Senate Bill 155

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor’s brief statement of the essential features of the measure as introduced.

Requires all investigations involving suspected abuse or sexual conduct by school employees to be conducted by Teacher Standards and Practices Commission. Prescribes standards for investigations. 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 “school employee,” “sexual conduct” and “student” for purposes of certain laws related to abuse and sexual conduct by school employees.

Prohibits individual who is school employee from assisting other school employee in obtaining new job if individual knows or has probable cause to believe school employee 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.

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 if report involves conduct of school employee toward student.

Declares emergency, effective July 1, 2019.

A BILL FOR AN ACT


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

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 339.370 to 339.400.

SECTION 2. (1) When the Teacher Standards and Practices Commission receives a report of suspected abuse or sexual conduct by a school employee under ORS 339.388 or 419B.015, the commission shall immediately cause an investigation to be made. An investigation and final determination related to the report must be made within 90 calendar days following the date on which the report was filed with the commission. The timeline prescribed by this subsection may be extended if the commission determines that a longer period of time is necessary for good cause.

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

(a) Issue subpoenas to require the attendance of witnesses or the production of documents;

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.

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(b) Subpoena witnesses;
(c) Swear witnesses and compel obedience in the same manner as provided under ORS 183.440 (2); and
(d) Request records from a law enforcement agency or the Department of Human Services as provided by ORS 419B.035.

(3) An investigation shall be conducted under this section regardless of any investigations being conducted by an education provider concerning the same report. If the education provider is conducting an investigation concerning the same report, the commission may conduct the investigation concurrently with the education provider.

(4)(a) Following the completion of an investigation, the investigator shall report in writing any findings and recommendations to the executive director of the commission.
(b) If, based on the findings, the executive director believes there is an immediate threat to a student, the executive director shall request that the commission meet in executive session.

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

(6) If the commission finds that there is sufficient cause to justify holding a hearing under ORS 342.177, the commission shall notify in writing:
(a) The person charged, enclosing a statement of the charges and a notice of opportunity for hearing;
(b) The student and, if applicable, the student’s parents; and
(c) The education provider, if applicable.

(7) If the commission finds that there is not sufficient cause to justify holding a hearing under ORS 342.177, the commission shall notify in writing:
(a) The person charged;
(b) The student and, if applicable, the student’s parents; and
(c) The education provider, if applicable.

(8)(a) Except as provided in paragraph (b) of this subsection, the documents and materials used in the investigation undertaken under this section, and the report related to the investigation, are confidential and not subject to public inspection unless the commission makes a final determination to suspend or revoke a license or registration, discipline a person holding a license or registration, or revoke the right to apply for a license or registration, as provided under ORS 342.175.
(b) Records made available to the commission under ORS 419B.035 shall be kept confidential.

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

(10)(a) The commission shall retain documents and materials related to any report received under this section, regardless of whether the commission found sufficient cause to justify holding a hearing under this section.
(b) The commission shall establish and maintain a database related to any substantiated reports and shall make the database available to education providers.

(11)(a) The commission may impose a civil penalty on an education provider and on any agents of the education provider who willingly fail to cooperate with an investigation con-
ducted under this section.

(b) The commission shall adopt by rule a schedule of civil penalties for violations under this subsection. A civil penalty may not exceed $1,000 per violation.

(c) All civil penalties recovered under this subsection shall be applied to the costs of the commission's investigation and any administrative proceedings that result from the investigation.

SECTION 3. ORS 342.175 is amended to read:

342.175. (1) The Teacher Standards and Practices Commission may suspend or revoke the license or registration of a teacher or administrator, discipline a teacher or administrator, or suspend or revoke the right of any person to apply for a license or registration, if the licensee, registrant or applicant has held a license or registration at any time within five years prior to issuance of the notice of charges under ORS 342.176 or section 2 of this 2019 Act based on the following:

(a) Conviction of a crime not listed in ORS 342.143 (3);
(b) Gross neglect of duty;
(c) Any gross unfitness;
(d) Conviction of a crime for violating any law of this state or any state or of the United States involving the illegal use, sale or possession of controlled substances;
(e) Conviction of a crime described in ORS 475B.010 to 475B.545;
(f) Any false statement knowingly made in an application for issuance, renewal or reinstatement of a license or registration; or
(g) Failure to comply with any condition of reinstatement under subsection (4) of this section or any condition of probation under ORS 342.177 (3)(b).

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

(a) Conviction of a crime listed in ORS 342.143 (3) or a crime described by the commission by rule;
(b) Conviction of a crime for violating any law of this state or any state or of the United States involving the illegal use, sale or possession of controlled substances; or
(c) Any conduct that may cause the commission to issue a public reprimand for a teacher or to suspend or revoke the license or registration of a teacher.

