and community.

The ethical educator demonstrates:

* + A willingness to accept the requirements of membership in the education profession;
  + A willingness to consider the needs of the students, the school, and the profession.

What is a Culturally Competent Educator*?*

The culturally competent educator demonstrates:

* + Capacity to promote equity of student access and outcomes;
  + Advocacy for social justice;
  + Awareness of laws and policies affecting learners;
  + Creates a respectful and collaborative environment;
  + Ability to navigate conflicts around race, ethnicity, religion, class, and language in a safe and productive manner;
  + Ability to work collaboratively with students, staff, and parents from diverse racial, ethnic, religious, class and language backgrounds;
  + Demonstrates respectful and welcoming verbal and non-verbal interaction skills.

What does it mean to be in gross neglect of duty, and what does that mean to me?

Oregon Administrative Rule 584-020-0040 covers rounds for disciplinary action. [*OAR 584-020-0040 - Grounds for Disciplinary Action — Oregon Administrative Rules (public.law)*](https://secure.sos.state.or.us/oard/viewSingleRule.action) Grounds for disciplinary action are not limited to but could include the following:

* **Gross neglect of duty** is any serious and material inattention to or breach of professional responsibilities. Some examples of Gross Neglect of Duty are: unreasonable physical force against students or fellow employees; sexual conduct with a student; appearing on duty or at any district-sponsored activity while under the influence of alcohol or any controlled substance; knowing falsification of any document or knowing misrepresentation directly related to licensure, employment or professional duties; knowing and unauthorized use of school computer equipment to receive, store, produce or send sexually explicit materials; knowing and willful failure of a chief administrator to report a violation of Commission standards; etc
* **Gross unfitness** is any conduct which renders an educator unqualified to perform his or her professional responsibilities. Conduct constituting gross unfitness may include conduct occurring outside of school hours and off school premises when such conduct bears a demonstrable relationship to the educator's ability to fulfill professional responsibilities effectively. Some examples of Gross Unfitness are: fraud or misrepresentation; conviction of violating any federal, state, or local law; violation of a term of probation imposed by a court; admission of or engaging in acts constituting criminal conduct, even in the absence of a conviction; etc.

**Think about your knowledge of state law, school policies and procedures.**

* Do you know the laws, district policies, school rules and your rights?
* Do you know the Oregon child abuse reporting law ORS 419B.010?
* Do you know the policies in your school regarding the proper handling of money and finances?
* Do you have clear behavioral management rules?
* Do you know laws and district policies regarding suspected educator sexual conduct?
* Do you know your district’s Acceptable Use Policy regarding technology, including computers, e-mail and internet access. Do you know about confidentiality requirements?

**Think about your reputation in the community.**

* Do you maintain a professional reputation in the community and school district?
* Do you communicate with parents and document that communication?
* Do you engage in behavior in the community that students may use as a positive model?

**National Professional Standards**

As you change your focus to professional standards on a national level, you will find a great deal of correspondence with what you’ve learned about Oregon’s standards. Despite the difference in structure, you will find comprehensive outlines that focus on equity, advocacy,connection, collaboration, continued professional development and growth in the profession, and thoughtful self-reflection. You will be examining the Model Code of Ethics for Educators (MCEE) and the Interstate Teacher Assessment and Support Consortium (InTASC) Model Core Teaching Standards and Learning Progressions for Teachers 1.0.

(a) National Association of Directors of Teacher Education and Certification (NASDTEC)[*Model Code of Ethics for Educators (MCEE)*](https://www.nasdtec.net/general/custom.asp#Principle%201)*:* in particular, *Principle III: Responsibility to Students*. © NASDTEC 2021

