

**A-Engrossed**  
**Senate Bill 1522**

Ordered by the Senate February 12  
Including Senate Amendments dated February 12

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Education)

**SUMMARY**

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

Modifies definition of "sexual conduct" for purposes of requirements for education providers related to abuse of and sexual conduct toward students.

Modifies confidentiality requirements related to documents, materials and reports produced by Teacher Standards and Practices Commission **and Department of Education** when conducting investigation related to licensed school employee, contractor, agent or volunteer.

Requires members of education service district board to be mandatory reporters of abuse of children.

**Provides that, for school years prior to 2021-2022 school year only, school districts are not required to comply with requirement that students in grades six through eight participate in physical education for entire school year.**

**Provides that public education provider may hold executive session in certain instances involving allegations of sexual violence, sexual conduct or sexual harassment by public officer, employee, staff member or individual agent of public education provider.**

**Provides for remuneration paid to certain employees of public charter school who reside and perform service in United States to be treated as if remuneration were includable in employee's taxable income during continuous period of employment with public charter school.**

**Allows certain schools to continue to qualify as remote small elementary school or small high school and to receive additional distribution from State School Fund for 2020-2021 school year only.**

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to education; creating new provisions; amending ORS 192.660, 338.135, 339.370, 339.390,  
3 339.391 and 419B.005 and section 2, chapter 301, Oregon Laws 2017; and declaring an emergency.

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

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 provider in a manner that re-  
9 quires the person to have direct, unsupervised contact with students.

10 (3) "Contractor" means a person providing services to an education provider under a contract  
11 in a manner that requires the person to have direct, unsupervised contact with students.

12 (4)(a) "Education provider" means:

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

14 (B) The Oregon School for the Deaf.

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

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

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

- 1 (E) An education service district, as defined in ORS 334.003.
- 2 (F) Any state-operated program that provides educational services to students.
- 3 (G) A private school.
- 4 (b) "Education provider" does not include:
  - 5 (A) The Oregon Youth Authority;
  - 6 (B) The Department of Corrections; or
  - 7 (C) The Department of Education, except when functioning as an education provider on behalf
  - 8 of:
    - 9 (i) The Oregon School for the Deaf;
    - 10 (ii) An educational program under the Youth Corrections Education Program; or
    - 11 (iii) A public charter school, as defined in ORS 338.005, that is sponsored by the Department of
    - 12 Education.
- 13 (5) "Investigation" means a detailed inquiry into the factual allegations of a report of suspected
- 14 abuse or suspected sexual conduct that:
  - 15 (a) Is based on interviews with the person who initiated the report, the person who may have
  - 16 been subjected to abuse or sexual conduct, witnesses and the person who is the subject of the re-
  - 17 port; and
  - 18 (b) Results in a finding that the report:
    - 19 (A) Is a substantiated report;
    - 20 (B) Cannot be substantiated; or
    - 21 (C) Is not a report of abuse or sexual conduct.
- 22 (6) "Law enforcement agency" has the meaning given that term in ORS 419B.005.
- 23 (7) "License" includes a license, registration or certificate issued by the Teacher Standards and
- 24 Practices Commission.
- 25 (8) "Private school" means a school that provides to students instructional programs that are
- 26 not limited solely to dancing, drama, music, religious or athletic instruction.
- 27 (9) "School board" means the entity charged with adopting policies for an education provider.
- 28 (10) "School employee" means an employee of an education provider.
- 29 (11)(a) "Sexual conduct" means verbal or physical conduct or verbal, written or electronic
- 30 communications by a school employee, a contractor, an agent or a volunteer that involve a student
- 31 and that are:
  - 32 (A) Sexual advances or requests for sexual favors directed toward the student; or
  - 33 (B) Of a sexual nature that are directed toward the student or that have the effect of unrea-
  - 34 sonably interfering with the student's educational performance, or of creating an intimidating, hos-
  - 35 tile or offensive educational environment.
- 36 (b) "Sexual conduct" does not include:
  - 37 **(A) Touching or other physical contact:**
    - 38 [(A)] (i) That is necessitated by the nature of the school employee's job duties or by the services
    - 39 required to be provided by the contractor, agent or volunteer; and
    - 40 [(B)] (ii) For which there is no sexual intent.
  - 41 **(B) Verbal, written or electronic communications that are not prohibited by law, by any**
  - 42 **policies of the education provider or by any applicable employment agreements, and that are**
  - 43 **provided as part of an education program that meets state educational standards or a policy**
  - 44 **approved by the school board.**
  - 45 **(C) Conduct or communications described in paragraph (a) of this subsection if the school**

