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CITY/REGION, B1



The Register-Guard

EUGENE, OREGON

THURSDAY, MAY 8, 2014

\$1.00

Board backtracks on ESD

The Eugene School District will not withdraw completely from the Lane Education Service District

By **JOSEPHINE WOOLINGTON**
The Register-Guard

After earlier halting a plan to withdraw from the Lane Education Service District — in part because it would save the district money — Eugene School District Superintendent Sheldon Berman is changing course. The Eugene School Board Wednesday night unanimously

approved Berman's recommendation not to withdraw completely from the education service district, which receives money from the state to distribute to local districts, paying for a range of services from technology support to special education programs. Instead, the Eugene district will withdraw only 50 percent of its estimated \$4.9 million in



Sheldon Berman funding for the Lane ESD next year. This will be the second year that it has halved its payment to the Lane ESD. However, the Eugene district, will end up paying about \$2.45 million to provide services Lane ESD previously provided, \$13,000 more than it would have cost the district if it had continued to pay Lane ESD to

provide them. Berman said in October that by withdrawing completely from Lane ESD, the district would have saved about \$1 million. "It's my error," Berman told the school board at a work session on the topic last month. The board had approved his recommendation to withdraw from Lane ESD completely in October but then rescinded that decision Wednesday night. The district underestimated

Turn to **ESD**, Page A6

UO studying conduct code

A review is underway as the university probes a sexual episode involving three basketball players

By **DIANE DIETZ**
The Register-Guard

The University of Oregon is re-evaluating its student conduct code in light of federal law governing investigation and discipline in sexual misconduct cases.

The UO review included hiring an outside expert who in December recommended code improvements, UO documents show.

The UO student code is likely to govern the UO's investigation of the three men's basketball players who had sexual encounters with a female college student in March.

A complaint was filed over that incident, so federal law requires that the UO conduct its own investigation.

"A criminal investigation does not relieve a school of its independent obligation to con-

Turn to **UO**, Page A7

Fire hits Harrisburg area business



BRIAN DAVIES/The Register-Guard

James Smucker surveys the damage as he walks through the smoldering remains of a pellet feed storage warehouse gutted by fire at Smucker Pelleting northeast of Harrisburg on Wednesday. Nobody was injured in the morning fire.

Spontaneous combustion is suspected as the cause of the blaze at Smucker Pelleting and RS Feed

By **CHRISTIAN HILL**
The Register-Guard

HARRISBURG — An early morning fire heavily damaged a pellet feed mill and warehouse Wednesday.

More than a half-dozen fire departments from three counties, including Eugene Springfield Fire, responded to the blaze on Powerline Road, northeast of Harrisburg.

The property is home to two businesses, Smucker Pelleting and RS Feed, which make



DORCAS SMUCKER/For The Register-Guard

Firefighters spray water on the fire early Wednesday.

pellet feed for animals. Steve Smucker, the owner of Smucker Pelleting, is the brother-in-law of Register-Guard columnist Dorcas Smucker, according to her Facebook page. His son, Randy, owns RS Feed.

The fire was reported shortly after 6 a.m. Harrisburg fire Capt. Bart Griffith said it took two to three hours for firefighters to contain the blaze. There were no injuries.

Griffith said firefighters were to remain on site through this morning to ensure that hot spots don't ignite undamaged buildings on the property.

The partially collapsed structure continued to billow

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INSIDE

◆ Columnist Austin Meek looks at the UO's response to the sexual incident involving three basketball players/**C1**

Scientists add letters to genetic alphabet

By **ANDREW POLLACK**
The New York Times

Scientists reported Wednesday that they had taken a significant step toward altering the fundamental alphabet of life — creating for the first time an organism with artificial building blocks in its genetic code.

The accomplishment might eventually lead to organisms that can make medicines or industrial products that cannot be made by cells with only natural DNA. The scientists behind the work at the Scripps Research Institute already have formed a company to try to use the technique to develop new antibiotics, vaccines and other products.

The work also gives some backing to the concept that

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IN THE NEWS

NATION

America's high school seniors lack critical math and reading skills, according to a new national educational progress assessment/**A3**

WORLD

Islamic militants from the same organization that kidnapped schoolgirls opened fire on a Nigerian marketplace, killing hundreds of people/**A5**

BUSINESS

The U.S. Department of Transportation issues an order that railroads must inform states about movement of large shipments of oil/**B4**

COMING UP >>

Guitar great Richard Thompson is planning an all-acoustic show when he plays Friday in Eugene/**Friday in Entertainment**



QUOTABLE

"We're trying to supply people in our camps with a purpose in our community."
— Erik De Buhr of Community Supported Shelters, about a homeless camp's residents' cleanup work at a Eugene park/**B1**

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TODAY'S WEATHER
Mostly cloudy
with p.m. showers
Details, **A2**



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Fire: Buildings were insured, owner says he will rebuild

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smoke throughout the day Wednesday that could be seen from Interstate 5 miles away.

"It'll probably burn for days with all the seed and pellets," Griffith said. "We're trying to keep it to a minimum."

Harrisburg Fire Chief John Goucher said firefighters were first dispatched to the property shortly before 10 p.m. Tuesday after employees reported that a pile of material was smoldering inside the 95,000-square-foot structure.

Workers used a loader to haul the material outside, while firefighters used a thermal imaging camera to get temperature readings around the area. None of the readings exceeded 100 degrees, Goucher said.

Goucher said the cam-



An aerial view of firefighters battling a morning fire at Smucker Pelleting in Harrisburg on Wednesday.

era is unable to get temperature readings deep inside a pile of material. "They have limitations like anything," he said. Firefighters had been on the scene for about

20 minutes Tuesday when they received a medical call. Goucher said Steve Smucker told the firefighters then that he was satisfied that the problem at the mill and warehouse

was resolved and the firefighters left. "We thought we had it all cleaned up. Evidently, we didn't," Steve Smucker told the Albany Democrat-Herald.