| **Principle I: Responsibility to the Profession** The [professional educator](https://www2.ed.gov/policy/rights/guid/ocr/disabilityoverview.html?page=MCEE_Doc#Professional%20educator) is aware that trust in the profession depends upon a level of professional conduct and responsibility that may be higher than required by law. This entails holding one and other educators to the same ethical standards.*A. The professional educator demonstrates responsibility to oneself as an ethical professional by:*   1. Acknowledging that lack of awareness, knowledge, or understanding of the Code is not, in itself, a defense to a charge of unethical conduct; 2. Knowing and upholding the procedures, policies, laws and regulations relevant to professional practice regardless of personal views; 3. Holding oneself responsible for ethical conduct; 4. Monitoring and maintaining sound mental, physical, and emotional health necessary to perform duties and services of any professional assignment; and taking appropriate measures when personal or health-related issues may interfere with work-related duties; 5. Refraining from professional or personal activity that may lead to reducing one’s effectiveness within the [school community](https://www2.ed.gov/policy/rights/guid/ocr/ageoverview.html?page=MCEE_Doc#School%20Community%204); 6. Avoiding the use of one’s position for personal gain and avoiding the appearance of impropriety;and 7. Taking responsibility and credit only for work actually performed or produced, and acknowledging the work and contributions made by others.  *B. The professional educator fulfills the obligation to address and attempt to resolve ethical issues by:*  1. Confronting and taking reasonable steps to resolve conflicts between the Code and the [implicit or explicit demands of a person or organization](https://oregon.public.law/statutes/ors_659.850?page=MCEE_Doc#%20%20Implicit%20or%20Explicit%20Demands%20of%20an%20Organization); 2. Maintaining fidelity to the Code by taking proactive steps when having reason to believe that another [educator](https://www.oregonlegislature.gov/bills_laws/pages/orsarchive.aspx?page=MCEE_Doc#Educator) may be approaching or involved in an ethically compromising situation; 3. Neither discriminating nor retaliating against a person on the basis of having made an ethical complaint; 4. Neither filing nor encouraging frivolous ethical complaints solely to [harm](https://www.dhs.gov/privacy-training/what-personally-identifiable-information?page=MCEE_Doc#Harm) or retaliate; and 5. Cooperating fully during ethics investigations and proceedings  *C. The professional educator promotes and advances the profession within and beyond the school community by:*  1. Influencing and supporting decisions and actions that positively impact teaching and learning, educational leadership and [student](https://www.oregonlegislature.gov/bills_laws/ors/ors659.html?page=MCEE_Doc#Student%202) services; 2. Engaging in respectful discourse regarding issues that impact the profession; 3. Enhancing one’s professional effectiveness by staying current with ethical principles and decisions from relevant sources including professional organizations; 4. Actively participating in educational and professional organizations and associations; and 5. Advocating for adequate resources and facilities to ensure equitable opportunities for all students.  **Principle II: Responsibility for Professional Competence**The professional educator is committed to the highest levels of professional and ethical practice, including demonstration of the knowledge, skills and dispositions required for professional competence.A. *The professional educator demonstrates commitment to high standards of practice through:*  1. Incorporating into one’s practice state and national standards, including those specific to one’s discipline; 2. Using the *Model Code of Educator Ethics* and other ethics codes unique to one’s discipline to guide and frame educational decision-making; 3. Advocating for equitable educational opportunities for all students; 4. Accepting the responsibilities, performing duties and providing services corresponding to the area of certification, licensure, and training of one’s position; 5. Reflecting upon and assessing one’s professional skills, content knowledge, and competency on an ongoing basis; and 6. Committing to ongoing professional learning.  B. *The professional educator demonstrates responsible use of data, materials, research and assessment by*:  1. Appropriately recognizing others’ work by citing data or materials from published, unpublished, or electronic sources when disseminating information; 2. Using developmentally appropriate assessments for the purposes for which they are intended and for which they have been validated to guide educational decisions; 3. Conducting research in an ethical and responsible manner with appropriate permission and supervision; 4. Seeking and using evidence, instructional data, research, and professional knowledge to inform practice; 5. Creating, maintaining, disseminating, storing, retaining and disposing of records and data relating to one’s research and practice, in accordance with [district](https://www.nasdtec.net/general/custom.asp?page=MCEE_Doc#District/school%20district) policy, state and federal laws; and 6. Using data, data sources, or findings accurately and reliably.  C. *The professional educator acts in the best interest of all students by:*  1. Increasing students’ access to the curriculum, activities, and resources in order to provide a quality and equitable educational experience. 2. Working to engage the school community to close achievement, opportunity, and attainment gaps; and 3. Protecting students from any practice that harms or has the potential to harm students.  **Principle III: Responsibility to Students**The professional educator has a primary obligation to treat students with dignity and respect. The professional educator promotes the health, safety and well being of students by establishing and maintaining appropriate verbal, physical, emotional and social[*boundaries*](https://www.uscourts.gov/educational-resources/educational-activities/facts-and-case-summary-tinker-v-des-moines?page=MCEE_Doc#Boundaries)*.* A. *The professional educator respects the rights and dignity of students by:*  1. Respecting students by taking into account their age, gender, [culture](https://www.uscourts.gov/educational-resources/educational-activities/facts-and-case-summary-hazelwood-v-kuhlmeier?page=MCEE_Doc#Culture), setting and socioeconomic context; 2. Interacting with students with [transparency](https://www.nasdtec.net/general/custom.asp?page=MCEE_Doc#Transparency) and in appropriate settings; 3. Communicating with students in a clear, respectful, and culturally sensitive manner; 4. Taking into account how appearance and dress can affect one’s interactions and relationships with students; 5. Considering the implication of accepting gifts from or giving gifts to students; 6. Engaging in physical contact with students only when there is a clearly defined purpose that benefits the student and continually keeps the safety and well-being of the student in mind; 7. Avoiding [multiple relationship](https://www.nasdtec.net/general/custom.asp?page=MCEE_Doc#Multiple%20Relationships) with students which might impair objectivity and increase the risk of harm to student learning or well-being or decrease educator effectiveness; 8. Acknowledging that there are no circumstances that allow for educators to engage in romantic or sexual relationships with students; and 9. Considering the ramifications of entering into an adult relationship of any kind with a former student, including but not limited to, any potential harm to the former student, public perception, and the possible impact on the educator’s career. The professional educator ensures that the adult relationship was not started while the former student was in school.  B. *The professional educator demonstrates an* [*ethic of care*](https://www.archives.gov/milestone-documents/brown-v-board-of-education?page=MCEE_Doc#Ethic%20of%20care) *through:*  1. Seeking to understand students’ educational, academic, personal and social needs as well as students’ values, beliefs, and cultural background; 2. Respecting the dignity, worth, and uniqueness of each individual student including, but not limited to, actual and perceived gender, gender expression, gender identity, civil status, family status, sexual orientation, religion, age, disability, race, ethnicity, socio-economic status, and culture; and 3. Establishing and maintaining an environment that promotes the emotional, intellectual, physical, and sexual safety of all students.  C. *The professional educator maintains student trust and confidentiality when interacting with students in a developmentally appropriate manner and within appropriate limits by:*  1. Respecting the privacy of students and the need to hold in confidence certain forms of student communication, documents, or information obtained in the course of professional practice; 2. Upholding parents’/guardians’ legal rights, as well as any legal requirements to reveal information related to legitimate concerns for the well-being of a student; and 3. Protecting the confidentiality of student records and releasing personal data in accordance with prescribed state and federal laws and local policies.  **Principle IV: Responsibility to the School Community**The professional educator promotes positive relationships and effective interactions with members of the school community, while maintaining professional boundaries.A. *The professional educator promotes effective and appropriate relationships with parents/guardians by:*  1. Communicating with parents/guardians in a timely and respectful manner that represents the students’ best interests; 2. Demonstrating a commitment to equality, equity, and inclusion as well as respecting and accommodating diversity among members of the school community; 3. Considering the implication of accepting gifts from or giving gifts to parents/guardians; and 4. Maintaining appropriate confidentiality with respect to student information disclosed by or to parents/guardians unless required by law.  *B. The professional educator promotes effective and appropriate relationships with colleagues by:*  1. Respecting colleagues as fellow professionals and maintaining civility when differences arise; 2. Resolving conflicts, whenever possible, privately and respectfully and in accordance with district policy; 3. Keeping student safety, education, and health paramount by maintaining and sharing educational records appropriately and objectively in accordance with local policies and state and federal laws; 4. Collaborating with colleagues in a manner that supports academic achievement and related goals that promote the best interests of students; 5. Enhancing the professional growth and development of [new educators](https://www2.ed.gov/about/offices/list/ocr/ell/lau.html?page=MCEE_Doc#New%20Educators%203) by supporting effective field experiences, mentoring or induction activities across the career continuum; 6. Ensuring that educators who are assigned to participate as mentors for new educators, cooperating teachers, or other teacher leadership positions are prepared and supervised to assume these roles; 7. Ensuring that educators are assigned to positions in accordance with their educational credentials, preparation, and experience in order to maximize students’ opportunities and achievement; and 8. Working to ensure a workplace environment that is free from harassment.  C. *The professional educator promotes effective and appropriate relationships with the community and other stakeholders by*:  1. Advocating for policies and laws that the educator supports as promoting the education and well-being of students and families; 2. Collaborating with community agencies, organizations, and individuals in order to advance students’ best interests without regard to personal reward or remuneration; and 3. Maintaining the highest professional standards of accuracy, honesty, and appropriate disclosure of information when representing the school or district within the community and in public communications.   