1 **employee, contractor, agent or volunteer is also a student.**

2 (12) "Student" means any person:

3 (a) Who is:

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

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

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

9 (13) "Substantiated report" means a report of abuse or sexual conduct that a law enforcement  
10 agency, the Department of Human Services, the Teacher Standards and Practices Commission, the  
11 Department of Education or an education provider has reasonable cause to believe, based on the  
12 available evidence after conducting an investigation, is founded.

13 (14) "Volunteer" means a person acting as a volunteer for an education provider in a manner  
14 that requires the person to have direct, unsupervised contact with students.

15 **SECTION 2. The amendments to ORS 339.370 by section 1 of this 2020 Act apply to con-**  
16 **duct that occurs before, on or after the effective date of this 2020 Act for purposes of:**

17 (1) **Reports of suspected sexual conduct that are made on or after the effective date of**  
18 **this 2020 Act.**

19 (2) **Investigations of suspected sexual conduct that are initiated on or after the effective**  
20 **date of this 2020 Act.**

21 (3) **A collective bargaining agreement, an employment contract, an agreement for resig-**  
22 **nation or termination, a severance agreement or any similar contract or agreement entered**  
23 **into on or after the effective date of this 2020 Act.**

24 **SECTION 3.** ORS 339.390 is amended to read:

25 339.390. (1)(a) When the Teacher Standards and Practices Commission receives a report of sus-  
26 pected sexual conduct that may have been committed by a licensed school employee, contractor,  
27 agent or volunteer, the commission shall immediately initiate an investigation.

28 (b) An investigation and final determination related to a report received under paragraph (a)  
29 of this subsection must be completed and notification of the final determination must be made to the  
30 education provider within 90 calendar days following the date on which the report was filed with  
31 the commission.

32 (c) Notwithstanding paragraph (b) of this subsection, the prescribed timeline for an investigation  
33 and final determination may be extended if, for good cause, a longer period of time is necessary.

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

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

38 (b) Subpoena witnesses; and

39 (c) Swear witnesses and compel obedience in the same manner as provided under ORS 183.440  
40 (2).

41 (3)(a) Following the completion of an investigation, the investigator shall report in writing any  
42 findings and recommendations to the executive director of the Teacher Standards and Practices  
43 Commission.

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

1 (4) The executive director or the investigator shall report in writing the findings and any rec-  
2 ommendations to the commission. The commission shall decide if there is sufficient cause to justify  
3 holding a hearing under ORS 342.177.

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

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

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

9 (c) The education provider; and

10 (d) The person who provided the report of suspected sexual conduct.

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

13 (a) The person charged;

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

15 (c) The education provider; and

16 (d) The person who provided the report of suspected sexual conduct.

17 (7)(a) [*Except as provided in paragraph (b) of this subsection,*] The documents and materials used  
18 in the investigation undertaken under this section, and the report related to the investigation, are  
19 confidential and not subject to public inspection:

20 **(A)** Unless the commission makes a final determination to suspend or revoke a license, disci-  
21 pline a person holding a license or revoke the right to apply for a license, as provided under ORS  
22 342.175.

23 **(B) Except as provided by paragraphs (b) to (d) of this subsection.**

24 **(b) Documents, materials and reports that are confidential under paragraph (a) of this**  
25 **subsection may be disclosed to an entity listed in paragraph (c) or (d) of this subsection only**  
26 **as provided by this subsection and rules adopted by the commission. The entity that receives**  
27 **documents, materials or reports must maintain their confidentiality unless disclosure is al-**  
28 **lowed or required under this section or other state or federal law.**

29 [(b)] **(c)** To the extent allowed by state and federal law, the commission shall make available  
30 any documents, materials and reports **that are confidential under paragraph (a) of this sub-**  
31 **section** to:

32 (A) A law enforcement agency or the Department of Human Services for the purpose of con-  
33 ducting an investigation under ORS 419B.005 to 419B.050; **or**

34 (B) The Department of Education for the purpose of conducting an investigation under ORS  
35 339.391[; *or*].

