

Requested by SENATE COMMITTEE ON EDUCATION

**PROPOSED AMENDMENTS TO
SENATE BILL 155**

1 On page 1 of the printed bill, delete lines 3 and 4 and insert “ORS 338.115,
2 339.370, 339.372, 339.374, 339.378, 339.384, 339.388, 339.392, 339.400, 419B.015
3 and 419B.035; and declaring an emergency.”.

4 Delete lines 6 through 19 and delete pages 2 through 26 and insert:

5 **“SECTION 1.** ORS 339.370 is amended to read:

6 “339.370. As used in ORS 339.370 to 339.400:

7 “(1) ‘Abuse’ has the meaning given that term in ORS 419B.005.

8 **“(2) ‘Agent’ means a person acting as an agent for an education**
9 **provider in a manner that requires the person to have direct, unsu-**
10 **pervised contact with students.**

11 **“(3) ‘Contractor’ means a person providing services to an education**
12 **provider under a contract in a manner that requires the person to**
13 **have direct, unsupervised contact with students.**

14 “[2] *‘Disciplinary records’ means the records related to a personnel disci-*
15 *pline action or materials or documents supporting that action.*]

16 “[3] **(4)(a)** ‘Education provider’ means:

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

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

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

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

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

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

4 “[g)] (G) A private school.

5 **“(b) ‘Education provider’ does not include:**

6 **“(A) The Oregon Youth Authority;**

7 **“(B) The Department of Corrections; or**

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

10 **“(i) The Oregon School for the Deaf;**

11 **“(ii) The Youth Corrections Education Program; or**

12 **“(iii) A public charter school sponsored by the department.**

13 “[4)] (5) ‘Investigation’ means a detailed inquiry into the factual
14 allegations of a report of suspected abuse or sexual conduct that:

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

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

19 “[5)] (6) ‘Law enforcement agency’ has the meaning given that term in
20 ORS 419B.005.

21 “[6)] (7) ‘Private school’ means a school that provides to *[kindergarten*
22 *through grade 12]* students instructional programs that are not limited solely
23 to dancing, drama, music, religious or athletic instruction.

24 “[7) ‘School board’ means the governing board or governing body of an
25 education provider.]

26 **“(8) ‘School board’ means the entity charged with adopting policies**
27 **for an education provider.**

28 “[8)] (9) ‘School employee’ means an employee of an education provider.

29 “[9)(a) ‘Sexual conduct’ means any verbal or physical conduct by a school
30 employee that:]

1 “[A] *Is sexual in nature;*]

2 “[B] *Is directed toward a kindergarten through grade 12 student;*]

3 “[C] *Has the effect of unreasonably interfering with a student’s educational*
4 *performance; and]*

5 “[D] *Creates an intimidating, hostile or offensive educational*
6 *environment.]*

7 “[b] *‘Sexual conduct’ does not include abuse.]*

8 “[10] *‘Substantiated report’ means a report of abuse or sexual conduct*
9 *that:]*

10 “[a] *An education provider has reasonable cause to believe is founded*
11 *based on the available evidence after conducting an investigation; and]*

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

15 **“(10)(a) ‘Sexual conduct’ means verbal or physical conduct or**
16 **verbal, written or electronic communications by a school employee, a**
17 **contractor, an agent or a volunteer that involve a student and that**
18 **are any of the following:**

19 **“(A) The intentional touching of the breast or of the sexual or other**
20 **intimate parts of the student;**

21 **“(B) Causing, encouraging or permitting the student to touch the**
22 **breast or the sexual or other intimate parts of the school employee,**
23 **contractor, agent or volunteer;**

24 **“(C) Sexual advances or requests for sexual favors directed toward**
25 **the student; or**

26 **“(D) Conduct or communications of a sexual nature that are di-**
27 **rected toward the student or that have the effect of unreasonably in-**
28 **terfering with the student’s educational performance, or of creating**
29 **an intimidating, hostile or offensive educational environment.**

30 **“(b) ‘Sexual conduct’ does not include touching of the breast or of**

1 the sexual or other intimate parts of a student when:

2 “(A) The touching is necessitated by the nature of the school
3 employee’s job duties or by the services required to be provided by the
4 contractor, agent or volunteer; and

5 “(B) There is no sexual intent.

