

A-Engrossed
House Bill 4016

Ordered by the House February 14
Including House Amendments dated February 14

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Education)

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.

Adds employee [*or volunteer*] of organization providing child-related services or activities, employee of higher education institution, coach, assistant coach or trainer of child athlete and individual who provides guidance, instruction or training in youth development activity to list of public and private officials required to report child abuse.

Requires school boards to adopt policies and take certain actions related to abuse of students by students.

Specifies that duty to report child abuse is personal to public or private official who has reasonable cause to believe child abuse occurred and mandatory regardless of whether entity or organization that employs official or uses official as volunteer has its own reporting procedures.

[Declares emergency, effective on passage.]

A BILL FOR AN ACT

1
2 Relating to harm to a child; amending ORS 338.115, 339.370, 339.372, 339.374, 339.378, 339.388,
3 339.392, 339.400, 419B.005 and 419B.010.

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

5 **SECTION 1.** ORS 419B.005 is amended to read:

6 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

7 (1)(a) "Abuse" means:

8 (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child
9 which has been caused by other than accidental means, including any injury which appears to be
10 at variance with the explanation given of the injury.

11 (B) Any mental injury to a child, which shall include only observable and substantial impairment
12 of the child's mental or psychological ability to function caused by cruelty to the child, with due
13 regard to the culture of the child.

14 (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-
15 tration and incest, as those acts are described in ORS chapter 163.

16 (D) Sexual abuse, as described in ORS chapter 163.

17 (E) Sexual exploitation, including but not limited to:

18 (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any
19 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage
20 in the performing for people to observe or the photographing, filming, tape recording or other ex-
21 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or
22 described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-

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 cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or
2 which is designed to serve educational or other legitimate purposes; and

3 (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution or to patronize
4 a prostitute, as defined in ORS chapter 167.

5 (F) Negligent treatment or maltreatment of a child, including but not limited to the failure to
6 provide adequate food, clothing, shelter or medical care that is likely to endanger the health or
7 welfare of the child.

8 (G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm
9 to the child's health or welfare.

10 (H) Buying or selling a person under 18 years of age as described in ORS 163.537.

11 (I) Permitting a person under 18 years of age to enter or remain in or upon premises where
12 methamphetamines are being manufactured.

13 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, that subjects a child
14 to a substantial risk of harm to the child's health or safety.

15 (b) "Abuse" does not include reasonable discipline unless the discipline results in one of the
16 conditions described in paragraph (a) of this subsection.

17 (2) "Child" means an unmarried person who is under 18 years of age.

18 (3) **"Higher education institution" means:**

19 (a) **A community college as defined in ORS 341.005;**

20 (b) **A public university listed in ORS 352.002;**

21 (c) **The Oregon Health and Science University; and**

22 (d) **A private institution of higher education located in Oregon.**

23 [(3)] (4) "Law enforcement agency" means:

24 (a) A city or municipal police department.

25 (b) A county sheriff's office.

26 (c) The Oregon State Police.

27 (d) A police department established by a university under ORS 352.383.

28 (e) A county juvenile department.

29 [(4)] (5) "Public or private official" means:

30 (a) Physician, osteopathic physician, physician assistant, naturopathic physician, podiatric phy-
31 sician and surgeon, including any intern or resident.

32 (b) Dentist.

33 (c) School employee, **including an employee of a higher education institution.**

34 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide
35 or employee of an in-home health service.

36 (e) Employee of the Department of Human Services, Oregon Health Authority, State Commission
37 on Children and Families, Child Care Division of the Employment Department, the Oregon Youth
38 Authority, a county health department, a community mental health program, a community develop-
39 mental disabilities program, a county juvenile department, a licensed child-caring agency or an al-
40 cohool and drug treatment program.

41 (f) Peace officer.

42 (g) Psychologist.

43 (h) Member of the clergy.

44 (i) Regulated social worker.

45 (j) Optometrist.

