

A-Engrossed Senate Bill 155

Ordered by the Senate May 20
Including Senate Amendments dated May 20

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate 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.

Requires *[all]* investigations **of all reports** involving suspected abuse or **suspected** sexual conduct by school employees *[to be conducted by Teacher Standards and Practices Commission]*, **contractors, agents and volunteers**. *[Prescribes standards for investigations.]*

Establishes requirements for law enforcement agencies and Department of Human Services to conduct investigations related to reports of abuse that involve child and person who is school employee, contractor, agent or volunteer. Establishes requirements for Teacher Standards and Practices Commission to conduct investigations related to reports of suspected sexual conduct that may have been committed by school employee, contractor, agent or volunteer who is licensed by commission. Establishes requirements for Department of Education to conduct investigations related to reports of suspected sexual conduct that may have been committed by school employee, contractor, agent or volunteer who is not licensed by commission. Allows education provider to use findings of agencies when making employment determinations. Prescribes timelines for completing investigations and making employment determinations.

[Authorizes commission to impose civil penalty on school districts and educators who fail to comply. Directs commission to establish, maintain and make available to education providers database related to substantiated reports.]

Revises definitions of terms of **“education provider,”** *["school employee,"]* “sexual conduct” and “student” for purposes of certain laws related to abuse and sexual conduct by school employees, **contractors, agents and volunteers.**

Prohibits individual who is school employee, **contractor or agent** from assisting other school employee, **contractor or agent** in obtaining new job if individual knows or has probable cause to believe school employee, **contractor or agent** engaged in abuse or sexual contact with student. Provides exceptions. Allows commission to discipline individual for any violations of prohibition.

Prohibits certain agreements or contracts that have effect of terminating or impairing ongoing investigations **or of suppressing information relating to substantiated report of abuse or sexual conduct.**

[Establishes nonlicensed school personnel registry to be maintained by commission. Prohibits nonlicensed school personnel from having direct, unsupervised access to children served by education provider unless nonlicensed school personnel is registered or other exception applies.]

[Clarifies which school employees are subject to mandatory reporting of abuse. Adds school district board member and public charter school governing body member to list of mandatory reporters.]

Directs Department of Human Services and law enforcement agencies that receive report of child abuse to notify *[commission]* **Department of Education** if *[report involves conduct of school employee toward student]* **alleged child abuse occurred in school or was related to school-sponsored activity.**

Declares emergency, effective July 1, 2019.

A BILL FOR AN ACT

Relating to interpersonal boundary invasions affecting youth; creating new provisions; amending ORS 338.115, 339.370, 339.372, 339.374, 339.378, 339.384, 339.388, 339.392, 339.400, 342.175, 342.176, 342.177, 342.183, 342.390, 419B.005, 419B.020 and 419B.035; and declaring an emergency.

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

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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.

REQUIREMENTS FOR SCHOOL DISTRICTS

SECTION 1. ORS 339.370 is amended to read:

339.370. As used in ORS 339.370 to 339.400:

(1) "Abuse" has the meaning given that term in ORS 419B.005.

(2) "Agent" means a person acting as an agent for an education provider in a manner that requires the person to have direct, unsupervised contact with students.

(3) "Contractor" means a person providing services to an education provider under a contract in a manner that requires the person to have direct, unsupervised contact with students.

[(2) "Disciplinary records" means the records related to a personnel discipline action or materials or documents supporting that action.]

[(3)] **(4)(a)** "Education provider" means:

[(a)] **(A)** A school district, as defined in ORS 332.002.

[(b)] **(B)** The Oregon School for the Deaf.

[(c)] **(C)** An educational program under the Youth Corrections Education Program.

[(d)] **(D)** A public charter school, as defined in ORS 338.005.

[(e)] **(E)** An education service district, as defined in ORS 334.003.

[(f)] **(F)** Any state-operated program that provides educational services to *[kindergarten through grade 12]* students.

[(g)] **(G)** A private school.

(b) "Education provider" does not include:

(A) The Oregon Youth Authority;

(B) The Department of Corrections; or

(C) The Department of Education, except when functioning as an education provider on behalf of:

(i) The Oregon School for the Deaf;

(ii) An educational program under the Youth Corrections Education Program; or

(iii) A public charter school, as defined in ORS 338.005, that is sponsored by the Department of Education.

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

(a) Is based on interviews with the *[complainant]* **person who initiated the report, the person who may have been subjected to abuse or sexual conduct,** witnesses and the *[school employee or student]* **person** who is the subject of the report; and

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

(b) Results in a finding that the report:

(A) Is a substantiated report;

(B) Cannot be substantiated; or

(C) Is not a report of abuse or sexual conduct.

[(5)] **(6)** "Law enforcement agency" has the meaning given that term in ORS 419B.005.

(7) "License" includes a license, registration or certificate issued by the Teacher Standards and Practices Commission.

[(6)] **(8)** "Private school" means a school that provides to *[kindergarten through grade 12]* stu-

1 dents instructional programs that are not limited solely to dancing, drama, music, religious or ath-
2 letic instruction.

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

4 **(9) "School board" means the entity charged with adopting policies for an education**
5 **provider.**

6 [(8)] **(10) "School employee" means an employee of an education provider.**

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

8 [(A) Is sexual in nature;]

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

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

11 [(D) Creates an intimidating, hostile or offensive educational environment.]

12 [(b) "Sexual conduct" does not include abuse.]

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

14 [(a) An education provider has reasonable cause to believe is founded based on the available evi-
15 dence after conducting an investigation; and]

16 [(b) Involves conduct that the education provider determines is sufficiently serious to be documented
17 in the school employee's personnel file or the student's education record.]

18 **(11)(a) "Sexual conduct" means verbal or physical conduct or verbal, written or elec-**
19 **tronic communications by a school employee, a contractor, an agent or a volunteer that in-**
20 **volve a student and that are:**

21 **(A) Sexual advances or requests for sexual favors directed toward the student; or**

22 **(B) Of a sexual nature that are directed toward the student or that have the effect of**
23 **unreasonably interfering with the student's educational performance, or of creating an in-**
24 **timidating, hostile or offensive educational environment.**

25 **(b) "Sexual conduct" does not include touching:**

26 **(A) That is necessitated by the nature of the school employee's job duties or by the ser-**
27 **vices required to be provided by the contractor, agent or volunteer; and**

28 **(B) For which there is no sexual intent.**

29 **(12) "Student" means any person:**

30 **(a) Who is:**

31 **(A) In any grade from prekindergarten through grade 12; or**

32 **(B) Twenty-one years of age or younger and receiving educational or related services**
33 **from an education provider that is not a post-secondary institution of education; or**

34 **(b) Who was previously known as a student by the person engaging in sexual conduct and**
35 **who left school or graduated from high school within 90 days prior to the sexual conduct.**

36 **(13) "Substantiated report" means a report of abuse or sexual conduct that a law**
37 **enforcement agency, the Department of Human Services, the Teacher Standards and Prac-**
38 **tices Commission, the Department of Education or an education provider has reasonable**
39 **cause to believe, based on the available evidence after conducting an investigation, is**
40 **founded.**

41 **(14) "Volunteer" means a person acting as a volunteer for an education provider in a**
42 **manner that requires the person to have direct, unsupervised contact with students.**

43 **SECTION 2. The amendments to ORS 339.370 by section 1 of this 2019 Act apply to con-**
44 **duct that occurs before, on or after the effective date of this 2019 Act for purposes of:**

45 **(1) Reports of suspected abuse or suspected sexual conduct that are made on or after the**

1 **effective date of this 2019 Act.**

2 **(2) Investigations of suspected abuse or suspected sexual conduct that are initiated on**
3 **or after the effective date of this 2019 Act.**

4 **(3) A collective bargaining agreement, an employment contract, an agreement for resig-**
5 **nation or termination, a severance agreement or any similar contract or agreement entered**
6 **into on or after the effective date of this 2019 Act.**

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

8 339.372. Each school board shall adopt policies on the reporting of **suspected** abuse and **sus-**
9 **pected** sexual conduct by school employees, **contractors, agents and volunteers** and the reporting
10 of **suspected** abuse by students. The policies shall:

11 (1) Specify that abuse and sexual conduct by school employees, **contractors, agents and vol-**
12 **unteers** and abuse by students are not tolerated[;].

13 (2) Specify that all school employees, **contractors, agents, volunteers** and students are subject
14 to the policies[;].

15 (3) Require all school employees who have reasonable cause to believe that another school em-
16 ployee **or a contractor, an agent or a volunteer** has engaged in abuse or sexual conduct or that
17 a student has engaged in abuse to **report**:

18 *[(a) Report suspected abuse to a law enforcement agency, the Department of Human Services or a*
19 *designee of the department as required by ORS 419B.010 and 419B.015; and]*

20 *[(b)]* **(a) [Report suspected abuse or sexual conduct to the person] To the licensed administrator**
21 **designated as provided by subsection (4) of this section all incidents of suspected abuse or sus-**
22 **pected sexual conduct; and**

23 **(b) To a law enforcement agency, the Department of Human Services or a designee of the**
24 **department as required by ORS 419B.010 and 419B.015 all incidents of suspected abuse, in**
25 **addition to any report made as required under paragraph (a) of this subsection.**

26 (4) Designate a *[person]* **licensed administrator**, and an alternate **licensed administrator** in
27 the event the designated *[person]* **licensed administrator** is the suspected abuser, to:

28 **(a) Receive reports of suspected abuse or suspected sexual conduct by school employees, con-**
29 **tractors, agents or volunteers** or suspected abuse by students and specify the procedures to be
30 followed by *[that person]* **the licensed administrator** upon receipt of a report; **and**

31 **(b) In the manner required by ORS 339.388 (2), inform the Teacher Standards and Prac-**
32 **tices Commission or the Department of Education of reports of suspected sexual conduct**
33 **received under paragraph (a) of this subsection.**

34 **(5) Specify the procedures to be followed after a report of suspected abuse or suspected**
35 **sexual conduct is received, including notification that:**

36 **(a) All suspected abuse or suspected sexual conduct by school employees, contractors,**
37 **agents or volunteers will be reported to a law enforcement agency or to a state agency, as**
38 **appropriate, for investigation;**

39 **(b) A law enforcement agency or a state agency will complete an investigation regardless**
40 **of any changes in the relationship or duties of the person about whom the report was made;**
41 **and**

42 **(c) An education provider will take necessary actions as provided by ORS 339.388 to en-**
43 **sure the student's safety after a report is received, including placing a school employee on**
44 **paid administrative leave pending an investigation or prohibiting a contractor, an agent or**
45 **a volunteer from providing services to the education provider.**

1 [(5)] (6) Require the posting in each school building of:

2 (a) The name and contact information for the [person] **licensed administrator and alternate**
3 **licensed administrator** designated for the school building to receive reports of suspected abuse or
4 **suspected** sexual conduct by school employees, **contractors, agents and volunteers** or suspected
5 abuse by students and the procedures the [person] **licensed administrator** will follow upon receipt
6 of a report; **and**

7 (b) **The contact information for making a report of suspected abuse to a law enforcement**
8 **agency, the Department of Human Services or a designee of the department as required by**
9 **ORS 419B.010 and 419B.015 and a statement that the duty to report abuse is in addition to**
10 **any requirement to make a report to a licensed administrator.**

11 [(6)] (7) Specify that the initiation of a report in good faith about suspected abuse or **suspected**
12 sexual conduct may not adversely affect any terms or conditions of employment or the work envi-
13 ronment of the [complainant;] **person who initiated the report or who may have been subjected**
14 **to abuse or sexual conduct.**

15 [(7)] (8) Specify that the [school board] **education provider** or any school employee, **contractor,**
16 **agent or volunteer** will not discipline a student for the initiation of a report in good faith about
17 suspected abuse or **suspected** sexual conduct by a school employee, **a contractor, an agent or a**
18 **volunteer** or suspected abuse by a student[;].