36 [(C)] **(d)(A) The commission shall make available the commission's investigative report**  
37 **to an education provider for the purpose of taking any disciplinary actions or making changes in**  
38 **the employment relationship or duties of the school employee, contractor, agent or volunteer.**

39 **(B) The commission must redact the executive director's recommendation from the re-**  
40 **port made available under this paragraph.**

41 [(c)] **(e)** The commission shall retain documents and materials related to any report received  
42 under this section, regardless of whether the commission found sufficient cause to justify holding a  
43 hearing under this section.

44 (8) Notwithstanding ORS 192.660 (6), the commission may make its findings under this section  
45 in executive session. The provisions of ORS 192.660 (4) apply to executive sessions held pursuant to

1 this subsection.

2 (9) The commission shall adopt any rules necessary for the administration of this section, in-  
3 cluding a process to appeal the findings of the commission under this section.

4 **SECTION 4.** ORS 339.391 is amended to read:

5 339.391. (1)(a) When the Department of Education receives a report of suspected sexual conduct  
6 that may have been committed by a school employee, contractor, agent or volunteer that is not li-  
7 censed with the Teacher Standards and Practices Commission, the department shall immediately  
8 initiate an investigation.

9 (b) An investigation and final determination related to the report received under paragraph (a)  
10 of this subsection must be completed and notification of the final determination must be made to the  
11 education provider within 90 calendar days following the date on which the report was filed with  
12 the department.

13 (c) Notwithstanding paragraph (b) of this subsection, the prescribed timeline for an investigation  
14 and final determination may be extended if the department determines that, for good cause, a longer  
15 period of time is necessary.

16 (2) The department shall appoint an investigator and shall furnish the investigator with appro-  
17 priate professional and other special assistance reasonably required to conduct an investigation. An  
18 investigator appointed under this subsection is empowered to:

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

20 (b) Subpoena witnesses; and

21 (c) Swear witnesses and compel obedience in the same manner as provided under ORS 183.440  
22 (2).

23 (3)(a) Following the completion of an investigation, the Department of Education shall notify:

24 (A) The person charged;

25 (B) The student and, if applicable, the student's parents;

26 (C) The education provider;

27 (D) The person who provided the report of suspected sexual conduct; and

28 (E) Any regulatory board that is not the Teacher Standards and Practices Commission and that  
29 licenses, registers, certifies or otherwise authorizes the school employee, contractor, agent or vol-  
30 unteer to practice a profession or to provide professional services.

31 (b) The notification required under paragraph (a) of this subsection shall include the following  
32 information as allowed by state and federal law:

33 (A) The statutory authority of the department to conduct the investigation;

34 (B) The procedural background for the investigation;

35 (C) The legal standards and arguments used for the investigation;

36 (D) The department's findings of fact from the investigation;

37 (E) The department's final determination based on the investigation; and

38 (F) The right to an appeal, as provided by subsection (5) of this section.

39 (4)(a) Except as provided in [*paragraph (b)*] **paragraphs (b) to (d)** of this subsection, the docu-  
40 ments and materials used in the investigation undertaken under this section, and the report related  
41 to the investigation, are confidential and not subject to public inspection.

42 **(b) Documents, materials and reports that are confidential under paragraph (a) of this**  
43 **subsection may be disclosed to an entity listed in paragraph (c) or (d) of this subsection only**  
44 **as provided by this subsection and rules adopted by the State Board of Education. The entity**  
45 **that receives documents, materials or reports must maintain their confidentiality unless**

1 **disclosure is allowed or required under this section or other state or federal law.**

2 [(b)] (c) To the extent allowed by state and federal law, the department shall make available any  
3 documents, materials and reports **that are confidential under paragraph (a) of this subsection**  
4 to:

5 (A) A law enforcement agency or the Department of Human Services if necessary to conduct  
6 an investigation under ORS 419B.005 to 419B.050; **or**

7 (B) The Teacher Standards and Practices Commission if necessary for the commission to conduct  
8 an investigation under ORS 339.390[; and].

9 [(C)] (d) **The Department of Education shall make available the department's investigative**  
10 **report to** an education provider if necessary for the education provider to take any disciplinary  
11 action or changes in the employment relationship or duties of the school employee, contractor, agent  
12 or volunteer.

