

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

1
2 Relating to interpersonal boundary invasions affecting youth; creating new provisions; amending
3 ORS 336.631, 338.115, 339.370, 339.372, 339.374, 339.378, 339.384, 339.388, 339.392, 339.400, 342.175,
4 342.176, 342.177, 342.183, 342.390, 419B.005, 419B.015 and 419B.035; and declaring an emergency.

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

6 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 339.370 to**
7 **339.400.**

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

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

18 **(a) Issue subpoenas to require the attendance of witnesses or the production of docu-**
19 **ments;**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (b) Subpoena witnesses;

2 (c) Swear witnesses and compel obedience in the same manner as provided under ORS
3 183.440 (2); and

4 (d) Request records from a law enforcement agency or the Department of Human Ser-
5 vices as provided by ORS 419B.035.

6 (3) An investigation shall be conducted under this section regardless of any investigations
7 being conducted by an education provider concerning the same report. If the education pro-
8 vider is conducting an investigation concerning the same report, the commission may con-
9 duct the investigation concurrently with the education provider.

10 (4)(a) Following the completion of an investigation, the investigator shall report in writ-
11 ing any findings and recommendations to the executive director of the commission.

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

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

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

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

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

23 (c) The education provider, if applicable.

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

26 (a) The person charged;

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

28 (c) The education provider, if applicable.

29 (8)(a) Except as provided in paragraph (b) of this subsection, the documents and materi-
30 als used in the investigation undertaken under this section, and the report related to the
31 investigation, are confidential and not subject to public inspection unless the commission
32 makes a final determination to suspend or revoke a license or registration, discipline a per-
33 son holding a license or registration, or revoke the right to apply for a license or registra-
34 tion, as provided under ORS 342.175.

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

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

39 (10)(a) The commission shall retain documents and materials related to any report re-
40 ceived under this section, regardless of whether the commission found sufficient cause to
41 justify holding a hearing under this section.

42 (b) The commission shall establish and maintain a database related to any substantiated
43 reports and shall make the database available to education providers.

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

1 **ducted under this section.**

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

4 **(c) All civil penalties recovered under this subsection shall be applied to the costs of the**
 5 **commission’s investigation and any administrative proceedings that result from the investi-**
 6 **gation.**

7 **SECTION 3.** ORS 342.175 is amended to read:

8 342.175. (1) The Teacher Standards and Practices Commission may suspend or revoke the license
 9 or registration of a teacher or administrator, discipline a teacher or administrator, or suspend or
 10 revoke the right of any person to apply for a license or registration, if the licensee, registrant or
 11 applicant has held a license or registration at any time within five years prior to issuance of the
 12 notice of charges under ORS 342.176 **or section 2 of this 2019 Act** based on the following:

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

14 (b) Gross neglect of duty;

15 (c) Any gross unfitness;

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

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

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

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

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

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

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

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

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

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

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

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

1 proving an application for reinstatement.

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

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

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

10 **SECTION 4.** ORS 342.176 is amended to read:

11 342.176. (1)(a) A person may file a complaint with the Teacher Standards and Practices Com-
 12 mission regarding a person licensed by the commission. **If a complaint concerns an allegation of**
 13 **abuse or sexual conduct by a school employee under ORS 339.370 to 339.400, the complaint**
 14 **process provided by this section does not apply and the commission shall investigate the**
 15 **complaint as provided by section 2 of this 2019 Act.**

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

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

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

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

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

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

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

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

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

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

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

45 (B) Suspend or revoke a license or registration, discipline a person holding a license or regis-

1 tration, or suspend or revoke the right to apply for a license or registration, as provided under ORS
 2 342.175; or

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

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

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

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

11 (b) The complainant; and

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

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

15 (a) The person charged;

16 (b) The complainant; and

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

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

20 **SECTION 5.** ORS 342.177 is amended to read:

21 342.177. (1)(a) Hearings under ORS 342.176 **and section 2 of this 2019 Act** shall be conducted
 22 by an administrative law judge assigned from the Office of Administrative Hearings established un-
 23 der ORS 183.605.

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

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

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

41 (a) Issue a public reprimand.

