

# House Bill 4016

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 **as introduced**.

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.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to harm to a child; creating new provisions; amending ORS 338.115, 339.370, 339.372,  
3 339.374, 339.378, 339.388, 339.392, 339.400 and 419B.005; and declaring an emergency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 [(3)] **(4) "Law enforcement agency" means:**

18 (a) A city or municipal police department.

19 (b) A county sheriff's office.

20 (c) The Oregon State Police.

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

22 (e) A county juvenile department.

23 [(4)] **(5) "Public or private official" means:**

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

26 (b) Dentist.

27 (c) School employee, **including an employee of a higher education institution who has**  
28 **contact with or temporary care, control or supervision of a child.**

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

31 (e) Employee of the Department of Human Services, Oregon Health Authority, State Commission  
32 on Children and Families, Child Care Division of the Employment Department, the Oregon Youth  
33 Authority, a county health department, a community mental health program, a community develop-  
34 mental disabilities program, a county juvenile department, a licensed child-caring agency or an al-  
35cohol and drug treatment program.

36 (f) Peace officer.

37 (g) Psychologist.

38 (h) Member of the clergy.

39 (i) Regulated social worker.

40 (j) Optometrist.

41 (k) Chiropractor.

42 (L) Certified provider of foster care, or an employee thereof.

43 (m) Attorney.

44 (n) Licensed professional counselor.

45 (o) Licensed marriage and family therapist.

- 1 (p) Firefighter or emergency medical services provider.
- 2 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 3 (r) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.
- 4 (s) Member of the Legislative Assembly.
- 5 (t) Physical, speech or occupational therapist.
- 6 (u) Audiologist.
- 7 (v) Speech-language pathologist.
- 8 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-  
9 gations or discipline by the commission.
- 10 (x) Pharmacist.
- 11 (y) An operator of a preschool recorded program under ORS 657A.255.
- 12 (z) An operator of a school-age recorded program under ORS 657A.257.
- 13 (aa) Employee of a private agency or organization facilitating the provision of respite services,  
14 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS  
15 109.056.
- 16 **(bb) Employee or volunteer of a public or private organization providing child-related**  
17 **services or activities that allow the employee or volunteer temporary care, control or**  
18 **supervision of a child, including but not limited to youth groups or centers, scout groups or**  
19 **camp, summer or day camps, survival camps or groups, centers or camps that are operated**  
20 **under the guidance, supervision or auspices of religious, public or private educational sys-**  
21 **tems or community service organizations.**
- 22 **(cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional**  
23 **athlete, whether an employee or volunteer, where the athlete is a child.**
- 24 **(dd) An individual who provides guidance, instruction or training to a child in a youth**  
25 **development activity that is intended for enrichment, including but not limited to teaching**  
26 **skills or proficiency in physical, social or educational activities such as tutoring, music or**  
27 **dance lessons or recreational activities, where the individual has temporary care, control or**  
28 **supervision of the child.**
- 29 **SECTION 2.** ORS 339.370 is amended to read:  
30 339.370. As used in ORS 339.370 to 339.400:  
31 (1) "Abuse" has the meaning given that term in ORS 419B.005.  
32 (2) "Disciplinary records" means the records related to a personnel discipline action or materi-  
33 als or documents supporting that action.  
34 (3) "Education provider" means:  
35 (a) A school district, as defined in ORS 332.002.  
36 (b) The Oregon School for the Deaf.  
37 (c) An educational program under the Youth Corrections Education Program.  
38 (d) A public charter school, as defined in ORS 338.005.  
39 (e) An education service district, as defined in ORS 334.003.  
40 (f) Any state-operated program that provides educational services to kindergarten through grade  
41 12 students.  
42 (g) A private school.  
43 (4) "Investigation" means a detailed inquiry into the factual allegations of a report of suspected  
44 [*child*] abuse or sexual conduct that:  
45 (a) Is based on interviews with the complainant, witnesses and the school employee **or student**

1 who is the subject of the report; and

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

4 (5) “Law enforcement agency” has the meaning given that term in ORS 419B.005.