19 [(8)] (9) Require notification, **as allowed by state and federal law**, by the education provider
20 to the person who [initiated the report] **was subjected to the suspected abuse or suspected sexual**
21 **conduct about any actions taken by the education provider based on the report[; and].**

22 [(9)] (10) Require the education provider to furnish to a school employee at the time of hire,
23 **or to a contractor, an agent or a volunteer at the time of beginning service for the education**
24 **provider**, the following:

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

26 (b) A description of the **investigatory process and possible consequences** [information and
27 records that will be disclosed as provided by ORS 339.378 or 339.388 (8)] if a report of suspected
28 abuse or **suspected** sexual conduct is substantiated[.]; **and**

29 (c) **A description of the prohibitions imposed on school employees, contractors and agents**
30 **when another school employee, contractor or agent attempts to obtain a new job, as provided**
31 **by ORS 339.378 (2).**

32 (11) **Specify and make available to students, school employees, contractors, agents and**
33 **volunteers a policy of appropriate electronic communications with students.**

34 **SECTION 4.** ORS 339.374 is amended to read:

35 339.374. (1) Except as provided in ORS 339.384, before an education provider may hire an ap-
36 plicant for a position with the education provider **as a school employee**, the education provider
37 shall:

38 [(1)] (a) Require the applicant to provide:

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

40 [(b)] (B) A written authorization that authorizes [the applicant's current and former employers
41 that are] education providers **identified in subparagraph (A) of this paragraph** to disclose the
42 information requested under [subsection (2) of this section] **paragraph (b) of this subsection.**

43 [(c)] (C) A written statement of whether the applicant:

44 [(A)] (i) Has been the subject of a substantiated report of abuse or sexual conduct; or

45 [(B)] (ii) Is the subject of an ongoing investigation related to a report of suspected abuse or

1 **suspected** sexual conduct.

2 [(2)] (b) Conduct a review of the employment history of the applicant **with education providers**
3 by contacting the three most recent [*employers of the applicant who are*] education providers **iden-**
4 **tified in paragraph (a)(A) of this subsection** and requesting **from each education provider:**

5 [(a) *The following information:*]

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

7 (B) Whether the **education provider conducted an investigation and determined that the**
8 applicant was the subject of any substantiated reports of abuse or sexual conduct related to the
9 applicant's employment with the education provider[;] **and, if so, the following additional infor-**
10 **mation:**

11 [(C)] (i) The dates of any substantiated reports;

12 [(D)] (ii) The definitions of "abuse" and "sexual conduct" used by the education provider when
13 the education provider determined that any reports were substantiated; and

14 [(E)] (iii) The standards used by the education provider to determine whether any reports were
15 substantiated.

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

17 [(3)] (c) For an applicant who is licensed[, *registered or certified*] with the Teacher Standards and
18 Practices Commission, [*access online information provided by*] **request** the commission to verify:

19 [(a)] (A) That the applicant is licensed[, *registered or certified*] by the commission; and

20 [(b)] (B) Whether the commission has [*provided any information*] **an ongoing investigation or**
21 **has a substantiated report** relating to conduct by the applicant that may constitute [*abuse or*]
22 sexual conduct.

23 **(d) For an applicant who is not licensed with the Teacher Standards and Practices Com-**
24 **mission, request the Department of Education to verify whether the department has an on-**
25 **going investigation or has a substantiated report relating to conduct by the applicant that**
26 **may constitute sexual conduct.**

27 [(4)] (e) Conduct a nationwide criminal records check if required by ORS 326.603.

28 **(2) Before an education provider may accept the services of a contractor, agent or vol-**
29 **unteer, the education provider shall:**

30 (a) **For a person who is licensed with the Teacher Standards and Practices Commission,**
31 **request the commission to verify whether the commission has an ongoing investigation or**
32 **has a substantiated report relating to conduct by the person that may constitute sexual**
33 **conduct.**

34 (b) **For a person who is not licensed with the Teacher Standards and Practices Commis-**
35 **sion, request the Department of Education to verify whether the department has an ongoing**
36 **investigation or has a substantiated report relating to conduct by the person that may con-**
37 **stitute sexual conduct.**

38 (c) **Conduct any background checks required under ORS 326.603, 326.604 or 326.607.**

39 **SECTION 5.** ORS 339.378 is amended to read:

40 339.378. (1)(a) Not later than 20 days after receiving a request under ORS 339.374 (1)(b), an
41 education provider that has or has had an employment relationship with the applicant shall disclose
42 the information requested [*and any disciplinary records that must be disclosed as provided by ORS*
43 *339.388 (8)*].

44 [(2)] (b) An education provider may disclose the information on a standardized form and is not
45 required to provide any additional information related to a substantiated report of abuse or sexual

1 conduct other than the information that is required by ORS 339.374 [(2)] (1)(b).

2 [(3)] (c) Information received under this section is confidential and is not a public record as
3 defined in ORS 192.311. An education provider may use the information only for the purpose of
4 evaluating an applicant's eligibility to be hired.

5 (2)(a) **Except as provided by paragraphs (b) and (c) of this subsection, an individual who**
6 **is a school employee, a contractor or an agent may not assist another school employee,**
7 **contractor or agent in obtaining any new job if the individual knows, or has reasonable cause**
8 **to believe, that the school employee, contractor or agent engaged in abuse or sexual conduct.**

9 (b) **Nothing in paragraph (a) of this subsection prevents an education provider from:**

10 (A) **Disclosing the information described in subsection (1) of this section; or**

11 (B) **Providing the routine transmission of administrative and personnel files.**

12 (c) **The prohibition prescribed by paragraph (a) of this subsection does not apply if the**
13 **school employee, contractor or agent knows, or has reasonable cause to believe:**

14 (A) **That the suspected abuse or suspected sexual conduct was reported to a law**
15 **enforcement agency, the Department of Human Services, the Teacher Standards and Prac-**
16 **tices Commission or the Department of Education; and**

17 (B) **Any of the following are true:**

18 (i) **The report could be neither substantiated nor found to be unsubstantiated following**
19 **an investigation;**

20 (ii) **The report was found to be unsubstantiated;**

21 (iii) **The report was found to be a substantiated report; or**

22 (iv) **The investigation into the report remains ongoing after four years.**

23 (3)(a) **The commission may take disciplinary action against a licensed school employee for**
24 **failure to disclose information as required by subsection (1)(a) of this section. In determining**
25 **whether to take disciplinary action, the commission may take into consideration any evi-**
26 **dence presented by the school employee that a longer period of time was necessary for good**
27 **cause.**

28 (b) **Any violation of the provisions of subsection (2) of this section shall be considered**
29 **gross neglect of duty under ORS 342.175.**

30 **SECTION 6.** ORS 339.384 is amended to read:

31 339.384. (1) An education provider may not hire an applicant [*who*] **to be a school employee**
32 **if the applicant** does not comply with the requirements of ORS 339.374 (1)(a). A refusal **by the**
33 **education provider** to hire an applicant under this subsection removes the applicant from any ed-
34 ucation provider policies, any collective bargaining provisions regarding dismissal procedures and
35 appeals and any provisions of ORS 342.805 to 342.937.

36 (2) An education provider may hire an applicant **to be a school employee** on a conditional basis
37 pending the education provider's review of information [*and records*] received under ORS 339.378
38 (1).

39 (3) An education provider may not deny an applicant employment solely because:

40 (a) [*A current or former employer of an applicant*] **An education provider identified by the**
41 **applicant under ORS 339.374 (1)(a)(A) fails or refuses to comply with the requirements of ORS**
42 **339.378 (1); or**

43 (b) [*The applicant has or had an out-of-state employer*] **One or more education providers iden-**
44 **tified by the applicant under ORS 339.374 (1)(a)(A) are located in another state** and the laws
45 or rules of that state prevent the release of information [*or records*] requested under ORS 339.378

1 (1).

2 **SECTION 7.** ORS 339.388 is amended to read:

3 339.388. [(1)(a) A school employee having reasonable cause to believe that a child with whom the
4 employee comes in contact has suffered abuse by another school employee or by a student, or that an-
5 other school employee or a student with whom the employee comes in contact has abused a child, shall
6 immediately report the information to:]

7 [(A) The person designated in the policy adopted under ORS 339.372; and]

8 [(B) A law enforcement agency, the Department of Human Services or a designee of the department
9 as required by ORS 419B.010 and 419B.015.]

10 [(b) A school employee having reasonable cause to believe that a student with whom the employee
11 comes in contact has been subjected to sexual conduct by another school employee, or that another
12 school employee with whom the employee comes in contact has engaged in sexual conduct, shall im-
13 mediately report the information to the person designated in the policy adopted under ORS 339.372.]

