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

**These learning modules were created as an alternative to the Protecting Student and Civil Rights in the Educational Environment (ORELA) exam**

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**Module 1: Federal Protections for Individual Civil Rights and Prohibition of Discrimination**

**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 “state actors” who act on behalf of the state. It is also important to realize that these laws have evolved over time and court rulings have shaped their implementation and application in schools.

***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 for this Module***

* Read content about federal laws that apply to educational settings (LO1)
* Complete the Federal Laws Check for Understanding (LO1)
* Read content about federal court ruling 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 of the United States Constitution Protections

* *Freedom of speech* is the right for individuals to speak freely without fear of censorship or reprisal from the government. 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 of the United States Constitution Protections

* 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*

*Title VI of the Civil Rights Act* prohibits discrimination on the basis of race, color, or national origin by constraining private, nongovernment 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)*

*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)*

*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*

*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*

*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 (ADA)*

*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.

*No Child Left Behind (NCLB) Title III*

*NCLB's Title III* mandated the creation of funding and support for school districts so that they could better serve students learning English as an additional language, often called English Language Learners (ELLs). The act created the Office of English Language Acquisition with a mission and budget to “close the achievement gap” between students learning English as an additional language and native-English speaking students.

*Food and Nutrition Services USDA Departmental Regulation 4330-2*

This USDA regulation was 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 class status.

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

* [**Race and National Origin Discrimination (Takes you to a US Department of Education page)**](https://www2.ed.gov/policy/rights/guid/ocr/raceoverview.html)
* [**Sex Discrimination (Takes you to a US Department of Education page)**](https://www2.ed.gov/policy/rights/guid/ocr/sexoverview.html)
* [**Disability Discrimination (Takes you to a US Department of Education page)**](https://www2.ed.gov/policy/rights/guid/ocr/disabilityoverview.html)
* [**Age Discrimination (Takes you to a US Department of Education page)**](https://www2.ed.gov/policy/rights/guid/ocr/ageoverview.html)

 **Federal Laws Check for Understanding**

1. According to federal antidiscrimination laws and the 14th Amendment of the Constitution, people are protected from discrimination based on the following protected classes (select 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:
	1. Statutes:
		1. Individual with Disabilities Education Act (IDEA)
		2. Section 504 of the Rehabilitation Act of 1973
		3. Title IX of the Educational Amendments of 1972
		4. Title VI of the Civil Rights Act of 1964
		5. Title VII of the Civil Rights Act of 1964
		6. Title III of No Child Left Behind
		7. First Amendment of the US Constitution
		8. Fourteenth Amendment of the US Constitution
		9. Food and Nutrition Services USDA Departmental Regulation 4330-2
	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.

**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*

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*

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*

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*

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*

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*

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*

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*

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*

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*

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://justice.gov/crt/case-summaries)
* The Stanford Equality of Opportunity and Education Project [[introduction page](https://edeq.stanford.edu/sections/equality-opportunity-introduction)] has curated this [list of landmark US legal cases related to equality and opportunity in K-12 education](https://edeq.stanford.edu/sections/landmark-us-cases-related-equality-opportunity-education)

**Federal Court Rulings Check for Understanding**

1. Match the federal court ruling with its abbreviated implications:
	1. 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
	2. 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 but ruling that “separate but equal is inherently unequal” and that racial segregation violates the 14th Amendment of the Constitution.
		4. 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. 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. 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. 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. 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.

**Federal Laws and Court Rulings Application Quiz**

1. 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
2. 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 can 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
3. 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
4. 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
5. 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
6. 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
7. 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
8. 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. A modification and accommodation are suggestions that teachers can decide to follow or not.

**Answer Key for Federal Protections Checks for Understanding and Application Quiz**

**Checks for Understanding Answer Key**

1. According to federal antidiscrimination laws and the 14th Amendment of the Constitution, people are protected from discrimination based on the following protected classes (check 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:
	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.
3. 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.

**Federal Laws and Court Rulings Application Quiz Answer Key**

1. 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

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

1. 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 can 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

A: 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.

1. 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**

D: 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.