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

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

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

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

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

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

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

SECTION 4. ORS 342.176 is amended to read:

342.176. (1)(a) A person may file a complaint with the Teacher Standards and Practices Commission regarding a person licensed by the commission. If a complaint concerns an allegation of abuse or sexual conduct by a school employee under ORS 339.370 to 339.400, the complaint process provided by this section does not apply and the commission shall investigate the complaint as provided by section 2 of this 2019 Act.

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

(c) After receiving sufficient verification as provided by paragraph (b) of this subsection, the commission shall promptly undertake an investigation upon receipt of a complaint or information that may constitute grounds for:

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

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

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

(2) The commission may appoint an investigator and shall furnish the investigator with appropriate professional and other special assistance reasonably required to conduct the investigation, and the investigator is empowered to issue subpoenas to require the attendance of witnesses or the production of documents over the signature of the executive director of the commission, subpoena witnesses over the signature of the executive director, swear witnesses and compel obedience in the same manner as provided under ORS 183.440 (2).

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

(a) The commission, meeting in executive session, at its next regular meeting following completion of the investigation; and

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

(4)(a) Except as provided in paragraph (b) of this subsection, the documents and materials used in the investigation undertaken as provided by this section and the report related to the investigation are confidential and not subject to public inspection unless the commission makes a final determination to:

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

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

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

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

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

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

(b) The complainant; and

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

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

(a) The person charged;

(b) The complainant; and

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

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

SECTION 5. ORS 342.177 is amended to read:

342.177. (1)(a) Hearings under ORS 342.176 and section 2 of this 2019 Act shall be conducted
by an administrative law judge assigned from the Office of Administrative Hearings established un-
der ORS 183.605.

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

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

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

(a) Issue a public reprimand.

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

(c) Suspend the license or registration of the teacher or administrator for a period not to exceed
one year.
(d) Revoke the license or registration of the teacher or administrator.
(e) Revoke the right to apply for a license or registration.
(4) If the decision of the commission is that the charge is not proven, the commission shall order the charges dismissed.
(5) The commission shall notify in writing the person charged and the employing district or public charter school of the decision.

SECTION 6. ORS 342.183 is amended to read:
342.183. (1) The Teacher Standards and Practices Commission may issue a letter of informal reproval to a person licensed, registered or certified by the commission if:
(a) Following the completion of an investigation, the commission determines that the person has engaged in conduct that affects the person’s ability to be professionally effective, based on standards adopted by the commission by rule; and
(b) Subject to subsection (5) of this section, the commission agrees not to pursue disciplinary action against the person under ORS 342.175 and the person agrees to the terms of the letter of informal reproval, including a monitoring period.
(2) A letter of informal reproval issued as provided by subsection (1) of this section shall establish the terms of a monitoring period for the person to whom the letter is issued.
(3) Upon the issuance of a letter of informal reproval, the commission shall notify the employer of the person to whom the letter is issued, including any terms of the letter that the employer may need to know to assist the person in complying with the terms of the letter.
(4) A letter of informal reproval issued as provided by subsection (1) of this section:
(a) Is confidential; and
(b) Except when a disciplinary action is taken as provided in subsection (5) of this section, may not be posted on an interstate clearinghouse related to educator license sanctions and may not be made available to education providers by the database maintained under section 2 (10) of this 2019 Act.
(5) If a person fails to comply with the terms of a letter of informal reproval, the commission may take disciplinary action against the person based on one or both of the following:
(a) The conduct underlying the letter of informal reproval; or
(b) The failure to comply with the terms of the letter of informal reproval.
(6) If the executive director of the commission determines that a person failed to meet the terms of a letter of informal reproval, the executive director shall report the failure to the commission for the commission to make a final determination pursuant to ORS 342.176 or section 2 of this 2019 Act.
(7) The documents and materials used in an investigation for the purposes of this section are confidential and are not subject to public inspection unless the commission makes a final determination to discipline the person pursuant to ORS 342.175.

SECTION 7. ORS 342.390 is amended to read:
342.390. (1) The Teacher Standards and Practices Commission shall meet at least once every six months at a place, day and hour determined by the commission. The commission shall also meet at such other times and places as are specified by the call of the chairperson or of a majority of the members of the commission or may meet by the request of the executive director of the commission as provided by section 2 of this 2019 Act.
(2) A member of the commission who is employed at a public school or by a private educator preparation provider or by a public university listed in ORS 352.002:
(a) May not receive compensation for services as a member.

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

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

SECTION 8. (1) Section 2 of this 2019 Act and the amendments to ORS 342.175, 342.176, 342.177, 342.183 and 342.390 by sections 3 to 7 of this 2019 Act become operative on January 1, 2020.

(2) Section 2 of this 2019 Act and the amendments to ORS 342.175, 342.176, 342.177, 342.183 and 342.390 by sections 3 to 7 of this 2019 Act apply to reports of suspected abuse or sexual conduct received on or after January 1, 2020.