5 (6) “Private school” means a school that provides to kindergarten through grade 12 students  
6 instructional programs that are not limited solely to dancing, drama, music, religious or athletic  
7 instruction.

8 (7) “School board” means the governing board or governing body of an education provider.

9 (8) “School employee” means an employee of an education provider.

10 (9)(a) “Sexual conduct” means any verbal or physical conduct by a school employee that:

11 (A) Is sexual in nature;

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

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

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

15 (b) “Sexual conduct” does not include abuse.

16 (10) “Substantiated report” means a report of [*child*] abuse or sexual conduct that:

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

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

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

22 339.372. Each school board shall adopt policies on the reporting of [*child*] abuse and sexual  
23 conduct by school employees **and the reporting of abuse by students**. The policies shall:

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

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

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

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

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

34 (4) Designate a person to receive reports of suspected [*child*] abuse or sexual conduct by school  
35 employees **or suspected abuse by students** and specify the procedures to be followed by that per-  
36 son upon receipt of a report;

37 **(5) Require notification related to the initiation of an investigation involving suspected**  
38 **abuse or sexual conduct to the parents or legal guardians of:**

39 **(a) The child who may have been subjected to abuse or sexual conduct, if the child is 11**  
40 **years of age or younger; and**

41 **(b) The child who is the subject of an investigation involving suspected abuse, if the**  
42 **person who is the subject of the investigation is a student 11 years of age or younger;**

43 **(6) Allow an education provider to determine, based on the discretion of the education**  
44 **provider, whether to provide notification related to the initiation of an investigation involving**  
45 **suspected abuse or sexual conduct to the parents or legal guardians of:**

1       **(a) The child who may have been subjected to abuse or sexual conduct, if the child is 12**  
 2 **years of age or older; and**

3       **(b) The child who is the subject of an investigation involving suspected abuse, if the**  
 4 **person who is the subject of the investigation is a student 12 years of age or older;**

5       [(5)] (7) Require the posting in each school building of the name and contact information for the  
 6 person designated for the school building to receive reports of suspected [*child*] abuse or sexual  
 7 conduct by school employees **or suspected abuse by students** and the procedures the person will  
 8 follow upon receipt of a report;

9       [(6)] (8) Specify that the initiation of a report in good faith about suspected [*child*] abuse or  
 10 sexual conduct may not adversely affect any terms or conditions of employment or the work envi-  
 11 ronment of the complainant;

12       [(7)] (9) Specify that the school board or any school employee will not discipline a student for  
 13 the initiation of a report in good faith about suspected [*child*] abuse or sexual conduct by a school  
 14 employee **or suspected abuse by a student;**

15       [(8)] (10) Require notification by the education provider to the person who initiated the report  
 16 about actions taken by the education provider based on the report; [*and*]

17       **(11) Require notification to the parents or legal guardians who received notification as**  
 18 **provided by subsections (5) and (6) of this section of the actions taken by the education**  
 19 **provider based on the investigation; and**

20       [(9)] (12) Require the education provider to furnish to a school employee at the time of hire the  
 21 following:

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

23           (b) A description of the information and records that will be disclosed as provided by ORS  
 24 339.378 or 339.388 [(7)] (8) if a report of suspected [*child*] abuse or sexual conduct is substantiated.

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

26       339.388. (1)(a) A school employee having reasonable cause to believe that a child with whom the  
 27 employee comes in contact has suffered abuse by another school employee **or by a student**, or that  
 28 another school employee **or a student** with whom the employee comes in contact has abused a  
 29 child, shall immediately report the information to:

30           [(A) A supervisor or other person designated by the school board; and]

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

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

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

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

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

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

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

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

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

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

12 (4) An education provider may reinstate a school employee placed on paid administrative leave  
13 for suspected [*child*] abuse as provided under subsection (3) of this section or may take the appro-  
14 priate disciplinary action against the employee if the Department of Human Services or a law  
15 enforcement agency is unable to determine, based on a report of suspected [*child*] abuse, whether  
16 [*child*] abuse occurred.

