

Requested by Senator GELSER

**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) Sexual advances or requests for sexual favors directed toward**
20 **the student; or**

21 **“(B) Conduct or communications of a sexual nature that are di-**
22 **rected toward the student or that have the effect of unreasonably in-**
23 **terfering with the student’s educational performance, or of creating**
24 **an intimidating, hostile or offensive educational environment.**

25 **“(b) ‘Sexual conduct’ does not include touching of the breast or of**
26 **the sexual or other intimate parts of a student when:**

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

30 **“(B) There is no sexual intent.**

1 “(11) ‘Student’ means any person:

2 “(a) Who is:

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

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

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

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

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

18 “SECTION 2. The amendments to ORS 339.370 by section 1 of this
19 2019 Act apply to conduct that occurs before, on or after January 1,
20 2020, for purposes of:

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

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

24 “(3) A collective bargaining agreement, an employment contract,
25 an agreement for resignation or termination, a severance agreement
26 or any similar contract or agreement entered into on or after January
27 1, 2020.

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

29 “339.372. Each school board shall adopt policies on the reporting of sus-
30 pected abuse and sexual conduct by school employees, **contractors, agents**

1 **and volunteers** and the reporting of **suspected** abuse by students. The pol-
2 icies shall:

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

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

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

11 “[*a*] *Report suspected abuse to a law enforcement agency, the Department*
12 *of Human Services or a designee of the department as required by ORS*
13 *419B.010 and 419B.015; and]*

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

17 **(b) To a law enforcement agency, the Department of Human Ser-**
18 **vices or a designee of the department as required by ORS 419B.010 and**
19 **419B.015 all reports of suspected abuse, regardless of whether a report**
20 **was made as required under paragraph (a) of this subsection;**

21 “(4) Designate a [*person*] **licensed administrator**, and an alternate **li-**
22 **censed administrator** in the event the designated [*person*] **licensed ad-**
23 **ministrator** is the suspected abuser, to receive reports of suspected abuse
24 or sexual conduct by school employees, **contractors, agents or volunteers**
25 or suspected abuse by students and specify the procedures to be followed by
26 [*that person*] **the licensed administrator** upon receipt of a report;

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

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

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

4 “[(5)] **(6)** Require the posting in each school building of the name and
5 contact information for the *[person]* **licensed administrator** designated for
6 the school building to receive reports of suspected abuse or sexual conduct
7 by school employees, **contractors, agents and volunteers** or suspected
8 abuse by students and the procedures the *[person]* **licensed administrator**
9 will follow upon receipt of a report;

10 “[(6)] **(7)** Specify that the initiation of a report in good faith about sus-
11 pected abuse or sexual conduct may not adversely affect any terms or con-
12 ditions of employment or the work environment of the *[complainant]* **person**
13 **who initiated the report or who may have been subjected to abuse or**
14 **sexual conduct;**

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

20 “[(8)] **(9)** Require notification by the education provider to the person who
21 *[initiated the report]* **was subjected to the abuse or sexual conduct** about
22 **any** actions taken by the education provider based on the report; *[and]*

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

26 “(a) A description of conduct that may constitute abuse or sexual conduct;
27 *[and]*

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

1 substantiated[.]; **and**

2 **“(c) A description of the prohibitions imposed on school employees,**
3 **contractors, agents and volunteers when another school employee,**
4 **contractor or agent attempts to obtain a new job, as provided by ORS**
5 **339.378 (2); and**

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

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

10 “339.374. Except as provided in ORS 339.384, before an education provider
11 may hire an applicant for a position with the education provider **as a school**
12 **employee**, the education provider shall:

13 “(1) Require the applicant to provide:

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

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

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

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

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

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

29 “[*a*] the following information **from each education provider:**

30 “[*A*] (a) The dates of employment of the applicant by the education

1 provider;

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

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

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

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

11 “[*b*] *Any disciplinary records required to be released as provided by ORS*
12 *339.388 (8).*]

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

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

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

21 “(4) Conduct a nationwide criminal records check if required by ORS
22 326.603.

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

24 “339.378. (1)(a) Not later than 20 days after receiving a request under
25 ORS 339.374, an education provider that has or has had an employment re-
26 lationship with [*the applicant*] **an applicant to be a school employee** shall
27 disclose the information requested [*and any disciplinary records that must*
28 *be disclosed as provided by ORS 339.388 (8)*].