6 “(11) ‘Student’ means any person:

7 “(a) Who is:

8 “(A) In any grade from prekindergarten through grade 12; or

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

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

15 “(12) ‘Substantiated report’ means a report of abuse or sexual con-
16 duct that an education provider, a law enforcement agency or the
17 Department of Human Services has reasonable cause to believe is
18 founded based on the available evidence after conducting an investi-
19 gation.

20 “(13) ‘Volunteer’ means a person acting as a volunteer for an edu-
21 cation provider in a manner that requires the person to have direct,
22 unsupervised contact with students.

23 **“SECTION 2. The amendments to ORS 339.370 by section 1 of this**
24 **2019 Act apply to conduct that occurs before, on or after January 1,**
25 **2020, for purposes of:**

26 “(1) Making reports of suspected abuse or sexual conduct;

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

29 “(3) A collective bargaining agreement, an employment contract,
30 an agreement for resignation or termination, a severance agreement

1 **or any similar contract or agreement entered into on or after January**
2 **1, 2020.**

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

4 “339.372. Each school board shall adopt policies on the reporting of **sus-**
5 **pected** abuse and sexual conduct by school employees, **contractors, agents**
6 **and volunteers** and the reporting of **suspected** abuse by students. The pol-
7 icies shall:

8 “(1) Specify that abuse and sexual conduct by school employees, **con-**
9 **tractors, agents and volunteers** and abuse by students are not tolerated;

10 “(2) Specify that all school employees, **contractors, agents, volunteers**
11 and students are subject to the policies;

12 “(3) Require all school employees who have reasonable cause to believe
13 that another school employee **or a contractor, an agent or a volunteer**
14 has engaged in abuse or sexual conduct or that a student has engaged in
15 abuse to **report:**

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

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

22 **“(b) To a law enforcement agency, the Department of Human Ser-**
23 **vices or a designee of the department as required by ORS 419B.010 and**
24 **419B.015 all reports of suspected abuse, regardless of whether a report**
25 **was made as required under paragraph (a) of this subsection;**

26 “(4) Designate a [*person*] **licensed administrator**, and an alternate li-
27 **censed administrator** in the event the designated [*person*] **licensed ad-**
28 **ministrator** is the suspected abuser, to receive reports of suspected abuse
29 or sexual conduct by school employees, **contractors, agents or volunteers**
30 or suspected abuse by students and specify the procedures to be followed by

1 [that person] **the licensed administrator** upon receipt of a report;

2 “(5) **Specify the procedures to be followed during an investigation**
3 **by an education provider, including notification that:**

4 “(a) **All reports of suspected abuse or sexual conduct by school**
5 **employees, contractors, agents or volunteers will be investigated; and**

6 “(b) **Investigations will be completed regardless of any changes in**
7 **the relationship or duties of the person about whom the report was**
8 **made;**

9 “[5] (6) **Require the posting in each school building of the name and**
10 **contact information for the [person] licensed administrator** designated for
11 the school building to receive reports of suspected abuse or sexual conduct
12 by school employees, **contractors, agents and volunteers** or suspected
13 abuse by students and the procedures the [person] **licensed administrator**
14 will follow upon receipt of a report;

15 “[6] (7) **Specify that the initiation of a report in good faith about sus-**
16 **pected abuse or sexual conduct may not adversely affect any terms or con-**
17 **ditions of employment or the work environment of the [complainant] person**
18 **who initiated the report or who may have been subjected to abuse or**
19 **sexual conduct;**

20 “[7] (8) **Specify that the [school board] education provider** or any
21 school employee, **contractor, agent or volunteer** will not discipline a stu-
22 dent for the initiation of a report in good faith about suspected abuse or
23 sexual conduct by a school employee, **a contractor, an agent or a volun-**
24 **teer** or suspected abuse by a student;

25 “[8] (9) **Require notification by the education provider to the person who**
26 **[initiated the report] was subjected to the abuse or sexual conduct** about
27 **any** actions taken by the education provider based on the report; [and]

28 “[9] (10) **Require the education provider to furnish to a school employee**
29 **at the time of hire, or to a contractor, an agent or a volunteer at the**
30 **time of beginning service for the education provider,** the following:

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

3 “(b) A description of the [*information and records that will be disclosed*
4 *as provided by ORS 339.378 or 339.388 (8)*] **investigatory process and pos-**
5 **sible consequences** if a report of suspected abuse or sexual conduct is
6 substantiated[.]; **and**

7 “(c) **A description of the prohibitions imposed on school employees,**
8 **contractors, agents and volunteers when another school employee,**
9 **contractor or agent attempts to obtain a new job, as provided by ORS**
10 **339.378 (2); and**

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

14 “**SECTION 4.** ORS 339.374 is amended to read:

15 “339.374. Except as provided in ORS 339.384, before an education provider
16 may hire an applicant for a position with the education provider **as a school**
17 **employee**, the education provider shall:

18 “(1) Require the applicant to provide:

19 “(a) A list of the applicant’s current and former employers who are edu-
20 cation providers.