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

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

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

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

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

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

7 **SECTION 6.** ORS 342.183 is amended to read:

8 342.183. (1) The Teacher Standards and Practices Commission may issue a letter of informal re-
9 proval to a person licensed, registered or certified by the commission if:

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

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

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

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

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

22 (a) Is confidential; and

23 (b) Except when a disciplinary action is taken as provided in subsection (5) of this section, may
24 not be posted on an interstate clearinghouse related to educator license sanctions **and may not be**
25 **made available to education providers by the database maintained under section 2 (10) of this**
26 **2019 Act.**

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

29 (a) The conduct underlying the letter of informal reapproval; or

30 (b) The failure to comply with the terms of the letter of informal reapproval.

31 (6) If the executive director of the commission determines that a person failed to meet the terms
32 of a letter of informal reapproval, the executive director shall report the failure to the commission for
33 the commission to make a final determination pursuant to ORS 342.176 **or section 2 of this 2019**
34 **Act.**

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

38 **SECTION 7.** ORS 342.390 is amended to read:

39 342.390. (1) The Teacher Standards and Practices Commission shall meet at least once every six
40 months at a place, day and hour determined by the commission. The commission shall also meet at
41 such other times and places as are specified by the call of the chairperson or of a majority of the
42 members of the commission **or may meet by the request of the executive director of the com-**
43 **mission as provided by section 2 of this 2019 Act.**

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

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

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

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

8 **SECTION 8. (1) Section 2 of this 2019 Act and the amendments to ORS 342.175, 342.176,**
 9 **342.177, 342.183 and 342.390 by sections 3 to 7 of this 2019 Act become operative on January**
 10 **1, 2020.**

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

14 **SECTION 9.** ORS 339.370 is amended to read:

15 339.370. As used in ORS 339.370 to 339.400:

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

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

19 [(3)] (2) "Education provider" means:

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

21 (b) The Oregon School for the Deaf.

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

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

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

25 (f) Any state-operated program that provides educational services to [*kindergarten through grade*
 26 *12*] students.

27 (g) A private school.

28 [(4)] (3) "Investigation" means a detailed inquiry into the factual allegations of a report of sus-
 29 pected abuse or sexual conduct that:

30 (a) Is based on interviews with the complainant, witnesses and the school employee or student
 31 who is the subject of the report; and

32 (b) If the subject of the report is a school employee, meets any negotiated standards of an em-
 33 ployment contract or agreement.

34 [(5)] (4) "Law enforcement agency" has the meaning given that term in ORS 419B.005.

35 [(6)] (5) "Private school" means a school that provides to [*kindergarten through grade 12*] stu-
 36 dents instructional programs that are not limited solely to dancing, drama, music, religious or ath-
 37 letic instruction.

38 [(7)] (6) "School board" means the governing board or governing body of an education provider.

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

40 (7) "School employee" means:

41 (a) An employee of an education provider;

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

44 (c) A volunteer for an education provider who has direct, unsupervised contact with
 45 students.

1 [(9)(a)] **(8)(a)** “Sexual conduct” means any verbal, [or] physical **or electronic** conduct by a
2 school employee that:

3 (A) Is sexual in nature; **and**

4 (B) Is directed toward a **student**. [*kindergarten through grade 12 student*];

5 [(C) *Has the effect of unreasonably interfering with a student’s educational performance; and*]

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

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

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

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

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

13 **(9) “Student” means any person:**

14 (a) **Who is:**

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

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

18 (b) **Who was previously known as a student by a school employee and who left school or**
19 **graduated from high school within 90 days prior to the sexual conduct.**

20 (10) **“Substantiated report” means a report of abuse or sexual conduct that an education**
21 **provider, a law enforcement agency, the Department of Human Services or the Teacher**
22 **Standards and Practices Commission has reasonable cause to believe, based on the available**
23 **evidence after conducting an investigation and based on the investigatory standards of the**
24 **education provider or the agency, is founded.**

25 **SECTION 10.** The amendments to ORS 339.370 by section 9 of this 2019 Act apply to
26 **conduct that occurs before, on or after January 1, 2020, for purposes of:**