D. *The professional educator promotes effective and appropriate relationships with employers by:*  1. Using property, facilities, materials, and resources in accordance with local policies and state and federal laws; 2. Respecting intellectual property ownership rights (e.g. original lesson plans, district level curricula, syllabi, gradebooks, etc.) when sharing materials; 3. Exhibiting personal and professional conduct that is in the best interest of the organization, [learning community](https://tile.loc.gov/storage-services/service/ll/usrep/usrep518/usrep518515/usrep518515.pdf?page=MCEE_Doc#Learning%20Community), school community, and profession; and 4. Considering the implications of offering or accepting gifts and/or preferential treatment by vendors or an individual in a position of professional influence or power.   E. *The professional educator understands the problematic nature of multiple relationships by*:  1. Considering the risks that multiple relationships might impair objectivity and increase the likelihood of harm to students’ learning and well-being or diminish educator effectiveness; 2. Considering the risks and benefits of a professional relationship with someone with whom the educator has had a past personal relationship and vice versa; 3. Considering the implications and possible ramifications of engaging in a personal or professional relationship with parents and guardians, student teachers, colleagues, and supervisors; and 4. Ensuring that professional responsibilities to paraprofessionals, student teachers or interns do not interfere with responsibilities to students, their learning, and well-being.  **Principle V: Responsible and Ethical Use of Technology**The professional educator considers the impact of consuming, creating, distributing and communicating information through all technologies. The ethical educator is vigilant to ensure appropriate boundaries of time, place and role are maintained when using electronic communication.A. *The professional educator uses* [*technology*](https://www.oregon.gov/tspc/EPP/Documents/TSPC_Programs_Program_Approval_Process/Civil_rights_model_curriculum.docx?page=MCEE_Doc#Technology%202) *in a responsible manner by:*  1. Using social media responsibly, transparently, and primarily for purposes of teaching and learning per school and district policy. The professional educator considers the ramifications of using social media and direct communication via technology on one’s interactions with students, colleagues, and the general public; 2. Staying abreast of current trends and uses of school technology; 3. Promoting the benefits of and clarifying the limitations of various appropriate technological applications with colleagues, appropriate school personnel, parents, and community members; 4. Knowing how to access, document and use [proprietary materials](https://tile.loc.gov/storage-services/service/ll/usrep/usrep319/usrep319624/usrep319624.pdf?page=MCEE_Doc#Proprietary%20materials) and understanding how to recognize and prevent plagiarism by students and educators; 5. Understanding and abiding by the district’s policy on the use of technology and communication; 6. Recognizing that some electronic communications are records under the Freedom of Information Act (FOIA) and state public access laws and should consider the implications of sharing [sensitive information](https://www.oregonlegislature.gov/bills_laws/pages/ors.aspx?page=MCEE_Doc#Sensitive%20Information) electronically either via professional or personal devices/accounts; and 7. Exercising prudence in maintaining separate and professional virtual profiles, keeping personal and professional lives distinct.   B. *The professional educator ensures students’* [*safety and well-being*](https://secure.sos.state.or.us/oard/viewSingleRule.action?page=MCEE_Doc#Saenvironments/Safety%20and%20well-being) *when using technology by:*  1. Being vigilant in identifying, addressing and reporting (when appropriate and in accordance with local district, state, and federal policy) inappropriate and illegal materials/images in electronic or other forms; 2. Respecting the privacy of students’ presence on social media unless given consent to view such information or if there is a possibility of evidence of a risk of harm to the student or others; and 3. Monitoring to the extent practical and appropriately reporting information concerning possible cyber bullying incidents and their potential impact on the student learning environment.  C. *The professional educator maintains confidentiality in the use of technology by:*  1. Taking appropriate and reasonable measures to maintain confidentiality of student information and educational records stored or transmitted through the use of electronic or computer technology; 2. Understanding the intent of Federal Educational Rights to Privacy Act (FERPA) and how it applies to sharing electronic student records; and 3. Ensuring that the rights of third parties, including the right of privacy, are not violated via the use of technologies.   **D. *The professional educator promotes the appropriate use of technology in educational settings by:***   1. Advocating for equal access to technology for all students, especially those historically underserved**;** 2. Promoting the benefits of and clarifying the limitations of various appropriate technological applications with colleagues, appropriate school personnel, parents, and community members; and 3. Promoting technological applications (a) that are appropriate for students’ individual needs, (b) that students understand how to use and (c) that assist and enhance the teaching and learning process. |
| --- |