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

25 “(c) A written statement of whether the applicant:

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

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

30 “(2) Conduct a review of the employment history of the applicant **with**

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

4 “[*(a)*] the following information **from each education provider**:

5 “[*(A)*] **(a)** The dates of employment of the applicant by the education
6 provider;

7 “[*(B)*] **(b)** Whether the applicant was the subject of any substantiated re-
8 ports, **or is the subject of any ongoing investigations**, of abuse or sexual
9 conduct related to the applicant’s employment with the education provider;

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

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

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

16 “[*(b)* Any disciplinary records required to be released as provided by ORS
17 339.388 (8).]

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

21 “(a) That the applicant is licensed, registered or certified by the commis-
22 sion; and

23 “(b) Whether the commission has [*provided any information*] **an ongoing**
24 **investigation or has substantiated a report** relating to conduct by the
25 applicant that may constitute abuse or sexual conduct.

26 “(4) Conduct a nationwide criminal records check if required by ORS
27 326.603.

28 “**SECTION 5.** ORS 339.378 is amended to read:

29 “339.378. (1)**(a)** Not later than 20 days after receiving a request under
30 ORS 339.374, an education provider that has or has had an employment re-

1 relationship with *[the applicant]* **an applicant to be a school employee** shall
2 disclose the information requested *[and any disciplinary records that must*
3 *be disclosed as provided by ORS 339.388 (8)]*.

4 “[2] **(b)** An education provider may disclose the information on a
5 standardized form and is not required to provide any additional information
6 related to a substantiated report of abuse or sexual conduct other than the
7 information that is required by ORS 339.374 (2).

8 “[3] **(c)** Information received under this section is confidential and is
9 not a public record as defined in ORS 192.311. An education provider may
10 use the information only for the purpose of evaluating an applicant’s eligi-
11 bility to be hired.

12 **“(2)(a) Except as provided by paragraphs (b) and (c) of this sub-**
13 **section, an individual who is a school employee, a contractor or an**
14 **agent may not assist another school employee, contractor or agent in**
15 **obtaining any new job if the individual knows, or has reasonable cause**
16 **to believe, that the school employee, contractor or agent engaged in**
17 **abuse or sexual conduct.**

18 **“(b) Nothing in paragraph (a) of this subsection prevents an edu-**
19 **cation provider from:**

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

22 **“(B) Providing the routine transmission of administrative and per-**
23 **sonnel files.**

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

27 **“(A) That the suspected abuse or sexual conduct was reported to a**
28 **law enforcement agency or the Department of Human Services; and**

29 **“(B) Any of the following are true:**

30 **“(i) The report could be neither substantiated nor found to be un-**

1 **substantiated following an investigation;**

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

3 **“(iii) The report was found to be substantiated; or**

4 **“(iv) The investigation into the report remains ongoing after four**
5 **years.**

6 **“(3)(a) Failure to disclose information as provided by subsection**
7 **(1)(a) of this section may be considered gross neglect of duty under**
8 **ORS 342.175.**

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

11 **“SECTION 6. ORS 339.384 is amended to read:**

12 **“339.384. (1) An education provider may not hire an applicant who does**
13 **not comply with the requirements of ORS 339.374 (1). A refusal **by the ed-****
14 **ucation provider to hire an applicant under this subsection removes the**
15 **applicant from any education provider policies, any collective bargaining**
16 **provisions regarding dismissal procedures and appeals and any provisions of**
17 **ORS 342.805 to 342.937.**

18 **“(2) An education provider may hire an applicant on a conditional basis**
19 **pending the education provider’s review of information [*and records*] received**
20 **under ORS **339.374 (3) or** 339.378.**

21 **“(3) An education provider may not deny an applicant employment solely**
22 **because:**