1. 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

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

1. 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

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

1. 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

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

1. 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**

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

1. 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. A modification and accommodation 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.

**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 for this Module***

* 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 Laws 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 can also be found [here](https://www.oregon.gov/ode/students-and-family/equity/civilrights/Pages/OverviewLaws.aspx) [links to external site].

***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 [website](https://www.oregonlegislature.gov/bills_laws/pages/ors.aspx) [links to external site].

### *[ORS Chapter 659 - Prohibited Discrimination](https://www.oregonlegislature.gov/bills_laws/ors/ors659.html)*

### 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.oregonlegislature.gov/bills_laws/ors/ors339.html)*

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://secure.sos.state.or.us/oard/displayChapterRules.action?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 website](https://secure.sos.state.or.us/oard/displayChapterRules.action?selectedChapter=137) before reviewing the specific OARs linked below.

### *[Division 15](https://secure.sos.state.or.us/oard/displayChapterRules.action?selectedChapter=137)*: *Hearings Under Section 504*

* OAR [581-015-2390](https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=143531) Review the definitions for Hearings Under Section 504 of the Rehabilitation Act OAR by clicking the link
* OAR [581-015-2395](https://secure.sos.state.or.us/oard/viewSingleRule.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](http://arcweb.sos.state.or.us/pages/rules/oars_500/oar_581/581_021.html)*: *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://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=144620) Review the Form and Protocol for Sports Physical Examinations OAR by clicking the link
* OAR [581-021-0045](https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=256780) Review the Discrimination Prohibited OAR by clicking the link
* OAR [581-021-0046](https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=144638) Review the Program Compliance Standards OAR by clicking the link
* OAR [581-021-0050](https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=144647) Review the Minimum Standards for Student Conduct OAR and Discipline by clicking the link

### [Division 22](http://arcweb.sos.state.or.us/pages/rules/oars_500/oar_581/581_022.html): *School Administration*

* OAR [581-022-2310](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://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=282669) Review the Every Student Belongs OAR by clicking the link
* OAR [581-022-2370](https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=256782) Review the Complaints Procedures OAR by clicking the link
* OAR [581-022-2405](https://secure.sos.state.or.us/oard/viewSingleRule.action?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 on the State of Oregon?***

* *ORS 659.010 to 659.030* 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* prohibit 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 659.150 to 659.160* apply specifically to education. 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.
* *OAR 580-01-010* mandates that the Department of Education must investigate any allegations of violations of an individual’s civil rights. If a school is found to be in violation, then they must come into compliance with the law. If a school does not do so, then they will lose funding.

***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://secure.sos.state.or.us/oard/displayChapterRules.action?selectedChapter=137) [Links to an external site]
* [The Oregon State Legislature maintains an archive of Oregon Revised Statutes](https://www.oregonlegislature.gov/bills_laws/pages/orsarchive.aspx) (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
2. *ARTICLE VIII Education and School Lands, Section 3 establishes that* The Legislative Assembly shall provide by law for the establishment of which of the following:
	1. A uniform, and general system of Common schools
	2. A Common School Fund
	3. A system for the distribution of the common school fund in proportion to the number of children in a county.
	4. None of the above.
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. *OAR 580-01-010* mandates that the Oregon Department of Education must do the following to protect students’ civil rights:
	1. If a school is found to be in violation of an individual's civil rights, the Oregon Department of Education will close the school.
	2. If a school is found to be in violation of an individual's civil rights, they will lose funding.
	3. Investigate any allegations of violations of an individual’s civil rights.
	4. None of the above.
5. “Harassment, intimidation or bullying” according to ORS 339.351 (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.

**Answer Key State Laws 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**

 *2. ARTICLE VIII Education and School Lands, Section 3 establishes that* The Legislative Assembly shall provide by law for the establishment of which of the following:

1. **A uniform, and general system of Common schools**
2. A Common School Fund
3. A system for the distribution of the common school fund in proportion to the number of children in a county.
4. None of the above.