13 [(c)] (e) The Department of Education shall retain documents and materials related to any report  
14 received under this section, regardless of whether the department found sufficient cause to justify  
15 holding a hearing under this section.

16 (5) A person may appeal the final determination made by the department under this section as  
17 a contested case under ORS chapter 183.

18 (6) The State Board of Education shall adopt any rules necessary for the administration of this  
19 section.

20 **SECTION 5.** ORS 419B.005 is amended to read:

21 419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (3) "Higher education institution" means:

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

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

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

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

20 (4)(a) "Investigation" means a detailed inquiry into or assessment of the safety of a child alleged  
21 to have experienced abuse.

22 (b) "Investigation" does not include screening activities conducted upon the receipt of a report.

23 (5) "Law enforcement agency" means:

24 (a) A city or municipal police department.

25 (b) A county sheriff's office.

26 (c) The Oregon State Police.

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

28 (e) A county juvenile department.

29 (6) "Public or private official" means:

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

32 (b) Dentist.

33 (c) School employee, including an employee of a higher education institution.

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

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

41 (f) Peace officer.

42 (g) Psychologist.

43 (h) Member of the clergy.

44 (i) Regulated social worker.

45 (j) Optometrist.

- 1 (k) Chiropractor.
- 2 (L) Certified provider of foster care, or an employee thereof.
- 3 (m) Attorney.
- 4 (n) Licensed professional counselor.
- 5 (o) Licensed marriage and family therapist.
- 6 (p) Firefighter or emergency medical services provider.
- 7 (q) A court appointed special advocate, as defined in ORS 419A.004.
- 8 (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
- 9 (s) Member of the Legislative Assembly.
- 10 (t) Physical, speech or occupational therapist.
- 11 (u) Audiologist.
- 12 (v) Speech-language pathologist.
- 13 (w) Employee of the Teacher Standards and Practices Commission directly involved in investi-  
14 gations or discipline by the commission.
- 15 (x) Pharmacist.
- 16 (y) An operator of a preschool recorded program under ORS 329A.255.
- 17 (z) An operator of a school-age recorded program under ORS 329A.257.
- 18 (aa) Employee of a private agency or organization facilitating the provision of respite services,  
19 as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS  
20 109.056.
- 21 (bb) Employee of a public or private organization providing child-related services or activities:  
22 (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day  
23 camps, survival camps or groups, centers or camps that are operated under the guidance, super-  
24 vision or auspices of religious, public or private educational systems or community service organ-  
25 izations; and  
26 (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide  
27 confidential, direct services to victims of domestic violence, sexual assault, stalking or human traf-  
28 ficking.
- 29 (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete,  
30 if compensated and if the athlete is a child.
- 31 (dd) Personal support worker, as defined in ORS 410.600.
- 32 (ee) Home care worker, as defined in ORS 410.600.
- 33 (ff) Animal control officer, as defined in ORS 609.500.
- 34 (gg) Member of a school district board [*or*], **an education service district board or a public**  
35 **charter school governing body.**
- 36 (hh) An individual who is paid by a public body, in accordance with ORS 430.215, to provide a  
37 service identified in an individualized written service plan of a child with a developmental disability.

38 **SECTION 6. The amendments to ORS 419B.005 by section 5 of this 2020 Act become op-**  
39 **erative on January 1, 2021.**

40 **SECTION 7.** Section 2, chapter 301, Oregon Laws 2017, is amended to read:

41 **Sec. 2. (1)(a) Only for school years prior to the 2021-2022 school year, a school district**  
42 **may not be considered nonstandard under ORS 327.103 and moneys may not be withheld or**  
43 **any other penalty or sanctions imposed on a school district that does not comply with the**  
44 **participation requirement of ORS 329.496 (1) for students in grades six through eight.**

45 [(1)] (b) Except as provided by subsections (2) and (3) of this section and only for school years



1 prior to the 2022-2023 school year, a school district may not be considered nonstandard under ORS  
2 327.103 and moneys may not be withheld or any other penalty or sanctions imposed on a school  
3 district that does not comply with the time requirements established by ORS 329.496 (2).

4 (2)(a) For the 2019-2020 school year, students identified in ORS 329.496 (2)(a) shall participate  
5 in physical education for at least 120 minutes during each school week.