23 **“(a) [*A current or former employer of an applicant*] **An education pro-****
24 **vider identified by the applicant under ORS 339.374 (1)(a) fails or refuses**
25 **to comply with the requirements of ORS 339.378; or**

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

30 **“SECTION 7. ORS 339.388 is amended to read:**

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

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

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

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

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

19 **“(A) A student with whom the school employee comes in contact
20 has been subjected to abuse by another school employee or by a con-
21 tractor, an agent, a volunteer or a student;**

22 **“(B) A student with whom the school employee comes in contact
23 has been subjected to sexual conduct by another school employee or
24 by a contractor, an agent or a volunteer; or**

25 **“(C) Another school employee or a contractor, an agent or a vol-
26 unteer with whom the school employee comes in contact has engaged
27 in sexual conduct.**

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

30 **“(A) The licensed administrator designated in the policies adopted**

1 **under ORS 339.372; and**

2 **“(B) For a report of suspected abuse, a law enforcement agency, the**
3 **Department of Human Services or a designee of the department as**
4 **required by ORS 419B.010 and 419B.015.**

5 **“(2) [A person] The licensed administrator** who receives a report under
6 subsection (1) of this section shall follow the procedures required by the
7 *[policy]* **policies** adopted by the school board under ORS 339.372.

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

13 **“(A) In the case of suspected abuse,** shall place the school employee on
14 paid administrative leave.[:; or]

15 **“(B) In the case of suspected sexual conduct, may place the school employee**
16 **on paid administrative leave or in a position that does not involve direct, un-**
17 **supervised contact with children.]**

18 **“(b) A school employee who is placed on paid administrative leave under**
19 **paragraph [(a)(A)] (a) of this subsection shall remain on administrative leave**
20 **until:**

21 **“(A) The Department of Human Services or a law enforcement agency de-**
22 **termines that the report cannot be substantiated or that the report will not be**
23 **pursued; or]**

24 **“(B) The Department of Human Services or a law enforcement agency de-**
25 **termines that the report is substantiated and the education provider takes the**
26 **appropriate disciplinary action against the school employee.]**

27 **“(A) For a report of suspected abuse, the Department of Human**
28 **Services or a law enforcement agency determines that the report:**

29 **“(i) Cannot be substantiated or is not a report of abuse; or**

30 **“(ii) Is substantiated and the education provider takes the appro-**

1 **priate disciplinary action against the school employee.**

2 **“(B) For a report of suspected sexual conduct, the education pro-**
3 **vider determines that the report:**

4 **“(i) Cannot be substantiated or is not a report of sexual conduct;**
5 **or**

6 **“(ii) Is substantiated and the education provider takes the appro-**
7 **priate disciplinary action against the school employee.**

8 **“[(4)] (c) An education provider may reinstate a school employee placed**
9 **on paid administrative leave [for suspected abuse as provided under sub-**
10 **section (3) of this section] under paragraph (a) of this subsection or may**
11 **take the appropriate disciplinary action against the school employee if:**

12 **“(A) For a report of suspected abuse, the Department of Human Ser-**
13 **VICES or a law enforcement agency is unable to determine[, based on a report**
14 **of suspected abuse,] whether abuse occurred.**

15 **“(B) For a report of suspected sexual conduct, the education pro-**
16 **vider is unable to determine whether sexual conduct occurred.**

17 **“(d) When a school employee is placed on paid administrative leave**
18 **under paragraph (a) of this subsection, the education provider may not**
19 **require the school employee to use any accrued leave during the paid**
20 **administrative leave.**

21 **“(4)(a) Except as provided in paragraph (c) of this subsection, when**
22 **an education provider receives a report of suspected abuse or sexual**
23 **conduct by a contractor, an agent or a volunteer, the education pro-**
24 **vider:**

25 **“(A) May immediately prohibit the contractor, agent or volunteer**
26 **from providing services to the education provider.**

27 **“(B) Shall prohibit the contractor, agent or volunteer from provid-**
28 **ing services to the education provider if the education provider deter-**
29 **mines that there is reasonable cause to support a report of abuse or**
30 **sexual conduct.**

1 **“(b) Except as provided by paragraph (c) of this subsection, an ed-**
2 **ucation provider is not required to reinstate a contractor, an agent**
3 **or a volunteer. Any reinstatement of a contractor, an agent or a vol-**
4 **unteer that does occur may not occur until:**

5 **“(A) For a report of suspected abuse, the Department of Human**
6 **Services or a law enforcement agency determines that the report:**