 *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. OAR 580-01-010* mandates that the Oregon Department of Education must do the following to protect students’ civil rights:

1. If a school is found to be in violation of an individual's civil rights, the Oregon Department of Education will close the school.
2. If a school is found to be in violation of an individual's civil rights, they will lose funding.
3. **Investigate any allegations of violations of an individual’s civil rights.**
4. None of the above.

 5. “Harassment, intimidation or bullying” according to ORS 339.351 (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.

**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.

***Learning Tasks for this Module***

* 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://www.oregon.gov/dhs/abuse/pages/mandatory_report.aspx) [Links to external site] about Mandatory Reporting of Child Abuse from the Oregon Department of Health Services (30 minutes).

Read this [guidance document](https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/de9061.pdf) [Links to external site] 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://apps.rainn.org/policy/compare/children.cfm)

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, semiprofessional 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 Oregon Department of Human Services’ website [Mandatory Reporting of Child Abuse](https://www.oregon.gov/dhs/abuse/pages/mandatory_report.aspx) [Links to external site] for more resources and tools

**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? [check all that apply]
	1. Oregon Law select neglect
	2. A child sexual abuse prevention law
	3. Legislation that requires public schools to implement a prevention-oriented child sexual abuse program
7. Erin’s Law has been passed in 36 states including Oregon.
	1. True
	2. False

**Answer Key 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?

1. Oregon Law about neglect
2. **A child sexual abuse prevention law**
3. **Legislation that requires public schools to implement a prevention-oriented child sexual abuse program**

 7. Erin’s Law has been passed in 36 states including Oregon.

1. **True**
2. False

**Module 4: Privacy Rights and Confidentiality**

**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: Clearly articulate what is considered an educational record.

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

***Learning Tasks for this Module***

* 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://youtu.be/nhlDkS8hvMU)*

***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://www.dhs.gov/privacy-training/what-personally-identifiable-information)

***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".

Writeslaw.com 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?***

This "[Letter to Wachter](https://studentprivacy.ed.gov/sites/default/files/resource_document/file/Letter%20to%20Wachter%20%28Surveillance%20Video%20of%20Multiple%20Students%29_0.pdf)" from the United States Department of Education to Timothy Wachter, 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 that 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 & HIPPA Myth #3](https://youtu.be/RHqQUDnU89c)*

***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://studentprivacy.ed.gov/frequently-asked-questions)
* United States Department of Education: [Protecting Student Privacy: K-12 School Officials](https://studentprivacy.ed.gov/audience/school-officials-k-12)

**Check for Understanding: Do you know about FERPA?**

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
5. Do grandparents have access to educational records under FERPA?
	1. Yes
	2. No
	3. Only in certain circumstances
6. 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

**Learning Materials: What Teachers Need to Know about HIPPA**

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

***When does HIPPA apply?***

In most cases, HIPPA does not apply to educational settings. This occurs when the school is either not a HIPPA covered entity or if the school is a HIPPA 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 HIPPA.

***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, HIPPA 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 HIPPA 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 HIPPA in educational environments?***

* Generally, yes.

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

HIPPA - 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 HIPPA 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 & HIPPA Misconceptions for Schools](https://www.frontlineeducation.com/blog/top-5-ferpa-hipaa-misconceptions-for-schools/)
* US Department of Health and Human Services: [Summary of the HIPPA Privacy Rule](https://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/index.html)

**Check for Understanding: Do you know about HIPPA?**

1. Does HIPPA apply to educational settings?
	1. Yes
	2. No
	3. Only in certain circumstances
2. When 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
3. 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

**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*

* What is a direct identifier?
	+ 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/eIOmskTvp08).
* 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*

* What is considered directory information?
	+ 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.youtube.com/watch?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://studentprivacy.ed.gov/faq/may-educational-agency-or-institution-disclose-directory-information-without-prior-consent)
* What could public notice about directory information look like?
	+ Review this example of ["Notice for Directory Information"](https://www.newberg.k12.or.us/sites/default/files/fileattachments/district/page/3736/ferpa_ppra_parent_notification_august_2017.pdf)  from an Oregon school district.

