

Requested by Senator GELSER

**PROPOSED AMENDMENTS TO  
SENATE BILL 960**

- 1 On page 1 of the printed bill, line 2, after “ORS” insert “338.115,”.  
2 In line 3, delete “419B.015” and insert “342.176”.  
3 Delete lines 5 through 28 and delete pages 2 through 11 and insert:  
4 **“SECTION 1.** ORS 339.370 is amended to read:  
5 “339.370. As used in ORS 339.370 to 339.400:  
6 “(1) ‘Abuse’ has the meaning given that term in ORS 419B.005.  
7 “[2) ‘*Disciplinary records*’ means the records related to a personnel disci-  
8 *pline action or materials or documents supporting that action.*]  
9 “[3) (2) ‘Education provider’ means:  
10 “(a) A school district, as defined in ORS 332.002.  
11 “(b) The Oregon School for the Deaf.  
12 “(c) An educational program under the Youth Corrections Education  
13 Program.  
14 “(d) A public charter school, as defined in ORS 338.005.  
15 “(e) An education service district, as defined in ORS 334.003.  
16 “(f) Any state-operated program that provides educational services to  
17 kindergarten through grade 12 students.  
18 “(g) A private school.  
19 “[4) (3) ‘Investigation’ means a detailed inquiry into the factual  
20 allegations of a report of suspected abuse or sexual conduct that:  
21 “(a) Is based on interviews with the [*complainant*] **person who initiated**

1 **the report, the person who may have been subjected to abuse or sexual**  
2 **conduct**, witnesses and the [*school employee or student*] **person** who is the  
3 subject of the report; and

4 “(b) If the subject of the report is a school employee **and the entity**  
5 **conducting the investigation is an education provider**, meets any nego-  
6 tiated standards of an employment contract or agreement.

7 “[~~(5)~~] (4) ‘Law enforcement agency’ has the meaning given that term in  
8 ORS 419B.005.

9 “[~~(6)~~] (5) ‘Private school’ means a school that provides to kindergarten  
10 through grade 12 students instructional programs that are not limited solely  
11 to dancing, drama, music, religious or athletic instruction.

12 “[~~(7)~~] (6) ‘School board’ means the governing board or governing body of  
13 an education provider.

14 “[~~(8)~~] (7) ‘School employee’ means an employee of an education provider.

15 “[~~(9)(a)~~] (8)(a) ‘Sexual conduct’ means any verbal or physical conduct by  
16 a school employee that:

17 “(A) Is sexual in nature;

18 “(B) Is directed toward a kindergarten through grade 12 student;

19 “(C) Has the effect of unreasonably interfering with a student’s educa-  
20 tional performance; and

21 “(D) Creates an intimidating, hostile or offensive educational environ-  
22 ment.

23 “(b) ‘Sexual conduct’ does not include abuse.

24 “[~~(10)~~] ‘*Substantiated report*’ means a report of abuse or sexual conduct  
25 *that:*]

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

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

1       “(9) ‘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       “(10) ‘Substantiated report’ means a report of abuse or sexual con-  
11 duct that an education provider, a law enforcement agency, the De-  
12 partment of Human Services or the Department of Education has  
13 reasonable cause to believe, based on the available evidence after  
14 conducting an investigation, is founded.

15       “SECTION 2. ORS 339.372 is amended to read:

16       “339.372. Each school board shall adopt policies on the reporting of abuse  
17 and sexual conduct by school employees and the reporting of abuse by stu-  
18 dents. The policies shall:

19       “(1) Specify that abuse and sexual conduct by school employees and abuse  
20 by students are not tolerated;

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

23       “(3) Require all school employees who have reasonable cause to believe  
24 that another school employee has engaged in abuse or sexual conduct or that  
25 a student has engaged in abuse to **report**:

26       “[(a) Report suspected abuse to a law enforcement agency, the Department  
27 of Human Services or a designee of the department as required by ORS  
28 419B.010 and 419B.015; and]

29       “[(b)] (a) [Report suspected abuse or sexual conduct] To the person desig-  
30 nated as provided by subsection (4) of this section[;] **all reports of sus-**

1 **pected abuse or sexual conduct; and**

2 **“(b) To a law enforcement agency, the Department of Human Ser-**  
3 **vices or a designee of the department, as required by ORS 419B.010 and**  
4 **419B.015, all reports of suspected abuse, regardless of whether a report**  
5 **was made as required under paragraph (a) of this subsection.**

