

# Enrolled Senate Bill 119

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CHAPTER .....

AN ACT

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

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

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

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

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

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

**(1) Upon notice from a district school board of the resignation of a person who is licensed by or registered with the Teacher Standards and Practices Commission, the commission may discipline the person if the person entered into a written contract to work in a public school and resigned the position without first providing 60 days' written notice, or the notice required in the applicable collective bargaining agreement, to the district superintendent or the school board.**

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

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

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

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

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

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

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

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

(a) The commission, meeting in executive session, at its next regular meeting following completion of the investigation; and

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

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

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

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

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

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

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

(b) The complainant; and

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

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

(a) The person charged;

(b) The complainant; and

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

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

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

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

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

[(c)] (b) Any hearing conducted under this subsection shall be private unless the person against whom the charge is made requests a public hearing. Students attending school in the **employing** district [*that employs the person*] may not attend any hearing except as witnesses duly subpoenaed to testify with respect to the charges made. Students attending a public charter school that employs the person may not attend any hearing except as witnesses duly subpoenaed to testify with respect to the charges made. The person against whom the charge is made shall have the right to be re-

presented by counsel and to present evidence and argument. The evidence must be confined to the charges.

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

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

(a) Issue a public reprimand.

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

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

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

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

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

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

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

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

(a) Following the completion of an investigation, the commission determines that the person has engaged in conduct that affects the person's ability to be professionally effective, based on standards adopted by the commission by rule; and

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

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

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

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

(a) Is confidential; and

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

(5) If a person fails to comply with the terms of a letter of informal reproof, the commission may take disciplinary action against the person based on one or both of the following:

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

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

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

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

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

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

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

Passed by Senate February 24, 2009

Received by Governor:

Repassed by Senate June 24, 2009

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Approved:

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Secretary of Senate

.....M,....., 2009

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President of Senate

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Governor

Passed by House June 19, 2009

Filed in Office of Secretary of State:

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Speaker of House

.....M,....., 2009

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Secretary of State