

Senate Bill 45

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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 **as introduced**.

Prohibits person licensed or registered by Teacher Standards and Practices Commission from working in certain positions that have direct, unsupervised contact with children if person is suspected of committing boundary violation or child abuse. Requires education providers to provide notice of employment restrictions to person.

Prohibits person whose license or registration has been suspended or revoked by commission from working in another position for employing district.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to conduct by school employees; creating new provisions; amending ORS 339.372, 339.375,
3 342.175 and 342.177; and declaring an emergency.

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

5 **SECTION 1. (1) As used in this section:**

6 (a) **"Boundary violation" means demonstrating or expressing an inappropriate relation-**
7 **ship with a student, and may be further defined by the Teacher Standards and Practices**
8 **Commission by rule. The term does not include abuse, as defined in ORS 419B.005.**

9 (b) **"Licensed or registered school employee" means an employee of a public education**
10 **provider who is licensed or registered by the Teacher Standards and Practices Commission.**

11 (c) **"Public education provider" means:**

12 (A) **A school district, as defined in ORS 332.002.**

13 (B) **The Oregon School for the Blind.**

14 (C) **The Oregon School for the Deaf.**

15 (D) **An educational program under the Youth Corrections Education Program.**

16 (E) **A public charter school, as defined in ORS 338.005.**

17 (F) **An education service district, as defined in ORS 334.003.**

18 (G) **Any state-operated program that provides educational services to kindergarten**
19 **through grade 12 students.**

20 (2) **When a public education provider receives a report of a suspected boundary violation**
21 **committed by one of its licensed or registered school employees and the public education**
22 **provider determines that there is reasonable cause to support the report, the public educa-**
23 **tion provider shall remove the employee from a position that involves direct, unsupervised**
24 **contact with children.**

25 (3) **A public education provider that has reasonable cause to believe that a licensed or**
26 **registered school employee committed a boundary violation shall place the employee:**

27 (a) **On paid administrative leave; or**

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 **(b) In another position that does not involve direct, unsupervised contact with children.**

2 **(4)(a) A licensed or registered school employee being investigated by a public education**
 3 **provider for committing a boundary violation is prohibited from having direct, unsupervised**
 4 **contact with children through employment with:**

5 **(A) A public education provider.**

6 **(B) A community college, as defined in ORS 341.005.**

7 **(C) An institution of higher education listed in ORS 352.002.**

8 **(D) A child care facility that has been certified or registered with the Child Care Division**
 9 **of the Employment Department.**

10 **(b) Violation of this subsection by a licensed or registered school employee may be**
 11 **grounds for discipline or dismissal by a public education provider or for discipline by the**
 12 **Teacher Standards and Practices Commission as provided under ORS 342.175.**

13 **(5) A public education provider shall provide a licensed or registered school employee**
 14 **suspected of committing a boundary violation with notification of the restrictions on em-**
 15 **ployment described in subsections (3) and (4) of this section.**

16 **(6) A licensed or registered school employee prohibited from working in a position that**
 17 **involves direct, unsupervised contact with children as provided under this section may begin**
 18 **or return to a position that involves direct, unsupervised contact with children after the**
 19 **public education provider determines that the report of a suspected boundary violation is:**

20 **(a) Unfounded and the public education provider will not further pursue the report; or**

21 **(b) Founded and the public education provider will take the appropriate disciplinary**
 22 **action against the licensed or registered school employee.**

23 **SECTION 2.** ORS 339.375 is amended to read:

24 339.375. (1) Any school employee having reasonable cause to believe that any child with whom
 25 the employee comes in contact has suffered abuse by another school employee, or that another
 26 school employee with whom the employee comes in contact has abused a child, shall immediately
 27 report the information to:

28 (a) A supervisor or other person designated by the school board; and

29 (b) A law enforcement agency, the Department of Human Services or a designee of the depart-
 30 ment as required by ORS 419B.010 and 419B.015.

31 (2) A supervisor or other person designated by the school board who receives a report under
 32 subsection (1) of this section, shall follow the procedures required by the policy adopted by the
 33 school board under ORS 339.372.