- 1 (k) Chiropractor.
- 2 (L) Certified provider of foster care, or an employee thereof.
- 3 (m) Attorney.
- 4 (n) Licensed professional counselor.
- 5 (o) Licensed marriage and family therapist.
- 6 (p) Firefighter or emergency medical services provider.
- 7 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 8 (r) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.
- 9 (s) Member of the Legislative Assembly.
- 10 (t) Physical, speech or occupational therapist.
- 11 (u) Audiologist.
- 12 (v) Speech-language pathologist.
- 13 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
14 gations or discipline by the commission.
- 15 (x) Pharmacist.
- 16 (y) An operator of a preschool recorded program under ORS 657A.255.
- 17 (z) An operator of a school-age recorded program under ORS 657A.257.
- 18 (aa) Employee of a private agency or organization facilitating the provision of respite services,
19 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
20 109.056.
- 21 **(bb) Employee of a public or private organization providing child-related services or ac-**
22 **tivities:**
- 23 **(A) Including but not limited to youth groups or centers, scout groups or camps, summer**
24 **or day camps, survival camps or groups, centers or camps that are operated under the**
25 **guidance, supervision or auspices of religious, public or private educational systems or com-**
26 **munity service organizations; and**
- 27 **(B) Excluding community-based, nonprofit organizations whose primary purpose is to**
28 **provide confidential, direct services to victims of domestic violence, sexual assault, stalking**
29 **or human trafficking.**
- 30 **(cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional**
31 **athlete, if compensated and if the athlete is a child.**
- 32 **SECTION 2.** ORS 339.370 is amended to read:
33 339.370. As used in ORS 339.370 to 339.400:
34 (1) "Abuse" has the meaning given that term in ORS 419B.005.
35 (2) "Disciplinary records" means the records related to a personnel discipline action or materi-
36 als or documents supporting that action.
37 (3) "Education provider" means:
38 (a) A school district, as defined in ORS 332.002.
39 (b) The Oregon School for the Deaf.
40 (c) An educational program under the Youth Corrections Education Program.
41 (d) A public charter school, as defined in ORS 338.005.
42 (e) An education service district, as defined in ORS 334.003.
43 (f) Any state-operated program that provides educational services to kindergarten through grade
44 12 students.
45 (g) A private school.

1 (4) "Investigation" means a detailed inquiry into the factual allegations of a report of suspected
2 [*child*] abuse or sexual conduct that:

3 (a) Is based on interviews with the complainant, witnesses and the school employee **or student**
4 who is the subject of the report; and

5 (b) **If the subject of the report is a school employee**, meets any negotiated standards of an
6 employment contract or agreement.

7 (5) "Law enforcement agency" has the meaning given that term in ORS 419B.005.

8 (6) "Private school" means a school that provides to kindergarten through grade 12 students
9 instructional programs that are not limited solely to dancing, drama, music, religious or athletic
10 instruction.

11 (7) "School board" means the governing board or governing body of an education provider.

12 (8) "School employee" means an employee of an education provider.

13 (9)(a) "Sexual conduct" means any verbal or physical conduct by a school employee that:

14 (A) Is sexual in nature;

15 (B) Is directed toward a kindergarten through grade 12 student;

16 (C) Has the effect of unreasonably interfering with a student's educational performance; and

17 (D) Creates an intimidating, hostile or offensive educational environment.

18 (b) "Sexual conduct" does not include abuse.

19 (10) "Substantiated report" means a report of [*child*] abuse or sexual conduct that:

20 (a) An education provider has reasonable cause to believe is founded based on the available
21 evidence after conducting an investigation; and

22 (b) Involves conduct that the education provider determines is sufficiently serious to be docu-
23 mented in the school employee's personnel file **or the student's education record**.