Goucher said the investigation is continuing. A cause of the fire hasn't been determined, he said, but it was probably spontaneous combustion.

Goucher estimated that the damage totaled between \$1 million and \$2 million, based on information provided by the owner. A tractor-trailer and other equipment were destroyed.

Both businesses are insured. Smucker told the Albany newspaper he planned to rebuild.

The Smuckers didn't return The Register-Guard's phone messages seeking comment Wednesday.

At the peak of the re-

sponse, fire departments and local farmers used about a dozen vehicles to shuttle tens of thousands of gallons of water to the site because there are no fire hydrants in the area. Powerline Road near the site remained closed until about noon Wednesday to allow the water-laden vehicles to get to the property.

"We've seen fire trucks flying down the road every 10 seconds or so," said Jodi Frazier, who works at the Life Bible Church just down the road.

CC McCarl, whose husband is a Harrisburg firefighter, drove to the property to see the extensive damage for herself.

"This is a huge loss for the community," she said.

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UO: Code requires 'explicit consent' to sexual activity

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duct its own investigation — nor may a school wait for a criminal case to conclude to proceed," according to a report released in late April by the White House Task Force to Protect Students From Sexual Assault.

Students whose offenses are not prosecutable under criminal law because the "beyond a reasonable doubt" standard is too hard for prosecutors to prove may still be held to account under the student conduct code with its lesser "preponderance of evidence" requirement for determining culpability.

UO officials say that, because of federal student confidentiality rules, they cannot discuss anything about — or even the existence of — any investigation regarding the basketball players.

UO President Michael Gottfredson said Tuesday in an email to the campus: "The university has rigorous internal conduct processes that we follow when we receive a report such as this, as well as legal processes and a moral commitment to our students."

The student conduct code is the subject of controversy on campus. The UO Coalition to End Sexual Violence, which includes law, psychology and sociology professors, contends that the conduct code is written — and administered — in a way that is stacked against the accuser and fails to sufficiently hold perpetrators to account.

"We've got one (student) expulsion in four years. We've got people writing some essays (as discipline). We've got suspensions, but of course those individuals come back," said Jennifer Freyd, a psychology professor and member of the coalition.

Last fall, the UO hired Allen Groves, dean of students at the University of Virginia, to fly to Eugene and review the UO's student conduct policies and procedures for compliance with federal Title IX gender equity requirements.

Groves spent two days in Eugene in late September; his final report was dated Dec. 16. The university paid him \$4,305, including airfare.

Groves lauded the university for a "significant effort recently devoted to addressing the issue of sexual misconduct," but found some weaknesses.

Federal law requires the school to "swiftly undertake an investigation, with the goal of completion in 60 days," according to the report. In the case of the basketball players, the incident occurred on March 8, but the UO did not begin its investigation right away out of deference to police, officials said.

Groves wrote that it's unclear who at the UO is in charge of investigating allegations of sexual misconduct. The UO policy says the director of student

conduct and community standards is responsible, but Groves found evidence that the director doesn't enter a proceeding until after the investigation.

Groves highlighted several features of the UO student conduct code that he said give accused students more control over the proceedings. The accused decides whether the case should be made in front of an administrator or in a hearing before a panel; the accused has the right to personally question the complainant; and the accused gets an attorney paid for by the Associated Students of the University of Oregon, but the accuser does not, Groves found.

Another concern: Federal rules are clear that the school apply the "lowest standard of evidence" when adjudicating claims of sexual misconduct," Groves wrote.

The preponderance of evidence standard requires a hearing panel or administrator to decide whether it was more likely than not that the alleged violation took place.

The UO applies the lower standard when determining whether or not a student has violated the policy. But for meting out the most severe penalty, expulsion from the UO, the code requires "clear and convincing evidence" that the alleged act took place. That standard requires a finding that the act was highly probable or reasonably certain.

Groves University of Virginia is on the list of 55 colleges and universities under investigation by the Office of Civil Rights for its handling of sexual misconduct, said Carol Stable, UO Women and Gender Studies professor. Under pressure, that university changed its standard in sexual misconduct cases from clear and convincing to preponderance of evidence.

Under the UO's existing rules, the UO could suspend a student for as long as a decade using the preponderance of evidence standard, UO spokeswoman Rita Radostitz said.

But the UO is changing its conduct code so that it can expel a student under the preponderance of evidence standard, she said.

That proposal is before the UO Senate, she said.

The UO's student conduct code is meant to be educational as well as disciplinary, according to the code. Its aim is to create a place where "the rights, safety, dignity and worth of every individual are respected," the code says.

The UO's policy requires that students obtain "explicit consent" before touching another student sexually. The permission has to be voluntary and clearly communicated through statements and/or acts unmistakable in their meaning, Groves wrote.

"Consent given to one form of sexual activity

does not negate the obligation to obtain explicit consent to other sexual activity," he wrote.

The March 8 events between the female college student and the three basketball players took place over several hours and included extensive sexual contact, according to the 24-page police report.

The female student told police that, early in the incident, she was trying to hold onto her shorts because the men kept pulling them down. She told police she said "stop, don't" during the incident. She said the men were persistent and did not stop when she said she did not want to do anything. The players said they believed she consented to all the acts and stopped when she started to cry, the report said.

For the basketball players to be within the bounds of the UO student conduct code, "they had to get consent from her, verbal or by some conduct, for every single act they did — not just one act but every single one when they went further and further," UO law professor Caroline Forell said.

"It's hard for me to imagine these young men got consent for everything they did — verbal or clear consent. That's sexual assault for (UO) purposes," Forell said.

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