27 (1) **Making reports of suspected abuse or sexual conduct;**

28 (2) **Investigations of suspected abuse or sexual conduct that are initiated on or after**
29 **January 1, 2020; and**

30 (3) **A collective bargaining agreement, an employment contract, an agreement for resig-**
31 **nation or termination, a severance agreement or any similar contract or agreement entered**
32 **into on or after January 1, 2020.**

33 **SECTION 11.** ORS 339.372 is amended to read:

34 339.372. Each school board shall adopt policies on the reporting of abuse and sexual conduct
35 by school employees and the reporting of abuse by students. The policies shall:

36 (1) Specify that abuse and sexual conduct by school employees and abuse by students are not
37 tolerated;

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

39 (3) Require all school employees who have reasonable cause to believe that another school em-
40 ployee has engaged in abuse or sexual conduct or that a student has engaged in abuse to:

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

43 (b) Report suspected abuse or sexual conduct to the person designated as provided by subsection
44 (4) of this section;

45 (4) Designate a person, and an alternate in the event the designated person is the suspected

1 abuser, to receive reports of suspected abuse or sexual conduct by school employees or suspected
 2 abuse by students and specify the procedures to be followed by that person upon receipt of a report;

3 **(5) Specify the procedures to be followed during an investigation, including notification**
 4 **that:**

5 **(a) Any reports of suspected abuse or sexual conduct by school employees shall be im-**
 6 **mediately provided to the Teacher Standards and Practices Commission for investigation**
 7 **under section 2 of this 2019 Act;**

8 **(b) The education provider shall investigate all reports of suspected abuse or sexual**
 9 **conduct by school employees and investigations may be conducted independently of, or con-**
 10 **currently with, a law enforcement agency, the department or the commission; and**

11 **(c) The education provider will cooperate with a law enforcement agency, the department**
 12 **and the commission, as applicable, on investigations regardless of any changes in the em-**
 13 **ployment relationship or duties of the school employee about whom a report was made;**

14 [(5)] **(6) Require the posting in each school building of the name and contact information for the**
 15 **person designated for the school building to receive reports of suspected abuse or sexual conduct**
 16 **by school employees or suspected abuse by students and the procedures the person will follow upon**
 17 **receipt of a report;**

18 [(6)] **(7) Specify that the initiation of a report in good faith about suspected abuse or sexual**
 19 **conduct may not adversely affect any terms or conditions of employment or the work environment**
 20 **of the complainant;**

21 [(7)] **(8) Specify that the [school board] education provider or any school employee will not**
 22 **discipline a student for the initiation of a report in good faith about suspected abuse or sexual**
 23 **conduct by a school employee or suspected abuse by a student;**

24 [(8)] **(9) Require notification by the education provider to the person who initiated the report**
 25 **about actions taken by the education provider based on the report; [and]**

26 [(9)] **(10) Require the education provider to furnish to a school employee at the time of hire,**
 27 **or at the time the school employee becomes a contractor or volunteer, the following:**

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

29 (b) A description of the [information and records that will be disclosed as provided by ORS
 30 339.378 or 339.388 (8)] **investigatory process and possible consequences** if a report of suspected
 31 abuse or sexual conduct is substantiated[.]; **and**

32 **(c) A description of the prohibitions imposed on school employees when another school**
 33 **employee attempts to obtain a new job, as provided by ORS 339.378; and**

34 **(11) Specify and make available to students and school employees a policy related to ap-**
 35 **propriate electronic communications:**

36 **(a) Between school employees and students; or**

37 **(b) That relate to students and that are sent from a school employee to one or more**
 38 **other school employees.**

39 **SECTION 12.** ORS 339.374 is amended to read:

40 339.374. Except as provided in ORS 339.384, before an education provider may hire an applicant
 41 for a position with the education provider, **enter into a contract for the services of an applicant**
 42 **to be a contractor or accept the services of an applicant to be a volunteer,** the education
 43 provider shall:

44 (1) Require the applicant to provide:

45 (a) A list of the applicant's current and former employers who are education providers **and ed-**

1 **ucation providers for whom the applicant has been a contractor or volunteer.**

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

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

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

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

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

12 [(a)] the following information:

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

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

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

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

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

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

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

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

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

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

30 **SECTION 13.** ORS 339.378 is amended to read:

31 339.378. (1)(a) Not later than 20 days after receiving a request under ORS 339.374 (2), [*an*] **the**
32 education provider [*that has or has had an employment relationship with the applicant*] shall disclose
33 the information requested [*and any disciplinary records that must be disclosed as provided by ORS*
34 *339.388 (8)*].