(b) The Interstate Teacher Assessment and Support Consortium (InTASC) Model Core Teaching Standards and Learning Progressions for Teachers 1.0: A Resource for Ongoing Teacher Development has ten standards that you should become familiar with in the following document: [*https://ccsso.org/sites/default/files/2017-12/2013\_INTASC\_Learning\_Progressions\_for\_Teachers.pdf*](https://edeq.stanford.edu/sections/equality-opportunity-introduction)  *Although Standard #9, which focuses on professional learning and ethical practice, is outlined below, there is information on how to expand knowledge and resources, how to strengthen analysis and build skills, and how to continue growth as a reflective professional educator in each of the ten standards in both the document above and on the this website* [*InTASC Model Core Teaching Standards and Learning Progressions for Teachers 1.0 | CCSSO*](https://secure.sos.state.or.us/oard/displayChapterRules.action)*.*

***Standard #9: Professional Learning and Ethical Practice***

“The teacher engages in ongoing professional learning and uses evidence to continually evaluate his/her practice, particularly the effects of his/her choices and actions on others (learners, families, other professionals, and the community), and adapts practice to meet the needs of each learner.”

*Performances:*

9(e): The teacher reflects on his/her personal biases and accesses resources to deepen his/her own understanding of cultural, ethnic, gender, and learning differences to build stronger relationships and create more relevant learning experiences.

9(f): The teacher advocates, models, and teaches safe, legal, and ethical use of information and technology including appropriate documentation of sources and respect for others in the use of social media.

*Essential Knowledge:*

9(i) The teacher understands how personal identity, worldview, and prior experience affect perceptions and expectations, and recognizes how they may bias behaviors and interactions with others.

9(j) The teacher understands laws related to learners’ rights and teacher responsibilities (e.g., for educational equity, appropriate education for learners with disabilities, confidentiality, privacy, appropriate treatment of learners, reporting in situations related to possible child abuse).

*Critical Dispositions:*

9(m) The teacher is committed to deepening understanding of his/her own frames of reference (e.g., culture, gender, language, abilities, ways of knowing), the potential biases in these frames, and their impact on expectations for and relationships with learners and their families.

9(o) The teacher understands the expectations of the profession including codes of ethics, professional standards of practice, and relevant law and policy.

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#### Professional Ethics Applications Quiz

1. The State of Oregon defines a competent educator as an educator who shows a commitment to which of the following? (select all that apply)

1. **Recognizing the worth and dignity of all persons and respect for each individual**
2. **Encouraging scholarship**
3. **Promoting democratic and inclusive citizenship**
4. **Raising educational standards**
5. **Using professional judgment**
6. **Promoting equitable learning opportunities**

2. It is incumbent upon all educators to continually examine their own identities and beliefs in

order to identify potential biases that may impact their work with students and/or families.

1. **True**
2. False

3. Engaging is professional development activities such as actively participating in professional and educational organizations and associations, mentorships, and ongoing professional development is reflected in the following principle(s)

of MCEE?: (select all that apply)

1. **Principle I: Responsibility to the Profession**
2. **Principle II: Responsibility for Professional Competence**
3. Principle III: Responsibility to Students
4. **Principle IV: Responsibility to the School Community**
5. Principle V: Responsible and Ethical Use of Technology
6. All of the above

4. Considering Principle III of the Model Code of Ethics for Educators, which professional tenets are violated in the following scenario? Choose all that apply.