7 **“(i) Cannot be substantiated or is not a report of abuse; or**

8 **“(ii) Is substantiated and the education provider takes the appro-**
9 **priate actions to protect students.**

10 **“(B) For a report of suspected sexual conduct, the education pro-**
11 **vider determines that the report:**

12 **“(i) Cannot be substantiated or is not a report of sexual conduct;**
13 **or**

14 **“(ii) Is substantiated and the education provider takes the appro-**
15 **priate actions to protect students.**

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

23 **“(d) Nothing in this subsection:**

24 **“(A) Establishes an employment relationship between an education**
25 **provider and a contractor or an agent; or**

26 **“(B) Confers onto a contractor or an agent any rights of employ-**
27 **ment.**

28 **“(5)(a) An education provider shall conduct an investigation under**
29 **this section, regardless of:**

30 **“(A) Any investigations conducted by the Department of Human**

1 **Services or a law enforcement agency; or**

2 **“(B) Any changes in the relationship or duties of the person about**
3 **whom a report is filed.**

4 **“(b) An education provider shall suspend an investigation under**
5 **this section at the request of the Department of Human Services or a**
6 **law enforcement agency.**

7 **“(c)(A) A final determination related to an investigation conducted**
8 **by an education provider under this section must be made within 60**
9 **calendar days following the date on which the licensed administrator**
10 **designated under ORS 339.372 received the report of suspected abuse**
11 **or sexual conduct.**

12 **“(B) Notwithstanding subparagraph (A) of this subsection, the pre-**
13 **scribed timeline for a final determination may be extended if, for good**
14 **cause, a longer period of time is necessary. Good cause under this**
15 **subparagraph includes a request from the Department of Human Ser-**
16 **vices or a law enforcement agency to suspend the education provider’s**
17 **investigation.**

18 **“[(5)] (6) If, following an investigation by an education provider, [an]**
19 **the education provider determines that a report of suspected abuse or sexual**
20 **conduct by a school employee is a substantiated report, the education pro-**
21 **vider shall:**

22 **“(a) Inform the school employee that the education provider has deter-**
23 **mined that the report has been substantiated.**

24 **“(b) Provide the school employee with information about the appropriate**
25 **appeal process for the determination made by the education provider. The**
26 **appeal process may be the process provided by a collective bargaining**
27 **agreement or a process administered by a neutral third party and paid for**
28 **by the [school district] education provider.**

29 **“(c) Following notice of a school employee’s decision not to appeal the**
30 **determination of an education provider or following the determination of**

1 an appeal that sustained the substantiated report, create a record of the
2 substantiated report and place the record in [*the personnel file of the school*
3 *employee*] **any documents maintained by the education provider on the**
4 **school employee**. Records created pursuant to this paragraph are confiden-
5 tial and are not public records as defined in ORS 192.311. An education
6 provider may use the record as a basis for providing the information required
7 to be disclosed **about a school employee** under ORS 339.378 (1).

8 “(d) Inform the school employee that information about substantiated re-
9 ports may be disclosed to a potential employer as provided by [*subsection (8)*
10 *of this section and*] ORS 339.378 (1).

11 “[~~(6)(a)~~] **(7)(a)** Notwithstanding the requirements of subsections (3), (4)
12 and [~~(5)~~] **(6)** of this section, an education provider that is a private school:

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

15 “(i) The provisions of subsections (3) and (4) of this section; or

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

20 “(B) May follow the procedures described in subsection [~~(5)~~] **(6)** of this
21 section or may follow any appeals process established by the private school
22 related to suspected [*child*] abuse or sexual conduct.

23 “(b) A private school that chooses to [*discipline or terminate*] **take action**
24 **in relation to** a school employee, **a contractor, an agent or a volunteer**
25 according to the standards and policies of the **private** school must provide
26 the information required to be disclosed under ORS 339.378.