*DISCLOSURE*

* What is Disclosure?
	+ 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 have 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://studentprivacy.ed.gov/faq/what-must-consent-disclose-education-records-contain), 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://studentprivacy.ed.gov/ferpa#0.1_sp34.1.99.b)
* Education Week: [De-identifying Student Data is Key for Protecting Privacy](https://www.edweek.org/technology/de-identifying-student-data-is-key-for-protecting-privacy/2015/08)

**Privacy and Confidentiality Application Quiz**

1. 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.
2. 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?
	1. Yes - FERPA protects all personally identifiable student information from anyone not enrolled in the class.
	2. Yes - FERPA requires that no personally identifiable videos be taken of students in schools at any time.
	3. No - FERPA does not cover information personally recorded by students onto a Learning Management System.
	4. No - FERPA does not cover video or audio recordings only paper records.
3. 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?
	1. Yes - If the student is under 18, the parents retain the right to all educational records from an educational institution.
	2. 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).
	3. No - When a student attends a post-secondary institution, at any age, all FERPA rights are transferred to the student.
	4. No - Post-secondary FERPA rights are only transferred to the student when a student is over the age of 18.
4. 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.
5. 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.

**Answer Key for Privacy and Confidentiality Checks for Understanding and Application Quiz**

***Check for Understanding: Do you know about HIPPA?***

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

***Check for Understanding: Do you know about HIPPA?***

1. Does HIPPA apply to educational settings?
	1. Yes
	2. No
	3. **Only in certain circumstances**
2. When 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
3. 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

**Privacy and Confidentiality Application Quiz Answer Key**

1. 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.* [*FERPA for Students*](https://www2.ed.gov/policy/gen/guid/fpco/ferpa/students.html)

1. 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?
	1. **Yes - FERPA protects all personally identifiable student information from anyone not enrolled in the class.**
	2. Yes - FERPA requires that no personally identifiable videos be taken of students in schools at any time.
	3. No - FERPA does not cover information personally recorded by students onto a Learning Management System.
	4. No - FERPA does not cover video or audio recordings only paper records.
2. 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?
	1. Yes - If the student is under 18, the parents retain the right to all educational records from an educational institution.
	2. **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).**
	3. No - When a student attends a post-secondary institution, at any age, all FERPA rights are transferred to the student.
	4. No - Post-secondary FERPA rights are only transferred to the student when a student is over the age of 18.

[**Protecting Student Privacy | U.S. Department of Education**](https://studentprivacy.ed.gov/)

1. 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.

[**Protecting Student Privacy | U.S. Department of Education**](https://studentprivacy.ed.gov/)

1. 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.

[**Wrightslaw: From Emotions To Advocacy - Law - Learning About the Family Education Rights and Privacy Act (FERPA)**](https://www.fetaweb.com/04/ferpa.summary.htm)

**Module 5: Professional Ethics Standards That Include Educator Responsibilities**

**Overview: Professional Ethics and  Standards**

After completing this week's activities, you will be able to identify the state and national professional ethics standards as well as federal laws that affect teachers’ professional practice and are required for a teaching license in Oregon. You have already been exposed to most, if not all, of these standards in the previous modules, thus, this week is about becoming more familiar with the specific standards and standards documents themselves as resources for informing your practice and answering questions that may arise over the course of your career. The most important takeaway, of course, is to never forget the awesome legal and moral responsibilities you have towards protecting the rights and dignity of the students in your charge.

**Learning Objectives**

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.

LO3: Identify federal law that gives parents (or students over age 18 or in post-secondary education) rights of access to and some control over students' educational records and restricts access to personally identifiable information.

**Learning Materials Professional Ethics and Standards**

The following are the federal and state statutes and codes as well as national professional standards relating to students' civil rights as enumerated in (proposed) OAR 584-020-0010 (see [here (Links to an external site.)](https://secure.sos.state.or.us/oard/viewSingleRule.action;JSESSIONID_OARD=WIBO2kL_Ocgpr1m2WFNKDGtIqRtlbB-QN9boyXPkDH84uXaCHgKV!-888754201?ruleVrsnRsn=149367) for the current version). In Modules 1 - 4, you have explored many of these regulations and their ramifications for your professional practice, thus, the main purpose of this listing is to provide relatively easy access to some of the provisions that regulate a teacher's behavior towards their students. 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. Consequently, next up is a short quiz that focuses on these areas to check that you understand some of these regulations.