6 **“(4) Designate a person, and an alternate in the event the designated**  
7 **person is the suspected abuser, to receive reports of suspected abuse or sex-**  
8 **ual conduct by school employees or suspected abuse by students and specify**  
9 **the procedures to be followed by that person upon receipt of a report, in-**  
10 **cluding making a report of suspected sexual conduct to the Depart-**  
11 **ment of Education;**

12 **“(5) Specify the procedures to be followed during an investigation**  
13 **by an education provider, including notification to school employees**  
14 **that:**

15 **“(a) All reports of suspected abuse or sexual conduct by school**  
16 **employees will be investigated;**

17 **“(b) Investigations will be completed regardless of any changes in**  
18 **the employment relationship or duties of the school employee about**  
19 **whom a report was made;**

20 **“(c) When applicable, investigations will:**

21 **“(A) Be led by the Department of Human Services, a law enforce-**  
22 **ment agency or the Department of Education; and**

23 **“(B) Be based upon protocols and procedures of the department or**  
24 **agency;**

25 **“(d) The education provider will cooperate with any entities in-**  
26 **volved in an investigation under paragraph (c) of this subsection, but**  
27 **may not require a person to disclose any information that may tend**  
28 **to convict the person of a crime or subject the person to penalty or**  
29 **forfeiture;**

30 **“(e) The education provider will immediately begin an investigation**

1 **and any investigations conducted by the education provider will be**  
2 **completed within 60 days;**

3 **“(f) The education provider may take into consideration the**  
4 **findings of any entity involved in an investigation under paragraph (c)**  
5 **of this subsection for the purpose of the education provider’s investi-**  
6 **gation and any disciplinary action taken by the education provider;**  
7 **and**

8 **“(g) The education provider will report in writing the findings of**  
9 **an investigation to the person about whom a report was made;**

10 **“[(5)] (6) Require the posting in each school building of:**

11 **“(a) The name and contact information for the person designated for the**  
12 **school building to receive reports of suspected abuse or sexual conduct by**  
13 **school employees or suspected abuse by students and the procedures the**  
14 **person will follow upon receipt of a report; and**

15 **“(b) The contact information for making a report of suspected**  
16 **abuse to a law enforcement agency, the Department of Human Ser-**  
17 **vices or a designee of the department as required by ORS 419B.010 and**  
18 **419B.015 and a statement that the duty to report abuse is a personal**  
19 **duty regardless of any reports made as required under paragraph (a)**  
20 **of this subsection;**

21 **“[(6)] (7) Specify that the initiation of a report in good faith about sus-**  
22 **pected abuse or sexual conduct may not adversely affect any terms or con-**  
23 **ditions of employment or the work environment of the complainant;**

24 **“[(7)] (8) Specify that the school board or any school employee will not**  
25 **discipline a student for the initiation of a report in good faith about sus-**  
26 **pected abuse or sexual conduct by a school employee or suspected abuse by**  
27 **a student;**

28 **“[(8)] (9) Require notification by the education provider to the person who**  
29 **initiated the report about actions taken by the education provider based on**  
30 **the report; and**

1        “[9] **(10)** Require the education provider to furnish to a school employee  
2 at the time of hire the following:

3        “(a) A description of conduct that may constitute abuse or sexual conduct;  
4 and

5        “(b) A description of **the background checks conducted under ORS**  
6 **339.374 (5) and** the information [*and records*] that will be disclosed as pro-  
7 vided by ORS 339.378 [*or 339.388 (8)*] if a report of suspected abuse or sexual  
8 conduct is substantiated.

9        **“SECTION 3.** 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, the edu-  
12 cation 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 to disclose the information  
18 requested under subsection (2) of this section.

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

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

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

24        “(2) Conduct a review of the employment history of the applicant by  
25 contacting the three most recent employers of the applicant who are educa-  
26 tion providers and requesting[:]

27        “[*a*] the following information:

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

30        “[*B*] **(b)** Whether the applicant was the subject of any substantiated re-

1 ports, **or is the subject of any ongoing investigations**, of abuse or sexual  
2 conduct related to the applicant’s employment with the education provider;

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

4 “[*D*] (d) The definitions of abuse and sexual conduct used by the edu-  
5 cation provider when the education provider determined that any reports  
6 were substantiated; and

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

9 “[*b*] *Any disciplinary records required to be released as provided by ORS*  
10 *339.388 (8).*]

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

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

16 “(b) Whether the commission has provided any information relating to  
17 conduct by the applicant that may constitute abuse or sexual conduct.

