

A-Engrossed
Senate Bill 119

Ordered by the House June 16
Including House Amendments dated June 16

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Teacher Standards and Practices Commission)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Allows Teacher Standards and Practices Commission to discipline person who is licensed by or registered with commission if person resigned from public school without providing appropriate notice. Provides that hearings related to discipline be conducted by administrative law judge.

Authorizes Teacher Standards and Practices Commission to issue letter of informal re-proval under certain circumstances to person licensed, registered or certified by commission. Allows commission to discipline person if person fails to comply with terms of letter. Sunsets June 30, 2012.

Declares emergency, effective July 1, 2009.

A BILL FOR AN ACT

1
2 Relating to discipline by Teacher Standards and Practices Commission; creating new provisions;
3 amending ORS 342.176, 342.177 and 342.553; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 342.553 is amended to read:

6 342.553. *[(1) Any elementary or secondary teacher who has entered into a contract to teach in any*
7 *public school and who resigns the position without first providing 60 days' written notice to the district*
8 *superintendent or the notice required in the applicable collective bargaining agreement may have the*
9 *teaching license of the teacher suspended for the remainder of the school year by the Teacher Standards*
10 *and Practices Commission upon notice of the resignation from the district school board to the com-*
11 *mission. The commission shall notify the teacher of the suspension of the teaching license held by the*
12 *teacher.]*

13 *[(2) Any teacher whose teaching license has been suspended under subsection (1) of this section*
14 *may appeal to the Teacher Standards and Practices commission within 20 days after the date of the*
15 *notice of the suspension. The notice of appeal must be in writing and sent to the Teacher Standards*
16 *and Practices commission not later than one day following the 20-day period. The Teacher Standards*
17 *and Practices commission shall fix the earliest possible date for a hearing on the suspension and shall*
18 *notify the teacher and the district school board concerned. The decision of the Teacher Standards and*
19 *Practices commission is final.]*

20 *[(3) If an appeal is made to the Teacher Standards and Practices Commission, suspension of the*
21 *teaching license shall be stayed until the Teacher Standards and Practices commission reaches a deci-*
22 *sion.]*

23 **(1) Upon notice from a district school board of the resignation of a person who is licensed**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **by or registered with the Teacher Standards and Practices Commission, the commission may**
2 **discipline the person if the person entered into a written contract to work in a public school**
3 **and resigned the position without first providing 60 days' written notice, or the notice re-**
4 **quired in the applicable collective bargaining agreement, to the district superintendent or the**
5 **school board.**

6 **(2) In disciplining a person as provided under this section, the commission shall follow**
7 **the procedure set forth in ORS 342.175 (3), 342.176 and 342.177.**

8 **SECTION 2.** ORS 342.176 is amended to read:

9 342.176. (1) *[Upon receipt of a complaint or information that a person has violated ORS 342.143*
10 *or 342.175,]* The Teacher Standards and Practices Commission shall promptly undertake an investi-
11 gation **upon receipt of a complaint or information that may constitute grounds for:**

12 **(a) Refusal to issue a license or registration, as provided under ORS 342.143;**

13 **(b) Suspension or revocation of a license or registration, discipline of a person holding a**
14 **license or registration, or suspension or revocation of the right to apply for a license or**
15 **registration, as provided under ORS 342.175; or**

16 **(c) Discipline for failure to provide appropriate notice prior to resignation, as provided**
17 **under ORS 342.553.**

18 (2) The commission may appoint an investigator and shall furnish the investigator with appro-
19 priate professional and other special assistance reasonably required to conduct the investigation,
20 and the investigator is empowered to subpoena witnesses over the signature of the executive direc-
21 tor, swear witnesses and compel obedience in the same manner as provided under ORS 183.440 (2).

22 (3) Following completion of the investigation, the executive director shall report in writing any
23 findings and recommendations to:

24 (a) The commission, meeting in executive session, at its next regular meeting following com-
25 pletion of the investigation; and

26 (b) The person against whom the charge is made.

27 (4) The documents and materials used in the investigation and the report of the executive di-
28 rector are confidential and not subject to public inspection unless the commission makes a final
29 determination *[that the person charged has violated ORS 342.143 or 342.175]* to:

30 **(a) Refuse to issue a license or registration, as provided under ORS 342.143;**

31 **(b) Suspend or revoke a license or registration, discipline a person holding a license or**
32 **registration, or suspend or revoke the right to apply for a license or registration, as provided**
33 **under ORS 342.175; or**

34 **(c) Discipline a person for failure to provide appropriate notice prior to resignation, as**
35 **provided under ORS 342.553.**

36 (5) If the commission finds from the report that there is sufficient cause to justify holding a
37 hearing under ORS 342.177, it shall notify in writing:

38 (a) The person charged, enclosing a statement of the charges and a notice of opportunity for
39 hearing;

40 (b) The complainant; and

41 (c) The employing district or public charter school, if any.

42 (6) If the commission finds from the report that there is not sufficient cause to justify holding
43 a hearing under ORS 342.177, it shall notify in writing:

44 (a) The person charged;

45 (b) The complainant; and

1 (c) The employing district or public charter school, if any.