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

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

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

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

32 (d) Inform the school employee that information about substantiated reports may be disclosed  
33 to a potential employer as provided by subsection [(7)] (8) of this section and ORS 339.378.

34 **(6) If, following an investigation, an education provider determines that a report of sus-**  
35 **pected abuse by a student is a substantiated report, the education provider shall:**

36 **(a) Make the notifications required by ORS 339.372 (11).**

37 **(b) Create a record of the substantiated report and place the record in the student's ed-**  
38 **ucation record.**

39 [(6)] (7) Upon request from a law enforcement agency, the Department of Human Services or the  
40 Teacher Standards and Practices Commission, a school district shall provide the records of investi-  
41 gations of suspected [*child*] abuse by a school employee or former school employee.

42 [(7)(a)] (8)(a) The disciplinary records of a school employee or former school employee convicted  
43 of a crime listed in ORS 342.143 are not exempt from disclosure under ORS 192.501 or 192.502.

44 (b) If a school employee is convicted of a crime listed in ORS 342.143, the education provider  
45 that is the employer of the employee shall disclose the disciplinary records of the employee to any

1 person upon request.

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

5 [(8)] (9) Prior to disclosure of a disciplinary record under subsection [(7)] (8) of this section, an  
 6 education provider shall remove any personally identifiable information from the record that would  
 7 disclose the identity of a child, a crime victim or a school employee or former school employee who  
 8 is not the subject of the disciplinary record.

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

10 339.374. Except as provided in ORS 339.384, before an education provider may hire an applicant  
 11 for a position with the education provider, the education provider shall:

12 (1) Require the applicant to provide:

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

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

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

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

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

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

22 (a) The following information:

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

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

26 (C) The dates of any substantiated reports;

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

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

31 (b) Any disciplinary records required to be released as provided by ORS 339.388 [(7)] (8).

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

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

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

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

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

39 339.378. (1) Not later than 20 days after receiving a request under ORS 339.374, an education  
 40 provider that has or has had an employment relationship with the applicant shall disclose the in-  
 41 formation requested and any disciplinary records that must be disclosed as provided by ORS 339.388  
 42 [(7)] (8).

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

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

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

5 339.392. (1) An education provider may not enter into a collective bargaining agreement, an  
6 employment contract, an agreement for resignation or termination, a severance agreement or any  
7 other contract or agreement that:

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

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

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

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

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

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

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

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

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

26 339.400. (1) An education provider shall provide to school employees training each school year  
27 on the prevention and identification of [*child*] abuse and sexual conduct and on the obligations of  
28 school employees under ORS 419B.005 to 419B.050 and under policies adopted by the school board  
29 to report [*child*] abuse and sexual conduct.

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

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

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

38 338.115. (1) Statutes and rules that apply to school district boards, school districts or other  
39 public schools do not apply to public charter schools. However, the following laws do apply to public  
40 charter schools:

41 (a) Federal law;

