

## SB 155 A STAFF MEASURE SUMMARY

### Joint Committee On Student Success

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**Action Date:** 05/14/19

**Action:** Without recommendation as to passage, but with amendments and requesting referral to Ways and Means. (Printed A-Eng.)

**Senate Vote**

**Yeas:** 7 - Frederick, Hass, Knopp, Roblan, Taylor, Thatcher, Thomsen

**House Vote**

**Yeas:** 8 - Clem, Fahey, Helt, Hernandez, Lively, Nathanson, Smith G, Smith Warner

**Exc:** 1 - Sprenger

**Fiscal:** Fiscal impact issued

**Revenue:** No revenue impact

**Prepared By:** Lisa Gezelter, LPRO Analyst

**Meeting Dates:** 5/14

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#### **WHAT THE MEASURE DOES:**

Amends the statutory definition of education provider, school board, student, and sexual conduct. Requires Department of Human Services (DHS) to investigate all reports of child abuse. Imposes 90-day deadline for Teacher Standards and Practices Commission (TSPC) to investigate allegations of sexual conduct involving licensed school personnel upon receipt of report. Establishes obligation of Oregon Department of Education (ODE) to investigate allegations of sexual conduct involving unlicensed school personnel, contractors, agents, or volunteers within 90 days of receiving report and provides for appeals as contested cases. Expands required cross-notifications to include TSPC, ODE, and school districts. Allows school districts to use the investigatory reports of state agencies or law enforcement to make employment determinations. Requires person designated by school districts to receive reports to be a licensed administrator. Prohibits school personnel from assisting personnel accused of abuse or sexual conduct in obtaining another job unless proper reporting and investigation has been completed. Requires that employees accused of abuse or sexual conduct remain on administrative leave until a state agency completes an investigation and the school district makes an employment or disciplinary determination. Requires law enforcement agencies to notify ODE if investigating child abuse in a school or related to a school-sponsored activity. Allows school districts to immediately terminate contractors, agents, or volunteers accused of abuse or sexual conduct. Requires school districts to establish policies for appropriate electronic communication between staff and students and adds same to annual training school districts must provide. Modifies prohibition on termination or resignation agreements that impair or suppress abuse or sexual conduct investigations. Modified definitions take effect July 1, 2019. Makes implementation requirements for DHS and TSPC take effect January 1, 2020. Makes implementation requirements for ODE take effect July 1, 2020. Declares emergency, effective July 1, 2019.

#### **ISSUES DISCUSSED:**

- Provisions of the measure
- Prior action on the measure

#### **EFFECT OF AMENDMENT:**

Replaces the measure.

#### **BACKGROUND:**

In 2015, Congress passed the Every Student Succeeds Act (ESSA), which contains provisions prohibiting school districts, state departments of education, school employees, contractors, or agents from assisting school

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employees, contractors, or agents investigated for sexual misconduct from obtaining new jobs unless certain reporting requirements are met. In 2018, Portland Public Schools (PPS) released a report detailing how several former teachers stayed employed despite multiple reports of sexual conduct. The Senate Education Committee drafted Senate Bill 155 to align Oregon law with federal law and to implement recommendations contained in the PPS report.

Under current law, sexual conduct in school settings is defined as verbal or physical conduct by a school employee that is sexual in nature, directed toward a Kindergarten through Grade 12 student, has the effect of unreasonably interfering with a student's educational performance, and creates an intimidating, hostile, or offensive educational environment. As mandatory reporters, school employees are required to report suspected cases of child abuse by any person to the Department of Human Services (DHS) or law enforcement, and to a person designated by the school district to receive such reports. School employees are also expected to report suspected cases of sexual conduct to the person designated by the school district. For reports of abuse, school districts are required to place employees on administrative leave until DHS or law enforcement has made a determination on the report; and for reports of sexual conduct, school districts may place an employee on administrative leave or in positions that do not involve direct, unsupervised contact with children. The responsibility to investigate allegations of abuse and sexual conduct by school employees is currently shared by school districts, the Teacher Standards and Practices Commission (TSPC), the Department of Human Services (DHS), and law enforcement agencies. ODE has no direct investigatory role. Law enforcement investigates child abuse that rises to the level of criminal conduct, and DHS investigates reports of child abuse that may or may not be criminal, that involve the child's family members, or that is alleged to have occurred while DHS is responsible for the child's welfare. Cross-reporting is currently required between law enforcement and DHS. In addition, DHS must notify the TSPC if a teacher or school administrator is identified as an alleged perpetrator in a child abuse report.

TSPC is responsible for licensing and regulating teachers, administrators, school counselors, school social workers, school psychiatrists, and school nurses. TSPC must investigate all reports of sexual conduct or abuse involving TSPC-licensed personnel that it receives from the public or school districts. TSPC does not have the authority to investigate allegations involving non-licensed school personnel.

Senate Bill 155 A brings Oregon law into compliance with federal law; changes the definition of sexual conduct to remove requirements that it must unreasonably interfere with a student's educational performance and create an intimidating, hostile, or offensive environment; expands and clarifies responsibilities of certain state agencies to investigate allegations of abuse or sexual conduct in schools; places a 90-day timeline on investigations by TSPC and ODE; allows non-licensed personnel to appeal; clarifies the responsibility of school districts to determine whether or not any employment policies were violated; requires districts to establish policies on appropriate electronic communications between students and staff; and prohibits any termination or resignation agreements that may impair or suppress an investigation.