29 “[*2*] (b) An education provider may disclose the information on a
30 standardized form and is not required to provide any additional information

1 related to a substantiated report of abuse or sexual conduct other than the
2 information that is required by ORS 339.374 (2).

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

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

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

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

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

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

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

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

25 **“(i) The report could be neither substantiated nor found to be un-**
26 **substantiated following an investigation;**

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

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

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

1 “(3) Failure to disclose information as provided by subsection (1)(a)
2 of this section, or any violation of the provisions of subsection (2) of
3 this section, shall be considered gross neglect of duty under ORS
4 342.175.

5 “SECTION 6. ORS 339.384 is amended to read:

6 “339.384. (1) An education provider may not hire an applicant who does
7 not comply with the requirements of ORS 339.374 (1). A refusal **by the ed-**
8 **ucation provider** to hire an applicant under this subsection removes the
9 applicant from any education provider policies, any collective bargaining
10 provisions regarding dismissal procedures and appeals and any provisions of
11 ORS 342.805 to 342.937.

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

15 “(3) An education provider may not deny an applicant employment solely
16 because:

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

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

24 “SECTION 7. ORS 339.388 is amended to read:

25 “339.388. [*(1)(a) A school employee having reasonable cause to believe that*
26 *a child with whom the employee comes in contact has suffered abuse by an-*
27 *other school employee or by a student, or that another school employee or a*
28 *student with whom the employee comes in contact has abused a child, shall*
29 *immediately report the information to:*]

30 “[(A) *The person designated in the policy adopted under ORS 339.372;*

1 *and]*

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

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

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

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

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

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

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

24 **“(A) The licensed administrator designated in the policies adopted**
25 **under ORS 339.372; and**

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

29 **“(2) [A person] The licensed administrator** who receives a report under
30 subsection (1) of this section shall follow the procedures required by the

1 [policy] **policies** adopted by the school board under ORS 339.372.

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

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

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

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

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

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

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

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

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

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

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

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

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

2 “[4] (c) An education provider may reinstate a school employee placed
3 on paid administrative leave [*for suspected abuse as provided under sub-*
4 *section (3) of this section*] **under paragraph (a) of this subsection** or may
5 take the appropriate disciplinary action against the **school** employee if:

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

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

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

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

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

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

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

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

1 “(i) Cannot be substantiated or is not a report of abuse; or
2 “(ii) Is substantiated and the education provider takes the appro-
3 priate actions to protect students.

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

6 “(i) Cannot be substantiated or is not a report of sexual conduct;
7 or

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

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

17 “(d) Nothing in this subsection:

18 “(A) Establishes an employment relationship between an education
19 provider and a contractor or an agent; or

20 “(B) Confers onto a contractor or an agent any rights of employ-
21 ment.

22 “(5) An education provider shall conduct an investigation under this
23 section, regardless of:

24 “(a) Any investigations conducted by the Department of Human
25 Services or a law enforcement agency; and

26 “(b) Any changes in the relationship or duties of the person about
27 whom a report is filed.

28 “[(5)] (6) If, following an investigation by an education provider, [an]
29 the education provider determines that a report of suspected abuse or sexual
30 conduct by a school employee is a substantiated report, the education pro-

1 vider shall:

2 “(a) Inform the school employee that the education provider has deter-
3 mined that the report has been substantiated.

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

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

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

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

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

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

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

30 “(B) May follow the procedures described in subsection [~~(5)~~] **(6)** of this

1 section or may follow any appeals process established by the private school
2 related to suspected [*child*] abuse or sexual conduct.