**Federal Statutes and Codes**

(a) Federal Civil Rights statutes related to discrimination prohibitions regarding ADA and Disabilities (Title II), race (Title VI), sex (Title IX) and homelessness (SEC 721. 42 U.S.C. 11431).

1. [Title II (Links to an external site.)](https://www.findlaw.com/civilrights/enforcing-your-civil-rights/title-ii-of-the-civil-rights-act-of-1964-injunctive-relief.html) (1964) prohibits discrimination because of race, color, religion, or national origin in certain places of public accommodation.
2. [Americans with Disabilities Act (Links to an external site.)](https://www.ada.gov/ada_intro.htm) (1990) prohibits discrimination against individuals with disabilities in all areas of public life including jobs, schools, transportation, and all public and private places that are open to the general public.
3. [Title VI (Links to an external site.)](https://www.dol.gov/agencies/oasam/regulatory/statutes/title-vi-civil-rights-act-of-1964) (1964) prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives Federal funds or other Federal financial assistance. For example, an educational institution may be responsible to provide interpreter services needed for a deaf student in academic classes.
4. [Title IX (Links to an external site.)](https://www.justice.gov/crt/title-ix-education-amendments-1972) (1972, 2020) states “No person in the U.S. shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Title IX prohibits sex discrimination in educational institutions that receive federal funding (the vast majority of schools). Schools must disseminate a notice of non-discrimination. This also applies to equity in athletic programs.
5. [42 U.S. Code Par 11431 (Links to an external site.)](https://www.law.cornell.edu/uscode/text/42/11431) Each State educational agency shall ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youths. State laws with compulsory residency requirements must be revised to prevent barriers to education for homeless children and youths.

(b) Federal United States Code related to educational information and records [Family Educational Rights and Privacy Act (Links to an external site.)](https://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html) (Title XX, Chapters 1-2 and Section 1232g)

1. This act protects the privacy of student education records. Schools must have written permission to release any information from a student’s education record with the exception of “directory” information.
2. Schools may only release information to certain parties under certain conditions, such as under court order, accrediting organizations, etc.

(c) Federal [Health Insurance Portability and Accountability Act (Links to an external site.)](https://www.cdc.gov/phlp/publications/topic/hipaa.html)\* (HIPAA Privacy and Security Rule) (1996) is a federal law that requires the creation of national standards to protect sensitive patient health information from being disclosed without the patient’s consent or knowledge. \*However, HIPAA doesn’t typically apply in K-12 school settings because schools are not “covered entities” (i.e., schools do not charge students for health-related services); student health records ARE covered by FERPA.

(d) Food and Nutrition Services: USDA Departmental Regulation 4330-2 and Regulation 7 CFR Part 16

1. [Regulation 4330-2 (Links to an external site.)](https://www.ocio.usda.gov/sites/default/files/docs/2021/DR4330-002_Nondiscrim%20in%20Programs%20and%20Activities%20Receiving%20Federal%20Financial%20Assistance_FINAL_20210724.pdf) 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 (Links to an external site.)](https://www.ecfr.gov/current/title-7/subtitle-A/part-16) ensures equal opportunity for religious organizations, to compete on an equal footing with other organizations for USDA assistance.

**Oregon Statutes**

(a) Oregon Civil Rights Anti-bullying statutes [(ORS 339.351) (Links to an external site.)](https://oregon.public.law/statutes/ors_339.351)

1. This set of statutes prohibits all forms of bullying including cyberbullying including harassment, physically harming a student or damaging their property.
2. It requires a safe and civil environment in order to learn and achieve high academic standards.
3. It requires the development of district policies and training programs.

(b) Oregon Civil Rights Boundary Invasion [(Links to an external site.)](https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=2591) ([ORS 339.370 (Links to an external site.)](https://oregon.public.law/statutes/ors_339.370)) including any sexual advances whether verbal, written or electronic, directed toward a student or that have the effect of unreasonably interfering with the student’s educational performance, or of creating an intimidating, hostile or offensive educational environment.