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

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

42 (2)(a) **Except as provided by paragraphs (b) and (c) of this subsection, an individual who**
43 **is a school employee may not assist another school employee in obtaining any new job if the**
44 **individual knows, or has probable cause to believe, that the school employee engaged in abuse**
45 **or sexual conduct.**

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

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

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

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

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

9 (B) Any of the following are true:

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

12 (ii) The report was found to be unsubstantiated;

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

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

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

19 **SECTION 14.** ORS 339.384 is amended to read:

20 339.384. (1) An education provider may not hire, **contract with or receive services from** an
21 applicant who does not comply with the requirements of ORS 339.374 (1). A refusal **by the educa-**
22 **tion provider** to hire, **contract with or receive services** [*an applicant*] under this subsection re-
23 moves the applicant from any education provider policies, any collective bargaining provisions
24 regarding dismissal procedures and appeals and any provisions of ORS 342.805 to 342.937.

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

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

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

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

35 **SECTION 15.** ORS 339.388 is amended to read:

36 339.388. (1)(a) A school employee having reasonable cause to believe that a child with whom the
37 employee comes in contact has suffered abuse by another school employee or by a student, or that
38 another school employee or a student with whom the employee comes in contact has abused a child,
39 shall immediately report the information to:

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

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

43 (b) A school employee having reasonable cause to believe that a student with whom the em-
44 ployee comes in contact has been subjected to sexual conduct by another school employee, or that
45 another school employee with whom the employee comes in contact has engaged in sexual conduct,

1 shall immediately report the information to the person designated in the policy adopted under ORS
2 339.372.

3 (2) A person who receives a report under subsection (1) of this section shall follow the proce-
4 dures required by the *[policy]* **policies** adopted by the school board under ORS 339.372, **including**
5 **providing any reports of suspected abuse or sexual conduct by school employees to the**
6 **Teacher Standards and Practices Commission for investigation as provided by section 2 of**
7 **this 2019 Act.**

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

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

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

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

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

21 (b) A school employee who is placed on paid administrative leave, **or prohibited from provid-**
22 **ing services,** under paragraph (a)(A) of this subsection shall remain on administrative leave, **or**
23 **may not provide services,** until:

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

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

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

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

41 (5) If, following an investigation **by an education provider,** *[an]* **the** education provider deter-
42 mines that a report of suspected abuse or sexual conduct by a school employee is a substantiated
43 report, the education provider shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 **SECTION 16.** ORS 339.392 is amended to read:

42 339.392. (1) An education provider may not enter into a collective bargaining agreement, an
 43 employment contract, an agreement for resignation or termination, a severance agreement or any
 44 other contract or agreement that:

45 (a) Has the effect of **impairing or terminating an ongoing investigation, or** suppressing in-

1 formation relating to an ongoing investigation, related to a report of suspected abuse or sexual
 2 conduct [*or*];

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

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

8 [*c*] **(d)** Impairs the ability of the education provider to discipline an employee for a substanti-
 9 ated report of abuse or sexual conduct; or

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

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

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

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

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

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

21 **SECTION 18.** ORS 339.400 is amended to read:

22 339.400. (1) An education provider shall provide to school employees training each school year
 23 on:

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

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

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

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

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

35 **SECTION 19. The amendments to ORS 339.370, 339.372, 339.374, 339.378, 339.384, 339.388,**
 36 **339.392 and 339.400 by sections 9, 11 to 16 and 18 of this 2019 Act become operative on January**
 37 **1, 2020.**

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

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

40 (a) **“Education provider” means:**

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

42 (B) **The Oregon School for the Deaf.**

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

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

45 (E) **An education service district, as defined in ORS 334.003.**

1 (F) Any state-operated program that provides educational services to students as defined
 2 in ORS 339.370.