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

7 “[~~(7)~~] **(8)** Upon request from a law enforcement agency, the Department
8 of Human Services or the Teacher Standards and Practices Commission, [*a*
9 *school district*] **an education provider** shall provide the records of investi-
10 gations of suspected abuse **or sexual conduct** by a school employee, **a**
11 **contractor, an agent or a volunteer** or a former school employee, **con-**
12 **tractor, agent or volunteer.**

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

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

19 “[~~(c)~~] *If a former school employee is convicted of a crime listed in ORS*
20 *342.143, the education provider that was the employer of the former employee*
21 *when the crime was committed shall disclose the disciplinary records of the*
22 *former employee to any person upon request.]*

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

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

29 “339.392. (1) An education provider may not enter into a collective bar-
30 gaining agreement, an employment contract, an agreement for resignation

1 or termination, a severance agreement or any *[other]* **similar** contract or
2 agreement that:

3 “(a) Has the effect of **impairing or terminating an ongoing investi-**
4 **gation, or** suppressing information relating to an ongoing investigation, re-
5 lated to a report of suspected abuse or sexual conduct *[or]*;

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

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

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

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

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

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

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

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

28 “**SECTION 9. The amendments to ORS 339.392 by section 8 of this**
29 **2019 Act apply to agreements and contracts entered into on or after**
30 **January 1, 2020.**

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

2 “339.400. (1) An education provider shall provide to school employees
3 *[training]* each school year **training** on:

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

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

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

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

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

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

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

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

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

28 **“SECTION 11.** The amendments to ORS 339.370, 339.372, 339.374,
29 339.378, 339.384, 339.388, 339.392 and 339.400 by sections 1, 3 to 8 and 10
30 **of this 2019 Act become operative on January 1, 2020.**

1 **“SECTION 12.** ORS 338.115 is amended to read:
2 “338.115. (1) Statutes and rules that apply only to school district boards,
3 school districts or other public schools do not apply to public charter
4 schools. However, the following laws do apply to public charter schools:
5 “(a) Federal law;
6 “(b) ORS 30.260 to 30.300 (tort claims);
7 “(c) ORS 192.311 to 192.478 (public records law);
8 “(d) ORS 192.610 to 192.690 (public meetings law);
9 “(e) ORS chapters 279A, 279B and 279C (Public Contracting Code);
10 “(f) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);
11 “(g) ORS 326.565, 326.575 and 326.580 (student records);
12 “(h) ORS 181A.195, 326.603, 326.607 and 342.223 (criminal records checks);
13 “(i) ORS 329.045 (academic content standards and instruction);
14 “(j) ORS 329.451 (high school diploma, modified diploma, extended diploma
15 and alternative certificate);
16 “(k) ORS 329.496 (physical education);
17 “(L) The statewide assessment system developed by the Department of
18 Education for mathematics, science and English under ORS 329.485 (2);
19 “(m) ORS 336.840 (use of personal electronic devices);
20 “(n) ORS 337.150 (textbooks);
21 “(o) ORS 339.119 (consideration for educational services);
22 “(p) ORS 339.141, 339.147 and 339.155 (tuition and fees);
23 “(q) ORS 339.250 (9) (prohibition on infliction of corporal punishment);
24 “(r) ORS 339.326 (notice concerning students subject to juvenile court
25 petitions);
26 “(s) ORS 339.370[, 339.372, 339.388 and] **to** 339.400 (reporting of **suspected**
27 abuse and sexual conduct and training on prevention and identification of
28 abuse and sexual conduct);
29 “(t) ORS 342.856 (core teaching standards);
30 “(u) ORS chapter 657 (Employment Department Law);

1 “(v) ORS 659.850, 659.855 and 659.860 (discrimination);
2 “(w) Any statute or rule that establishes requirements for instructional
3 time provided by a school during each day or during a year;
4 “(x) Statutes and rules that expressly apply to public charter schools;
5 “(y) Statutes and rules that apply to a special government body, as de-
6 fined in ORS 174.117, or a public body, as defined in ORS 174.109;
7 “(z) Health and safety statutes and rules;
8 “(aa) Any statute or rule that is listed in the charter; and
9 “(bb) This chapter.
10 “(2) Notwithstanding subsection (1) of this section, a charter may specify
11 that statutes and rules that apply only to school district boards, school dis-
12 tricts and other public schools may apply to a public charter school.
13 “(3) If a statute or rule applies to a public charter school, then the terms
14 ‘school district’ and ‘public school’ include public charter school as those
15 terms are used in that statute or rule.
16 “(4) A public charter school may not violate the Establishment Clause of
17 the First Amendment to the United States Constitution or section 5, Article
18 I of the Oregon Constitution, or be religion based.
19 “(5)(a) A public charter school shall maintain an active enrollment of at
20 least 25 students.
21 “(b) For a public charter school that provides educational services under
22 a cooperative agreement described in ORS 338.080, the public charter school
23 is in compliance with the requirements of this subsection if the public
24 charter school provides educational services under the cooperative agreement
25 to at least 25 students, without regard to the school districts in which the
26 students are residents.
27 “(6) A public charter school may sue or be sued as a separate legal entity.
28 “(7) The sponsor, members of the governing board of the sponsor acting
29 in their official capacities and employees of a sponsor acting in their official
30 capacities are immune from civil liability with respect to all activities re-

1 lated to a public charter school within the scope of their duties or employ-
2 ment.