14 **(1)(a) A school employee shall immediately submit a report as provided by paragraph (b)**
15 **of this subsection if the school employee has reasonable cause to believe that:**

16 **(A) A student has been subjected to abuse by another school employee or by a contrac-**
17 **tor, an agent, a volunteer or a student;**

18 **(B) A student has been subjected to sexual conduct by another school employee or by a**
19 **contractor, an agent or a volunteer; or**

20 **(C) Another school employee or a contractor, an agent or a volunteer has engaged in**
21 **sexual conduct.**

22 **(b) The report required under paragraph (a) of this subsection shall be made to:**

23 **(A) The licensed administrator designated in the policies adopted under ORS 339.372, for**
24 **all reports of suspected abuse or suspected sexual conduct; and**

25 **(B) A law enforcement agency, the Department of Human Services or a designee of the**
26 **department as required by ORS 419B.010 and 419B.015, for all reports of suspected abuse.**

27 **(2) [A person] The licensed administrator** who receives a report under subsection (1) of this
28 section shall follow the procedures required by the [policy] **policies** adopted by the school board
29 under ORS 339.372, **including:**

30 **(a) Notifying the Teacher Standards and Practices Commission as soon as possible of any**
31 **reports of suspected sexual conduct that may have been committed by a person who is li-**
32 **censed by the commission; and**

33 **(b) Notifying the Department of Education as soon as possible of any reports of suspected**
34 **sexual conduct that may have been committed by a person who is not licensed by the com-**
35 **mission.**

36 **(3)(a) [Except as provided in subsection (4) of this section, when an education provider] When a**
37 **licensed administrator** receives a report of suspected abuse or **suspected** sexual conduct by [one
38 of its employees,] **a school employee** and [the education provider's designee determines that] there is
39 reasonable cause to support the report, the education provider **shall:**

40 [(A) In the case of suspected abuse, shall place the school employee on paid administrative leave;
41 or]

42 [(B) In the case of suspected sexual conduct, may place the school employee on paid administrative
43 leave or in a position that does not involve direct, unsupervised contact with children.]

44 **(A) Place the school employee on paid administrative leave; and**

45 **(B) Take necessary actions to ensure the student's safety.**

1 (b) A school employee who is placed on paid administrative leave under paragraph [(a)(A)] (a)
2 of this subsection shall remain on administrative leave until:

3 [(A) *The Department of Human Services or a law enforcement agency determines that the report*
4 *cannot be substantiated or that the report will not be pursued; or]*

5 [(B) *The Department of Human Services or a law enforcement agency determines that the report*
6 *is substantiated and the education provider takes the appropriate disciplinary action against the school*
7 *employee.*]

8 (A) For a report of suspected abuse, a law enforcement agency or the Department of
9 Human Services determines that the report:

10 (i) Is substantiated and the education provider takes the appropriate employment action
11 against the school employee; or

12 (ii) Cannot be substantiated or is not a report of abuse and the education provider:

13 (I) Determines that an employment policy has been violated and takes appropriate em-
14 ployment action against the school employee; or

15 (II) Determines that an employment policy has not been violated and employment action
16 against the school employee is not required.

17 (B) For a report of suspected sexual conduct, the Teacher Standards and Practices
18 Commission or the Department of Education determines that the report:

19 (i) Is substantiated and the education provider takes the appropriate employment action
20 against the school employee; or

21 (ii) Cannot be substantiated or is not a report of sexual conduct and the education pro-
22 vider:

23 (I) Determines that an employment policy has been violated and takes appropriate em-
24 ployment action against the school employee; or

25 (II) Determines that an employment policy has not been violated and that employment
26 action against the school employee is not required.

27 [(4) *An education provider may reinstate a school employee placed on paid administrative leave for*
28 *suspected abuse as provided under subsection (3) of this section or may take the appropriate discipli-*
29 *nary action against the employee if the Department of Human Services or a law enforcement agency is*
30 *unable to determine, based on a report of suspected abuse, whether abuse occurred.*]

31 (c) When a school employee is placed on paid administrative leave under paragraph (a)
32 of this subsection, the education provider may not require the school employee to use any
33 accrued leave during the paid administrative leave.

34 (4)(a) Except as provided in paragraph (c) of this subsection, when a licensed adminis-
35 trator receives a report of suspected abuse or suspected sexual conduct by a contractor, an
36 agent or a volunteer, the education provider:

37 (A) May immediately prohibit the contractor, agent or volunteer from providing services
38 to the education provider.

39 (B) Shall prohibit the contractor, agent or volunteer from providing services to the edu-
40 cation provider if the education provider determines that there is reasonable cause to sup-
41 port a report of abuse or sexual conduct.

42 (b) Except as provided in paragraph (c) of this subsection, an education provider is not
43 required to reinstate a contractor, an agent or a volunteer. Any reinstatement of a con-
44 tractor, an agent or a volunteer that does occur may not occur until:

45 (A) For a report of suspected abuse, a law enforcement agency or the Department of

1 **Human Services determines that the report:**

2 (i) **Is substantiated and the education provider takes the appropriate actions to protect**
3 **students; or**

4 (ii) **Cannot be substantiated or is not a report of abuse and the education provider:**

5 (I) **Takes the appropriate actions to protect students; or**

6 (II) **Determines that no other actions are required to protect students.**

7 (B) **For a report of suspected sexual conduct, the Teacher Standards and Practices**
8 **Commission or the Department of Education determines that the report:**

9 (i) **Is substantiated and the education provider takes the appropriate actions to protect**
10 **students; or**

11 (ii) **Cannot be substantiated or is not a report of sexual conduct and the education pro-**
12 **vider:**

13 (I) **Takes the appropriate actions to protect students; or**

14 (II) **Determines that no other actions are required to protect students.**

15 (c) **If a contract under which a contractor provides services to an education provider or**
16 **an agreement under which an agent provides services to an education provider sets forth any**
17 **negotiated standards for the relationship between the contractor or agent and the education**
18 **provider, the education provider shall comply with those standards but may not in any in-**
19 **stance grant the contractor or agent more rights than granted to a school employee under**
20 **subsection (3) of this section.**

21 (d) **Nothing in this subsection:**

22 (A) **Establishes an employment relationship between an education provider and a con-**
23 **tractor or an agent; or**

24 (B) **Confers onto a contractor or an agent any rights of employment.**

25 (5)(a) **When a report of suspected abuse or suspected sexual conduct is investigated by**
26 **a law enforcement agency, the Department of Human Services, the Teacher Standards and**
27 **Practices Commission or the Department of Education, an education provider may use the**
28 **findings of the entity that conducted the investigation for the purpose of subsection (3) or**
29 **(4) of this section and for making any determinations described in subsection (6) of this**
30 **section.**

31 (b) **Nothing in this subsection prohibits an education provider from:**

32 (A) **Conducting an investigation related to a report of suspected abuse or suspected sex-**
33 **ual conduct, except that the education provider must:**

34 (i) **If requested, allow the investigation to be led by an entity identified in paragraph (a)**
35 **of this subsection, as applicable;**

36 (ii) **Follow any protocols and procedures of entities identified in paragraph (a) of this**
37 **subsection that are involved in the investigation; and**

38 (iii) **Cooperate with the entities identified in paragraph (a) of this subsection that are**
39 **involved in the investigation, including by:**

40 (I) **Suspending any investigations of the education provider at the request of the entity;**
41 **and**

42 (II) **Sharing information with the entity as provided by subsection (10) of this section.**

43 (B) **Taking an employment action, based on information available to the education pro-**
44 **vider, before an investigation conducted by an entity identified in paragraph (a) of this sub-**
45 **section is completed.**

1 **(6)(a) For each report of suspected abuse or suspected sexual conduct by a school em-**
2 **ployee, an education provider must determine if:**

3 **(A) An employment policy of the education provider was violated; and**

4 **(B) The education provider will take any employment actions, including disciplinary**
5 **action against the school employee or changes to the employment relationship or duties of**
6 **the school employee.**

7 **(b) Determinations made under paragraph (a) of this subsection must be based on the**
8 **findings of an investigation conducted by:**

9 **(A) A law enforcement agency, the Department of Human Services, the Teacher Stan-**
10 **dards and Practices Commission or the Department of Education; or**

11 **(B) The education provider, if the education provider conducts an investigation.**

12 **(c) A final determination by a law enforcement agency, the Department of Human Ser-**
13 **vices, the Teacher Standards and Practices Commission or the Department of Education that**
14 **a report of suspected abuse or suspected sexual conduct cannot be substantiated or is not a**
15 **report of abuse or sexual conduct does not:**

16 **(A) Relieve an education provider of the requirement to make determinations under**
17 **paragraph (a) of this subsection; or**

18 **(B) Prohibit an education provider from taking any employment actions against a school**
19 **employee.**

20 **(d) Except as provided by paragraph (e) of this subsection, determinations made under**
21 **paragraph (a) of this subsection must be made:**

22 **(A) Within 60 calendar days from the date the education provider received from a law**
23 **enforcement agency, the Department of Human Services, the Teacher Standards and Prac-**
24 **tices Commission or the Department of Education a final determination that a report of**
25 **suspected abuse or suspected sexual conduct involving a school employee is a substantiated**
26 **report; or**

27 **(B) Within 90 calendar days from the date the education provider:**

28 **(i) Received from a law enforcement agency, the Department of Human Services, the**
29 **Teacher Standards and Practices Commission or the Department of Education a final deter-**
30 **mination that a report of suspected abuse or suspected sexual conduct involving a school**
31 **employee cannot be substantiated or is not a report of abuse or sexual conduct; or**

32 **(ii) Received a report of suspected abuse or suspected sexual conduct if the education**
33 **provider conducts an investigation.**

34 **(e) The timelines prescribed by paragraph (d) of this subsection may be extended if, for**
35 **good cause, a longer period of time is necessary. For an education provider that conducts**
36 **an investigation, good cause may include suspending an investigation as required by sub-**
37 **section (5)(b) of this section.**

38 **(7) If, in the course of an investigation by an education provider, the education provider**
39 **becomes aware of new information that gives rise to a reasonable cause to believe that abuse**
40 **or sexual conduct occurred, the education provider shall ensure that a report is made to a**
41 **law enforcement agency, the Department of Human Services, a designee of the department**
42 **as required by ORS 419B.010 and 419B.015, the Teacher Standards and Practices Commission**
43 **or the Department of Education.**

44 **[(5)] (8) If, following an investigation, [an education provider determines that a report of suspected**
45 **abuse or sexual conduct by a school employee is a substantiated report] an education provider de-**

1 **termines that the education provider will take an employment action**, the education provider
2 shall:

3 (a) Inform the school employee *[that the education provider has determined that the report has*
4 *been substantiated]* **of the employment action that will be taken by the education provider.**

5 (b) Provide the school employee with information about the appropriate appeal process for the
6 *[determination made]* **employment action taken** by the education provider. The appeal process may
7 be the process provided by a collective bargaining agreement or a process administered by a neutral
8 third party and paid for by the *[school district]* **education provider.**

9 (c) Following notice of a school employee's decision not to appeal the *[determination]* **employ-**
10 **ment action of an education provider** or following the determination of an appeal that sustained
11 the *[substantiated report]* **employment action taken by the education provider**, create a record
12 of the **findings of the substantiated report and the employment action taken by the education**
13 **provider** and place the record in *[the personnel file of the school employee]* **any documents main-**
14 **tained by the education provider on the school employee.** Records created pursuant to this
15 paragraph are confidential and are not public records as defined in ORS 192.311. An education
16 provider may use the record as a basis for providing the information required to be disclosed **about**
17 **a school employee** under ORS 339.378 (1).