3 (b) “Nonlicensed school personnel” includes a person not licensed by the Teacher Stan-
 4 dards and Practices Commission who:

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

6 (ii) Provides services or seeks to provide services to an education provider as a contrac-
 7 tor, subcontractor, vendor or volunteer; and

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

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

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

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

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

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

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

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

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

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

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

33 (2) The Teacher Standards and Practices Commission may adopt rules and take any
 34 action before the operative date specified in subsection (1) of this section that is necessary
 35 to enable the commission, on and after the operative date specified in subsection (1) of this
 36 section to exercise the duties, powers and functions conferred on the commission by section
 37 21 of this 2019 Act.

38 **SECTION 23.** ORS 336.631 is amended to read:

39 336.631. (1) Prior to contracting with or distributing any public funds to a private alternative
 40 education program, a district school board shall:

41 (a) Annually approve the private alternative education program;

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

44 (c) Determine that the private alternative education program complies with the requirements
 45 of subsection (2) of this section and ORS 336.625 (3)(c).

1 (2) The following laws apply to private alternative education programs that are registered with
2 the Department of Education under ORS 336.635 in the same manner as the laws apply to school
3 districts and public schools:

4 (a) Federal law;

5 (b) ORS 181A.195, 326.603, 326.607 and 342.223 **and section 21 of this 2019 Act** (criminal re-
6 cords checks);

7 (c) ORS 329.496 (physical education);

8 (d) ORS 337.150, 339.141, 339.147 and 339.155 (tuition and fees);

9 (e) ORS 659.850, 659.855 and 659.860 (discrimination);

10 (f) ORS 339.122 (advertisement requirements);

11 (g) Health and safety statutes and rules; and

12 (h) Any statute, rule or school district policy that is specified in a contract between the school
13 district board and the private alternative education program.

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

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

19 **SECTION 24.** ORS 338.115 is amended to read:

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

23 (a) Federal law;

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

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

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

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

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

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

30 (h) ORS 181A.195, 326.603, 326.607 and 342.223 **and section 21 of this 2019 Act** (criminal re-
31 cords checks);

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

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

35 (k) ORS 329.496 (physical education);

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

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

39 (n) ORS 337.150 (textbooks);

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

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

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

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

44 (s) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of abuse and sexual conduct and training
45 on prevention and identification of abuse and sexual conduct);

- 1 (t) ORS 342.856 (core teaching standards);
 2 (u) ORS chapter 657 (Employment Department Law);
 3 (v) ORS 659.850, 659.855 and 659.860 (discrimination);
 4 (w) Any statute or rule that establishes requirements for instructional time provided by a school
 5 during each day or during a year;
 6 (x) Statutes and rules that expressly apply to public charter schools;
 7 (y) Statutes and rules that apply to a special government body, as defined in ORS 174.117, or a
 8 public body, as defined in ORS 174.109;
 9 (z) Health and safety statutes and rules;
 10 (aa) Any statute or rule that is listed in the charter; and
 11 (bb) This chapter.
- 12 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules
 13 that apply only to school district boards, school districts and other public schools may apply to a
 14 public charter school.
- 15 (3) If a statute or rule applies to a public charter school, then the terms “school district” and
 16 “public school” include public charter school as those terms are used in that statute or rule.
- 17 (4) A public charter school may not violate the Establishment Clause of the First Amendment
 18 to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion
 19 based.
- 20 (5)(a) A public charter school shall maintain an active enrollment of at least 25 students.
- 21 (b) For a public charter school that provides educational services under a cooperative agree-
 22 ment described in ORS 338.080, the public charter school is in compliance with the requirements of
 23 this subsection if the public charter school provides educational services under the cooperative
 24 agreement to at least 25 students, without regard to the school districts in which the students are
 25 residents.
- 26 (6) A public charter school may sue or be sued as a separate legal entity.
- 27 (7) The sponsor, members of the governing board of the sponsor acting in their official capacities
 28 and employees of a sponsor acting in their official capacities are immune from civil liability with
 29 respect to all activities related to a public charter school within the scope of their duties or em-
 30 ployment.
- 31 (8) A public charter school may enter into contracts and may lease facilities and services from
 32 a school district, education service district, public university listed in ORS 352.002, other govern-
 33 mental unit or any person or legal entity.
- 34 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-
 35 ability.
- 36 (10) A public charter school may receive and accept gifts, grants and donations from any source
 37 for expenditure to carry out the lawful functions of the school.
- 38 (11) The school district in which the public charter school is located shall offer a high school
 39 diploma, a modified diploma, an extended diploma or an alternative certificate to any public charter
 40 school student who meets the district’s and state’s standards for a high school diploma, a modified
 41 diploma, an extended diploma or an alternative certificate.
- 42 (12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate
 43 issued by a public charter school grants to the holder the same rights and privileges as a high
 44 school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a
 45 nonchartered public school.