18 “(4) Conduct a nationwide criminal records check if required by ORS  
19 326.603.

20 “(5) **Conduct a child and adult protective services records check**  
21 **with the Department of Human Services and a sexual conduct registry**  
22 **check with the Department of Education.**

23 “**SECTION 4.** ORS 339.378 is amended to read:

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

28 “(2) An education provider may disclose the information on a standardized  
29 form and is not required to provide any additional information related to a  
30 substantiated report of abuse or sexual conduct other than the information

1 that is required by ORS 339.374 (2).

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

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

7 “339.384. (1) An education provider may not hire an applicant who does  
8 not comply with the requirements of ORS 339.374 (1). A refusal to hire an  
9 applicant under this subsection removes the applicant from any education  
10 provider policies, any collective bargaining provisions regarding dismissal  
11 procedures and appeals and any provisions of 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 received from the**  
14 **background checks under ORS 339.374 (5) and** information [*and records*]  
15 received under ORS 339.378.

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

18 “(a) A current or former employer of an applicant fails or refuses to  
19 comply with the requirements of ORS 339.378; or

20 “(b) The applicant has or had an out-of-state employer and the laws or  
21 rules of that state prevent the release of information [*or records*] requested  
22 under ORS 339.378.

23 **“SECTION 6.** ORS 339.388 is amended to read:

24 “339.388. (1)(a) A school employee having reasonable cause to believe that  
25 a child with whom the employee comes in contact has suffered abuse by an-  
26 other school employee or by a student, or that another school employee or  
27 a student with whom the employee comes in contact has abused a child, shall  
28 immediately report the information to:

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

30 “(B) A law enforcement agency, the Department of Human Services or a



1 designee of the department as required by ORS 419B.010 and 419B.015.

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

8 “(2) A person who receives a report under subsection (1) of this section  
9 shall follow the procedures required by the policy adopted by the school  
10 board under ORS 339.372, **including making a report of suspected sexual**  
11 **conduct to the Department of Education for the purpose of section 10**  
12 **of this 2019 Act.**

13 “(3)(a) Except as provided in subsection (4) of this section, when an edu-  
14 cation provider receives a report of suspected abuse or sexual conduct by one  
15 of its employees, and the education provider’s designee determines that there  
16 is reasonable cause to support the report, the education provider:

17 “(A) In the case of suspected abuse, shall:

18 “(i) Place the school employee on paid administrative leave; **and**

19 “(ii) **Take all necessary actions to ensure the student’s safety dur-**  
20 **ing an investigation, regardless of whether the investigation is con-**  
21 **ducted by the education provider, the Department of Human Services,**  
22 **a law enforcement agency or the Department of Education; or**

23 “(B) In the case of suspected sexual conduct, may place the school em-  
24 ployee on paid administrative leave or in a position that does not involve  
25 direct, unsupervised contact with children.

26 “(b) A school employee who is placed on paid administrative leave under  
27 paragraph (a)(A) of this subsection shall remain on administrative leave un-  
28 til:

29 “[A] *The Department of Human Services or a law enforcement agency de-*  
30 *termines that the report cannot be substantiated or that the report will not be*

1 *pursued; or]*

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

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 disciplinary action against the school employee.**

10 **“(B) For a report of suspected sexual conduct, the Department of**  
11 **Education 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 disciplinary action against the school employee.**

16 “[*4*] (c) An education provider may reinstate a school employee placed  
17 on paid administrative leave for suspected abuse as provided under [*sub-*  
18 *section (3) of this section*] **paragraph (b) of this subsection** or may take the  
19 appropriate disciplinary action against the employee if the Department of  
20 Human Services or a law enforcement agency is unable to determine, based  
21 on a report of suspected abuse, whether abuse occurred.