18 (d) Inform the school employee that information about substantiated reports may be disclosed
19 to a potential employer as provided by *[subsection (8) of this section and]* ORS 339.378 (1).

20 *[(6)(a)]* **(9)(a)** Notwithstanding the requirements *[of subsections (3), (4) and (5)]* of this section,
21 an education provider that is a private school:

22 (A) May *[discipline or terminate]* **take an employment action in relation to** a school
23 employee, **a contractor, an agent or a volunteer** according to:

24 (i) The provisions of *[subsections (3) and (4) of]* this section; or

25 (ii) The standards and policies of the private school if the standards and policies provide the
26 same or greater safeguards for the protection of *[children]* **students** compared to the safeguards
27 described in *[subsections (3) and (4) of]* this section.

28 (B) May follow the procedures described in subsection *[(5)]* **(8)** of this section or may follow any
29 appeals process established by the private school related to suspected *[child]* abuse or **suspected**
30 sexual conduct.

31 (b) A private school that chooses to *[discipline or terminate]* **take an employment action or**
32 **other action in relation to** a school employee, **a contractor, an agent or a volunteer** according
33 to the standards and policies of the **private** school must provide the information required to be
34 disclosed under ORS 339.378 (1).

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

38 *[(8)(a) The disciplinary records of a school employee or former school employee convicted of a crime*
39 *listed in ORS 342.143 are not exempt from disclosure under ORS 192.345 or 192.355.]*

40 *[(b) If a school employee is convicted of a crime listed in ORS 342.143, the education provider that*
41 *is the employer of the employee shall disclose the disciplinary records of the employee to any person*
42 *upon request.]*

43 *[(c) If a former school employee is convicted of a crime listed in ORS 342.143, the education pro-*
44 *vider that was the employer of the former employee when the crime was committed shall disclose the*
45 *disciplinary records of the former employee to any person upon request.]*

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

5 **(10) Upon request from a law enforcement agency, the Department of Human Services,
6 the Teacher Standards and Practices Commission or the Department of Education, in con-
7 ducting an investigation related to suspected abuse or suspected sexual conduct, an educa-
8 tion provider shall immediately provide any requested documents or materials, to the extent
9 allowed by state and federal law, including laws protecting a person from self-incrimination.**

10 **SECTION 8.** ORS 339.392 is amended to read:

11 339.392. (1) An education provider may not enter into a collective bargaining agreement, an
12 employment contract, an agreement for resignation or termination, a severance agreement or any
13 [other] **similar** contract or agreement that:

14 (a) Has the effect of **impairing or terminating an ongoing investigation, or** suppressing in-
15 formation relating to an ongoing investigation, related to a report of suspected abuse or **suspected**
16 sexual conduct [or];

17 **(b) Has the effect of suppressing information** relating to a substantiated report of abuse or
18 sexual conduct by a current or former **school** employee, **contractor, agent or volunteer;**

19 [(b)] **(c)** Affects the duties of the education provider to report suspected abuse or **suspected**
20 sexual conduct or to discipline a current or former **school** employee, **contractor, agent or volun-
21 teer** for a substantiated report of abuse or sexual conduct;

22 [(c)] **(d)** Impairs the ability of the education provider to discipline [*an employee*] **a school em-
23 ployee, a contractor, an agent or a volunteer** for a substantiated report of abuse or sexual con-
24 duct; or

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

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

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

31 (a) Standards for investigation of a report of **suspected** abuse or **suspected** sexual conduct; or

32 (b) An appeal process from the determination **made by or the action taken** by an education
33 provider [*that*] **related to** a report of abuse or sexual conduct [*has been substantiated as provided*
34 *in ORS 339.388 (5)*].

35 **SECTION 9. The amendments to ORS 339.392 by section 8 of this 2019 Act apply to
36 agreements and contracts entered into on or after January 1, 2020.**

37 **SECTION 10.** ORS 339.400 is amended to read:

38 339.400. (1) An education provider shall provide to school employees [*training*] each school year
39 **training** on:

40 (a) The prevention and identification of abuse and sexual conduct [*and on*];

41 (b) The obligations of school employees under ORS **339.388 and** 419B.005 to 419B.050 and under
42 policies adopted by the school board to report **suspected** abuse and **suspected** sexual conduct[.];
43 **and**

44 (c) **Appropriate electronic communications with students as provided by ORS 339.372 (11).**

45 **(2) An education provider shall provide to contractors, agents and volunteers each school**

1 **year information on:**

2 (a) **The prevention and identification of abuse and sexual conduct;**

3 (b) **The obligations of school employees under policies adopted by the school board to**
4 **report abuse and sexual conduct; and**

5 (c) **Appropriate electronic communications with students as described in ORS 339.372 (11).**

6 [(2)] (3) An education provider shall make the training provided under subsection (1) of this
7 section available each school year **to contractors, agents and volunteers and** to parents and legal
8 guardians of [*children*] **students** who attend a school operated by the education provider. The
9 training shall be provided separately from the training provided to school employees under sub-
10 section (1) of this section.

11 [(3)] (4) An education provider shall make [*training that is designed to prevent abuse and sexual*
12 *conduct*] available each school year to [*children*] **students** who attend a school operated by the ed-
13 ucation provider **a training that is designed to prevent abuse and sexual conduct.**

14 **SECTION 11.** ORS 338.115 is amended to read:

15 338.115. (1) Statutes and rules that apply only to school district boards, school districts or other
16 public schools do not apply to public charter schools. However, the following laws do apply to public
17 charter schools:

18 (a) Federal law;

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

20 (c) ORS 192.311 to 192.478 (public records law);

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

22 (e) ORS chapters 279A, 279B and 279C (Public Contracting Code);

23 (f) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);

24 (g) ORS 326.565, 326.575 and 326.580 (student records);

25 (h) ORS 181A.195, 326.603, 326.607 and 342.223 (criminal records checks);

26 (i) ORS 329.045 (academic content standards and instruction);

27 (j) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative cer-
28 tificate);

29 (k) ORS 329.496 (physical education);

30 (L) The statewide assessment system developed by the Department of Education for mathemat-
31 ics, science and English under ORS 329.485 (2);

32 (m) ORS 336.840 (use of personal electronic devices);

33 (n) ORS 337.150 (textbooks);

34 (o) ORS 339.119 (consideration for educational services);

35 (p) ORS 339.141, 339.147 and 339.155 (tuition and fees);

36 (q) ORS 339.250 (9) (prohibition on infliction of corporal punishment);

37 (r) ORS 339.326 (notice concerning students subject to juvenile court petitions);

38 (s) ORS 339.370[, 339.372, 339.388 and] **to** 339.400 (reporting of **suspected** abuse and **suspected**
39 **sexual conduct** [*and training on prevention and identification of abuse and sexual conduct*]);

40 (t) ORS 342.856 (core teaching standards);

41 (u) ORS chapter 657 (Employment Department Law);

42 (v) ORS 659.850, 659.855 and 659.860 (discrimination);

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

45 (x) Statutes and rules that expressly apply to public charter schools;

1 (y) Statutes and rules that apply to a special government body, as defined in ORS 174.117, or a
2 public body, as defined in ORS 174.109;

3 (z) Health and safety statutes and rules;

4 (aa) Any statute or rule that is listed in the charter; and

5 (bb) This chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 **SECTION 12. The amendments to ORS 338.115, 339.372, 339.374, 339.378, 339.384, 339.388,**

1 339.392 and 339.400 by sections 3 to 8, 10 and 11 of this 2019 Act become operative on January
2 1, 2020.

3
4 **REQUIREMENTS FOR THE DEPARTMENT OF HUMAN SERVICES**

5
6 **SECTION 13.** Section 14 of this 2019 Act is added to and made a part of ORS 419B.005 to
7 419B.050.

8 **SECTION 14.** (1) As used in this section:

9 (a) "Agent" means a person who:

10 (A) Acts as an agent for an education provider in a manner that requires the person to
11 have direct, unsupervised contact with children; and

12 (B) Interacts with a child because of the person's status as an agent for an education
13 provider.

14 (b) "Contractor" means a person who:

15 (A) Provides services to an education provider under a contract in a manner that re-
16 quires the person to have direct, unsupervised contact with children; and

17 (B) Interacts with a child because of the person's status as a contractor for an education
18 provider.

19 (c) "Education provider" has the meaning given that term in ORS 339.370.

20 (d) "School employee" means a person who:

21 (A) Is an employee of an education provider; and

22 (B) Interacts with a child because of the person's status as an employee of an education
23 provider.

24 (e) "Volunteer" means a person who:

25 (A) Acts as a volunteer for an education provider in a manner that requires the person
26 to have direct, unsupervised contact with children; and

27 (B) Interacts with a child because of the person's status as a volunteer of an education
28 provider.

29 (2) A law enforcement agency or the Department of Human Services must conduct an
30 investigation as provided by ORS 419B.020 if the law enforcement agency or department re-
31 ceives a report of abuse that involves a child and a person who is a school employee, con-
32 tractor, agent or volunteer.

33 (3) A law enforcement agency shall notify the department as provided by ORS 419B.015
34 if the law enforcement agency receives a report described in subsection (2) of this section.
35 The department shall notify a law enforcement agency as provided by ORS 419B.015 if the
36 department receives a report described in subsection (2) of this section. The department shall
37 ensure that an investigation related to the report is conducted if the report is not investi-
38 gated by a law enforcement agency.

39 (4)(a) Within three business days of receiving a report or notification of a report de-
40 scribed in subsection (2) of this section, the department shall notify:

41 (A) The Teacher Standards and Practices Commission, if the department believes the
42 school employee, contractor, agent or volunteer is licensed or registered by the commission;
43 or

44 (B) The Department of Education, if the Department of Human Services believes the re-
45 port of suspected abuse:

1 (i) Occurred in a school or was related to a school-sponsored activity; or

2 (ii) Involves a child and a person who is a school employee, contractor, agent or volun-
3 teer.