SECTION 9. 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) “Disciplinary records” means the records related to a personnel discipline action or materials or documents supporting that action.

(3) “Education provider” means:

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

(b) The Oregon School for the Deaf.

(c) An educational program under the Youth Corrections Education Program.

(d) A public charter school, as defined in ORS 338.005.

(e) An education service district, as defined in ORS 334.003.

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

(g) A private school.

(4) “Investigation” means a detailed inquiry into the factual allegations of a report of suspected abuse or sexual conduct that:

(a) Is based on interviews with the complainant, witnesses and the school employee or student 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.

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

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

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

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

(9) “School employee” means:

(a) An employee of an education provider;

(b) A contractor or agent, or the employee of a contractor or agent, who has direct, unsupervised contact with students; or

(c) A volunteer for an education provider who has direct, unsupervised contact with students.
(9)(a) “Sexual conduct” means any verbal, [or] physical or electronic conduct by a school employee that:
(A) Is sexual in nature; and
(B) Is directed toward a student, kindergarten through grade 12 student;
(C) Has the effect of unreasonably interfering with a student’s educational performance; and
(D) Creates an intimidating, hostile or offensive educational environment.
(b) “Sexual conduct” does not include abuse.
(10) “Substantiated report” means a report of abuse or sexual conduct that:
(a) An education provider has reasonable cause to believe is founded based on the available evidence after conducting an investigation; and
(b) Involves conduct that the education provider determines is sufficiently serious to be documented in the school employee’s personnel file or the student’s education record.
(9) “Student” means any person:
(a) Who is:
(A) In any grade from prekindergarten through grade 12; or
(B) Twenty-one years of age or younger and receiving educational or related services from an education provider that is not a post-secondary institution of education; or
(b) Who was previously known as a student by a school employee and who left school or graduated from high school within 90 days prior to the sexual conduct.
(10) “Substantiated report” means a report of abuse or sexual conduct that an education provider, a law enforcement agency, the Department of Human Services or the Teacher Standards and Practices Commission has reasonable cause to believe, based on the available evidence after conducting an investigation and based on the investigatory standards of the education provider or the agency, is founded.

SECTION 10. The amendments to ORS 339.370 by section 9 of this 2019 Act apply to conduct that occurs before, on or after January 1, 2020, for purposes of:
(1) Making reports of suspected abuse or sexual conduct;
(2) Investigations of suspected abuse or sexual conduct that are initiated on or after January 1, 2020; and
(3) A collective bargaining agreement, an employment contract, an agreement for resignation or termination, a severance agreement or any similar contract or agreement entered into on or after January 1, 2020.

SECTION 11. ORS 339.372 is amended to read:
339.372. Each school board shall adopt policies on the reporting of abuse and sexual conduct by school employees and the reporting of abuse by students. The policies shall:
(1) Specify that abuse and sexual conduct by school employees and abuse by students are not tolerated;
(2) Specify that all school employees and students are subject to the policies;
(3) Require all school employees who have reasonable cause to believe that another school employee has engaged in abuse or sexual conduct or that a student has engaged in abuse to:
(a) Report suspected abuse to a law enforcement agency, the Department of Human Services or a designee of the department as required by ORS 419B.010 and 419B.015; and
(b) Report suspected abuse or sexual conduct to the person designated as provided by subsection (4) of this section;
(4) Designate a person, and an alternate in the event the designated person is the suspected
abuser, to receive reports of suspected abuse or sexual conduct by school employees or suspected
abuse by students and specify the procedures to be followed by that person upon receipt of a report;
(5) Specify the procedures to be followed during an investigation, including notification
that:
   (a) Any reports of suspected abuse or sexual conduct by school employees shall be im-
mediately provided to the Teacher Standards and Practices Commission for investigation
under section 2 of this 2019 Act;
   (b) The education provider shall investigate all reports of suspected abuse or sexual
conduct by school employees and investigations may be conducted independently of, or con-
currently with, a law enforcement agency, the department or the commission; and
   (c) The education provider will cooperate with a law enforcement agency, the department
and the commission, as applicable, on investigations regardless of any changes in the em-
ployment relationship or duties of the school employee about whom a report was made;
   [(5)] (6) Require the posting in each school building of the name and contact information for the
person designated for the school building to receive reports of suspected abuse or sexual conduct
by school employees or suspected abuse by students and the procedures the person will follow upon
receipt of a report;
   [6](7) Specify that the initiation of a report in good faith about suspected abuse or sexual
conduct may not adversely affect any terms or conditions of employment or the work environment
of the complainant;
   [(7)] (8) Specify that the [school board] education provider or any school employee will not
discipline a student for the initiation of a report in good faith about suspected abuse or sexual
conduct by a school employee or suspected abuse by a student;
   [(8)] (9) Require notification by the education provider to the person who initiated the report
about actions taken by the education provider based on the report; [and]
   [(9)] (10) Require the education provider to furnish to a school employee at the time of hire,
or at the time the school employee becomes a contractor or volunteer, the following:
   (a) A description of conduct that may constitute abuse or sexual conduct; [and]
   (b) A description of the [information and records that will be disclosed as provided by ORS
339.378 or 339.388 (8)] investigatory process and possible consequences if a report of suspected
abuse or sexual conduct is substantiated[.]; and
   (c) A description of the prohibitions imposed on school employees when another school
employee attempts to obtain a new job, as provided by ORS 339.378; and
(11) Specify and make available to students and school employees a policy related to ap-
propriate electronic communications:
   (a) Between school employees and students; or
   (b) That relate to students and that are sent from a school employee to one or more
other school employees.

