

## SENATE AMENDMENTS TO SENATE BILL 1522

By COMMITTEE ON EDUCATION

February 12

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the line and insert “192.660,  
2 338.135, 339.370, 339.390, 339.391 and 419B.005 and section 2, chapter 301, Oregon Laws 2017; and”.

3 On page 2, delete lines 30 through 45 and insert:

4 “(B) Verbal, written or electronic communications that are not prohibited by law, by any poli-  
5 cies of the education provider or by any applicable employment agreements, and that are provided  
6 as part of an education program that meets state educational standards or a policy approved by the  
7 school board.

8 “(C) Conduct or communications described in paragraph (a) of this subsection if the school em-  
9 ployee, contractor, agent or volunteer is also a student.”.

10 On page 4, line 36, delete the colon.

11 In lines 37 through 40, restore the bracketed material and delete the boldfaced material.

12 Delete lines 43 through 45.

13 On page 5, delete lines 1 and 2.

14 After line 10, insert:

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

16 “339.391. (1)(a) When the Department of Education receives a report of suspected sexual conduct  
17 that may have been committed by a school employee, contractor, agent or volunteer that is not li-  
18 censed with the Teacher Standards and Practices Commission, the department shall immediately  
19 initiate an investigation.

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

24 “(c) Notwithstanding paragraph (b) of this subsection, the prescribed timeline for an investi-  
25 gation and final determination may be extended if the department determines that, for good cause,  
26 a longer period of time is necessary.

27 “(2) The department shall appoint an investigator and shall furnish the investigator with ap-  
28 propriate professional and other special assistance reasonably required to conduct an investigation.  
29 An investigator appointed under this subsection is empowered to:

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

31 “(b) Subpoena witnesses; and

32 “(c) Swear witnesses and compel obedience in the same manner as provided under ORS 183.440  
33 (2).

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

35 “(A) The person charged;

1 “(B) The student and, if applicable, the student’s parents;  
2 “(C) The education provider;  
3 “(D) The person who provided the report of suspected sexual conduct; and  
4 “(E) Any regulatory board that is not the Teacher Standards and Practices Commission and that  
5 licenses, registers, certifies or otherwise authorizes the school employee, contractor, agent or vol-  
6 unteer to practice a profession or to provide professional services.  
7 “(b) The notification required under paragraph (a) of this subsection shall include the following  
8 information as allowed by state and federal law:  
9 “(A) The statutory authority of the department to conduct the investigation;  
10 “(B) The procedural background for the investigation;  
11 “(C) The legal standards and arguments used for the investigation;  
12 “(D) The department’s findings of fact from the investigation;  
13 “(E) The department’s final determination based on the investigation; and  
14 “(F) The right to an appeal, as provided by subsection (5) of this section.  
15 “(4)(a) Except as provided in [*paragraph (b)*] **paragraphs (b) to (d)** of this subsection, the doc-  
16 uments and materials used in the investigation undertaken under this section, and the report related  
17 to the investigation, are confidential and not subject to public inspection.  
18 “**(b) Documents, materials and reports that are confidential under paragraph (a) of this**  
19 **subsection may be disclosed to an entity listed in paragraph (c) or (d) of this subsection only**  
20 **as provided by this subsection and rules adopted by the State Board of Education. The entity**  
21 **that receives documents, materials or reports must maintain their confidentiality unless**  
22 **disclosure is allowed or required under this section or other state or federal law.**  
23 “[*b*] (c) To the extent allowed by state and federal law, the department shall make available  
24 any documents, materials and reports **that are confidential under paragraph (a) of this sub-**  
25 **section** to:  
26 “(A) A law enforcement agency or the Department of Human Services if necessary to conduct  
27 an investigation under ORS 419B.005 to 419B.050; **or**  
28 “(B) The Teacher Standards and Practices Commission if necessary for the commission to con-  
29 duct an investigation under ORS 339.390[; *and*].  
30 “[*(C)*] **(d) The Department of Education shall make available the department’s investi-**  
31 **gative report to** an education provider if necessary for the education provider to take any disci-  
32 plinary action or changes in the employment relationship or duties of the school employee,  
33 contractor, agent or volunteer.  
34 “[*c*] **(e)** The Department of Education shall retain documents and materials related to any re-  
35 port received under this section, regardless of whether the department found sufficient cause to  
36 justify holding a hearing under this section.  
37 “(5) A person may appeal the final determination made by the department under this section as  
38 a contested case under ORS chapter 183.  
39 “(6) The State Board of Education shall adopt any rules necessary for the administration of this  
40 section.”.  
41 In line 11, delete “4” and insert “5”.  
42 On page 7, line 29, delete “5” and insert “6” and delete “4” and insert “5”.  
43 After line 30, insert:  
44 “**SECTION 7.** Section 2, chapter 301, Oregon Laws 2017, is amended to read:  
45 “**Sec. 2. (1)(a) Only for school years prior to the 2021-2022 school year, a school district**