3 “(8) A public charter school may enter into contracts and may lease fa-
4 cilities and services from a school district, education service district, public
5 university listed in ORS 352.002, other governmental unit or any person or
6 legal entity.

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

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

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

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

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

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

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

28 “419B.015. (1)(a) A person making a report of child abuse, whether the
29 report is made voluntarily or is required by ORS 419B.010, shall make an
30 oral report by telephone or otherwise to the local office of the Department

1 of Human Services, to the designee of the department or to a law enforce-
2 ment agency within the county where the person making the report is lo-
3 cated at the time of the contact. The report shall contain, if known, the
4 names and addresses of the child and the parents of the child or other per-
5 sons responsible for care of the child, the child's age, the nature and extent
6 of the abuse, including any evidence of previous abuse, the explanation given
7 for the abuse and any other information that the person making the report
8 believes might be helpful in establishing the cause of the abuse and the
9 identity of the perpetrator.

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

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

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

29 “(2) When a report of child abuse is received under subsection (1)(a) of
30 this section, the entity receiving the report shall make the notification re-

1 quired by subsection (1)(b) of this section according to rules adopted by the
2 department under ORS 419B.017.

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

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

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

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

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

20 “419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170,
21 192.210 to 192.478 and 192.610 to 192.810 relating to confidentiality and ac-
22 cessibility for public inspection of public records and public documents, re-
23 ports and records compiled under the provisions of ORS 419B.010 to 419B.050
24 are confidential and may not be disclosed except as provided in this section.
25 The Department of Human Services shall make the records available to:

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

28 “(b) Any physician, physician assistant licensed under ORS 677.505 to
29 677.525, naturopathic physician licensed under ORS chapter 685 or nurse
30 practitioner licensed under ORS 678.375 to 678.390, at the request of the

1 physician, physician assistant, naturopathic physician or nurse practitioner,
2 regarding any child brought to the physician, physician assistant,
3 naturopathic physician or nurse practitioner or coming before the physician,
4 physician assistant, naturopathic physician or nurse practitioner for exam-
5 ination, care or treatment;

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

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

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

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

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

19 “(h) The Teacher Standards and Practices Commission for investigations
20 conducted under ORS 342.176 involving any child or any student [*in grade*
21 *12 or below*] **as defined in ORS 339.370**;

22 “(i) Any person, upon request to the Department of Human Services, if
23 the reports or records requested regard an incident in which a child, as the
24 result of abuse, died or suffered serious physical injury as defined in ORS
25 161.015. Reports or records disclosed under this paragraph must be disclosed
26 in accordance with ORS 192.311 to 192.478;

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

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

1 Oregon.

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

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

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

27 “(4)(a) A law enforcement agency may make reports and records compiled
28 under the provisions of ORS 419B.010 to 419B.050 available to other law
29 enforcement agencies, district attorneys, city attorneys with criminal
30 prosecutorial functions and the Attorney General when the law enforcement

1 agency determines that disclosure is necessary for the investigation or
2 enforcement of laws relating to child abuse and neglect or necessary to de-
3 termine a claim for crime victim compensation under ORS 147.005 to 147.367.

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

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

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

1 naturopathic physician or nurse practitioner. Any record or report disclosed
2 by the Department of Human Services to other persons or entities pursuant
3 to subsections (1) and (3) of this section shall be kept confidential.

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

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

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

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

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

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

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

26 **“(2) The amendments to ORS 419B.015 and 419B.035 by sections 13**
27 **and 14 of this 2019 Act apply to reports received on or after January**
28 **1, 2020.**

29 **“SECTION 16. This 2019 Act being necessary for the immediate**
30 **preservation of the public peace, health and safety, an emergency is**

1 **declared to exist, and this 2019 Act takes effect July 1, 2019.”.**

2