SECTION 12. ORS 339.374 is amended to read:
339.374. Except as provided in ORS 339.384, before an education provider may hire an applicant
for a position with the education provider, enter into a contract for the services of an applicant
to be a contractor or accept the services of an applicant to be a volunteer, the education
provider shall:
   (1) Require the applicant to provide:
   (a) A list of the applicant’s current and former employers who are education providers and ed-
ucation providers for whom the applicant has been a contractor or volunteer.

(b) A written authorization that authorizes [the applicant’s current and former employers that are] education providers identified in paragraph (a) of this subsection to disclose the information requested under subsection (2) of this section.

(c) A written statement of whether the applicant:

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

(B) Is the subject of an ongoing investigation related to a report of suspected abuse or sexual conduct.

(2) Conduct a review of the [employment] history of the applicant with education providers by contacting the three most recent [employers of the applicant who are] education providers identified in subsection (1)(a) of this section and requesting:

[(a)] the following information:

[(A)] (a) The dates [of employment of the applicant by] the applicant provided services for the education provider;

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

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

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

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

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

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

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

(b) Whether the commission has provided any information relating to conduct by the applicant that may constitute abuse or sexual conduct, as determined by accessing the database maintained by the commission as provided by section 2 of this 2019 Act.

(4) Conduct a nationwide criminal records check if required by ORS 326.603 or 326.607.

SECTION 13. ORS 339.378 is amended to read:

339.378. (1)(a) Not later than 20 days after receiving a request under ORS 339.374 (2), [an] the education provider [that has or has had an employment relationship with the applicant] shall disclose the information requested [and any disciplinary records that must be disclosed as provided by ORS 339.388 (8)].

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

[(3)] (c) Information received under this [section] subsection is confidential and is not a public record as defined in ORS 192.311. An education provider may use the information only for the purpose of evaluating an applicant’s eligibility to be hired, to enter into a contract or to provide services as a volunteer.

(2)(a) Except as provided by paragraphs (b) and (c) of this subsection, an individual who is a school employee may not assist another school employee in obtaining any new job if the individual knows, or has probable cause to believe, that the school employee engaged in abuse or sexual conduct.
(b) Nothing in paragraph (a) of this subsection prevents an education provider from:

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

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

(c) The prohibition prescribed by paragraph (a) of this subsection does not apply if the school employee knows, or has probable cause to believe, that the suspected abuse or sexual conduct:

(A) Was reported to the Teacher Standards and Practices Commission and, if applicable, a law enforcement agency or the Department of Human Services; and

(B) Any of the following are true:

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

(ii) The report was found to be unsubstantiated;

(iii) The report was found to be substantiated and information about the report is available on the database maintained by the commission under section 2 of this 2019 Act; or

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

(3) Failure to disclose information as provided by subsection (1)(a) of this section, or any violation of the provisions of subsection (2) of this section, shall be considered gross neglect of duty under ORS 342.175.

SECTION 14. ORS 339.384 is amended to read:

339.384. (1) An education provider may not hire, contract with or receive services from an applicant who does not comply with the requirements of ORS 339.374 (1). A refusal by the education provider to hire, contract with or receive services from an applicant under this subsection removes the applicant from any education provider policies, any collective bargaining provisions regarding dismissal procedures and appeals and any provisions of ORS 342.805 to 342.937.

(2) An education provider may hire, contract with or receive services from an applicant on a conditional basis pending the education provider's review of information and records received under ORS 339.374 (3) or 339.378.

(3) An education provider may not deny an applicant employment, a contract or the ability to provide services solely because:

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

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

SECTION 15. ORS 339.388 is amended to read:

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

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

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

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

(2) A person who receives a report under subsection (1) of this section shall follow the procedures required by the policies adopted by the school board under ORS 339.372, including providing any reports of suspected abuse or sexual conduct by school employees to the Teacher Standards and Practices Commission for investigation as provided by section 2 of this 2019 Act.