27 “[~~(7)~~] **(8)(a)** Upon request from a law enforcement agency, the Department
28 of Human Services or the Teacher Standards and Practices Commission, [*a*
29 *school district*] **an education provider** shall provide the records of investi-
30 gations of suspected abuse **or sexual conduct** by a school employee, **a**

1 **contractor, an agent or a volunteer or a former school employee, con-**
2 **tractor, agent or volunteer.**

3 **“(b) Notwithstanding paragraph (a) of this subsection, an education**
4 **provider may not provide any information disclosed by the person**
5 **against whom a report was made if:**

6 **“(A) The information may be used to convict the person of a crime**
7 **or subject the person to penalty or forfeiture; and**

8 **“(B) The person has not authorized the provision of the informa-**
9 **tion.**

10 *“(8)(a) The disciplinary records of a school employee or former school em-*
11 *ployee convicted of a crime listed in ORS 342.143 are not exempt from disclo-*
12 *sure under ORS 192.345 or 192.355.]*

13 *“(b) If a school employee is convicted of a crime listed in ORS 342.143, the*
14 *education provider that is the employer of the employee shall disclose the dis-*
15 *ciplinary records of the employee to any person upon request.]*

16 *“(c) If a former school employee is convicted of a crime listed in ORS*
17 *342.143, the education provider that was the employer of the former employee*
18 *when the crime was committed shall disclose the disciplinary records of the*
19 *former employee to any person upon request.]*

20 *“(9) Prior to disclosure of a disciplinary record under subsection (8) of this*
21 *section, an education provider shall remove any personally identifiable infor-*
22 *mation from the record that would disclose the identity of a child, a crime*
23 *victim or a school employee or former school employee who is not the subject*
24 *of the disciplinary record.]*

25 **“SECTION 8. ORS 339.392 is amended to read:**

26 **“339.392. (1) An education provider may not enter into a collective bar-**
27 **gaining agreement, an employment contract, an agreement for resignation**
28 **or termination, a severance agreement or any [other] similar contract or**
29 **agreement that:**

30 **“(a) Has the effect of impairing or terminating an ongoing investi-**

1 **gation, or** suppressing information relating to an ongoing investigation, re-
2 lated to a report of suspected abuse or sexual conduct [*or*];

3 “(b) **Has the effect of suppressing information** relating to a substan-
4 tiated report of abuse or sexual conduct by a current or former **school** em-
5 ployee, **contractor, agent or volunteer**;

6 “[*b*] (c) Affects the duties of the education provider to report suspected
7 abuse or sexual conduct or to discipline a current or former **school**
8 employee, **contractor, agent or volunteer** for a substantiated report of
9 abuse or sexual conduct;

10 “[*c*] (d) Impairs the ability of the education provider to discipline [*an*
11 *employee*] **a school employee, a contractor, an agent or a volunteer** for
12 a substantiated report of abuse or sexual conduct; or

13 “[*d*] (e) Requires the education provider to expunge substantiated in-
14 formation about abuse or sexual conduct from any documents maintained by
15 an education provider.

16 “(2) Any provision of an employment contract or agreement that is con-
17 trary to this section is void and unenforceable.

18 “(3) Nothing in this section prevents an education provider from entering
19 into a collective bargaining agreement that includes:

20 “(a) Standards for investigation of a report of **suspected** abuse or sexual
21 conduct; or

22 “(b) An appeal process from the determination by an education provider
23 that a report of abuse or sexual conduct has been substantiated as provided
24 in ORS 339.388 [*5*] (6).

25 “**SECTION 9. The amendments to ORS 339.392 by section 8 of this**
26 **2019 Act apply to agreements and contracts entered into on or after**
27 **January 1, 2020.**

28 “**SECTION 10.** ORS 339.400 is amended to read:

29 “339.400. (1) An education provider shall provide to school employees
30 [*training*] each school year **training** on:

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

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

6 “(c) **Appropriate electronic communications with students as pro-**
7 **vided by ORS 339.372 (11).**

8 “(2) **An education provider shall provide to contractors, agents and**
9 **volunteers each school year information on:**

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

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

13 “(c) **Appropriate electronic communications with students as de-**
14 **scribed in ORS 339.372 (11).**

15 “[(2)] (3) An education provider shall make the training provided under
16 subsection (1) of this section available each school year **to contractors,**
17 **agents and volunteers and** to parents and legal guardians of [*children*]
18 **students** who attend a school operated by the education provider. The
19 training shall be provided separately from the training provided to school
20 employees under subsection (1) of this section.