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

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

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

7 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

8 (1)(a) “Abuse” means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (3) “Higher education institution” means:
- 2 (a) A community college as defined in ORS 341.005;
- 3 (b) A public university listed in ORS 352.002;
- 4 (c) The Oregon Health and Science University; and
- 5 (d) A private institution of higher education located in Oregon.
- 6 (4) “Law enforcement agency” means:
- 7 (a) A city or municipal police department.
- 8 (b) A county sheriff’s office.
- 9 (c) The Oregon State Police.
- 10 (d) A police department established by a university under ORS 352.121 or 353.125.
- 11 (e) A county juvenile department.
- 12 (5) “Public or private official” means:
- 13 (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician,
- 14 including any intern or resident.
- 15 (b) Dentist.
- 16 (c) School employee, including **a licensed or nonlicensed employee in any grade from**
- 17 **prekindergarten through grade 12 or** an employee of a higher education institution.
- 18 (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s aide, home health aide
- 19 or employee of an in-home health service.
- 20 (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning
- 21 Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local
- 22 health department, a community mental health program, a community developmental disabilities
- 23 program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205
- 24 or an alcohol and drug treatment program.
- 25 (f) Peace officer.
- 26 (g) Psychologist.
- 27 (h) Member of the clergy.
- 28 (i) Regulated social worker.
- 29 (j) Optometrist.
- 30 (k) Chiropractor.
- 31 (L) Certified provider of foster care, or an employee thereof.
- 32 (m) Attorney.
- 33 (n) Licensed professional counselor.
- 34 (o) Licensed marriage and family therapist.
- 35 (p) Firefighter or emergency medical services provider.
- 36 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 37 (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
- 38 (s) Member of the Legislative Assembly.
- 39 (t) Physical, speech or occupational therapist.
- 40 (u) Audiologist.
- 41 (v) Speech-language pathologist.
- 42 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
- 43 gations or discipline by the commission.
- 44 (x) Pharmacist.
- 45 (y) An operator of a preschool recorded program under ORS 329A.255.

1 (z) An operator of a school-age recorded program under ORS 329A.257.

2 (aa) Employee of a private agency or organization facilitating the provision of respite services,
 3 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
 4 109.056.

5 (bb) Employee of a public or private organization providing child-related services or activities:

6 (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day
 7 camps, survival camps or groups, centers or camps that are operated under the guidance, super-
 8 vision or auspices of religious, public or private educational systems or community service organ-
 9 izations; and

10 (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide
 11 confidential, direct services to victims of domestic violence, sexual assault, stalking or human traf-
 12 ficking.

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

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

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

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

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

20 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

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

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

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

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

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

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

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

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

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

45 (G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm

1 to the child's health or welfare.

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

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

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

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

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

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

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

14 (3) "Higher education institution" means:

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

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

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

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

19 (4) "Law enforcement agency" means:

20 (a) A city or municipal police department.

21 (b) A county sheriff's office.

22 (c) The Oregon State Police.

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

24 (e) A county juvenile department.

25 (5) "Public or private official" means:

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

28 (b) Dentist.

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

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

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

38 (f) Peace officer.

39 (g) Psychologist.

40 (h) Member of the clergy.

41 (i) Regulated social worker.

42 (j) Optometrist.

43 (k) Chiropractor.

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

45 (m) Attorney.