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

25 339.372. Each school board shall adopt policies on the reporting of [*child*] abuse and sexual
26 conduct by school employees **and the reporting of abuse by students**. The policies shall:

27 (1) Specify that [*child*] abuse and sexual conduct by school employees **and abuse by students**
28 are not tolerated;

29 (2) Specify that all school employees **and students** are subject to the policies;

30 (3) Require all school employees who have reasonable cause to believe that another school em-
31 ployee has engaged in [*child*] abuse or sexual conduct **or that a student has engaged in abuse** to:

32 (a) Report suspected [*child*] abuse to a law enforcement agency, the Department of Human Ser-
33 vices or a designee of the department as required by ORS 419B.010 and 419B.015; and

34 (b) Report suspected [*child*] abuse or sexual conduct to the [*employees' supervisors or other per-*
35 *sons designated by the school board*] **person designated as provided by subsection (4) of this**
36 **section**;

37 (4) Designate a person, **and an alternate in the event the designated person is the sus-**
38 **pected abuser**, to receive reports of suspected [*child*] abuse or sexual conduct by school employees
39 **or suspected abuse by students** and specify the procedures to be followed by that person upon
40 receipt of a report;

41 (5) Require the posting in each school building of the name and contact information for the
42 person designated for the school building to receive reports of suspected [*child*] abuse or sexual
43 conduct by school employees **or suspected abuse by students** and the procedures the person will
44 follow upon receipt of a report;

45 (6) Specify that the initiation of a report in good faith about suspected [*child*] abuse or sexual

1 conduct may not adversely affect any terms or conditions of employment or the work environment
2 of the complainant;

3 (7) Specify that the school board or any school employee will not discipline a student for the
4 initiation of a report in good faith about suspected [*child*] abuse or sexual conduct by a school em-
5 ployee **or suspected abuse by a student**;

6 (8) Require notification by the education provider to the person who initiated the report about
7 actions taken by the education provider based on the report; and

8 (9) Require the education provider to furnish to a school employee at the time of hire the fol-
9 lowing:

10 (a) A description of conduct that may constitute [*child*] abuse or sexual conduct; and

11 (b) A description of the information and records that will be disclosed as provided by ORS
12 339.378 or 339.388 (7) if a report of suspected [*child*] abuse or sexual conduct is substantiated.

13 **SECTION 4.** ORS 339.388 is amended to read:

14 339.388. (1)(a) A school employee having reasonable cause to believe that a child with whom the
15 employee comes in contact has suffered abuse by another school employee **or by a student**, or that
16 another school employee **or a student** with whom the employee comes in contact has abused a
17 child, shall immediately report the information to:

18 [*A supervisor or other person designated by the school board; and*]

19 **(A) The person designated in the policy adopted under ORS 339.372; and**

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

22 (b) A school employee having reasonable cause to believe that a student with whom the em-
23 ployee comes in contact has been subjected to sexual conduct by another school employee, or that
24 another school employee with whom the employee comes in contact has engaged in sexual conduct,
25 shall immediately report the information to [*a supervisor or other person designated by the school*
26 *board*] **the person designated in the policy adopted under ORS 339.372.**

27 (2) A [*supervisor or other person designated by the school board*] **person** who receives a report
28 under subsection (1) of this section[,] shall follow the procedures required by the policy adopted by
29 the school board under ORS 339.372.

30 (3)(a) Except as provided in subsection (4) of this section, when an education provider receives
31 a report of suspected [*child*] abuse or sexual conduct by one of its employees, and the education
32 provider's designee determines that there is reasonable cause to support the report, the education
33 provider:

34 (A) In the case of suspected [*child*] abuse, shall place the school employee on paid administrative
35 leave; or

36 (B) In the case of suspected sexual conduct, may place the school employee on paid adminis-
37 trative leave or in a position that does not involve direct, unsupervised contact with children.

38 (b) A school employee who is placed on paid administrative leave under paragraph (a)(A) of this
39 subsection shall remain on administrative leave until:

40 (A) The Department of Human Services or a law enforcement agency determines that the report
41 cannot be substantiated or that the report will not be pursued; or

42 (B) The Department of Human Services or a law enforcement agency determines that the report
43 is substantiated and the education provider takes the appropriate disciplinary action against the
44 school employee.

45 (4) An education provider may reinstate a school employee placed on paid administrative leave

1 for suspected [*child*] abuse as provided under subsection (3) of this section or may take the appro-
2 priate disciplinary action against the employee if the Department of Human Services or a law
3 enforcement agency is unable to determine, based on a report of suspected [*child*] abuse, whether
4 [*child*] abuse occurred.