(3)(a) Except as provided in [subsection (4) of this section] paragraph (c) of this subsection, when an education provider receives a report of suspected abuse or sexual conduct by [one of its employees] a school employee, and the education provider’s designee determines that there is reasonable cause to support the report, the education provider:

(A) In the case of suspected abuse, shall place the school employee on paid administrative leave or shall otherwise prohibit a school employee who is a contractor or volunteer from providing services to the education provider; or

(B) In the case of suspected sexual conduct, may:

(i) For a school employee who is not a contractor or volunteer, place the school employee on paid administrative leave or in a position that does not involve direct, unsupervised contact with children.

(ii) For a school employee who is a contractor or volunteer, place the school employee in a position that does not involve direct, unsupervised contact with children.

(b) A school employee who is placed on paid administrative leave, or prohibited from providing services, under paragraph (a)(A) of this subsection shall remain on administrative leave, or may not provide services, until:

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

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

[(4)] (c) An education provider may reinstate a school employee placed on paid administrative leave, or prohibited from providing services, for suspected abuse as provided under [subsection (3) of this section or may take the appropriate disciplinary action against the employee] paragraph (b) of this subsection if the Department of Human Services or a law enforcement agency is unable to determine, based on a report of suspected abuse, whether abuse occurred.

(4) In addition to any investigations conducted by the Teacher Standards and Practices Commission, an education provider may conduct an investigation in response to a report of suspected abuse or sexual conduct by a school employee. The investigation may be made independently or concurrently with the commission, as determined by the education provider and the commission. The education provider may take into account the findings of the commission when the education provider conducts an investigation or takes disciplinary action against the school employee.

(5) If, following an investigation by an education provider, [an] the education provider determines that a report of suspected abuse or sexual conduct by a school employee is a substantiated report, the education provider shall:

(a) Inform the school employee that the education provider has determined that the report has been substantiated.
(b) Provide the school employee with information about the appropriate appeal process for the
determination made by the education provider. The appeal process may be the process provided by
a collective bargaining agreement or a process administered by a neutral third party and paid for
by the school district.

(c) Following notice of a school employee’s decision not to appeal the determination of an edu-
cation provider or following the determination of an appeal that sustained the substantiated re-
port, create a record of the substantiated report and place the record in [the personnel file of] any
files maintained by the education provider on the school employee. Records created pursuant to
this paragraph are confidential and are not public records as defined in ORS 192.311. An education
provider may use the record as a basis for providing the information required to be disclosed under
ORS 339.378.

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

(6)(a) Notwithstanding the requirements of subsections (3), (4) and (5) of this section, an edu-
cation provider that is a private school:

(A) May discipline or terminate a school employee according to:

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

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

(B) May follow the procedures described in subsection (5) of this section or may follow any ap-
peals process established by the private school related to suspected child abuse or sexual conduct.

(b) A private school that chooses to discipline or terminate a school employee according to the
standards and policies of the school must provide the information required to be disclosed under
ORS 339.378.

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

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

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

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

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

SECTION 16. ORS 339.392 is amended to read:

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

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

   (b) Has the effect of suppressing information relating to a substantiated report of abuse or
sexual conduct by a current or former school employee;

   (b) (c) Affects the duties of the education provider to report suspected abuse or sexual conduct
or to discipline a current or former school employee for a substantiated report of abuse or sexual
conduct;

   (c) (d) Impairs the ability of the education provider to discipline an employee for a substantiated
report of abuse or sexual conduct; or

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

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

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

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

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

SECTION 17. The amendments to ORS 339.392 by section 16 of this 2019 Act apply to
agreements and contracts entered into on or after January 1, 2020.

SECTION 18. ORS 339.400 is amended to read:

339.400. (1) An education provider shall provide to school employees training each school year
on:

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

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

   (c) Appropriate electronic communications as provided by ORS 339.372 (11).

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

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

339.392 and 339.400 by sections 9, 11 to 16 and 18 of this 2019 Act become operative on January
1, 2020.

SECTION 20. Section 21 of this 2019 Act is added to and made a part of ORS chapter 342.

SECTION 21. (1) As used in this section:

(a) “Education provider” means:

   (A) A school district, as defined in ORS 332.002.

   (B) The Oregon School for the Deaf.

   (C) An educational program under the Youth Corrections Education Program.

   (D) A public charter school, as defined in ORS 338.005.

   (E) An education service district, as defined in ORS 334.003.
(F) Any state-operated program that provides educational services to students as defined in ORS 339.370.

(b) “Nonlicensed school personnel” includes a person not licensed by the Teacher Standards and Practices Commission who:

(A)(i) Is employed or applying for employment by an education provider; or

(ii) Provides services or seeks to provide services to an education provider as a contractor, subcontractor, vendor or volunteer; and

(B) Is, or will be, working or providing services in a position in which the person may have direct, unsupervised access to students.