22 **“(4)(a) In addition to any investigations conducted by a law**  
23 **enforcement agency, the Department of Human Services or the De-**  
24 **partment of Education, an education provider shall conduct an inves-**  
25 **tigation in response to a report of suspected abuse or sexual conduct**  
26 **by a school employee. The education provider may take into account**  
27 **the findings of the law enforcement agency or the department when**  
28 **the education provider conducts an investigation or takes disciplinary**  
29 **action against the school employee.**

30 **“(b) If, in the course of an investigation by the education provider,**

1 **the education provider becomes aware of new information that gives**  
2 **rise to reasonable cause to believe that abuse or sexual conduct oc-**  
3 **curred, the education provider shall ensure that a report is made to:**

4 **“(A) The Department of Human Services or a law enforcement**  
5 **agency, for suspected abuse; or**

6 **“(B) The Department of Education, for suspected sexual conduct.**

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

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

12 “(b) Provide the school employee with information about the appropriate  
13 appeal process for the determination made by the education provider. The  
14 appeal process may be the process provided by a collective bargaining  
15 agreement or a process administered by a neutral third party and paid for  
16 by the school district.

17 “(c) Following notice of a school employee’s decision not to appeal the  
18 determination **of an education provider** or following the determination of  
19 an appeal that sustained the substantiated report, create a record of the  
20 substantiated report and place the record in [*the personnel file of*] **any files**  
21 **maintained by the education provider on** the school employee. Records  
22 created pursuant to this paragraph are confidential and are not public re-  
23 cords as defined in ORS 192.311. An education provider may use the record  
24 as a basis for providing the information required to be disclosed under ORS  
25 339.378.

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

29 “(6)(a) Notwithstanding the requirements of subsections (3)[, (4)] and (5)  
30 of this section, an education provider that is a private school:

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

2 “(i) The provisions of [*subsections (3) and (4)*] **subsection (3)** of this sec-  
3 tion; or

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

8 “(B) May follow the procedures described in subsection (5) of this section  
9 or may follow any appeals process established by the private school related  
10 to suspected child abuse or sexual conduct.

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

14 “(7)(a) Upon request from a law enforcement agency, the Department of  
15 Human Services, **the Department of Education** or the Teacher Standards  
16 and Practices Commission, a school district shall provide the records of in-  
17 vestigations of suspected abuse by a school employee or former school em-  
18 ployee.

19 “(b) **Notwithstanding paragraph (a) of this subsection, a school**  
20 **district may not provide any information disclosed by the person**  
21 **against whom a report was made if:**

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

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

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

29 “[*(b) If a school employee is convicted of a crime listed in ORS 342.143, the*  
30 *education provider that is the employer of the employee shall disclose the dis-*

1 *ciplinary records of the employee to any person upon request.]*

2 *“[(c) If a former school employee is convicted of a crime listed in ORS*  
3 *342.143, the education provider that was the employer of the former employee*  
4 *when the crime was committed shall disclose the disciplinary records of the*  
5 *former employee to any person upon request.]*

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

11 **“SECTION 7.** ORS 339.392 is amended to read:

12 **“339.392. (1)** An education provider may not enter into a collective bar-  
13 gaining agreement, an employment contract, an agreement for resignation  
14 or termination, a severance agreement or any other contract or agreement  
15 that:

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

19 **“(b) Has the effect of suppressing information** relating to a substan-  
20 tiated report of abuse or sexual conduct by a current or former employee;

21 **“[(b)] (c)** Affects the duties of the education provider to report suspected  
22 abuse or sexual conduct or to discipline a current or former employee for a  
23 substantiated report of abuse or sexual conduct;

24 **“[(c)] (d)** Impairs the ability of the education provider to discipline an  
25 employee for a substantiated report of abuse or sexual conduct; or

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

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

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

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

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

8 **“SECTION 8. The amendments to ORS 339.392 by section 7 of this  
9 2019 Act apply to agreements and contracts entered into on or after  
10 the effective date of this 2019 Act.**

11 **“SECTION 9. Section 10 of this 2019 Act is added to and made a part  
12 of ORS 339.370 to 339.400.**

13 **“SECTION 10. (1) When the Department of Education receives a  
14 report of suspected sexual conduct under ORS 339.388 or section 15 of  
15 this 2019 Act, the department shall immediately cause an investigation  
16 to be made. An investigation and final determination related to the  
17 report must be made within 60 calendar days following the date on  
18 which the report was filed with the Department of Education. The  
19 timeline prescribed by this subsection may be extended by up to 30  
20 days if the Department of Education determines that a longer period  
21 of time is necessary for good cause, including a request from a law  
22 enforcement agency or the Department of Human Services to suspend  
23 an investigation.**

24 **“(2) For a report of suspected sexual conduct that may include  
25 abuse, the Department of Education shall:**

26 **“(a) Notify the law enforcement agency within the county where  
27 the report was made and the local office of the Department of Human  
28 Services within the county where the report was made; and**

29 **“(b) Conduct an investigation concurrently with the law enforce-  
30 ment agency and the Department of Human Services based upon the**

1 protocols and procedures of the county multidisciplinary child abuse  
2 team that has jurisdiction over the report.