5 (5) If, following an investigation, an education provider determines that [*the*] a report of sus-
6 pected [*child*] abuse or sexual conduct **by a school employee** is a substantiated report, the educa-
7 tion provider shall:

8 (a) Inform the school employee that the education provider has determined that the report has
9 been substantiated.

10 (b) Provide the school employee with information about the appropriate appeal process for the
11 determination made by the education provider. The appeal process may be the process provided by
12 a collective bargaining agreement or a process administered by a neutral third party and paid for
13 by the school district.

14 (c) Following notice of a school employee's decision not to appeal the determination or following
15 the determination of an appeal that sustained the substantiated report, create a record of the sub-
16 stantiated report and place the record in the personnel file of the school employee. Records created
17 pursuant to this paragraph are confidential and are not public records as defined in ORS 192.410.
18 An education provider may use the record as a basis for providing the information required to be
19 disclosed under ORS 339.378.

20 (d) Inform the school employee that information about substantiated reports may be disclosed
21 to a potential employer as provided by subsection (7) of this section and ORS 339.378.

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

25 (7)(a) The disciplinary records of a school employee or former school employee convicted of a
26 crime listed in ORS 342.143 are not exempt from disclosure under ORS 192.501 or 192.502.

27 (b) If a school employee is convicted of a crime listed in ORS 342.143, the education provider
28 that is the employer of the employee shall disclose the disciplinary records of the employee to any
29 person upon request.

30 (c) If a former school employee is convicted of a crime listed in ORS 342.143, the education
31 provider that was the employer of the former employee when the crime was committed shall disclose
32 the disciplinary records of the former employee to any person upon request.

33 (8) Prior to disclosure of a disciplinary record under subsection (7) of this section, an education
34 provider shall remove any personally identifiable information from the record that would disclose
35 the identity of a child, a crime victim or a school employee or former school employee who is not
36 the subject of the disciplinary record.

37 **SECTION 5.** ORS 339.374 is amended to read:

38 339.374. Except as provided in ORS 339.384, before an education provider may hire an applicant
39 for a position with the education provider, the education provider shall:

40 (1) Require the applicant to provide:

41 (a) A list of the applicant's current and former employers who are education providers.

42 (b) A written authorization that authorizes the applicant's current and former employers that
43 are education providers to disclose the information requested under subsection (2) of this section.

44 (c) A written statement of whether the applicant:

45 (A) Has been the subject of a substantiated report of [*child*] abuse or sexual conduct; or

1 (B) Is the subject of an ongoing investigation related to a report of suspected [*child*] abuse or
2 sexual conduct.

3 (2) Conduct a review of the employment history of the applicant by contacting the three most
4 recent employers of the applicant who are education providers and requesting:

5 (a) The following information:

6 (A) The dates of employment of the applicant by the education provider;

7 (B) Whether the applicant was the subject of any substantiated reports of [*child*] abuse or sexual
8 conduct related to the applicant's employment with the education provider;

9 (C) The dates of any substantiated reports;

10 (D) The definitions of [*child*] abuse and sexual conduct used by the education provider when the
11 education provider determined that any reports were substantiated; and

12 (E) The standards used by the education provider to determine whether any reports were sub-
13 stantiated.

14 (b) Any disciplinary records required to be released as provided by ORS 339.388 (7).

15 (3) For an applicant who is licensed, registered or certified with the Teacher Standards and
16 Practices Commission, access online information provided by the commission to verify:

17 (a) That the applicant is licensed, registered or certified by the commission; and

18 (b) Whether the commission has provided any information relating to conduct by the applicant
19 that may constitute [*child*] abuse or sexual conduct.

20 (4) Conduct a nationwide criminal records check if required by ORS 326.603.

21 **SECTION 6.** ORS 339.378 is amended to read:

22 339.378. (1) Not later than 20 days after receiving a request under ORS 339.374, an education
23 provider that has or has had an employment relationship with the applicant shall disclose the in-
24 formation requested and any disciplinary records that must be disclosed as provided by ORS 339.388
25 (7).

26 (2) An education provider may disclose the information on a standardized form and is not re-
27 quired to provide any additional information related to a substantiated report of [*child*] abuse or
28 sexual conduct other than the information that is required by ORS 339.374 (2).