4 (b) For the purpose of notification made under this subsection, the Department of Human
5 Services may not disclose the name and address of, and other identifying information about,
6 the person who made the report, but the department shall make available any information
7 necessary to ensure the safety of the child, including the name of the school and the name
8 of the person who may have conducted the suspected abuse. Any person or entity to whom
9 notification is made under this subsection may not release any information not authorized
10 by this subsection.

11 (c) When the Department of Education receives notification under this subsection, the
12 department shall immediately notify the appropriate education providers to ensure the safety
13 of the child.

14 (5) The Department of Human Services may adopt any rules necessary for the adminis-
15 tration of this section.

16 NOTE: Section 15 was deleted by amendment. Subsequent sections were not renumbered.

17 SECTION 16. ORS 419B.005 is amended to read:

18 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

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

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

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

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

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

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

30 (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any
31 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage
32 in the performing for people to observe or the photographing, filming, tape recording or other ex-
33 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or
34 described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-
35 cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or
36 which is designed to serve educational or other legitimate purposes; and

37 (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in
38 ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as
39 described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.

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

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

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

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

3 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful
4 manufacturing of a cannabinoid extract, as defined in ORS 475B.015, that subjects a child to a sub-
5 stantial risk of harm to the child's health or safety.

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

8 (2) "Child" means an unmarried person who:

9 (a) Is under 18 years of age; or

10 (b) Is under 21 years of age and residing in or receiving care or services at a child-caring
11 agency as that term is defined in ORS 418.205.

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 **(4)(a) "Investigation" means a detailed inquiry into or assessment of the safety of a child**
18 **alleged to have experienced abuse.**

19 **(b) "Investigation" does not include screening activities conducted upon the receipt of a**
20 **report.**

21 [(4)] **(5)** "Law enforcement agency" means:

22 (a) A city or municipal police department.

23 (b) A county sheriff's office.

24 (c) The Oregon State Police.

25 (d) A police department established by a university under ORS 352.121 or 353.125.

26 (e) A county juvenile department.

27 [(5)] **(6)** "Public or private official" means:

28 (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician,
29 including any intern or resident.

30 (b) Dentist.

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

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

34 (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning
35 Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local
36 health department, a community mental health program, a community developmental disabilities
37 program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205
38 or an alcohol and drug treatment program.

39 (f) Peace officer.

40 (g) Psychologist.

41 (h) Member of the clergy.

42 (i) Regulated social worker.

43 (j) Optometrist.

44 (k) Chiropractor.

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

- 1 (m) Attorney.
- 2 (n) Licensed professional counselor.
- 3 (o) Licensed marriage and family therapist.
- 4 (p) Firefighter or emergency medical services provider.
- 5 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 6 (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
- 7 (s) Member of the Legislative Assembly.
- 8 (t) Physical, speech or occupational therapist.
- 9 (u) Audiologist.
- 10 (v) Speech-language pathologist.
- 11 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
12 gations or discipline by the commission.
- 13 (x) Pharmacist.
- 14 (y) An operator of a preschool recorded program under ORS 329A.255.
- 15 (z) An operator of a school-age recorded program under ORS 329A.257.
- 16 (aa) Employee of a private agency or organization facilitating the provision of respite services,
17 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
18 109.056.
- 19 (bb) Employee of a public or private organization providing child-related services or activities:
20 (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day
21 camps, survival camps or groups, centers or camps that are operated under the guidance, super-
22 vision or auspices of religious, public or private educational systems or community service organ-
23 izations; and
24 (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide
25 confidential, direct services to victims of domestic violence, sexual assault, stalking or human traf-
26 ficking.
- 27 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,
28 if compensated and if the athlete is a child.
- 29 (dd) Personal support worker, as defined by rule adopted by the Home Care Commission.
- 30 (ee) Home care worker, as defined in ORS 410.600.
- 31 **SECTION 17.** ORS 419B.005, as amended by section 21, chapter 75, Oregon Laws 2018, is
32 amended to read:
33 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:
34 (1)(a) "Abuse" means:
35 (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child
36 which has been caused by other than accidental means, including any injury which appears to be
37 at variance with the explanation given of the injury.
38 (B) Any mental injury to a child, which shall include only observable and substantial impairment
39 of the child's mental or psychological ability to function caused by cruelty to the child, with due
40 regard to the culture of the child.
41 (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual pene-
42 tration and incest, as those acts are described in ORS chapter 163.
43 (D) Sexual abuse, as described in ORS chapter 163.
44 (E) Sexual exploitation, including but not limited to:
45 (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any

1 other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage
2 in the performing for people to observe or the photographing, filming, tape recording or other ex-
3 hibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or
4 described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not in-
5 cluding any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or
6 which is designed to serve educational or other legitimate purposes; and

7 (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in
8 ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as
9 described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.

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

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

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

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

18 (J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful
19 manufacturing of a cannabinoid extract, as defined in ORS 475B.015, that subjects a child to a sub-
20 stantial risk of harm to the child's health or safety.

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

23 (2) "Child" means an unmarried person who:

24 (a) Is under 18 years of age; or

25 (b) Is under 21 years of age and residing in or receiving care or services at a child-caring
26 agency as that term is defined in ORS 418.205.

27 (3) "Higher education institution" means:

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

29 (b) A public university listed in ORS 352.002;

30 (c) The Oregon Health and Science University; and

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

32 (4)(a) **"Investigation" means a detailed inquiry into or assessment of the safety of a child**
33 **alleged to have experienced abuse.**

34 (b) **"Investigation" does not include screening activities conducted upon the receipt of a**
35 **report.**

36 [(4)] (5) "Law enforcement agency" means:

37 (a) A city or municipal police department.

38 (b) A county sheriff's office.

39 (c) The Oregon State Police.

40 (d) A police department established by a university under ORS 352.121 or 353.125.

41 (e) A county juvenile department.

42 [(5)] (6) "Public or private official" means:

43 (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician,
44 including any intern or resident.

45 (b) Dentist.

- 1 (c) School employee, including an employee of a higher education institution.
- 2 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide
3 or employee of an in-home health service.
- 4 (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning
5 Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local
6 health department, a community mental health program, a community developmental disabilities
7 program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205
8 or an alcohol and drug treatment program.
- 9 (f) Peace officer.
- 10 (g) Psychologist.
- 11 (h) Member of the clergy.
- 12 (i) Regulated social worker.
- 13 (j) Optometrist.
- 14 (k) Chiropractor.
- 15 (L) Certified provider of foster care, or an employee thereof.
- 16 (m) Attorney.
- 17 (n) Licensed professional counselor.
- 18 (o) Licensed marriage and family therapist.
- 19 (p) Firefighter or emergency medical services provider.
- 20 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 21 (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
- 22 (s) Member of the Legislative Assembly.
- 23 (t) Physical, speech or occupational therapist.
- 24 (u) Audiologist.
- 25 (v) Speech-language pathologist.
- 26 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
27 gations or discipline by the commission.
- 28 (x) Pharmacist.
- 29 (y) An operator of a preschool recorded program under ORS 329A.255.
- 30 (z) An operator of a school-age recorded program under ORS 329A.257.
- 31 (aa) Employee of a private agency or organization facilitating the provision of respite services,
32 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
33 109.056.
- 34 (bb) Employee of a public or private organization providing child-related services or activities:
35 (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day
36 camps, survival camps or groups, centers or camps that are operated under the guidance, super-
37 vision or auspices of religious, public or private educational systems or community service organ-
38 izations; and
39 (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide
40 confidential, direct services to victims of domestic violence, sexual assault, stalking or human traf-
41 ficking.
- 42 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,
43 if compensated and if the athlete is a child.
- 44 (dd) Personal support worker, as defined in ORS 410.600.
- 45 (ee) Home care worker, as defined in ORS 410.600.

1 **SECTION 18.** ORS 419B.020 is amended to read:

2 419B.020. (1) If the Department of Human Services or a law enforcement agency receives a re-
3 port of child abuse, the department or the agency shall immediately:

4 (a) Cause an investigation to be made to determine the nature and cause of the abuse of the
5 child; and

6 (b) *[Notify]* **Make the following notifications:**

7 **(A) To the Office of Child Care** if the alleged child abuse occurred in a child care facility as
8 defined in ORS 329A.250[.]; **or**

9 **(B) To the Department of Education** if the alleged child abuse occurred in a school or
10 **was related to a school-sponsored activity.**

11 **(2) The Department of Human Services shall ensure that an investigation required by**
12 **subsection (1) of this section is completed if the report is not investigated by a law enforce-**
13 **ment agency.**

14 ~~[(2)]~~ **(3)** If the abuse reported in subsection (1) of this section is alleged to have occurred at a
15 child care facility **or in a school or was related to a school-sponsored activity:**

16 (a) The Department of Human Services and the law enforcement agency shall jointly determine
17 the roles and responsibilities of the department and the agency in their respective investigations;
18 and

19 (b) The department and the agency shall each report the outcomes of their investigations to the
20 Office of Child Care **or to the Department of Education.**

21 ~~[(3)]~~ **(4)** If the law enforcement agency conducting the investigation finds reasonable cause to
22 believe that abuse has occurred, the law enforcement agency shall notify by oral report followed by
23 written report the local office of the department. The Department of Human Services shall provide
24 protective social services of its own or of other available social agencies if necessary to prevent
25 further abuses to the child or to safeguard the child's welfare.

26 ~~[(4)]~~ **(5)** If a child is taken into protective custody by the department, the department shall
27 promptly make reasonable efforts to ascertain the name and address of the child's parents or
28 guardian.

29 ~~[(5)(a)]~~ **(6)(a)** If a child is taken into protective custody by the department or a law enforcement
30 official, the department or law enforcement official shall, if possible, make reasonable efforts to ad-
31 vise the parents or guardian immediately, regardless of the time of day, that the child has been
32 taken into custody, the reasons the child has been taken into custody and general information about
33 the child's placement, and the telephone number of the local office of the department and any
34 after-hours telephone numbers.

35 (b) Notice may be given by any means reasonably certain of notifying the parents or guardian,
36 including but not limited to written, telephonic or in-person oral notification. If the initial notifica-
37 tion is not in writing, the information required by paragraph (a) of this subsection also shall be
38 provided to the parents or guardian in writing as soon as possible.

39 (c) The department also shall make a reasonable effort to notify the noncustodial parent of the
40 information required by paragraph (a) of this subsection in a timely manner.

41 (d) If a child is taken into custody while under the care and supervision of a person or organ-
42 ization other than the parent, the department, if possible, shall immediately notify the person or
43 organization that the child has been taken into protective custody.