- 1 (n) Licensed professional counselor.
- 2 (o) Licensed marriage and family therapist.
- 3 (p) Firefighter or emergency medical services provider.
- 4 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 5 (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
- 6 (s) Member of the Legislative Assembly.
- 7 (t) Physical, speech or occupational therapist.
- 8 (u) Audiologist.
- 9 (v) Speech-language pathologist.
- 10 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-
- 11 gations or discipline by the commission.
- 12 (x) Pharmacist.
- 13 (y) An operator of a preschool recorded program under ORS 329A.255.
- 14 (z) An operator of a school-age recorded program under ORS 329A.257.
- 15 (aa) Employee of a private agency or organization facilitating the provision of respite services,
- 16 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS
- 17 109.056.
- 18 (bb) Employee of a public or private organization providing child-related services or activities:
- 19 (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day
- 20 camps, survival camps or groups, centers or camps that are operated under the guidance, super-
- 21 vision or auspices of religious, public or private educational systems or community service organ-
- 22 izations; and
- 23 (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide
- 24 confidential, direct services to victims of domestic violence, sexual assault, stalking or human traf-
- 25 ficking.
- 26 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,
- 27 if compensated and if the athlete is a child.
- 28 (dd) Personal support worker, as defined in ORS 410.600.
- 29 (ee) Home care worker, as defined in ORS 410.600.
- 30 **(ff) Member of school district board or of public charter school governing body.**

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

32 419B.015. (1)(a) A person making a report of child abuse, whether the report is made voluntarily
 33 or is required by ORS 419B.010, shall make an oral report by telephone or otherwise to the local
 34 office of the Department of Human Services, to the designee of the department or to a law
 35 enforcement agency within the county where the person making the report is located at the time
 36 of the contact. The report shall contain, if known, the names and addresses of the child and the
 37 parents of the child or other persons responsible for care of the child, the child's age, the nature
 38 and extent of the abuse, including any evidence of previous abuse, the explanation given for the
 39 abuse and any other information that the person making the report believes might be helpful in es-
 40 tablishing the cause of the abuse and the identity of the perpetrator.

41 (b) When a report of child abuse is received by the department, the department shall notify a
 42 law enforcement agency within the county where the report was made. When a report of child abuse
 43 is received by a designee of the department, the designee shall notify, according to the contract,
 44 either the department or a law enforcement agency within the county where the report was made.
 45 When a report of child abuse is received by a law enforcement agency, the agency shall notify the

1 local office of the department within the county where the report was made.

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

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

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

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

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

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

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

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

28 419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.478 and
29 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of public records
30 and public documents, reports and records compiled under the provisions of ORS 419B.010 to
31 419B.050 are confidential and may not be disclosed except as provided in this section. The Depart-
32 ment of Human Services shall make the records available to:

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

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

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

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

1 participants in case reviews;

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

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

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

7 (h) The Teacher Standards and Practices Commission for investigations conducted under ORS
8 342.176 or **section 2 of this 2019 Act** involving any child or any student [*in grade 12 or below*] **as**
9 **defined in ORS 339.370**;

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

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

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

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

23 (b) If the Department of Human Services does not have a report or record of abuse regarding
24 a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS
25 161.015, the department may disclose that information.

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

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

42 (b) **A law enforcement agency may make reports and records compiled under the pro-**
43 **visions of ORS 419B.010 to 419B.050 available to the Teacher Standards and Practices Com-**
44 **mission that the commission determines are necessary for the commission to conduct**
45 **investigations under ORS 342.176 or section 2 of this 2019 Act involving any child or any**

1 **student as defined in ORS 339.370.**

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

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

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

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

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

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

32 (8) As used in this section, "law enforcement agency" has the meaning given that term in ORS
33 181A.010.

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

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

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

39 **SECTION 30. In addition to and not in lieu of any other appropriation, there is appro-**
40 **propriated to the Teacher Standards and Practices Commission, for the biennium beginning July**
41 **1, 2019, out of the General Fund, the amount of \$_____ , which shall be used by the com-**
42 **mission to employ the necessary personnel to comply with the requirements of section 2 of**
43 **this 2019 Act.**

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

1 **July 1, 2019.**

2