29 (3) Information received under this section is confidential and is not a public record as defined
30 in ORS 192.410. An education provider may use the information only for the purpose of evaluating
31 an applicant's eligibility to be hired.

32 **SECTION 7.** ORS 339.392 is amended to read:

33 339.392. (1) An education provider may not enter into a collective bargaining agreement, an
34 employment contract, an agreement for resignation or termination, a severance agreement or any
35 other contract or agreement that:

36 (a) Has the effect of suppressing information relating to an ongoing investigation related to a
37 report of suspected [*child*] abuse or sexual conduct or relating to a substantiated report of [*child*]
38 abuse or sexual conduct by a current or former employee;

39 (b) Affects the duties of the education provider to report suspected [*child*] abuse or sexual con-
40 duct or to discipline a current or former employee for a substantiated report of [*child*] abuse or
41 sexual conduct;

42 (c) Impairs the ability of the education provider to discipline an employee for a substantiated
43 report of [*child*] abuse or sexual conduct; or

44 (d) Requires the education provider to expunge substantiated information about [*child*] abuse or
45 sexual conduct from any documents maintained by an education provider.

1 (2) Any provision of an employment contract or agreement that is contrary to this section is
2 void and unenforceable.

3 (3) Nothing in this section prevents an education provider from entering into a collective bar-
4 gaining agreement that includes:

5 (a) Standards for investigation of a report of [*child*] abuse or sexual conduct; or

6 (b) An appeal process from the determination by an education provider that a report of [*child*]
7 abuse or sexual conduct has been substantiated as provided in ORS 339.388 (5).

8 **SECTION 8.** ORS 339.400 is amended to read:

9 339.400. (1) An education provider shall provide to school employees training each school year
10 on the prevention and identification of [*child*] abuse and sexual conduct and on the obligations of
11 school employees under ORS 419B.005 to 419B.050 and under policies adopted by the school board
12 to report [*child*] abuse and sexual conduct.

13 (2) An education provider shall make the training provided under subsection (1) of this section
14 available each school year to parents and legal guardians of children who attend a school operated
15 by the education provider. The training shall be provided separately from the training provided to
16 school employees under subsection (1) of this section.

17 (3) An education provider shall make training that is designed to prevent [*child*] abuse and
18 sexual conduct available each school year to children who attend a school operated by the education
19 provider.

20 **SECTION 9.** ORS 338.115 is amended to read:

21 338.115. (1) Statutes and rules that apply to school district boards, school districts or other
22 public schools do not apply to public charter schools. However, the following laws do apply to public
23 charter schools:

24 (a) Federal law;

25 (b) ORS 30.260 to 30.300 (tort claims);

26 (c) ORS 192.410 to 192.505 (public records law);

27 (d) ORS 192.610 to 192.690 (public meetings law);

28 (e) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);

29 (f) ORS 326.565, 326.575 and 326.580 (student records);

30 (g) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);

31 (h) ORS 329.045 (academic content standards and instruction);

32 (i) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative cer-
33 tificate);

34 (j) The statewide assessment system developed by the Department of Education for mathematics,
35 science and English under ORS 329.485 (2);

36 (k) ORS 337.150 (textbooks);

37 (L) ORS 339.141, 339.147 and 339.155 (tuition and fees);

38 (m) ORS 339.250 (12) (prohibition on infliction of corporal punishment);

39 (n) ORS 339.326 (notice concerning students subject to juvenile court petitions);

40 (o) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of [*child*] abuse **and sexual conduct** and
41 training on prevention and identification of [*child*] abuse **and sexual conduct**);

42 (p) ORS chapter 657 (Employment Department Law);

43 (q) ORS 659.850, 659.855 and 659.860 (discrimination);

44 (r) Any statute or rule that establishes requirements for instructional time provided by a school
45 during each day or during a year;

- 1 (s) Health and safety statutes and rules;
- 2 (t) Any statute or rule that is listed in the charter;
- 3 (u) ORS 339.119 (consideration for educational services); and
- 4 (v) This chapter.