You know that Eli, your 9th grade science student, has been struggling lately, so when you check in with him and he asks to text you over the winter break, you give him your cell phone number. You do it against your better judgment, but Eli tells you that he really has nobody else that he connects with, and promises that he won’t tell anyone else.

1. **Interacting with students with** [**transparency**](https://secure.sos.state.or.us/oard/displayChapterRules.action?page=MCEE_Doc#Transparency) **and in appropriate settings**
2. **Avoiding** [**multiple relationships**](https://www.nasdtec.net/general/custom.asp?page=MCEE_Doc#Multiple%20Relationships) **with students which might impair objectivity and increase the risk of harm to student learning or well-being or decrease educator effectiveness**
3. Seeking to understand students’ educational, academic, personal and social needs as well as students’ values, beliefs, and cultural background
4. Respecting the dignity, worth, and uniqueness of each individual student including, but not limited to, actual and perceived gender, gender expression, gender identity, civil status, family status, sexual orientation, religion, age, disability, race, ethnicity, socio-economic status, and culture

5. Amal is a very shy new arrival to your 4th grade classroom. You can tell that she is very bright but unsure of herself and the expectations of her new classroom. You know that she recently arrived from Syria. Her first language is Arabic, but she also understands English quite well. You make a plan to learn more about her cultural background and prior educational experiences, and to reach out to Amal's family for advice to help her feel more comfortable. Which of the following best represents your approach as a teacher in this scenario?

**a.The National Association of Directors of Teacher Education and**

**Certification (NASDTEC)** [**Model Code of Ethics for Educators (MCEE)**](https://www.oregonlegislature.gov/bills_laws/ors/ors659.html#Principle%201)  **Principle III: Responsibility to Students.**

b. Family Educational Rights and Privacy Act

c. Oregon Civil Rights Statute ORS 659.850 prohibiting discrimination in education

d. Title II of the Civil Rights Act of 1964: Injunctive Relief Against Discrimination in Places of Public Accommodation

6**.** Select the statement that best describes the Interstate Teacher Assessment and Support

Consortium INTASC Standard 9.

1. **The teacher engages in ongoing professional learning and uses evidence to continually evaluate his/her practice, particularly the effects of his/her choices and actions on others (learners, families, other professionals, and the community), and adapts practice to meet the needs of each learner.**
2. The teacher plans instruction that supports every student in meeting rigorous learning goals by drawing upon knowledge of content areas, curriculum, cross-disciplinary skills, and pedagogy, as well as knowledge of learners and the community context.
3. The teacher seeks appropriate leadership roles and opportunities to take responsibility for student learning, to collaborate with learners, families, colleagues, other school professionals, and community members to ensure learner growth, and to advance the profession.
4. The teacher understands and uses multiple methods of assessment to engage learners in their own growth, to monitor learner progress, and to guide the teacher's and learner's decision making.

7. Which of the following activities is NOT representative of InTASC standard 9?

1. Engage a colleague as a mentor/coach and seek feedback on coaching practices and on the effectiveness of coaching to improve practice.
2. **Use social media to be sure to reach all parents/guardians in your classroom community.**
3. Organize a book club about possible approaches to address cultural, ethnic, gender, and learning differences that promote equity.
4. Work with colleagues to brainstorm ways to communicate and display data in a manner that is accessible and engaging for learners and parents.

8. Gross neglect of duty is any serious and material inattention to or breach of professional responsibilities. Select the options below that are examples of Gross neglect of duty.

1. **Roberto was serving as a substitute in an 8th grade classroom when a student’s behavior escalated to the point that Roberto ended up pushing into the classroom wall. The student complained that Roberto was hurting him, but Roberto continued to keep him pushed against the wall until the school resource officer arrived.**
2. **Angela had a few alcoholic beverages during a meal out with her partner and then returned to school to chaperone the homecoming dance. Some of the students noticed that her breath smelled like alcohol and they brought it up with the principal who asked Angela to go home.**
3. **Wang was convicted of felony assault but didn’t report it when it became time to renew his teaching license.**
4. Dina has struggled with some health issues that have recently affected her job attendance. Although she feels badly that she has missed days teaching her students, she hasn’t let her principal or anyone in HR know what is happening with her health.