44 ~~[(6)]~~ **(7)** If a law enforcement officer or the department, when taking a child into protective
45 custody, has reasonable cause to believe that the child has been affected by sexual abuse and rape

1 of a child as defined in ORS 419B.005 (1)(a)(C) and that physical evidence of the abuse exists and
 2 is likely to disappear, the court may authorize a physical examination for the purposes of preserving
 3 evidence if the court finds that it is in the best interest of the child to have such an examination.
 4 Nothing in this section affects the authority of the department to consent to physical examinations
 5 of the child at other times.

6 [(7)] (8) A minor child of 12 years of age or older may refuse to consent to the examination
 7 described in subsection [(6)] (7) of this section. The examination shall be conducted by or under the
 8 supervision of a physician licensed under ORS chapter 677, a physician assistant licensed under ORS
 9 677.505 to 677.525, a naturopathic physician licensed under ORS chapter 685 or a nurse practitioner
 10 licensed under ORS chapter 678 and, whenever practicable, trained in conducting such examinations.

11 [(8)] (9) When the department completes an investigation under this section, if the person who
 12 made the report of child abuse provided contact information to the department, the department shall
 13 notify the person about whether contact with the child was made, whether the department deter-
 14 mined that child abuse occurred and whether services will be provided. The department is not re-
 15 quired to disclose information under this subsection if the department determines that disclosure is
 16 not permitted under ORS 419B.035.

17 **SECTION 19.** ORS 419B.035 is amended to read:

18 419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.478 and
 19 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of public records
 20 and public documents, reports and records compiled under the provisions of ORS 419B.010 to
 21 419B.050 are confidential and may not be disclosed except as provided in this section. The Depart-
 22 ment of Human Services shall make the records available to:

23 (a) Any law enforcement agency or a child abuse registry in any other state for the purpose of
 24 subsequent investigation of child abuse;

25 (b) Any physician, physician assistant licensed under ORS 677.505 to 677.525, naturopathic phy-
 26 sician licensed under ORS chapter 685 or nurse practitioner licensed under ORS 678.375 to 678.390,
 27 at the request of the physician, physician assistant, naturopathic physician or nurse practitioner,
 28 regarding any child brought to the physician, physician assistant, naturopathic physician or nurse
 29 practitioner or coming before the physician, physician assistant, naturopathic physician or nurse
 30 practitioner for examination, care or treatment;

31 (c) Attorneys of record for the child or child's parent or guardian in any juvenile court pro-
 32 ceeding;

33 (d) Citizen review boards established by the Judicial Department for the purpose of periodically
 34 reviewing the status of children, youths and youth offenders under the jurisdiction of the juvenile
 35 court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to
 36 participants in case reviews;

37 (e) A court appointed special advocate in any juvenile court proceeding in which it is alleged
 38 that a child has been subjected to child abuse or neglect;

39 (f) The Office of Child Care for certifying, registering or otherwise regulating child care facili-
 40 ties;

41 (g) The Office of Children's Advocate;

42 (h) The Teacher Standards and Practices Commission for investigations conducted under ORS
 43 342.176 or **section 23 of this 2019 Act** involving any child or any student [*in grade 12 or below*];

44 (i) Any person, upon request to the Department of Human Services, if the reports or records
 45 requested regard an incident in which a child, as the result of abuse, died or suffered serious phys-

1 ical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be
2 disclosed in accordance with ORS 192.311 to 192.478;

3 (j) The Office of Child Care for purposes of ORS 329A.030 (10)(g), (h) and (i); *and*

4 (k) With respect to a report of abuse occurring at a school or in an educational setting that
5 involves a child with a disability, Disability Rights Oregon[.];

6 **(L) The Department of Education for purposes of investigations conducted under section**
7 **32 of this 2019 Act; and**

8 **(m) An education provider for the purpose of making determinations under ORS 339.388.**

9 (2)(a) When disclosing reports and records pursuant to subsection (1)(i) of this section, the De-
10 partment of Human Services may exempt from disclosure the names, addresses and other identifying
11 information about other children, witnesses, victims or other persons named in the report or record
12 if the department determines, in written findings, that the safety or well-being of a person named in
13 the report or record may be jeopardized by disclosure of the names, addresses or other identifying
14 information, and if that concern outweighs the public's interest in the disclosure of that information.

15 (b) If the Department of Human Services does not have a report or record of abuse regarding
16 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS
17 161.015, the department may disclose that information.

18 (3) The Department of Human Services may make reports and records compiled under the pro-
19 visions of ORS 419B.010 to 419B.050 available to any person, administrative hearings officer, court,
20 agency, organization or other entity when the department determines that such disclosure is neces-
21 sary to administer its child welfare services and is in the best interests of the affected child, or that
22 such disclosure is necessary to investigate, prevent or treat child abuse and neglect, to protect
23 children from abuse and neglect or for research when the Director of Human Services gives prior
24 written approval. The Department of Human Services shall adopt rules setting forth the procedures
25 by which it will make the disclosures authorized under this subsection or subsection (1) or (2) of this
26 section. The name, address and other identifying information about the person who made the report
27 may not be disclosed pursuant to this subsection and subsection (1) of this section.

28 (4) A law enforcement agency may make reports and records compiled under the provisions of
29 ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys, city at-
30 torneys with criminal prosecutorial functions and the Attorney General when the law enforcement
31 agency determines that disclosure is necessary for the investigation or enforcement of laws relating
32 to child abuse and neglect or necessary to determine a claim for crime victim compensation under
33 ORS 147.005 to 147.367.

34 (5) A law enforcement agency, upon completing an investigation and closing the file in a specific
35 case relating to child abuse or neglect, shall make reports and records in the case available upon
36 request to any law enforcement agency or community corrections agency in this state, to the De-
37 partment of Corrections or to the State Board of Parole and Post-Prison Supervision for the purpose
38 of managing and supervising offenders in custody or on probation, parole, post-prison supervision
39 or other form of conditional or supervised release. A law enforcement agency may make reports and
40 records compiled under the provisions of ORS 419B.010 to 419B.050 available to law enforcement,
41 community corrections, corrections or parole agencies in an open case when the law enforcement
42 agency determines that the disclosure will not interfere with an ongoing investigation in the case.
43 The name, address and other identifying information about the person who made the report may not
44 be disclosed under this subsection or subsection (6)(b) of this section.

45 (6)(a) Any record made available to a law enforcement agency or community corrections agency

1 in this state, to the Department of Corrections or the State Board of Parole and Post-Prison Super-
2 vision or to a physician, physician assistant, naturopathic physician or nurse practitioner in this
3 state, as authorized by subsections (1) to (5) of this section, shall be kept confidential by the agency,
4 department, board, physician, physician assistant, naturopathic physician or nurse practitioner. Any
5 record or report disclosed by the Department of Human Services to other persons or entities pur-
6 suant to subsections (1) and (3) of this section shall be kept confidential.

7 (b) Notwithstanding paragraph (a) of this subsection:

8 (A) A law enforcement agency, a community corrections agency, the Department of Corrections
9 and the State Board of Parole and Post-Prison Supervision may disclose records made available to
10 them under subsection (5) of this section to each other, to law enforcement, community corrections,
11 corrections and parole agencies of other states and to authorized treatment providers for the pur-
12 pose of managing and supervising offenders in custody or on probation, parole, post-prison super-
13 vision or other form of conditional or supervised release.

14 (B) A person may disclose records made available to the person under subsection (1)(i) of this
15 section if the records are disclosed for the purpose of advancing the public interest.

16 (7) An officer or employee of the Department of Human Services or of a law enforcement agency
17 or any person or entity to whom disclosure is made pursuant to subsections (1) to (6) of this section
18 may not release any information not authorized by subsections (1) to (6) of this section.

19 (8) As used in this section, "law enforcement agency" has the meaning given that term in ORS
20 181A.010.

21 (9) A person who violates subsection (6)(a) or (7) of this section commits a Class A violation.

22 **SECTION 20.** (1) **Section 14 of this 2019 Act and the amendments to ORS 419B.005,**
23 **419B.020 and 419B.035 by sections 16 to 19 of this 2019 Act become operative on January 1,**
24 **2020.**

25 (2) **Section 14 of this 2019 Act and the amendments to ORS 419B.005, 419B.020 and**
26 **419B.035 by sections 16 to 19 of this 2019 Act apply to reports received on or after January**
27 **1, 2020.**

28 **SECTION 21.** **In addition to and not in lieu of any other appropriation, there is appro-**
29 **riated to the Department of Human Services, for the biennium beginning July 1, 2019, out**
30 **of the General Fund, the amount of \$_____, which shall be used by the department to em-**
31 **ploy the necessary personnel to comply with the requirements of section 14 of this 2019 Act.**
32

33 **REQUIREMENTS FOR THE TEACHER STANDARDS AND**
34 **PRACTICES COMMISSION**
35

36 **SECTION 22.** **Section 23 of this 2019 Act is added to and made a part of ORS 339.370 to**
37 **339.400.**

38 **SECTION 23.** (1)(a) **When the Teacher Standards and Practices Commission receives a**
39 **report of suspected sexual conduct that may have been committed by a licensed school em-**
40 **ployee, contractor, agent or volunteer, the commission shall immediately initiate an investi-**
41 **gation.**

42 (b) **An investigation and final determination related to a report received under paragraph**
43 **(a) of this subsection must be completed and notification of the final determination must be**
44 **made to the education provider within 90 calendar days following the date on which the re-**
45 **port was filed with the commission.**

1 (c) Notwithstanding paragraph (b) of this subsection, the prescribed timeline for an in-
2 vestigation and final determination may be extended if, for good cause, a longer period of
3 time is necessary.

4 (2) The commission shall appoint an investigator and shall furnish the investigator with
5 appropriate professional and other special assistance reasonably required to conduct an in-
6 vestigation. An investigator appointed under this subsection is empowered to:

7 (a) Issue subpoenas to require the attendance of witnesses or the production of docu-
8 ments;

9 (b) Subpoena witnesses; and

10 (c) Swear witnesses and compel obedience in the same manner as provided under ORS
11 183.440 (2).

12 (3)(a) Following the completion of an investigation, the investigator shall report in writ-
13 ing any findings and recommendations to the executive director of the Teacher Standards
14 and Practices Commission.

15 (b) If, based on the findings, the executive director believes there is an immediate threat
16 to a student, the executive director shall request that the commission meet in executive
17 session.

18 (4) The executive director or the investigator shall report in writing the findings and any
19 recommendations to the commission. The commission shall decide if there is sufficient
20 cause to justify holding a hearing under ORS 342.177.