5 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules
6 that apply to school district boards, school districts and other public schools may apply to a public
7 charter school.

8 (3) If a statute or rule applies to a public charter school, then the terms “school district” and
9 “public school” include public charter school as those terms are used in that statute or rule.

10 (4) A public charter school may not violate the Establishment Clause of the First Amendment
11 to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion
12 based.

13 (5)(a) A public charter school shall maintain an active enrollment of at least 25 students.

14 (b) For a public charter school that provides educational services under a cooperative agree-
15 ment described in ORS 338.080, the public charter school is in compliance with the requirements of
16 this subsection if the public charter school provides educational services under the cooperative
17 agreement to at least 25 students, without regard to the school districts in which the students are
18 residents.

19 (6) A public charter school may sue or be sued as a separate legal entity.

20 (7) The sponsor, members of the governing board of the sponsor acting in their official capacities
21 and employees of a sponsor acting in their official capacities are immune from civil liability with
22 respect to all activities related to a public charter school within the scope of their duties or em-
23 ployment.

24 (8) A public charter school may enter into contracts and may lease facilities and services from
25 a school district, education service district, public university listed in ORS 352.002, other govern-
26 mental unit or any person or legal entity.

27 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-
28 ability.

29 (10) A public charter school may receive and accept gifts, grants and donations from any source
30 for expenditure to carry out the lawful functions of the school.

31 (11) The school district in which the public charter school is located shall offer a high school
32 diploma, a modified diploma, an extended diploma or an alternative certificate to any public charter
33 school student who meets the district’s and state’s standards for a high school diploma, a modified
34 diploma, an extended diploma or an alternative certificate.

35 (12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate
36 issued by a public charter school grants to the holder the same rights and privileges as a high
37 school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a
38 nonchartered public school.

39 (13) Prior to beginning operation, the public charter school shall show proof of insurance to the
40 sponsor as specified in the charter.

41 (14) A public charter school may receive services from an education service district in the same
42 manner as a nonchartered public school in the school district in which the public charter school is
43 located.

44 **SECTION 10.** ORS 338.115, as amended by section 7, chapter 839, Oregon Laws 2007, section
45 12, chapter 50, Oregon Laws 2008, section 4, chapter 618, Oregon Laws 2009, section 3, chapter 53,

1 Oregon Laws 2010, section 3, chapter 94, Oregon Laws 2011, section 118, chapter 637, Oregon Laws
2 2011, and section 5, chapter 682, Oregon Laws 2011, is amended to read:

3 338.115. (1) Statutes and rules that apply to school district boards, school districts or other
4 public schools do not apply to public charter schools. However, the following laws do apply to public
5 charter schools:

- 6 (a) Federal law;
- 7 (b) ORS 30.260 to 30.300 (tort claims);
- 8 (c) ORS 192.410 to 192.505 (public records law);
- 9 (d) ORS 192.610 to 192.690 (public meetings law);
- 10 (e) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);
- 11 (f) ORS 326.565, 326.575 and 326.580 (student records);
- 12 (g) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);
- 13 (h) ORS 329.045 (academic content standards and instruction);
- 14 (i) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative cer-
15 tificate);
- 16 (j) ORS 329.496 (physical education);
- 17 (k) The statewide assessment system developed by the Department of Education for mathematics,
18 science and English under ORS 329.485 (2);
- 19 (L) ORS 337.150 (textbooks);
- 20 (m) ORS 339.141, 339.147 and 339.155 (tuition and fees);
- 21 (n) ORS 339.250 (12) (prohibition on infliction of corporal punishment);
- 22 (o) ORS 339.326 (notice concerning students subject to juvenile court petitions);
- 23 (p) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of [*child*] abuse **and sexual conduct** and
24 training on prevention and identification of [*child*] abuse **and sexual conduct**);
- 25 (q) ORS chapter 657 (Employment Department Law);
- 26 (r) ORS 659.850, 659.855 and 659.860 (discrimination);
- 27 (s) Any statute or rule that establishes requirements for instructional time provided by a school
28 during each day or during a year;
- 29 (t) Health and safety statutes and rules;
- 30 (u) Any statute or rule that is listed in the charter;
- 31 (v) ORS 339.119 (consideration for educational services); and
- 32 (w) This chapter.