1 **may not be considered nonstandard under ORS 327.103 and moneys may not be withheld or**  
2 **any other penalty or sanctions imposed on a school district that does not comply with the**  
3 **participation requirement of ORS 329.496 (1) for students in grades six through eight.**

4 “[1] (b) Except as provided by subsections (2) and (3) of this section and only for school years  
5 prior to the 2022-2023 school year, a school district may not be considered nonstandard under ORS  
6 327.103 and moneys may not be withheld or any other penalty or sanctions imposed on a school  
7 district that does not comply with the time requirements established by ORS 329.496 (2).

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

10 “(b) For the 2020-2021 school year and every school year thereafter, students identified in ORS  
11 329.496 (2)(a) shall participate in physical education for at least 150 minutes during each school  
12 week.

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

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

17 “(b) For the 2022-2023 school year and every school year thereafter, students identified in ORS  
18 329.496 (2)(b) shall participate in physical education for at least 225 minutes during each school  
19 week.

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

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

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

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

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

29 “**SECTION 8.** ORS 192.660 is amended to read:

30 “192.660. (1) ORS 192.610 to 192.690 do not prevent the governing body of a public body from  
31 holding executive session during a regular, special or emergency meeting, after the presiding officer  
32 has identified the authorization under ORS 192.610 to 192.690 for holding the executive session.

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

34 “(a) To consider the employment of a public officer, **an** employee, **a** staff member or **an** indi-  
35 vidual agent.

36 “(b) **Except as provided by paragraph (c) of this subsection**, to consider the dismissal or  
37 disciplining of, or to hear complaints or charges brought against, a public officer, **an** employee, **a**  
38 staff member or **an** individual agent who does not request an open hearing.

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

44 “[c] (d) To consider matters pertaining to the function of the medical staff of a public hospital  
45 licensed pursuant to ORS 441.015 to 441.087 including, but not limited to, all clinical committees,

1 executive, credentials, utilization review, peer review committees and all other matters relating to  
2 medical competency in the hospital.

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

5 “[(e)] (f) To conduct deliberations with persons designated by the governing body to negotiate  
6 real property transactions.

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

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

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

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

15 “[(j)] (k) To carry on negotiations under ORS chapter 293 with private persons or businesses  
16 regarding proposed acquisition, exchange or liquidation of public investments.

17 “[(k)] (L) To consider matters relating to school safety or a plan that responds to safety threats  
18 made toward a school.

19 “[(L)] (m) If the governing body is a health professional regulatory board, to consider informa-  
20 tion obtained as part of an investigation of licensee or applicant conduct.

21 “[(m)] (n) If the governing body is the State Landscape Architect Board, or an advisory com-  
22 mittee to the board, to consider information obtained as part of an investigation of registrant or  
23 applicant conduct.

24 “[(n)] (o) To discuss information about review or approval of programs relating to the security  
25 of any of the following:

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

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

29 “(C) Generation, storage or conveyance of:

30 “(i) Electricity;

31 “(ii) Gas in liquefied or gaseous form;

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

33 “(iv) Petroleum products;

34 “(v) Sewage; or

35 “(vi) Water.

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

37 “(E) Data transmissions by whatever means provided.

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

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

45 “(5) When a governing body convenes an executive session under subsection [(2)(h)] (2)(i) of this

1 section relating to conferring with counsel on current litigation or litigation likely to be filed, the  
2 governing body shall bar any member of the news media from attending the executive session if the  
3 member of the news media is a party to the litigation or is an employee, agent or contractor of a  
4 news media organization that is a party to the litigation.

5 “(6) No executive session may be held for the purpose of taking any final action or making any  
6 final decision.

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

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

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

10 “(c) The consideration of general employment policies.

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

13 “(A) The public body has advertised the vacancy;

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

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

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

20 “(8) A governing body may not use an executive session for purposes of evaluating a chief  
21 executive officer or other officer, employee or staff member to conduct a general evaluation of an  
22 agency goal, objective or operation or any directive to personnel concerning agency goals, objec-  
23 tives, operations or programs.