6 (b) For the 2020-2021 school year and every school year thereafter, students identified in ORS  
7 329.496 (2)(a) shall participate in physical education for at least 150 minutes during each school  
8 week.

9 (c) If a school district fails to comply with paragraph (a) or (b) of this subsection, the school  
10 district may be considered nonstandard under ORS 327.103.

11 (3)(a) For the 2021-2022 school year, students identified in ORS 329.496 (2)(b) shall participate  
12 in physical education for at least 180 minutes during each school week.

13 (b) For the 2022-2023 school year and every school year thereafter, students identified in ORS  
14 329.496 (2)(b) shall participate in physical education for at least 225 minutes during each school  
15 week.

16 (c) If a school district fails to comply with paragraph (a) or (b) of this subsection, the school  
17 district may be considered nonstandard under ORS 327.103.

18 (4) For the purposes of **subsections (2) and (3) of this section**, a school district may:

19 (a) Prorate time requirements provided by this section in compliance with rules adopted by the  
20 State Board of Education under ORS 329.496 (2)(c);

21 (b) Apply up to 45 minutes of activities described in ORS 329.496 (4)(b) to the time requirements  
22 provided by this section; and

23 (c) Cease to comply with the time requirements provided by this section if the conditions de-  
24 scribed in ORS 329.496 (2)(d) are satisfied.

25 **SECTION 8.** ORS 192.660 is amended to read:

26 192.660. (1) ORS 192.610 to 192.690 do not prevent the governing body of a public body from  
27 holding executive session during a regular, special or emergency meeting, after the presiding officer  
28 has identified the authorization under ORS 192.610 to 192.690 for holding the executive session.

29 (2) The governing body of a public body may hold an executive session:

30 (a) To consider the employment of a public officer, **an** employee, **a** staff member or **an** individual  
31 agent.

32 (b) **Except as provided by paragraph (c) of this subsection**, to consider the dismissal or dis-  
33 ciplining of, or to hear complaints or charges brought against, a public officer, **an** employee, **a** staff  
34 member or **an** individual agent who does not request an open hearing.

35 (c) **To consider the dismissal or disciplining of, or to hear complaints or charges brought**  
36 **against, a public officer, an employee, a staff member or an individual agent of a public ed-**  
37 **ucation provider if the subject is allegations of sexual violence, sexual conduct or sexual**  
38 **harassment and the individual or individuals aggrieved by the alleged conduct do not request**  
39 **an open hearing.**

40 [(c)] (d) To consider matters pertaining to the function of the medical staff of a public hospital  
41 licensed pursuant to ORS 441.015 to 441.087 including, but not limited to, all clinical committees,  
42 executive, credentials, utilization review, peer review committees and all other matters relating to  
43 medical competency in the hospital.

44 [(d)] (e) To conduct deliberations with persons designated by the governing body to carry on  
45 labor negotiations.

1        [(e)] **(f)** To conduct deliberations with persons designated by the governing body to negotiate  
2 real property transactions.

3        [(f)] **(g)** To consider information or records that are exempt by law from public inspection.

4        [(g)] **(h)** To consider preliminary negotiations involving matters of trade or commerce in which  
5 the governing body is in competition with governing bodies in other states or nations.

6        [(h)] **(i)** To consult with counsel concerning the legal rights and duties of a public body with  
7 regard to current litigation or litigation likely to be filed.

8        [(i)] **(j)** To review and evaluate the employment-related performance of the chief executive officer  
9 of any public body, a public officer, employee or staff member who does not request an open hearing.

10       [(j)] **(k)** To carry on negotiations under ORS chapter 293 with private persons or businesses re-  
11 garding proposed acquisition, exchange or liquidation of public investments.

12       [(k)] **(L)** To consider matters relating to school safety or a plan that responds to safety threats  
13 made toward a school.

14       [(L)] **(m)** If the governing body is a health professional regulatory board, to consider information  
15 obtained as part of an investigation of licensee or applicant conduct.

16       [(m)] **(n)** If the governing body is the State Landscape Architect Board, or an advisory commit-  
17 tee to the board, to consider information obtained as part of an investigation of registrant or ap-  
18 plicant conduct.

19       [(n)] **(o)** To discuss information about review or approval of programs relating to the security  
20 of any of the following:

21       (A) A nuclear-powered thermal power plant or nuclear installation.