3 “(3) For an investigation of a report of suspected sexual conduct,  
4 the Department of Education shall appoint an investigator and shall  
5 furnish the investigator with appropriate professional and other spe-  
6 cial assistance reasonably required to conduct an investigation. An  
7 investigator appointed under this subsection is empowered to:

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

10 “(b) Subpoena witnesses;

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

13 “(d) Request records from a law enforcement agency or the De-  
14 partment of Human Services as provided by ORS 419B.035.

15 “(4) An investigation shall be conducted under this section regard-  
16 less of any investigations being conducted by an education provider  
17 concerning the same report. If the education provider is conducting  
18 an investigation concerning the same report, the Department of Edu-  
19 cation may conduct the investigation concurrently with the education  
20 provider.

21 “(5) If the Department of Education finds that a report is substan-  
22 tiated, the department shall:

23 “(a) Notify the education provider that is the employer of the school  
24 employee; and

25 “(b) Notify any regulatory board that licenses, registers, certifies  
26 or otherwise authorizes the school employee to practice a profession  
27 or to provide professional services.

28 “(6)(a) Except as provided in paragraph (b) of this subsection, the  
29 documents and materials used in the investigation undertaken under  
30 this section, and the report related to the investigation, are confiden-

1 **tial and not subject to public inspection.**

2 **“(b) Records made available to the Department of Education under**  
3 **ORS 419B.035 shall be kept confidential.**

4 **“(7) The Department of Education shall retain documents and ma-**  
5 **terials related to any report received under this section.**

6 **“(8) The Department of Education shall establish and maintain a**  
7 **sexual conduct registry related to any substantiated reports and shall**  
8 **make information on the database available to education providers for**  
9 **the purpose of ORS 339.374 (5).**

10 **“(9)(a) The Department of Education may impose a civil penalty on**  
11 **an education provider and on any agents of the education provider who**  
12 **willingly fail to cooperate with an investigation conducted under this**  
13 **section.**

14 **“(b) The Department of Education shall adopt by rule a schedule**  
15 **of civil penalties for violations under this subsection. A civil penalty**  
16 **may not exceed \$1,000 per violation.**

17 **“(c) All civil penalties recovered under this subsection shall be ap-**  
18 **plied to the costs of the Department of Education’s investigation and**  
19 **any administrative proceedings that result from the investigation.**

20 **“SECTION 11. ORS 342.176 is amended to read:**

21 **“342.176. (1)(a) A person may file a complaint with the Teacher Standards**  
22 **and Practices Commission regarding a person licensed by the commission.**

23 **“(b) Prior to beginning an investigation based on a complaint filed under**  
24 **paragraph (a) of this subsection, the commission may require verification**  
25 **that attempts were made to resolve the complaint through the complaint**  
26 **process of the school district that employs the person against whom the**  
27 **complaint was filed. The commission may not require verification if the**  
28 **complaint concerns the safety of a student, as defined in ORS 339.370,**  
29 **including an allegation or sexual conduct or abuse.**

30 **“(c) After receiving [*sufficient*] any required verification as provided by**



1 paragraph (b) of this subsection, the Teacher Standards and Practices Com-  
2 mission shall promptly undertake an investigation upon receipt of a com-  
3 plaint or information that may constitute grounds for:

4 “(A) Refusal to issue a license or registration, as provided under ORS  
5 342.143;

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

10 “(C) Discipline for failure to provide appropriate notice prior to resigna-  
11 tion, as provided under ORS 342.553.

12 “(2)(a) The commission may appoint an investigator and shall furnish the  
13 investigator with appropriate professional and other special assistance rea-  
14 sonably required to conduct the investigation, and the investigator is em-  
15 powered to issue subpoenas to require the attendance of witnesses or the  
16 production of documents over the signature of the executive director of the  
17 commission, subpoena witnesses over the signature of the executive director,  
18 swear witnesses and compel obedience in the same manner as provided under  
19 ORS 183.440 (2).