2 (7) Notwithstanding ORS 192.660 (6), the commission may make its findings under this section
3 in executive session. However, the provisions of ORS 192.660 (4) apply to the sessions.

4 **SECTION 3.** ORS 342.177 is amended to read:

5 342.177. (1)(a) Hearings under ORS 342.176 shall be conducted by an administrative law judge
6 assigned from the Office of Administrative Hearings established under ORS 183.605.

7 *[(b) Notwithstanding paragraph (a) of this subsection, the Teacher Standards and Practices Com-*
8 *mission shall conduct any hearing that results from the suspension of the teaching license of a teacher*
9 *under ORS 342.553.]*

10 *[(c)]* (b) Any hearing conducted under this subsection shall be private unless the person against
11 whom the charge is made requests a public hearing. Students attending school in the **employing**
12 district *[that employs the person]* may not attend any hearing except as witnesses duly subpoenaed
13 to testify with respect to the charges made. Students attending a public charter school that employs
14 the person may not attend any hearing except as witnesses duly subpoenaed to testify with respect
15 to the charges made. The person against whom the charge is made shall have the right to be re-
16 presented by counsel and to present evidence and argument. The evidence must be confined to the
17 charges.

18 (2) The Teacher Standards and Practices Commission or the person charged may have subpoenas
19 issued to compel attendance at the hearing. The person charged may have subpoenas issued by an
20 attorney of record subscribed by the signature of the attorney or by the executive director. Wit-
21 nesses appearing pursuant to subpoena, other than the parties or officers or employees of the com-
22 mission, shall receive fees and mileage as prescribed by law for witnesses in ORS 44.415 (2). The
23 commission or the person charged shall have the right to compel the attendance and obedience of
24 witnesses in the same manner as provided under ORS 183.440 (2).

25 (3) The commission shall render its decision at its next regular meeting following the hearing.
26 If the decision of the commission is that the charge described in ORS 342.175 (1) has been proven,
27 the commission may take any or all of the following disciplinary action against the person charged:

28 (a) Issue a public reprimand.

29 (b) Place the person on probation for a period not to exceed four years and subject to such
30 conditions as the commission considers necessary.

31 (c) Suspend the license or registration of the teacher or administrator for a period not to exceed
32 one year.

33 (d) Revoke the license or registration of the teacher or administrator.

34 (e) Revoke the privilege to apply for a license or registration.

35 (4) If the decision of the commission is that the charge is not proven, the commission shall order
36 the charges dismissed.

37 (5) The commission shall notify in writing the person charged, the **employing** school district or
38 public charter school *[by which the person is employed]* and the Superintendent of Public Instruction
39 of the decision.

40 **SECTION 4. The amendments to ORS 342.176, 342.177 and 342.553 by sections 1 to 3 of this**
41 **2009 Act apply to persons who resign a position on or after the effective date of this 2009**
42 **Act.**

43 **SECTION 5. (1) The Teacher Standards and Practices Commission may issue a letter of**
44 **informal reproof to a person licensed, registered or certified by the commission if:**

45 (a) Following the completion of an investigation, the commission determines that the

1 person has engaged in conduct that affects the person's ability to be professionally effective,
2 based on standards adopted by the commission by rule; and

3 (b) Subject to subsection (5) of this section, the commission agrees not to pursue disci-
4 plinary action against the person under ORS 342.175 and the person agrees to the terms of
5 the letter of informal reproof, including a monitoring period.

6 (2) A letter of informal reproof issued as provided by subsection (1) of this section shall
7 establish the terms of a monitoring period for the person to whom the letter is issued.

8 (3) Upon the issuance of a letter of informal reproof, the commission shall notify the
9 employer of the person to whom the letter is issued, including any terms of the letter that
10 the employer may need to know to assist the person in complying with the terms of the
11 letter.

12 (4) A letter of informal reproof issued as provided by subsection (1) of this section:

13 (a) Is confidential; and

14 (b) Except when a disciplinary action is taken as provided in subsection (5) of this sec-
15 tion, may not be posted on an interstate clearinghouse related to educator license sanctions.

16 (5) If a person fails to comply with the terms of a letter of informal reproof, the com-
17 mission may take disciplinary action against the person based on one or both of the follow-
18 ing:

19 (a) The conduct underlying the letter of informal reproof; or

20 (b) The failure to comply with the terms of the letter of informal reproof.

21 (6) If the executive director of the commission determines that a person failed to meet
22 the terms of a letter of informal reproof, the executive director shall report the failure to
23 the commission for the commission to make a final determination pursuant to ORS 342.176.

24 (7) The documents and materials used in an investigation for the purposes of this section
25 are confidential and are not subject to public inspection unless the commission makes a final
26 determination to discipline the person pursuant to ORS 342.175.

27 **SECTION 6.** Section 5 of this 2009 Act is repealed on June 30, 2012.

28 **SECTION 7.** The Teacher Standards and Practices Commission shall submit a report to
29 the interim legislative committees related to education no later than October 1, 2012, that
30 evaluates the effectiveness of letters of informal reproof as provided by section 5 of this
31 2009 Act.

32 **SECTION 8.** This 2009 Act being necessary for the immediate preservation of the public
33 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
34 July 1, 2009.