22       (B) Transportation of radioactive material derived from or destined for a nuclear-fueled thermal  
23 power plant or nuclear installation.

24       (C) Generation, storage or conveyance of:

25       (i) Electricity;

26       (ii) Gas in liquefied or gaseous form;

27       (iii) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

28       (iv) Petroleum products;

29       (v) Sewage; or

30       (vi) Water.

31       (D) Telecommunication systems, including cellular, wireless or radio systems.

32       (E) Data transmissions by whatever means provided.

33       (3) Labor negotiations shall be conducted in open meetings unless negotiators for both sides  
34 request that negotiations be conducted in executive session. Labor negotiations conducted in exec-  
35 utive session are not subject to the notification requirements of ORS 192.640.

36       (4) Representatives of the news media shall be allowed to attend executive sessions other than  
37 those held under subsection [(2)(d)] **(2)(e)** of this section relating to labor negotiations or executive  
38 session held pursuant to ORS 332.061 (2) but the governing body may require that specified infor-  
39 mation be undisclosed.

40       (5) When a governing body convenes an executive session under subsection [(2)(h)] **(2)(i)** of this  
41 section relating to conferring with counsel on current litigation or litigation likely to be filed, the  
42 governing body shall bar any member of the news media from attending the executive session if the  
43 member of the news media is a party to the litigation or is an employee, agent or contractor of a  
44 news media organization that is a party to the litigation.

45       (6) No executive session may be held for the purpose of taking any final action or making any

1 final decision.

2 (7) The exception granted by subsection (2)(a) of this section does not apply to:

3 (a) The filling of a vacancy in an elective office.

4 (b) The filling of a vacancy on any public committee, commission or other advisory group.

5 (c) The consideration of general employment policies.

6 (d) The employment of the chief executive officer, other public officers, employees and staff  
7 members of a public body unless:

8 (A) The public body has advertised the vacancy;

9 (B) The public body has adopted regular hiring procedures;

10 (C) In the case of an officer, the public has had the opportunity to comment on the employment  
11 of the officer; and

12 (D) In the case of a chief executive officer, the governing body has adopted hiring standards,  
13 criteria and policy directives in meetings open to the public in which the public has had the op-  
14 portunity to comment on the standards, criteria and policy directives.

15 (8) A governing body may not use an executive session for purposes of evaluating a chief execu-  
16 tive officer or other officer, employee or staff member to conduct a general evaluation of an agency  
17 goal, objective or operation or any directive to personnel concerning agency goals, objectives, op-  
18 erations or programs.

19 (9) Notwithstanding subsections (2) and (6) of this section and ORS 192.650:

20 (a) ORS 676.175 governs the public disclosure of minutes, transcripts or recordings relating to  
21 the substance and disposition of licensee or applicant conduct investigated by a health professional  
22 regulatory board.

23 (b) ORS 671.338 governs the public disclosure of minutes, transcripts or recordings relating to  
24 the substance and disposition of registrant or applicant conduct investigated by the State Landscape  
25 Architect Board or an advisory committee to the board.

26 (10) Notwithstanding ORS 244.290, the Oregon Government Ethics Commission may not adopt  
27 rules that establish what entities are considered representatives of the news media that are entitled  
28 to attend executive sessions under subsection (4) of this section.

29 **SECTION 9.** ORS 338.135 is amended to read:

30 338.135. (1) Employee assignment to a public charter school shall be voluntary.

31 (2)(a) A public charter school or the sponsor of the public charter school is considered the em-  
32 ployer of any employees of the public charter school. If a school district board is not the sponsor  
33 of the public charter school, the school district board may not be the employer of the employees of  
34 the public charter school and the school district board may not collectively bargain with the em-  
35 ployees of the public charter school. The public charter school governing body shall control the  
36 selection of employees at the public charter school.

37 (b) If a virtual public charter school or the sponsor of a virtual public charter school contracts  
38 with a for-profit entity to provide educational services through the virtual public charter school, the  
39 for-profit entity may not be the employer of any employees of the virtual public charter school un-  
40 less:

41 (A) The employee is an administrator who does not have any teaching responsibilities; and

42 (B) Both the executive officer of the sponsor and the public charter school governing body ap-  
43 prove employment by the for-profit entity. The executive officer or governing body may choose to  
44 grant approval under this subparagraph:

45 (i) For all employees of the for-profit entity who meet the description in subparagraph (A) of this

1 paragraph;

2 (ii) Based on the job categories of the employees who meet the description in subparagraph (A)  
3 of this paragraph; or

4 (iii) On a case-by-case basis for each employee who meets the description in subparagraph (A)  
5 of this paragraph.