34 (3) Except as provided in subsection [(4)] (5) of this section, when an education provider receives
 35 a report of suspected child abuse by one of its employees, and the education provider's designee
 36 determines that there is reasonable cause to support the report, the education provider shall place
 37 the school employee on paid administrative leave until either:

38 (a) The Department of Human Services or a law enforcement agency determines that the report
 39 is unfounded or that the report will not be pursued; or

40 (b) The Department of Human Services or a law enforcement agency determines that the report
 41 is founded and the education provider takes the appropriate disciplinary action against the school
 42 employee.

43 **(4)(a) A school employee who is licensed or registered by the Teacher Standards and**
 44 **Practices Commission and who is placed on paid administrative leave as provided under**
 45 **subsection (3) of this section is prohibited from having direct, unsupervised contact with**

1 **children through employment with:**

2 **(A) An education provider.**

3 **(B) A community college, as defined in ORS 341.005.**

4 **(C) An institution of higher education listed in ORS 352.002.**

5 **(D) A child care facility that has been certified or registered with the Child Care Division**
 6 **of the Employment Department.**

7 **(b) Violation of this subsection by a school employee may be grounds for discipline or**
 8 **dismissal by an education provider or for discipline by the Teacher Standards and Practices**
 9 **Commission as provided under ORS 342.175.**

10 [(4)] (5) If the Department of Human Services or a law enforcement agency is unable to deter-
 11 mine, based on a report of suspected child abuse, whether child abuse occurred, an education pro-
 12 vider may reinstate a school employee placed on paid administrative leave under subsection (3) of
 13 this section or may take the appropriate disciplinary action against the employee.

14 [(5)] (6) Upon request from a law enforcement agency, the Department of Human Services or the
 15 Teacher Standards and Practices Commission, a school district shall provide the records of investi-
 16 gations of suspected child abuse by a school employee or former school employee.

17 [(6)] (7) The disciplinary records of a school employee or former school employee convicted of
 18 a crime listed in ORS 342.143 are not exempt from disclosure under ORS 192.501 or 192.502. If a
 19 school employee is convicted of a crime listed in ORS 342.143, the education provider that is the
 20 employer of the employee shall disclose the disciplinary records of the employee to any person upon
 21 request. If a former school employee is convicted of a crime listed in ORS 342.143, the education
 22 provider that was the employer of the former employee when the crime was committed shall disclose
 23 the disciplinary records of the former employee to any person upon request.

24 [(7)] (8) Prior to disclosure of a disciplinary record under subsection [(6)] (7) of this section, an
 25 education provider shall remove any personally identifiable information from the record that would
 26 disclose the identity of a child, a crime victim or a school employee or former school employee who
 27 is not the subject of the disciplinary record.

28 **SECTION 3.** ORS 339.372 is amended to read:

29 339.372. Each school board shall adopt policies on the reporting of child abuse. The policies
 30 shall:

31 (1) Specify that child abuse by school employees is not tolerated;

32 (2) Specify that all school employees are subject to the policies;

33 (3) Require that all school employees report suspected child abuse to a law enforcement agency,
 34 the Department of Human Services or a designee of the department as required by ORS 419B.010
 35 and 419B.015 and report suspected child abuse to the employees' supervisors or other persons des-
 36 ignated by the school board;

37 (4) Designate a person to receive reports of suspected child abuse by school employees and
 38 specify the procedures to be followed by that person upon receipt of a report;

39 (5) Require the posting in each school building of the name and contact information for the
 40 person designated for the school building to receive reports of suspected child abuse by school em-
 41 ployees and the procedures the person will follow upon receipt of a report;

42 (6) Specify that the initiation of a report in good faith about suspected child abuse may not ad-
 43 versely affect any terms or conditions of employment or the work environment of the complainant;

44 (7) Specify that the school board or any school employee will not discipline a student for the
 45 initiation of a report in good faith about suspected child abuse by a school employee; [and]

1 (8) Require notification by the education provider to the person who initiated the report about
 2 actions taken by the education provider based on the report[.]; **and**

3 **(9) Require notification by the education provider to a person who is licensed or regis-**
 4 **tered by the Teacher Standards and Practices Commission and who is suspected of child**
 5 **abuse of the conditions of paid administrative leave under ORS 339.375.**

6 **SECTION 4.** ORS 342.175 is amended to read:

7 342.175. (1) The Teacher Standards and Practices Commission may suspend or revoke the license
 8 or registration of a teacher or administrator, discipline a teacher or administrator or suspend or
 9 revoke the right of any person to apply for a license or registration if the person has held a license
 10 or registration at any time within five years prior to issuance of the notice of charges under ORS
 11 342.176 based on the following:

12 (a) Conviction of a crime not listed in ORS 342.143 (3);

13 (b) Gross neglect of duty;

14 (c) Any gross unfitness;

15 (d) Conviction of a crime for violating any law of this or any state or of the United States in-
 16 volving the illegal use, sale or possession of controlled substances;

17 (e) Any false statement knowingly made in an application for issuance, renewal or reinstatement
 18 of a license or registration; [*or*]

19 (f) Failure to comply with any condition of reinstatement under subsection (3) of this section or
 20 any condition of probation under ORS 342.177 (3)(b)[.]; **or**

21 **(g) Employment in violation of ORS 339.375 (4) or section 1 (4) of this 2009 Act.**

22 (2) [*Notwithstanding ORS 670.280,*] The commission shall revoke any license or registration and
 23 shall revoke the right of any person to apply for a license or registration if the person has held a
 24 license or registration at any time within five years prior to issuance of the notice of charges under
 25 ORS 342.176 when the holder or person has been convicted of any crime described in ORS 342.143
 26 (3).

27 **(3) A person whose license or registration has been suspended or revoked may not work**
 28 **in another position for the employing school district, regardless of whether the position re-**
 29 **quires a license or registration. Violation of this subsection is grounds for additional disci-**
 30 **plinary action.**

31 [(3)] (4) Except for convictions for crimes listed in ORS 342.143 (3) and subject to subsection
 32 [(4)] (5) of this section, any person whose license or registration has been suspended or revoked or
 33 whose privilege to apply for a license or registration has been revoked may apply to the commission
 34 for reinstatement of the license or registration after one year from the date of the suspension or
 35 revocation. The commission may require an applicant for reinstatement to furnish evidence satis-
 36 factory to the commission of good moral character, mental and physical health and such other evi-
 37 dence as the commission may consider necessary to establish the applicant's fitness. The commission
 38 may impose a probationary period and such conditions as it considers necessary upon approving an
 39 application for reinstatement.

40 [(4)] (5) The commission shall reconsider immediately a license or registration suspension or
 41 revocation or the situation of a person whose privilege to apply for a license or registration has
 42 been revoked, upon application therefor, when the license or registration suspension or revocation
 43 or the privilege revocation is based on a criminal conviction that is reversed on appeal.

44 [(5)] (6) Violation of rules adopted by the commission relating to competent and ethical per-
 45 formance of professional duties shall be admissible as evidence of gross neglect of duty or gross

1 unfitness.

2 [(6)] (7) A copy of the record of conviction, certified to by the clerk of the court entering the
3 conviction, shall be conclusive evidence of a conviction described in this section.

4 **SECTION 5.** 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
8 Commission shall conduct any hearing that results from the suspension of the teaching license of a
9 teacher under ORS 342.553.

10 (c) 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 district that
12 employs the person may not attend any hearing except as witnesses duly subpoenaed to testify with
13 respect to the charges made. Students attending a public charter school that employs the person
14 may not attend any hearing except as witnesses duly subpoenaed to testify with respect to the
15 charges made. The person against whom the charge is made shall have the right to be represented
16 by counsel and to present evidence and argument. The evidence must be confined to the charges.

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

24 (3) The commission shall render its decision at its next regular meeting following the hearing.
25 If the decision of the commission is that the charge described in ORS 342.175 (1) **or (3)** has been
26 proven, the commission may take any or all of the following disciplinary action against the person
27 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 school district or public
38 charter school by which the person is employed and the Superintendent of Public Instruction of the
39 decision.

40 **SECTION 6. (1) Section 1 of this 2009 Act and the amendments to ORS 339.372, 339.375**
41 **and 342.175 by sections 2 to 4 of this 2009 Act, as they relate to boundary violations and child**
42 **abuse, apply to persons suspected of committing a boundary violation or child abuse on or**
43 **after the effective date of this 2009 Act.**

44 (2) **The amendments to ORS 342.175 by section 4 of this 2009 Act, as they relate to re-**
45 **voked or suspended licenses or registrations, apply to persons whose license or registration**

1 was first suspended or revoked on or after the effective date of this 2009 Act.

2 SECTION 7. This 2009 Act being necessary for the immediate preservation of the public
3 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
4 on its passage.

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