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

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

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

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

34 “**SECTION 9.** ORS 338.135 is amended to read:

35 “338.135. (1) Employee assignment to a public charter school shall be voluntary.

36 “(2)(a) A public charter school or the sponsor of the public charter school is considered the  
37 employer of any employees of the public charter school. If a school district board is not the sponsor  
38 of the public charter school, the school district board may not be the employer of the employees of  
39 the public charter school and the school district board may not collectively bargain with the em-  
40 ployees of the public charter school. The public charter school governing body shall control the  
41 selection of employees at the public charter school.

42 “(b) If a virtual public charter school or the sponsor of a virtual public charter school contracts  
43 with a for-profit entity to provide educational services through the virtual public charter school, the  
44 for-profit entity may not be the employer of any employees of the virtual public charter school un-  
45 less:

1           “(A) The employee is an administrator who does not have any teaching responsibilities; and  
2           “(B) Both the executive officer of the sponsor and the public charter school governing body  
3 approve employment by the for-profit entity. The executive officer or governing body may choose to  
4 grant approval under this subparagraph:  
5           “(i) For all employees of the for-profit entity who meet the description in subparagraph (A) of  
6 this paragraph;  
7           “(ii) Based on the job categories of the employees who meet the description in subparagraph (A)  
8 of this paragraph; or  
9           “(iii) On a case-by-case basis for each employee who meets the description in subparagraph (A)  
10 of this paragraph.  
11           “(3) The school district board of the school district within which the public charter school is  
12 located shall grant a leave of absence to any employee who chooses to work in the public charter  
13 school. The length and terms of the leave of absence shall be set by negotiated agreement or by  
14 board policy. However, the length of the leave of absence may not be less than two years unless:  
15           “(a) The charter of the public charter school is terminated or the public charter school is dis-  
16 solved or closed during the leave of absence; or  
17           “(b) The employee and the school district board have mutually agreed to a different length of  
18 time.  
19           “(4) An employee of a public charter school operating within a school district who is granted  
20 a leave of absence from the school district and returns to employment with the school district shall  
21 retain seniority and benefits as an employee pursuant to the terms of the leave of absence.  
22 Notwithstanding ORS 243.650 to 243.806, a school district that was the employer of an employee of  
23 a public charter school not operating within the school district may make provisions for the return  
24 of the employee to employment with the school district.  
25           “(5)(a) For purposes of ORS chapters 238 and 238A, a public charter school shall be considered  
26 a public employer and as such shall participate in the Public Employees Retirement System.  
27           **“(b) For purposes of determining the salary of an active member of the Public Employees  
28 Retirement System under ORS 238A.005 (17), remuneration paid to a member in return for  
29 services to a public charter school shall be treated as if it were includable in the member’s  
30 taxable income under Oregon law during a period of continuous employment with any public  
31 charter school if:  
32           “(A) The member was hired in a qualifying position by a public charter school on or after  
33 August 29, 2003, and on or before December 31, 2017;  
34           “(B) The member was informed in writing by the public charter school during the period  
35 of continuous employment that the member was eligible to participate in the Public Em-  
36 ployees Retirement System and the public charter school made contributions to the system  
37 on the member’s behalf; and  
38           “(C) The member resided and performed services in the United States during the period  
39 of continuous employment.  
40           “(c) As used in this subsection, ‘continuous employment’ means employment with a  
41 public charter school that is not interrupted by a period of more than 30 consecutive calen-  
42 dar days.  
43           “(6) For teacher licensing, employment experience in public charter schools shall be considered  
44 equivalent to experience in public schools.  
45           “(7)(a) Any person employed as an administrator in a public charter school shall be licensed or**

1 registered to administer by the Teacher Standards and Practices Commission.

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

4 “(c) Notwithstanding paragraph (a) or (b) of this subsection, at least one-half of the total full-  
5 time equivalent (FTE) teaching and administrative staff at the public charter school shall be licensed  
6 by the commission pursuant to ORS 342.125.

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

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

16 “**SECTION 10. Notwithstanding ORS 327.077, a school qualifies as a remote small ele-  
17 mentary school or a small high school and an additional amount shall be added to the  
18 district’s ADMw, as calculated under ORS 327.077, for the 2020-2021 school year if:**

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

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

23 In line 31, delete “6” and insert “11”.  
24 \_\_\_\_\_