(c) Oregon Civil Rights Child Abuse Laws ([ORS 419B (Links to an external site.)](https://oregon.public.law/statutes/ors_chapter_419b)) is defined as any assault of a child, physical injury, mental injury, rape, sexual abuse or sexual exploitation including any act contributing to the sexual delinquency of a minor.

(d) Oregon Civil Rights statutes related to discrimination in education ([ORS Ch. 659.850 (Links to an external site.)](https://oregon.public.law/statutes/ors_659.850)), against athletes ([ORS Ch. 659.865 (Links to an external site.)](https://oregon.public.law/statutes/ors_659.865)) and regarding sexual orientation ([ORS Ch. 659.870 (Links to an external site.)](https://oregon.public.law/statutes/ors_659.870))

(e) Oregon Civil Rights statutes related to school district sexual harassment ([OAR 581-021-0038 (Links to an external site.)](https://oregon.public.law/rules/oar_581-021-0038)), equal employment ([OAR 581-021-0045 (Links to an external site.)](https://oregon.public.law/rules/oar_581-021-0045)), equal educational opportunities ([OAR 581-022-1140 (Links to an external site.)](https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=145301)), appeals and complaint procedures ([OAR 581-022-2370 (Links to an external site.)](https://oregon.public.law/rules/oar_581-022-2370)).

(f) Oregon Civil Rights statutes related to Mandatory Reporting:

A mandated reporter is a person who, because of his or her profession, is legally required to report any suspicion of child abuse or neglect to the relevant authorities. These laws are in place to prevent children from being abused and to end any possible abuse or neglect at the earliest possible stage. The applicable Oregon laws are [ORS 419B.005 (Links to an external site.)](https://oregon.public.law/statutes/ors_419b.005) and [ORS 419B.045 (Links to an external site.)](https://oregon.public.law/statutes/ors_419b.045).

If the official has reasonable cause to suspect child abuse they must report the suspicion in accordance with [ORS 419B.015 (Links to an external site.)](https://oregon.public.law/statutes/ors_419b.015).

A complete and current list of public and private officials who are mandatory reporters can be found in [ORS 419B.005 (Links to an external site.)](https://oregon.public.law/statutes/ors_419b.005) (3)

**National Professional Standards**

(a) National Association of Directors of Teacher Education and Certification (NASDTEC) [Model Code of Ethic for Educators (MCEE) (Links to an external site.)](https://www.nasdtec.net/page/MCEE_Doc#Principle%201): in particular, Principle III: Responsibility to Students.

(b) Interstate Teacher Assessment and Support Consortium (InTASC) Model Core Teaching Standards and Learning Progressions for Teachers 1.0: A Resource for Ongoing Teacher Development:

[https://ccsso.org/sites/default/files/2017-12/2013\_INTASC\_Learning\_Progressions\_for\_Teachers.pdf (Links to an external site.)](https://ccsso.org/sites/default/files/2017-12/2013_INTASC_Learning_Progressions_for_Teachers.pdf)

In particular, 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.

**Professional Ethics Standards Quiz**

1. The State of Oregon defines a competent educator as an educator who shows a commitment to which of the following? (check 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. Oregon’s Anti-Bullying Statutes only apply to in-person instruction (and not the virtual world).
	1. True
	2. False
4. If you suspect another teacher in your school may be sexually exploiting a student, you should immediately notify the school principal. (More educators in Oregon are disciplined for sexual misconduct than for any other offense - *The Oregonian, Oct. 21, 2007*).
5. True
6. False

5) Most students who struggle in school are eligible for special education and related

 services under IDEA.

1. True
2. False

**Professional Ethics Standards Quiz Answer Key**

1. The State of Oregon defines a competent educator as an educator who shows a commitment to which of the following? (check 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 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. Oregon’s Anti-Bullying Statutes only apply to in-person instruction (and not the virtual environment).
	1. True
	2. **False**
4. If you suspect another teacher in your school may be sexually exploiting a student, you should immediately notify the school principal.
5. True
6. **False** (You must follow Oregon mandatory reporting requirements.)

5) 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.)