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

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

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

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



- 1 (f) ORS 326.565, 326.575 and 326.580 (student records);  
 2 (g) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);  
 3 (h) ORS 329.045 (academic content standards and instruction);  
 4 (i) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative cer-  
 5 tificate);  
 6 (j) The statewide assessment system developed by the Department of Education for mathematics,  
 7 science and English under ORS 329.485 (2);  
 8 (k) ORS 337.150 (textbooks);  
 9 (L) ORS 339.141, 339.147 and 339.155 (tuition and fees);  
 10 (m) ORS 339.250 (12) (prohibition on infliction of corporal punishment);  
 11 (n) ORS 339.326 (notice concerning students subject to juvenile court petitions);  
 12 (o) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of [*child*] abuse **and sexual conduct** and  
 13 training on prevention and identification of [*child*] abuse **and sexual conduct**);  
 14 (p) ORS chapter 657 (Employment Department Law);  
 15 (q) ORS 659.850, 659.855 and 659.860 (discrimination);  
 16 (r) Any statute or rule that establishes requirements for instructional time provided by a school  
 17 during each day or during a year;  
 18 (s) Health and safety statutes and rules;  
 19 (t) Any statute or rule that is listed in the charter;  
 20 (u) ORS 339.119 (consideration for educational services); and  
 21 (v) This chapter.
- 22 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules  
 23 that apply to school district boards, school districts and other public schools may apply to a public  
 24 charter school.
- 25 (3) If a statute or rule applies to a public charter school, then the terms “school district” and  
 26 “public school” include public charter school as those terms are used in that statute or rule.
- 27 (4) A public charter school may not violate the Establishment Clause of the First Amendment  
 28 to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion  
 29 based.
- 30 (5)(a) A public charter school shall maintain an active enrollment of at least 25 students.
- 31 (b) For a public charter school that provides educational services under a cooperative agree-  
 32 ment described in ORS 338.080, the public charter school is in compliance with the requirements of  
 33 this subsection if the public charter school provides educational services under the cooperative  
 34 agreement to at least 25 students, without regard to the school districts in which the students are  
 35 residents.
- 36 (6) A public charter school may sue or be sued as a separate legal entity.
- 37 (7) The sponsor, members of the governing board of the sponsor acting in their official capacities  
 38 and employees of a sponsor acting in their official capacities are immune from civil liability with  
 39 respect to all activities related to a public charter school within the scope of their duties or em-  
 40 ployment.
- 41 (8) A public charter school may enter into contracts and may lease facilities and services from  
 42 a school district, education service district, public university listed in ORS 352.002, other govern-  
 43 mental unit or any person or legal entity.
- 44 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-  
 45 ability.

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

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

7 (12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate  
 8 issued by a public charter school grants to the holder the same rights and privileges as a high  
 9 school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a  
 10 nonchartered public school.

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

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

16 **SECTION 10.** ORS 338.115, as amended by section 7, chapter 839, Oregon Laws 2007, section  
 17 12, chapter 50, Oregon Laws 2008, section 4, chapter 618, Oregon Laws 2009, section 3, chapter 53,  
 18 Oregon Laws 2010, section 3, chapter 94, Oregon Laws 2011, section 118, chapter 637, Oregon Laws  
 19 2011, and section 5, chapter 682, Oregon Laws 2011, is amended to read:

20 338.115. (1) Statutes and rules that apply to school district boards, school districts or other  
 21 public schools do not apply to public charter schools. However, the following laws do apply to public  
 22 charter schools:

- 23 (a) Federal law;
- 24 (b) ORS 30.260 to 30.300 (tort claims);
- 25 (c) ORS 192.410 to 192.505 (public records law);
- 26 (d) ORS 192.610 to 192.690 (public meetings law);
- 27 (e) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);
- 28 (f) ORS 326.565, 326.575 and 326.580 (student records);
- 29 (g) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);
- 30 (h) ORS 329.045 (academic content standards and instruction);
- 31 (i) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative cer-  
 32 tificate);
- 33 (j) ORS 329.496 (physical education);
- 34 (k) The statewide assessment system developed by the Department of Education for mathematics,  
 35 science and English under ORS 329.485 (2);
- 36 (L) ORS 337.150 (textbooks);
- 37 (m) ORS 339.141, 339.147 and 339.155 (tuition and fees);
- 38 (n) ORS 339.250 (12) (prohibition on infliction of corporal punishment);
- 39 (o) ORS 339.326 (notice concerning students subject to juvenile court petitions);
- 40 (p) 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 (q) ORS chapter 657 (Employment Department Law);
- 43 (r) ORS 659.850, 659.855 and 659.860 (discrimination);
- 44 (s) Any statute or rule that establishes requirements for instructional time provided by a school  
 45 during each day or during a year;

- 1 (t) Health and safety statutes and rules;
- 2 (u) Any statute or rule that is listed in the charter;
- 3 (v) ORS 339.119 (consideration for educational services); and
- 4 (w) 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 11. The amendments to ORS 338.115, 339.370, 339.372, 339.374, 339.378, 339.388,**  
45 **339.392 and 339.400 by sections 2 to 10 of this 2012 Act become operative on July 1, 2012.**

1        **SECTION 12.** This 2012 Act being necessary for the immediate preservation of the public  
2        peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect  
3        on its passage.  
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