33 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules
34 that apply to school district boards, school districts and other public schools may apply to a public
35 charter school.

36 (3) If a statute or rule applies to a public charter school, then the terms “school district” and
37 “public school” include public charter school as those terms are used in that statute or rule.

38 (4) A public charter school may not violate the Establishment Clause of the First Amendment
39 to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion
40 based.

41 (5)(a) A public charter school shall maintain an active enrollment of at least 25 students.

42 (b) For a public charter school that provides educational services under a cooperative agree-
43 ment described in ORS 338.080, the public charter school is in compliance with the requirements of
44 this subsection if the public charter school provides educational services under the cooperative
45 agreement to at least 25 students, without regard to the school districts in which the students are

1 residents.

2 (6) A public charter school may sue or be sued as a separate legal entity.

3 (7) The sponsor, members of the governing board of the sponsor acting in their official capacities
4 and employees of a sponsor acting in their official capacities are immune from civil liability with
5 respect to all activities related to a public charter school within the scope of their duties or em-
6 ployment.

7 (8) A public charter school may enter into contracts and may lease facilities and services from
8 a school district, education service district, public university listed in ORS 352.002, other govern-
9 mental unit or any person or legal entity.

10 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-
11 ability.

12 (10) A public charter school may receive and accept gifts, grants and donations from any source
13 for expenditure to carry out the lawful functions of the school.

14 (11) The school district in which the public charter school is located shall offer a high school
15 diploma, a modified diploma, an extended diploma or an alternative certificate to any public charter
16 school student who meets the district's and state's standards for a high school diploma, a modified
17 diploma, an extended diploma or an alternative certificate.

18 (12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate
19 issued by a public charter school grants to the holder the same rights and privileges as a high
20 school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a
21 nonchartered public school.

22 (13) Prior to beginning operation, the public charter school shall show proof of insurance to the
23 sponsor as specified in the charter.

24 (14) A public charter school may receive services from an education service district in the same
25 manner as a nonchartered public school in the school district in which the public charter school is
26 located.

27 **SECTION 11.** ORS 419B.010 is amended to read:

28 419B.010. (1) Any public or private official having reasonable cause to believe that any child
29 with whom the official comes in contact has suffered abuse or that any person with whom the offi-
30 cial comes in contact has abused a child shall immediately report or cause a report to be made in
31 the manner required in ORS 419B.015. Nothing contained in ORS 40.225 to 40.295 or 419B.234 (6)
32 affects the duty to report imposed by this section, except that a psychiatrist, psychologist, member
33 of the clergy, attorney or guardian ad litem appointed under ORS 419B.231 is not required to report
34 such information communicated by a person if the communication is privileged under ORS 40.225 to
35 40.295 or 419B.234 (6). An attorney is not required to make a report under this section by reason
36 of information communicated to the attorney in the course of representing a client if disclosure of
37 the information would be detrimental to the client.

38 (2) Notwithstanding subsection (1) of this section, a report need not be made under this section
39 if the public or private official acquires information relating to abuse by reason of a report made
40 under this section, or by reason of a proceeding arising out of a report made under this section, and
41 the public or private official reasonably believes that the information is already known by a law
42 enforcement agency or the Department of Human Services.

43 **(3) The duty to report under this section is personal to the public or private official alone,**
44 **regardless of whether the official is employed by, a volunteer of or a representative or agent**
45 **for any type of entity or organization that employs persons or uses persons as volunteers**

1 **who are public or private officials in its operations.**

2 **(4) The duty to report under this section exists regardless of whether the entity or or-**
3 **ganization that employs the public or private official or uses the official as a volunteer has**
4 **its own procedures or policies for reporting abuse internally within the entity or organiza-**
5 **tion.**

6 ~~[(3)]~~ **(5)** A person who violates subsection (1) of this section commits a Class A violation. Pros-
7 ecution under this subsection shall be commenced at any time within 18 months after commission
8 of the offense.

9