(2) The Teacher Standards and Practices Commission shall establish a nonlicensed school personnel registry. The registry shall list all nonlicensed school personnel who are authorized to have direct, unsupervised access to students being served by any education provider.

(3)(a) A school district shall prohibit nonlicensed school personnel from having any direct, unsupervised access to students served by the education provider unless:

(A) The nonlicensed school personnel is registered as provided by this section; or

(B) The person has undergone a background check under ORS 326.603 or 326.607 within the previous three years.

(b) Notwithstanding paragraph (a)(B) of this subsection, nonlicensed school personnel who have direct, unsupervised contact with students served by more than one education provider must be registered as provided by this section.

(4) A school district may not require a person registered under this section to undergo a background check under ORS 326.603 or 326.607.

(5) An application to become registered must include documentation as required by the commission by rule for the purposes of conducting a background check on the person, including a criminal records check as provided in ORS 181A.195.

(6) Subject to the results of the background check and any other rules adopted by the commission, the commission shall approve an application for registration. The commission may deny a request for registration on the basis of the criminal records check results or as otherwise provided by the commission by rule.

(7) Registration is valid for three years and may be renewed upon application of the nonlicensed school personnel.

SECTION 22. (1) Section 21 of this 2019 Act becomes operative on July 1, 2021.

(2) The Teacher Standards and Practices Commission may adopt rules and take any action before the operative date specified in subsection (1) of this section that is necessary to enable the commission, on and after the operative date specified in subsection (1) of this section to exercise the duties, powers and functions conferred on the commission by section 21 of this 2019 Act.

SECTION 23. ORS 336.631 is amended to read:

336.631. (1) Prior to contracting with or distributing any public funds to a private alternative education program, a district school board shall:

(a) Annually approve the private alternative education program;

(b) Determine that the private alternative education program is registered with the Department of Education; and

(c) Determine that the private alternative education program complies with the requirements of subsection (2) of this section and ORS 336.625 (3)(c).
(2) The following laws apply to private alternative education programs that are registered with the Department of Education under ORS 336.635 in the same manner as the laws apply to school districts and public schools:

(a) Federal law;
(b) ORS 181A.195, 326.603, 326.607 and 342.223 and section 21 of this 2019 Act (criminal records checks);
(c) ORS 329.496 (physical education);
(d) ORS 337.150, 339.141, 339.147 and 339.155 (tuition and fees);
(e) ORS 659.850, 659.855 and 659.860 (discrimination);
(f) ORS 339.122 (advertisement requirements);
(g) Health and safety statutes and rules; and
(h) Any statute, rule or school district policy that is specified in a contract between the school district board and the private alternative education program.

(3) Prior to placement of a student in a private alternative education program, the resident district shall determine whether the proposed placement best serves the student’s educational needs and interests and assists the student in achieving the district and state academic standards.

(4) Contracts between a school district and a private alternative education program shall be included in the assessment of effectiveness provided for in ORS 329.085.

SECTION 24. ORS 338.115 is amended to read:

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

(a) Federal law;
(b) ORS 30.260 to 30.300 (tort claims);
(c) ORS 192.311 to 192.478 (public records law);
(d) ORS 192.610 to 192.690 (public meetings law);
(e) ORS chapters 279A, 279B and 279C (Public Contracting Code);
(f) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);
(g) ORS 326.565, 326.575 and 326.580 (student records);
(h) ORS 181A.195, 326.603, 326.607 and 342.223 and section 21 of this 2019 Act (criminal records checks);
(i) ORS 329.045 (academic content standards and instruction);
(j) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative certificate);
(k) ORS 329.496 (physical education);
(L) The statewide assessment system developed by the Department of Education for mathematics, science and English under ORS 329.485 (2);
(m) ORS 336.840 (use of personal electronic devices);
(n) ORS 337.150 (textbooks);
(o) ORS 339.119 (consideration for educational services);
(p) ORS 339.141, 339.147 and 339.155 (tuition and fees);
(q) ORS 339.250 (9) (prohibition on infliction of corporal punishment);
(r) ORS 339.326 (notice concerning students subject to juvenile court petitions);
(s) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of abuse and sexual conduct and training on prevention and identification of abuse and sexual conduct);
(t) ORS 342.856 (core teaching standards);
(u) ORS chapter 657 (Employment Department Law);
(v) ORS 659.850, 659.855 and 659.860 (discrimination);
(w) Any statute or rule that establishes requirements for instructional time provided by a school
during each day or during a year;
(x) Statutes and rules that expressly apply to public charter schools;
(y) Statutes and rules that apply to a special government body, as defined in ORS 174.117, or a
public body, as defined in ORS 174.109;
(z) Health and safety statutes and rules;
(aa) Any statute or rule that is listed in the charter; and
(bb) This chapter.