6 (3) The school district board of the school district within which the public charter school is lo-  
7 cated shall grant a leave of absence to any employee who chooses to work in the public charter  
8 school. The length and terms of the leave of absence shall be set by negotiated agreement or by  
9 board policy. However, the length of the leave of absence may not be less than two years unless:

10 (a) The charter of the public charter school is terminated or the public charter school is dis-  
11 solved or closed during the leave of absence; or

12 (b) The employee and the school district board have mutually agreed to a different length of  
13 time.

14 (4) An employee of a public charter school operating within a school district who is granted a  
15 leave of absence from the school district and returns to employment with the school district shall  
16 retain seniority and benefits as an employee pursuant to the terms of the leave of absence.  
17 Notwithstanding ORS 243.650 to 243.806, a school district that was the employer of an employee of  
18 a public charter school not operating within the school district may make provisions for the return  
19 of the employee to employment with the school district.

20 (5)(a) For purposes of ORS chapters 238 and 238A, a public charter school shall be considered  
21 a public employer and as such shall participate in the Public Employees Retirement System.

22 **(b) For purposes of determining the salary of an active member of the Public Employees**  
23 **Retirement System under ORS 238A.005 (17), remuneration paid to a member in return for**  
24 **services to a public charter school shall be treated as if it were includable in the member's**  
25 **taxable income under Oregon law during a period of continuous employment with any public**  
26 **charter school if:**

27 **(A) The member was hired in a qualifying position by a public charter school on or after**  
28 **August 29, 2003, and on or before December 31, 2017;**

29 **(B) The member was informed in writing by the public charter school during the period**  
30 **of continuous employment that the member was eligible to participate in the Public Em-**  
31 **ployees Retirement System and the public charter school made contributions to the system**  
32 **on the member's behalf; and**

33 **(C) The member resided and performed services in the United States during the period**  
34 **of continuous employment.**

35 **(c) As used in this subsection, "continuous employment" means employment with a**  
36 **public charter school that is not interrupted by a period of more than 30 consecutive calen-**  
37 **dar days.**

38 (6) For teacher licensing, employment experience in public charter schools shall be considered  
39 equivalent to experience in public schools.

40 (7)(a) Any person employed as an administrator in a public charter school shall be licensed or  
41 registered to administer by the Teacher Standards and Practices Commission.

42 (b) Any person employed as a teacher in a public charter school shall be licensed or registered  
43 to teach by the commission.

44 (c) Notwithstanding paragraph (a) or (b) of this subsection, at least one-half of the total full-time  
45 equivalent (FTE) teaching and administrative staff at the public charter school shall be licensed by

1 the commission pursuant to ORS 342.125.

2 (8) Notwithstanding ORS 243.650, a public charter school shall be considered a school district  
3 for purposes of ORS 243.650 to 243.806. An employee of a public charter school may be a member  
4 of a labor organization or organize with other employees to bargain collectively. Bargaining units  
5 at the public charter school may be separate from other bargaining units of the sponsor or of the  
6 school district in which the public charter school is located. Employees of a public charter school  
7 may be part of the bargaining units of the sponsor or of the school district in which the public  
8 charter school is located.

9 (9) An entity described in ORS 338.005 (4) may not waive the right to sponsor a public charter  
10 school in a collective bargaining agreement.

11 **SECTION 10. Notwithstanding ORS 327.077, a school qualifies as a remote small elemen-**  
12 **tary school or a small high school and an additional amount shall be added to the district's**  
13 **ADMw, as calculated under ORS 327.077, for the 2020-2021 school year if:**

14 (1) **The school qualified as a remote small elementary school or a small high school for**  
15 **the 2019-2020 school year; and**

16 (2) **The school does not qualify as a remote small elementary school or a small high**  
17 **school for the 2020-2021 school year due to a change in grades served.**

18 **SECTION 11. This 2020 Act being necessary for the immediate preservation of the public**  
19 **peace, health and safety, an emergency is declared to exist, and this 2020 Act takes effect**  
20 **on its passage.**

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