21 (5) If the commission finds that there is sufficient cause to justify holding a hearing un-
22 der ORS 342.177, the commission shall notify in writing:

23 (a) The person charged, enclosing a statement of the charges and a notice of opportunity
24 for hearing;

25 (b) The student and, if applicable, the student's parents;

26 (c) The education provider; and

27 (d) The person who provided the report of suspected sexual conduct.

28 (6) If the commission finds that there is not sufficient cause to justify holding a hearing
29 under ORS 342.177, the commission shall notify in writing:

30 (a) The person charged;

31 (b) The student and, if applicable, the student's parents;

32 (c) The education provider; and

33 (d) The person who provided the report of suspected sexual conduct.

34 (7)(a) Except as provided in paragraph (b) of this subsection, the documents and materi-
35 als used in the investigation undertaken under this section, and the report related to the
36 investigation, are confidential and not subject to public inspection unless the commission
37 makes a final determination to suspend or revoke a license, discipline a person holding a li-
38 cense or revoke the right to apply for a license, as provided under ORS 342.175.

39 (b) To the extent allowed by state and federal law, the commission shall make available
40 any documents, materials and reports to:

41 (A) A law enforcement agency or the Department of Human Services for the purpose of
42 conducting an investigation under ORS 419B.005 to 419B.050;

43 (B) The Department of Education for the purpose of conducting an investigation under
44 section 32 of this 2019 Act; or

45 (C) An education provider for the purpose of taking any disciplinary actions or making

1 **changes in the employment relationship or duties of the school employee, contractor, agent**
2 **or volunteer.**

3 **(c) The commission shall retain documents and materials related to any report received**
4 **under this section, regardless of whether the commission found sufficient cause to justify**
5 **holding a hearing under this section.**

6 **(8) Notwithstanding ORS 192.660 (6), the commission may make its findings under this**
7 **section in executive session. The provisions of ORS 192.660 (4) apply to executive sessions**
8 **held pursuant to this subsection.**

9 **(9) The commission shall adopt any rules necessary for the administration of this section,**
10 **including a process to appeal the findings of the commission under this section.**

11 **SECTION 24.** ORS 342.175 is amended to read:

12 342.175. (1) The Teacher Standards and Practices Commission may suspend or revoke the license
13 or registration of a teacher or administrator, discipline a teacher or administrator, or suspend or
14 revoke the right of any person to apply for a license or registration, if the licensee, registrant or
15 applicant has held a license or registration at any time within five years prior to issuance of the
16 notice of charges under ORS 342.176 **or section 23 of this 2019 Act** based on the following:

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

18 (b) Gross neglect of duty;

19 (c) Any gross unfitness;

20 (d) Conviction of a crime for violating any law of this state or any state or of the United States
21 involving the illegal use, sale or possession of controlled substances;

22 (e) Conviction of a crime described in ORS 475B.010 to 475B.545;

23 (f) Any false statement knowingly made in an application for issuance, renewal or reinstatement
24 of a license or registration; or

25 (g) Failure to comply with any condition of reinstatement under subsection (4) of this section
26 or any condition of probation under ORS 342.177 (3)(b).

27 (2) If a person is enrolled in an approved educator preparation program under ORS 342.147, the
28 commission may issue a public reprimand or may suspend or revoke the right to apply for a license
29 or registration based on the following:

30 (a) Conviction of a crime listed in ORS 342.143 (3) or a crime described by the commission by
31 rule;

32 (b) Conviction of a crime for violating any law of this state or any state or of the United States
33 involving the illegal use, sale or possession of controlled substances; or

34 (c) Any conduct that may cause the commission to issue a public reprimand for a teacher or to
35 suspend or revoke the license or registration of a teacher.

36 (3) The commission shall revoke any license or registration and shall revoke the right of any
37 person to apply for a license or registration if the person has been convicted of any crime listed in
38 ORS 342.143 (3).

39 (4)(a) Except for convictions for crimes listed in ORS 342.143 (3) and subject to subsection (5)
40 of this section, any person whose license or registration has been revoked, or whose right to apply
41 for a license or registration has been revoked, may apply to the commission for reinstatement of the
42 license or registration after one year from the date of the revocation.

43 (b) Any person whose license or registration has been suspended, or whose right to apply for a
44 license or registration has been suspended, may apply to the commission for reinstatement of the
45 license or registration.

1 (c) The commission may require an applicant for reinstatement to furnish evidence satisfactory
2 to the commission of good moral character, mental and physical health and such other evidence as
3 the commission may consider necessary to establish the applicant's fitness. The commission may
4 impose a probationary period and such conditions as the commission considers necessary upon ap-
5 proving an application for reinstatement.

6 (5) The commission shall reconsider immediately a license or registration suspension or revoca-
7 tion or the situation of a person whose right to apply for a license or registration has been revoked,
8 upon application therefor, when the license or registration suspension or revocation or the right
9 revocation is based on a criminal conviction that is reversed on appeal.

10 (6) Violation of rules adopted by the commission relating to competent and ethical performance
11 of professional duties shall be admissible as evidence of gross neglect of duty or gross unfitness.

12 (7) A copy of the record of conviction, certified to by the clerk of the court entering the con-
13 viction, shall be conclusive evidence of a conviction described in this section.

14 **SECTION 25.** ORS 342.176 is amended to read:

15 342.176. (1)(a) A person may file a complaint with the Teacher Standards and Practices Com-
16 mission regarding a person licensed by the commission. **If a complaint concerns an allegation of**
17 **sexual conduct that may have been committed by a licensed school employee, contractor,**
18 **agent or volunteer, the complaint process provided by this section does not apply and the**
19 **commission shall investigate the complaint as provided by section 23 of this 2019 Act.**

20 (b) Prior to beginning an investigation based on a complaint filed under paragraph (a) of this
21 subsection, the commission may require verification that attempts were made to resolve the com-
22 plaint through the complaint process of the school district that employs the person against whom
23 the complaint was filed.

24 (c) After receiving sufficient verification as provided by paragraph (b) of this subsection, the
25 [*Teacher Standards and Practices*] commission shall promptly undertake an investigation upon re-
26 ceipt of a complaint or information that may constitute grounds for:

27 (A) Refusal to issue a license or registration, as provided under ORS 342.143;

28 (B) Suspension or revocation of a license or registration, discipline of a person holding a license
29 or registration, or suspension or revocation of the right to apply for a license or registration, as
30 provided under ORS 342.175; or

31 (C) Discipline for failure to provide appropriate notice prior to resignation, as provided under
32 ORS 342.553.

33 (2) The commission may appoint an investigator and shall furnish the investigator with appro-
34 priate professional and other special assistance reasonably required to conduct the investigation,
35 and the investigator is empowered to issue subpoenas to require the attendance of witnesses or the
36 production of documents over the signature of the executive director of the **Teacher Standards and**
37 **Practices** Commission, subpoena witnesses over the signature of the executive director, swear wit-
38 nesses and compel obedience in the same manner as provided under ORS 183.440 (2).

39 (3) Following completion of the investigation, the executive director or the executive director's
40 designee shall report in writing any findings and recommendations to:

41 (a) The commission, meeting in executive session, at its next regular meeting following com-
42 pletion of the investigation; and

43 (b) The person against whom the charge is made, following consideration by the commission.

44 (4)(a) Except as provided in paragraph (b) of this subsection, the documents and materials used
45 in the investigation undertaken as provided by this section and the report related to the investi-

1 gation are confidential and not subject to public inspection unless the commission makes a final
2 determination to:

3 (A) Refuse to issue a license or registration, as provided under ORS 342.143;

4 (B) Suspend or revoke a license or registration, discipline a person holding a license or regis-
5 tration, or suspend or revoke the right to apply for a license or registration, as provided under ORS
6 342.175; or

7 (C) Discipline a person for failure to provide appropriate notice prior to resignation, as provided
8 under ORS 342.553.

9 (b) Records made available to the commission under ORS 419B.035 (1)(h) shall be kept confi-
10 dential.

11 (5) If the commission finds from the report that there is sufficient cause to justify holding a
12 hearing under ORS 342.177, the commission shall notify in writing:

13 (a) The person charged, enclosing a statement of the charges and a notice of opportunity for
14 hearing;

15 (b) The complainant; and

16 (c) The employing district or public charter school, if any.

17 (6) If the commission finds from the report that there is not sufficient cause to justify holding
18 a hearing under ORS 342.177, the commission shall notify in writing:

19 (a) The person charged;

20 (b) The complainant; and

21 (c) The employing district or public charter school, if any.

22 (7) Notwithstanding ORS 192.660 (6), the commission may make its findings under this section
23 in executive session. However, the provisions of ORS 192.660 (4) apply to the sessions.

24 **SECTION 26.** ORS 342.177 is amended to read:

25 342.177. (1)(a) Hearings under ORS 342.176 **and section 23 of this 2019 Act** shall be conducted
26 by an administrative law judge assigned from the Office of Administrative Hearings established un-
27 der ORS 183.605.

28 (b) Any hearing conducted under this section shall be private unless the person against whom
29 the charge is made requests a public hearing. Students attending school in the employing district
30 may not attend any hearing except as witnesses duly subpoenaed to testify with respect to the
31 charges made. Students attending a public charter school that employs the person may not attend
32 any hearing except as witnesses duly subpoenaed to testify with respect to the charges made. The
33 person charged shall have the right to be represented by counsel and to present evidence and ar-
34 gument. The evidence must be confined to the charges.

35 (2) The Teacher Standards and Practices Commission or the person charged may have subpoenas
36 issued to compel attendance at the hearing. The person charged may have subpoenas issued by an
37 attorney of record subscribed by the signature of the attorney or by the executive director **of the**
38 **Teacher Standards and Practices Commission.** Witnesses appearing pursuant to subpoena, other
39 than the parties or officers or employees of the commission, shall receive fees and mileage as pre-
40 scribed by law for witnesses in ORS 44.415 (2). The commission or the person charged shall have the
41 right to compel the attendance and obedience of witnesses in the same manner as provided under
42 ORS 183.440 (2).

43 (3) The commission shall render its decision at its next regular meeting following the hearing.
44 If the decision of the commission is that the charge described in ORS 342.175 (1) has been proven,
45 the commission may take any or all of the following disciplinary action against the person charged:

1 (a) Issue a public reprimand.

2 (b) Place the person on probation for a period not to exceed four years and subject to such
3 conditions as the commission considers necessary.

4 (c) Suspend the license or registration of the teacher or administrator for a period not to exceed
5 one year.

6 (d) Revoke the license or registration of the teacher or administrator.