20 **“(b) If, in the course of an investigation, the commission becomes**  
21 **aware of information that gives rise to reasonable cause to believe**  
22 **that abuse or sexual conduct occurred, the commission shall ensure**  
23 **that a report is made to:**

24 **“(A) The Department of Human Services or a law enforcement**  
25 **agency, for suspected abuse; or**

26 **“(B) The Department of Education, for suspected sexual conduct.**

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

30 “(a) The commission, meeting in executive session, at its next regular

1 meeting following completion of the investigation; and

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

4 “(4)(a) Except as provided in paragraph (b) of this subsection, the docu-  
5 ments and materials used in the investigation undertaken as provided by this  
6 section and the report related to the investigation are confidential and not  
7 subject to public inspection unless the commission makes a final determi-  
8 nation to:

9 “(A) Refuse to issue a license or registration, as provided under ORS  
10 342.143;

11 “(B) Suspend or revoke a license or registration, discipline a person  
12 holding a license or registration, or suspend or revoke the right to apply for  
13 a license or registration, as provided under ORS 342.175; or

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

16 “(b) Records made available to the commission under ORS 419B.035 (1)(h)  
17 shall be kept confidential.

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

21 “(a) The person charged, enclosing a statement of the charges and a no-  
22 tice of opportunity for hearing;

23 “(b) The complainant; and

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

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

28 “(a) The person charged;

29 “(b) The complainant; and

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

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

4 **“SECTION 12. The amendments to ORS 342.176 by section 11 of this**  
5 **2019 Act apply to complaints received on or after January 1, 2020.**

6 **“SECTION 13.** ORS 338.115 is amended to read:

7 “338.115. (1) Statutes and rules that apply only to school district boards,  
8 school districts or other public schools do not apply to public charter  
9 schools. However, the following laws do apply to public charter schools:

10 “(a) Federal law;

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

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

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

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

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

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

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

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

19 “(j) ORS 329.451 (high school diploma, modified diploma, extended diploma  
20 and alternative certificate);

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

22 “(L) The statewide assessment system developed by the Department of  
23 Education for mathematics, science and English under ORS 329.485 (2);

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

25 “(n) ORS 337.150 (textbooks);

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

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

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

29 “(r) ORS 339.326 (notice concerning students subject to juvenile court  
30 petitions);

1 “(s) ORS 339.370[, 339.372, 339.388 and] to 339.400 (reporting of abuse and  
2 sexual conduct and training on prevention and identification of abuse and  
3 sexual conduct);

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

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

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

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

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

10 “(y) Statutes and rules that apply to a special government body, as de-  
11 fined in ORS 174.117, or a public body, as defined in ORS 174.109;

12 “(z) Health and safety statutes and rules;

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

14 “(bb) This chapter.

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

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

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

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

26 “(b) For a public charter school that provides educational services under  
27 a cooperative agreement described in ORS 338.080, the public charter school  
28 is in compliance with the requirements of this subsection if the public  
29 charter school provides educational services under the cooperative agreement  
30 to at least 25 students, without regard to the school districts in which the

1 students are residents.

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

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

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

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

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

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

22 “(12) A high school diploma, a modified diploma, an extended diploma or  
23 an alternative certificate issued by a public charter school grants to the  
24 holder the same rights and privileges as a high school diploma, a modified  
25 diploma, an extended diploma or an alternative certificate issued by a non-  
26 chartered public school.

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

29 “(14) A public charter school may receive services from an education  
30 service district in the same manner as a nonchartered public school in the

1 school district in which the public charter school is located.