21 “[(3)] (4) An education provider shall make [*training that is designed to*
22 *prevent abuse and sexual conduct*] available each school year to [*children*]
23 **students** who attend a school operated by the education provider **a training**
24 **that is designed to prevent abuse and sexual conduct.**

25 “**SECTION 11. The amendments to ORS 339.370, 339.372, 339.374,**
26 **339.378, 339.384, 339.388, 339.392 and 339.400 by sections 1, 3 to 8 and 10**
27 **of this 2019 Act become operative on January 1, 2020.**

28 “**SECTION 12.** ORS 338.115 is amended to read:

29 “338.115. (1) Statutes and rules that apply only to school district boards,
30 school districts or other public schools do not apply to public charter

1 schools. However, the following laws do apply to public charter schools:

2 “(a) Federal law;

3 “(b) ORS 30.260 to 30.300 (tort claims);

4 “(c) ORS 192.311 to 192.478 (public records law);

5 “(d) ORS 192.610 to 192.690 (public meetings law);

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

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

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

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

10 “(i) ORS 329.045 (academic content standards and instruction);

11 “(j) ORS 329.451 (high school diploma, modified diploma, extended diploma

12 and alternative certificate);

13 “(k) ORS 329.496 (physical education);

14 “(L) The statewide assessment system developed by the Department of

15 Education for mathematics, science and English under ORS 329.485 (2);

16 “(m) ORS 336.840 (use of personal electronic devices);

17 “(n) ORS 337.150 (textbooks);

18 “(o) ORS 339.119 (consideration for educational services);

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

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

21 “(r) ORS 339.326 (notice concerning students subject to juvenile court

22 petitions);

23 “(s) ORS 339.370[, 339.372, 339.388 and] **to** 339.400 (reporting of **suspected**

24 abuse and sexual conduct and training on prevention and identification of

25 abuse and sexual conduct);

26 “(t) ORS 342.856 (core teaching standards);

27 “(u) ORS chapter 657 (Employment Department Law);

28 “(v) ORS 659.850, 659.855 and 659.860 (discrimination);

29 “(w) Any statute or rule that establishes requirements for instructional

30 time provided by a school during each day or during a year;

1 “(x) Statutes and rules that expressly apply to public charter schools;
2 “(y) Statutes and rules that apply to a special government body, as de-
3 fined in ORS 174.117, or a public body, as defined in ORS 174.109;
4 “(z) Health and safety statutes and rules;
5 “(aa) Any statute or rule that is listed in the charter; and
6 “(bb) This chapter.

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

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

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

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

18 “(b) For a public charter school that provides educational services under
19 a cooperative agreement described in ORS 338.080, the public charter school
20 is in compliance with the requirements of this subsection if the public
21 charter school provides educational services under the cooperative agreement
22 to at least 25 students, without regard to the school districts in which the
23 students are residents.

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

25 “(7) The sponsor, members of the governing board of the sponsor acting
26 in their official capacities and employees of a sponsor acting in their official
27 capacities are immune from civil liability with respect to all activities re-
28 lated to a public charter school within the scope of their duties or employ-
29 ment.

30 “(8) A public charter school may enter into contracts and may lease fa-

1 cilities and services from a school district, education service district, public
2 university listed in ORS 352.002, other governmental unit or any person or
3 legal entity.

4 “(9) A public charter school may not levy taxes or issue bonds under
5 which the public incurs liability.

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

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

14 “(12) A high school diploma, a modified diploma, an extended diploma or
15 an alternative certificate issued by a public charter school grants to the
16 holder the same rights and privileges as a high school diploma, a modified
17 diploma, an extended diploma or an alternative certificate issued by a non-
18 chartered public school.

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

21 “(14) A public charter school may receive services from an education
22 service district in the same manner as a nonchartered public school in the
23 school district in which the public charter school is located.

24 **“SECTION 13.** ORS 419B.015 is amended to read:

25 “419B.015. (1)(a) A person making a report of child abuse, whether the
26 report is made voluntarily or is required by ORS 419B.010, shall make an
27 oral report by telephone or otherwise to the local office of the Department
28 of Human Services, to the designee of the department or to a law enforce-
29 ment agency within the county where the person making the report is lo-
30 cated at the time of the contact. The report shall contain, if known, the

1 names and addresses of the child and the parents of the child or other per-
2 sons responsible for care of the child, the child's age, the nature and extent
3 of the abuse, including any evidence of previous abuse, the explanation given
4 for the abuse and any other information that the person making the report
5 believes might be helpful in establishing the cause of the abuse and the
6 identity of the perpetrator.