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

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

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

(5)(a) A public charter school shall maintain an active enrollment of at least 25 students.
(b) For a public charter school that provides educational services under a cooperative agree-
ment described in ORS 338.080, the public charter school is in compliance with the requirements of
this subsection if the public charter school provides educational services under the cooperative
agreement to at least 25 students, without regard to the school districts in which the students are
residents.

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

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

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

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

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

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

(12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate
issued by a public charter school grants to the holder the same rights and privileges as a high
school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a
nonchartered public school.
Prior to beginning operation, the public charter school shall show proof of insurance to the sponsor as specified in the charter.

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

**SECTION 25.** ORS 419B.005 is amended to read:

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

(1)(a) “Abuse” means:

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) “Child” means an unmarried person who:

(a) Is under 18 years of age; or

(b) Is under 21 years of age and residing in or receiving care or services at a child-caring agency as that term is defined in ORS 418.205.
(3) “Higher education institution” means:
(a) A community college as defined in ORS 341.005;
(b) A public university listed in ORS 352.002;
(c) The Oregon Health and Science University; and
(d) A private institution of higher education located in Oregon.

(4) “Law enforcement agency” means:
(a) A city or municipal police department.
(b) A county sheriff’s office.
(c) The Oregon State Police.
(d) A police department established by a university under ORS 352.121 or 353.125.
(e) A county juvenile department.

(5) “Public or private official” means:
(a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician,
including any intern or resident.
(b) Dentist.
(c) School employee, including a licensed or nonlicensed employee in any grade from prekindergarten through grade 12 or an employee of a higher education institution.
(d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s aide, home health aide or employee of an in-home health service.
(e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205 or an alcohol and drug treatment program.
(f) Peace officer.
(g) Psychologist.
(h) Member of the clergy.
(i) Regulated social worker.
(j) Optometrist.
(k) Chiropractor.
(L) Certified provider of foster care, or an employee thereof.
(m) Attorney.
(n) Licensed professional counselor.
(o) Licensed marriage and family therapist.
(p) Firefighter or emergency medical services provider.
(q) A court appointed special advocate, as defined in ORS 419A.004.
(r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
(s) Member of the Legislative Assembly.
(t) Physical, speech or occupational therapist.
(u) Audiologist.
(v) Speech-language pathologist.
(w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.
(x) Pharmacist.
(y) An operator of a preschool recorded program under ORS 329A.255.
(z) An operator of a school-age recorded program under ORS 329A.257.

(aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.

(bb) Employee of a public or private organization providing child-related services or activities:
   (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day camps, survival camps or groups, centers or camps that are operated under the guidance, supervision or auspices of religious, public or private educational systems or community service organizations; and
   (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.

(cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.

(dd) Personal support worker, as defined by rule adopted by the Home Care Commission.

(ee) Home care worker, as defined in ORS 410.600.

(ff) Member of school district board or of public charter school governing body.

SECTION 26. ORS 419B.005, as amended by section 21, chapter 75, Oregon Laws 2018, is amended to read:

419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:
(1)(a) “Abuse” means:
   (A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.
   (B) Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.
   (C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are described in ORS chapter 163.
   (D) Sexual abuse, as described in ORS chapter 163.
   (E) Sexual exploitation, including but not limited to:
      (i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and
      (ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in ORS 167.007 or a commercial sex act as described in ORS 163.266, to purchase sex with a minor as described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.
   (F) Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.
   (G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm
to the child’s health or welfare.

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

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

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

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

(2) “Child” means an unmarried person who:

(a) Is under 18 years of age; or

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

(3) “Higher education institution” means:

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

(b) A public university listed in ORS 352.002;

(c) The Oregon Health and Science University; and

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

(4) “Law enforcement agency” means:

(a) A city or municipal police department.

(b) A county sheriff’s office.

(c) The Oregon State Police.

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

(e) A county juvenile department.

(5) “Public or private official” means:

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

(b) Dentist.

(c) School employee, including a licensed or nonlicensed employee in any grade from
prekindergarten through grade 12 or an employee of a higher education institution.

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

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

(f) Peace officer.

(g) Psychologist.

(h) Member of the clergy.

(i) Regulated social worker.

(j) Optometrist.

(k) Chiropractor.

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

(m) Attorney.
(n) Licensed professional counselor.
(o) Licensed marriage and family therapist.
(p) Firefighter or emergency medical services provider.
(q) A court appointed special advocate, as defined in ORS 419A.004.
(r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
(s) Member of the Legislative Assembly.
(t) Physical, speech or occupational therapist.
(u) Audiologist.
(v) Speech-language pathologist.
(w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.
(x) Pharmacist.
(y) An operator of a preschool recorded program under ORS 329A.255.
(z) An operator of a school-age recorded program under ORS 329A.257.
(aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.
(bb) Employee of a public or private organization providing child-related services or activities:
   (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day camps, survival camps or groups, centers or camps that are operated under the guidance, supervision or auspices of religious, public or private educational systems or community service organizations; and
   (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.
   (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.
   (dd) Personal support worker, as defined in ORS 410.600.
   (ee) Home care worker, as defined in ORS 410.600.