2 **“SECTION 14. Section 15 of this 2019 Act is added to and made a**  
3 **part of ORS 419B.005 to 419B.050.**

4 **“SECTION 15. (1) As used in this section:**

5 **“(a) ‘Education provider’ has the meaning given that term in ORS**  
6 **339.370.**

7 **“(b) ‘School employee’ means a person who is an employee of an**  
8 **education provider and who interacts with a student because of the**  
9 **person’s status as an employee of an education provider.**

10 **“(c) ‘Student’ has the meaning given that term in ORS 339.370.**

11 **“(2) When the Department of Human Services receives a report of**  
12 **suspected abuse by a school employee of a child who is a student, the**  
13 **department shall investigate the report in the same manner that the**  
14 **department investigates a report of suspected abuse under ORS**  
15 **419B.005 to 419B.050, including notification to parents or guardian in**  
16 **the manner provided by ORS 419B.020.**

17 **“(3)(a) The Department of Human Services shall notify the Depart-**  
18 **ment of Education of any reports received under subsection (2) of this**  
19 **section.**

20 **“(b) The name and address of, and other identifying information**  
21 **about, the person who made the report may not be disclosed under this**  
22 **subsection, but the Department of Human Services shall make avail-**  
23 **able any information necessary to ensure the safety of the child who**  
24 **is a student. Any person or entity to whom notification is made under**  
25 **this subsection may not release any information not authorized by this**  
26 **subsection.**

27 **“(c) The Department of Human Services shall make the notification**  
28 **required by paragraph (a) of this subsection within three business days**  
29 **of receiving the report of abuse and the Department of Education shall**  
30 **immediately notify the appropriate education providers to ensure the**

1 **safety of the child.**

2 **“(4) An investigation shall be conducted under this section regard-**  
3 **less of any other investigations being conducted regarding the same**  
4 **report.**

5 **“SECTION 16. Section 15 of this 2019 Act applies to reports received**  
6 **on or after the effective date of this 2019 Act.**

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

8 “419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170,  
9 192.210 to 192.478 and 192.610 to 192.810 relating to confidentiality and ac-  
10 cessibility for public inspection of public records and public documents, re-  
11 ports and records compiled under the provisions of ORS 419B.010 to 419B.050  
12 are confidential and may not be disclosed except as provided in this section.  
13 The Department of Human Services shall make the records available to:

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

16 “(b) Any physician, physician assistant licensed under ORS 677.505 to  
17 677.525, naturopathic physician licensed under ORS chapter 685 or nurse  
18 practitioner licensed under ORS 678.375 to 678.390, at the request of the  
19 physician, physician assistant, naturopathic physician or nurse practitioner,  
20 regarding any child brought to the physician, physician assistant,  
21 naturopathic physician or nurse practitioner or coming before the physician,  
22 physician assistant, naturopathic physician or nurse practitioner for exam-  
23 ination, care or treatment;

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

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

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

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

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

7 “(h) The Teacher Standards and Practices Commission for investigations  
8 conducted under ORS 342.176 involving any child or any student in grade 12  
9 or below;

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

15 “(j) The Office of Child Care for purposes of ORS 329A.030 (10)(g), (h) and  
16 (i); *[and]*

17 “(k) With respect to a report of abuse occurring at a school or in an ed-  
18 ucational setting that involves a child with a disability, Disability Rights  
19 Oregon[.]; **and**

20 **“(L) The Department of Education for purposes of investigations**  
21 **made under section 10 of this 2019 Act.**

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

30 “(b) If the Department of Human Services does not have a report or re-



1 cord of abuse regarding a child who, as the result of abuse, died or suffered  
2 serious physical injury as defined in ORS 161.015, the department may dis-  
3 close that information.

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

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

24 “(5) A law enforcement agency, upon completing an investigation and  
25 closing the file in a specific case relating to child abuse or neglect, shall  
26 make reports and records in the case available upon request to any law  
27 enforcement agency or community corrections agency in this state, to the  
28 Department of Corrections or to the State Board of Parole and Post-Prison  
29 Supervision for the purpose of managing and supervising offenders in custody  
30 or on probation, parole, post-prison supervision or other form of conditional

1 or supervised release. A law enforcement agency may make reports and re-  
2 cords compiled under the provisions of ORS 419B.010 to 419B.050 available  
3 to law enforcement, community corrections, corrections or parole agencies  
4 in an open case when the law enforcement agency determines that the dis-  
5 closure will not interfere with an ongoing investigation in the case. The  
6 name, address and other identifying information about the person who made  
7 the report may not be disclosed under this subsection or subsection (6)(b) of  
8 this section.

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

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

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

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

30 “(7) An officer or employee of the Department of Human Services or of

1 a law enforcement agency or any person or entity to whom disclosure is  
2 made pursuant to subsections (1) to (6) of this section may not release any  
3 information not authorized by subsections (1) to (6) of this section.

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

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

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