7 “(b) When a report of child abuse is received by the department, the de-
8 partment shall notify a law enforcement agency within the county where the
9 report was made. When a report of child abuse is received by a designee of
10 the department, the designee shall notify, according to the contract, either
11 the department or a law enforcement agency within the county where the
12 report was made. When a report of child abuse is received by a law
13 enforcement agency, the agency shall notify the local office of the depart-
14 ment within the county where the report was made.

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

21 **“(d) When a report of child abuse or sexual conduct is received by**
22 **the department or by a law enforcement agency, the department or**
23 **law enforcement agency shall notify the Teacher Standards and Prac-**
24 **tices Commission if the report involves the conduct of a licensed or**
25 **registered school employee toward a student as defined in ORS 339.370.**

26 “(2) When a report of child abuse is received under subsection (1)(a) of
27 this section, the entity receiving the report shall make the notification re-
28 quired by subsection (1)(b) of this section according to rules adopted by the
29 department under ORS 419B.017.

30 “(3)(a) When a report alleging that a child or ward in substitute care may

1 have been subjected to abuse is received by the department, the department
2 shall notify the attorney for the child or ward, the child's or ward's court
3 appointed special advocate, the parents of the child or ward and any attorney
4 representing a parent of the child or ward that a report has been received.

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

9 “(c) The department shall make the notification required by this sub-
10 section within three business days of receiving the report of abuse.

11 “(d) Notwithstanding the obligation imposed by this subsection, the de-
12 partment is not required under this subsection to notify the parent or
13 parent's attorney that a report of abuse has been received if the notification
14 may interfere with an investigation or assessment or jeopardize the child's
15 or ward's safety.

16 **“SECTION 14.** ORS 419B.035 is amended to read:

17 “419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170,
18 192.210 to 192.478 and 192.610 to 192.810 relating to confidentiality and ac-
19 cessibility for public inspection of public records and public documents, re-
20 ports and records compiled under the provisions of ORS 419B.010 to 419B.050
21 are confidential and may not be disclosed except as provided in this section.

22 The Department of Human Services shall make the records available to:

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

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

1 physician assistant, naturopathic physician or nurse practitioner for exam-
2 ination, care or treatment;

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

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

10 “(e) A court appointed special advocate in any juvenile court proceeding
11 in which it is alleged that a child has been subjected to child abuse or neg-
12 lect;

13 “(f) The Office of Child Care for certifying, registering or otherwise reg-
14 ulating child care facilities;

15 “(g) The Office of Children’s Advocate;

16 “(h) The Teacher Standards and Practices Commission for investigations
17 conducted under ORS 342.176 involving any child or any student [*in grade*
18 *12 or below*] **as defined in ORS 339.370**;

19 “(i) Any person, upon request to the Department of Human Services, if
20 the reports or records requested regard an incident in which a child, as the
21 result of abuse, died or suffered serious physical injury as defined in ORS
22 161.015. Reports or records disclosed under this paragraph must be disclosed
23 in accordance with ORS 192.311 to 192.478;

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

26 “(k) With respect to a report of abuse occurring at a school or in an ed-
27 ucational setting that involves a child with a disability, Disability Rights
28 Oregon.

29 “(2)(a) When disclosing reports and records pursuant to subsection (1)(i)
30 of this section, the Department of Human Services may exempt from disclo-

1 sure the names, addresses and other identifying information about other
2 children, witnesses, victims or other persons named in the report or record
3 if the department determines, in written findings, that the safety or well-
4 being of a person named in the report or record may be jeopardized by dis-
5 closure of the names, addresses or other identifying information, and if that
6 concern outweighs the public's interest in the disclosure of that information.

7 “(b) If the Department of Human Services does not have a report or re-
8 cord of abuse regarding a child who, as the result of abuse, died or suffered
9 serious physical injury as defined in ORS 161.015, the department may dis-
10 close that information.

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

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

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

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

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

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

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

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

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

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

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

21 **“SECTION 15. (1) The amendments to ORS 419B.015 and 419B.035 by
22 sections 13 and 14 of this 2019 Act become operative on January 1, 2020.**

23 **“(2) The amendments to ORS 419B.015 and 419B.035 by sections 13
24 and 14 of this 2019 Act apply to reports received on or after January
25 1, 2020.**

26 **“SECTION 16. This 2019 Act being necessary for the immediate
27 preservation of the public peace, health and safety, an emergency is
28 declared to exist, and this 2019 Act takes effect July 1, 2019.”.**

29