7 (e) Revoke the right to apply for a license or registration.

8 (4) If the decision of the commission is that the charge is not proven, the commission shall order
9 the charges dismissed.

10 (5) The commission shall notify in writing the person charged and the employing district or
11 public charter school of the decision.

12 **SECTION 27.** ORS 342.183 is amended to read:

13 342.183. (1) The Teacher Standards and Practices Commission may issue a letter of informal re-
14 proval to a person licensed, registered or certified by the commission if:

15 (a) Following the completion of an investigation, the commission determines that the person has
16 engaged in conduct that affects the person's ability to be professionally effective, based on standards
17 adopted by the commission by rule; and

18 (b) Subject to subsection (5) of this section, the commission agrees not to pursue disciplinary
19 action against the person under ORS 342.175 and the person agrees to the terms of the letter of
20 informal reprovall, including a monitoring period.

21 (2) A letter of informal reprovall issued as provided by subsection (1) of this section shall es-
22 tablish the terms of a monitoring period for the person to whom the letter is issued.

23 (3) Upon the issuance of a letter of informal reprovall, the commission shall notify the employer
24 of the person to whom the letter is issued, including any terms of the letter that the employer may
25 need to know to assist the person in complying with the terms of the letter.

26 (4) A letter of informal reprovall issued as provided by subsection (1) of this section:

27 (a) Is confidential; and

28 (b) Except when a disciplinary action is taken as provided in subsection (5) of this section, may
29 not be posted on an interstate clearinghouse related to educator license sanctions.

30 (5) If a person fails to comply with the terms of a letter of informal reprovall, the commission
31 may take disciplinary action against the person based on one or both of the following:

32 (a) The conduct underlying the letter of informal reprovall; or

33 (b) The failure to comply with the terms of the letter of informal reprovall.

34 (6) If the executive director of the **Teacher Standards and Practices** Commission determines
35 that a person failed to meet the terms of a letter of informal reprovall, the executive director shall
36 report the failure to the commission for the commission to make a final determination pursuant to
37 ORS 342.176 **or section 23 of this 2019 Act.**

38 (7) The documents and materials used in an investigation for the purposes of this section are
39 confidential and are not subject to public inspection unless the commission makes a final determi-
40 nation to discipline the person pursuant to ORS 342.175.

41 **SECTION 28.** ORS 342.390 is amended to read:

42 342.390. (1) The Teacher Standards and Practices Commission shall meet at least once every six
43 months at a place, day and hour determined by the commission. The commission shall also meet at
44 such other times and places as are specified by the call of the chairperson or of a majority of the
45 members of the commission **or as required by the executive director of the Teacher Standards**

1 **and Practices Commission for the purposes of section 23 of this 2019 Act.**

2 (2) A member of the commission who is employed at a public school or by a private educator
3 preparation provider or by a public university listed in ORS 352.002:

4 (a) May not receive compensation for services as a member.

5 (b) Shall receive actual and necessary travel and other expenses incurred in the performance
6 of official duties as provided by ORS 292.495 (2) and subject to any other applicable law regulating
7 travel and other expenses for state officers.

8 (3) A member of the commission who serves on the commission in the capacity of a district
9 school board member or as a member of the general public shall be entitled to compensation and
10 expenses as provided in ORS 292.495 (1) and (2).

11 **SECTION 29. (1) Section 23 of this 2019 Act and the amendments to ORS 342.175, 342.176,
12 342.177, 342.183 and 342.390 by sections 24 to 28 of this 2019 Act become operative on January
13 1, 2020.**

14 (2) Section 23 of this 2019 Act and the amendments to ORS 342.175, 342.176, 342.177,
15 342.183 and 342.390 by sections 24 to 28 of this 2019 Act apply to reports of suspected sexual
16 conduct received on or after January 1, 2020.

17 (3) Notwithstanding the operative date set forth in subsection (1) of this section, the
18 Teacher Standards and Practices Commission may take any action before the operative date
19 set forth in subsection (1) of this section that is necessary to enable the commission to ex-
20 ercise, on and after the operative date set forth in subsection (1) of this section, all of the
21 duties, functions and powers conferred on the commission by section 23 of this 2019 Act.

22 **SECTION 30. In addition to and not in lieu of any other appropriation, there is appro-
23 priated to the Teacher Standards and Practices Commission, for the biennium beginning July
24 1, 2019, out of the General Fund, the amount of \$_____, which shall be used by the com-
25 mission to employ the necessary personnel to comply with the requirements of section 23
26 of this 2019 Act.**

27
28 **REQUIREMENTS FOR THE DEPARTMENT OF EDUCATION**

29
30 **SECTION 31. Section 32 of this 2019 Act is added to and made a part of ORS 339.370 to
31 339.400.**

32 **SECTION 32. (1)(a) When the Department of Education receives a report of suspected
33 sexual conduct that may have been committed by a school employee, contractor, agent or
34 volunteer that is not licensed with the Teacher Standards and Practices Commission, the
35 department shall immediately initiate an investigation.**

36 (b) An investigation and final determination related to the report received under para-
37 graph (a) of this subsection must be completed and notification of the final determination
38 must be made to the education provider within 90 calendar days following the date on which
39 the report was filed with the department.

40 (c) Notwithstanding paragraph (b) of this subsection, the prescribed timeline for an in-
41 vestigation and final determination may be extended if the department determines that, for
42 good cause, a longer period of time is necessary.

43 (2) The department shall appoint an investigator and shall furnish the investigator with
44 appropriate professional and other special assistance reasonably required to conduct an in-
45 vestigation. An investigator appointed under this subsection is empowered to:

1 (a) Issue subpoenas to require the attendance of witnesses or the production of docu-
2 ments;

3 (b) Subpoena witnesses; and

4 (c) Swear witnesses and compel obedience in the same manner as provided under ORS
5 183.440 (2).

6 (3)(a) Following the completion of an investigation, the Department of Education shall
7 notify:

8 (A) The person charged;

9 (B) The student and, if applicable, the student's parents;

10 (C) The education provider;

11 (D) The person who provided the report of suspected sexual conduct; and

12 (E) Any regulatory board that is not the Teacher Standards and Practices Commission
13 and that licenses, registers, certifies or otherwise authorizes the school employee, contrac-
14 tor, agent or volunteer to practice a profession or to provide professional services.

15 (b) The notification required under paragraph (a) of this subsection shall include the
16 following information as allowed by state and federal law:

17 (A) The statutory authority of the department to conduct the investigation;

18 (B) The procedural background for the investigation;

19 (C) The legal standards and arguments used for the investigation;

20 (D) The department's findings of fact from the investigation;

21 (E) The department's final determination based on the investigation; and

22 (F) The right to an appeal, as provided by subsection (5) of this section.

23 (4)(a) Except as provided in paragraph (b) of this subsection, the documents and materi-
24 als used in the investigation undertaken under this section, and the report related to the
25 investigation, are confidential and not subject to public inspection.

26 (b) To the extent allowed by state and federal law, the department shall make available
27 any documents, materials and reports to:

28 (A) A law enforcement agency or the Department of Human Services if necessary to
29 conduct an investigation under ORS 419B.005 to 419B.050;

30 (B) The Teacher Standards and Practices Commission if necessary for the commission
31 to conduct an investigation under section 23 of this 2019 Act; and

32 (C) An education provider if necessary for the education provider to take any disciplinary
33 action or changes in the employment relationship or duties of the school employee, con-
34 tractor, agent or volunteer.

35 (c) The Department of Education shall retain documents and materials related to any
36 report received under this section, regardless of whether the department found sufficient
37 cause to justify holding a hearing under this section.

38 (5) A person may appeal the final determination made by the department under this
39 section as a contested case under ORS chapter 183.

40 (6) The State Board of Education shall adopt any rules necessary for the administration
41 of this section.

42 **SECTION 33.** (1) Section 32 of this 2019 Act becomes operative on July 1, 2020.

43 (2) Section 32 of this 2019 Act applies to reports of suspected sexual conduct received on
44 or after July 1, 2020.

45 (3)(a) For the purposes of ORS 339.372 (4)(b) and 339.388 (2)(b), a licensed administrator

1 is not required to inform the Department of Education of reports of suspected sexual con-
2 duct involving a person who is not licensed by the Teacher Standards and Practices Com-
3 mission if the report is received before July 1, 2020.

4 (b) For the purpose of ORS 339.374 (1)(d), an education provider is not required to verify
5 with the Department of Education whether the department has an ongoing investigation or
6 has a substantiated report relating to conduct by an applicant who is not licensed with the
7 Teacher Standards and Practices Commission if the applicant is considered for employment
8 before July 1, 2020.

9 (c) For the purpose of ORS 339.374 (2)(b), an education provider is not required to verify
10 with the Department of Education whether the department has an ongoing investigation or
11 has a substantiated report relating to conduct by a person who is not licensed with the
12 Teacher Standards and Practices Commission if the person begins providing services to the
13 education provider before July 1, 2020.

14 (d) Notwithstanding ORS 339.388, an education provider must conduct an investigation
15 related to a report of suspected sexual conduct by a person who is not licensed by the
16 Teacher Standards and Practices Commission if the report is received before July 1, 2020.
17 An investigation conducted under this paragraph must be completed as provided by ORS
18 339.388 (6)(d)(B)(ii).

19 (e) The Department of Education is not required to take any action on information re-
20 ceived under section 14 of this 2019 Act or ORS 419B.020 if the department receives the in-
21 formation before July 1, 2020.

22 (4) Notwithstanding the operative date set forth in subsection (1) of this section, the
23 Department of Education and the State Board of Education may take any action before the
24 operative date set forth in subsection (1) of this section that is necessary to enable the de-
25 partment to exercise, on and after the operative date set forth in subsection (1) of this sec-
26 tion, all of the duties, functions and powers conferred on the department by section 32 of this
27 2019 Act.

28 **SECTION 34.** In addition to and not in lieu of any other appropriation, there is appro-
29 priated to the Department of Education, for the biennium beginning July 1, 2019, out of the
30 General Fund, the amount of \$_____, which shall be used by the department to employ the
31 necessary personnel to comply with the requirements of section 32 of this 2019 Act.

32
33 **CAPTIONS**

34
35 **SECTION 35.** The unit captions used in this 2019 Act are provided only for the conven-
36 ience of the reader and do not become part of the statutory law of this state or express any
37 legislative intent in the enactment of this 2019 Act.

38
39 **EFFECTIVE DATE**

40
41 **SECTION 36.** This 2019 Act being necessary for the immediate preservation of the public
42 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
43 July 1, 2019.