



**Date:** February 20, 2018

**To:** Oregon House Committee on Human Services and Housing

**From:** Tyler Scialo-Lakeberg, Vice President of Salem Keizer Education Association

**Re:** SB 1540

Chair Keny-Guyer and members of the committee, my name is Tyler Scialo-Lakeberg. I am a proud educator of 20 years and the Vice President of the Salem Keizer Education Association.

I am also a member of the Oregon Education Association which represents over 44,000 members across the state of Oregon. Our members are educators working in our public schools serving pre-kindergarten through grade 12 as well as within our Oregon community colleges. OEA membership includes a variety of roles including licensed teachers, education support professionals, school bus drivers, school nurses and many others.

As a member of OEA, I am here to share with you that the Oregon Education Association supports SB 1540. This legislation provides needed clarification regarding mandatory reporting. As a secondary educator, I recognize the concern that our members expressed when the Salem-Keizer School District released their new interpretation of mandatory reporting guidelines this fall, and we immediately asked for clarification. We believe the current interpretation of reporting that the district has issued endangers the trusted relationship educators have with students and could have a counterproductive impact on student safety.

As educators, we work to ensure the health and safety of our students. As professionals, we take our responsibility as mandatory reporters extremely seriously, because we know that proper reporting helps to keep our students safe.

For us to properly fulfill our duties as mandatory reporters, we must have clear and consistent guidance on what should be reported. These guidelines must endeavor to create a balance between student safety and an environment where students are able to confide sensitive information with a trusted educator. This is extremely sensitive when educators are also parents and need to have private conversations with their own children. SB 1540 is necessary to ensure that parents who are also mandatory reporters can counsel their children privately about sexual activity.

If students believe that their educators and counselors must report any instance of sexual contact, the likely outcome is a reduction in safe places for students who are most at risk and in need of support.

We want to be clear, educators will err on the side of reporting in all instances if there is any concern whatsoever that there is abuse, coercion or force. Our student's health and safety is our top priority.

This legislation provides needed and vital guidance and exemptions regarding mandatory reporting and we urge you to support it.

## For Questions

If asked questions about why we need this exemption here are some scenarios we could share:

1) Student- Educator Disclosure: 16-year-old student approaches a school counselor, psychologist, or sex education teacher to talk about their romantic relationship with another similar-aged student, perhaps to seek advice about birth control, sexual health, or elements of a healthy relationship. Through the conversation the educator becomes aware that student is either sexual active or has engaged in some other sort of consensual “sexual contact” (which includes touching not just intercourse).

Under the current interpretation of the law, the educator would be required to report to law enforcement or DHS that they have a reasonable suspicion that abuse has occurred. This requirement will have the unfortunate consequence of punishing the student, their romantic partner, and their respective families for seeking positive guidance from a trusted educator.

Not only that, but once students are aware that any disclosure of consensual sexual activity to an educator (or any other mandatory reporter) will lead to a child abuse report, no students will come forward seeking that advice, or at least will not be as honest and specific with their concerns if they do seek advice. We have been teaching students that the best way to have healthy relationships, and to prevent unwanted pregnancies and STDs, is to have honest conversations about sexual activity with adults they trust. SB 1540 is necessary to ensure that happens.

2) Educator-Family Member Disclosure: An educator’s 17-year old daughter tells her mother about having consensual sex with similarly aged boyfriend. Under the current interpretation of the law, the educator would have an obligation to report this to law enforcement or DHS as suspected abuse (due to the fact that neither teen is an adult), even though the sexual activity was consensual. SB 1540 is necessary to ensure that parents have the ability to counsel their children privately about sexual activity.

If asked questions about the -6 amendment:

We believe that there should be consistency in the age range for exception to reporting across all types of mandatory reporters. It is concerning that we might start down a path that has different requirements for different mandatory reporters.

The amendment does not clarify the reporting obligation for anyone outside of the school context. Unlike the Senate's A-engrossed version, this only provides an exception to reporting in a very narrow context-- between students aged 14-18 and school employees. (There are many issues with even that, as described below). The amendment does not attempt to fix the issue for all other mandatory reporters, such as therapists, counselors, social workers, clergy, law enforcement officers, firefighters, dentists, youth related non-profit workers, etc. Also, the one attempt to fix the issue for physicians and nurses is not completely effective. By adding "physician, nurse" to ORS 419B.010(1)(a), the amendment only deals with disclosures to physicians and nurses in the context of treatment (i.e. communications privileged under ORS 40.225 to 40.295 or ORS 419B.234(6)). Thus, it would arguably still require doctors and nurses to report on their own teenagers having consensual sex.

We also believe this is a lot of ambiguity in the terms “student” and “school employee”. We would be happy to follow up in more detail on this issue but those terms need more clarification. (detailed notes below for legal counsel)

There is lots of ambiguity in the term "student" in the proposed ORS 419B.010(1)(c). For example, is a teacher's 16-year old son a "student", when the son also goes to a school in the district where the teacher is employed (as often happens)? If so, then the amendment fails to fix the entire issue of mandatory reporters having to report on their own kids. That ambiguity is problematic as well because the mandatory reporting obligation is a 24/7 obligation, and there are many permutations of how a school employee might interact with youth outside of the employee's professional duties. What if the teacher learns that a former pupil (aged 16) is sexually active, but that teen has dropped out of school or now goes to community college-- is the teen a "student" for whom a report is required? What about a public school teacher who is coaching sports at a private high school-- are those athletes "students"? Or a teacher who is giving private tutoring to a teen on the weekends? Or a teacher who is leading a summer trip with her church with some teens under 18? Or the teacher who is a boy scout leader for teens? It seems that there would be considerable confusion in all of those situations, and many others too, about whether the teen was a "student" such that no report needed to be made. (As Adam Arms and I know from working on this same issue with TSPC, it is very hard to get one foolproof definition of "student").

There is ambiguity in the term "school employee" in the proposed ORS 419B.010(1)(c). Does this include a parent volunteer at a school who is also a mandatory reporter? Probably not. What about a youth pastor, also a mandatory reporter? Again, probably not. Or a school resource officer? Again, not exempt under this amendment. Or a volunteer coach? Or an outside sex-education provider from Planned Parenthood? The list goes on and on. Even among people who are likely to encounter students at school, there is no good reason to limit this exception only to those in an employment relationship with a school.