**ff Member of school district board or of public charter school governing body.**

**SECTION 27.** ORS 419B.015 is amended to read:

419B.015. (1)(a) A person making a report of child abuse, whether the report is made voluntarily or is required by ORS 419B.010, shall make an oral report by telephone or otherwise to the local office of the Department of Human Services, to the designee of the department or to a law enforcement agency within the county where the person making the report is located at the time of the contact. The report shall contain, if known, the names and addresses of the child and the parents of the child or other persons responsible for care of the child, the child's age, the nature and extent of the abuse, including any evidence of previous abuse, the explanation given for the abuse and any other information that the person making the report believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator.
(b) When a report of child abuse is received by the department, the department shall notify a law enforcement agency within the county where the report was made. When a report of child abuse is received by a designee of the department, the designee shall notify, according to the contract, either the department or a law enforcement agency within the county where the report was made. When a report of child abuse is received by a law enforcement agency, the agency shall notify the
local office of the department within the county where the report was made.

(c) When a report of child abuse is received by the department or by a law enforcement agency, the department or law enforcement agency, or both, may collect information concerning the military status of the parent or guardian of the child who is the subject of the report and may share the information with the appropriate military authorities. Disclosure of information under this paragraph is subject to ORS 419B.035 (7).

(d) When a report of child abuse is received by the department or by a law enforcement agency, the department or law enforcement agency shall notify the Teacher Standards and Practices Commission if the report involves the conduct of a school employee, as defined in ORS 339.370, toward a student.

(2) When a report of child abuse is received under subsection (1)(a) of this section, the entity receiving the report shall make the notification required by subsection (1)(b) of this section according to rules adopted by the department under ORS 419B.017.

(3)(a) When a report alleging that a child or ward in substitute care may have been subjected to abuse is received by the department, the department shall notify the attorney for the child or ward, the child’s or ward’s court appointed special advocate, the parents of the child or ward and any attorney representing a parent of the child or ward that a report has been received.

(b) The name and address of and other identifying information about the person who made the report may not be disclosed under this subsection. Any person or entity to whom notification is made under this subsection may not release any information not authorized by this subsection.

(c) The department shall make the notification required by this subsection within three business days of receiving the report of abuse.

(d) Notwithstanding the obligation imposed by this subsection, the department is not required under this subsection to notify the parent or parent’s attorney that a report of abuse has been received if the notification may interfere with an investigation or assessment or jeopardize the child’s or ward’s safety.

SECTION 28. ORS 419B.035 is amended to read:

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

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

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

(c) Attorneys of record for the child or child’s parent or guardian in any juvenile court proceeding;

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

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

(f) The Office of Child Care for certifying, registering or otherwise regulating child care facilities;

(g) The Office of Children’s Advocate;

(h) The Teacher Standards and Practices Commission for investigations conducted under ORS 342.176 or section 2 of this 2019 Act involving any child or any student [in grade 12 or below] as defined in ORS 339.370;

(i) Any person, upon request to the Department of Human Services, if the reports or records requested regard an incident in which a child, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be disclosed in accordance with ORS 192.311 to 192.478;

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

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

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

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

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

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

(b) A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to the Teacher Standards and Practices Commission that the commission determines are necessary for the commission to conduct investigations under ORS 342.176 or section 2 of this 2019 Act involving any child or any
student as defined in ORS 339.370.

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

(6)(a) Any record made available to a law enforcement agency or community corrections agency in this state, to the Department of Corrections or the State Board of Parole and Post-Prison Supervision or to a physician, physician assistant, naturopathic physician or nurse practitioner in this state, as authorized by subsections (1) to (5) of this section, shall be kept confidential by the agency, department, board, physician, physician assistant, naturopathic physician or nurse practitioner. Any record or report disclosed by the Department of Human Services to other persons or entities pursuant to subsections (1) and (3) of this section shall be kept confidential.

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

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

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

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

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

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

SECTION 29. (1) The amendments to ORS 419B.015 and 419B.035 by sections 27 and 28 of this 2019 Act become operative on January 1, 2020.

(2) The amendments to ORS 419B.015 and 419B.035 by sections 27 and 28 of this 2019 Act apply to reports received on or after January 1, 2020.

SECTION 30. In addition to and not in lieu of any other appropriation, there is appropriated to the Teacher Standards and Practices Commission, for the biennium beginning July 1, 2019, out of the General Fund, the amount of $_______, which shall be used by the commission to employ the necessary personnel to comply with the requirements of section 2 of this 2019 Act.

SECTION 31. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
July 1, 2019.