

HOUSE AMENDMENTS TO RESOLVE CONFLICTS TO A-ENGROSSED SENATE BILL 242

By COMMITTEE ON EDUCATION

May 27

1 On page 1 of the printed A-engrossed bill, line 2, after “419B.005;” insert “repealing section 8,
2 chapter __, Oregon Laws 2021 (Enrolled House Bill 2136);”.

3 On page 5, after line 8, insert:

4 **“SECTION 3a. If House Bill 2136 becomes law, section 8, chapter __, Oregon Laws 2021**
5 **(Enrolled House Bill 2136) (amending ORS 339.390), is repealed and ORS 339.390, as amended**
6 **by section 3 of this 2021 Act, is amended to read:**

7 “339.390. (1)(a) When the Teacher Standards and Practices Commission receives a report of
8 suspected sexual conduct that may have been committed by a [*licensed school employee, contractor,*
9 *agent or volunteer*] **commission licensee**, the commission shall immediately initiate an investigation.

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

14 “(c) Notwithstanding paragraph (b) of this subsection, the prescribed timeline for an investi-
15 gation and final determination may be extended if, for good cause, a longer period of time is neces-
16 sary.

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

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

21 “(b) Subpoena witnesses; and

22 “(c) Swear witnesses and compel obedience in the same manner as provided under ORS 183.440
23 (2).

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

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

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

32 “(5) If the commission finds that there is sufficient cause to justify holding a hearing under ORS
33 342.177, the commission shall notify in writing:

34 “(a) The person charged, enclosing a statement of the charges and a notice of opportunity for
35 hearing;

1 “(b) The student and, if applicable, the student’s parents;
2 “(c) The education provider; and
3 “(d) The person who provided the report of suspected sexual conduct.
4 “(6) If the commission finds that there is not sufficient cause to justify holding a hearing under
5 ORS 342.177, the commission shall notify in writing:
6 “(a) The person charged;
7 “(b) The student and, if applicable, the student’s parents;
8 “(c) The education provider; and
9 “(d) The person who provided the report of suspected sexual conduct.
10 “(7)(a) The documents and materials used in the investigation undertaken under this section, and
11 the report related to the investigation, are confidential and not subject to public inspection:
12 “(A) Unless the commission makes a final determination [*to suspend or revoke a license, disci-*
13 *pline a person holding a license or revoke the right to apply for a license*] **to discipline a commission**
14 **licensee**, as provided under ORS 342.175.
15 “(B) Except as provided by paragraphs (b) to (d) of this subsection.
16 “(b) Documents, materials and reports that are confidential under paragraph (a) of this sub-
17 section may be disclosed to an entity listed in paragraph (c) or (d) of this subsection only as pro-
18 vided by this subsection and rules adopted by the commission. The entity that receives documents,
19 materials or reports must maintain their confidentiality unless disclosure is allowed or required
20 under this section or other state or federal law.
21 “(c) To the extent allowed by state and federal law, the commission shall make available any
22 documents, materials and reports that are confidential under paragraph (a) of this subsection to:
23 “(A) A law enforcement agency or the Department of Human Services for the purpose of con-
24 ducting an investigation under ORS 419B.005 to 419B.050; or
25 “(B) The Department of Education for the purpose of conducting an investigation under ORS
26 339.391.
27 “(d)(A) The commission shall make available the commission’s investigative report to:
28 “(i) An education provider for the purpose of the education provider taking any disciplinary
29 actions or making changes in the employment relationship or duties of the [*school employee, con-*
30 *tractor, agent or volunteer*] **commission licensee**; and
31 “(ii) The [*school employee, contractor, agent or volunteer*] **commission licensee** who is the sub-
32 ject of the report.
33 “(B) The commission must redact the executive director’s recommendation from the report made
34 available under this paragraph.
35 “(C) A [*school employee, contractor, agent or volunteer*] **commission licensee** who receives a
36 report under this paragraph may share the report with the person’s attorney or union represen-
37 tative. An attorney or union representative who receives a report under this subparagraph must
38 maintain the report’s confidentiality unless disclosure is allowed or required under this section or
39 other state or federal law.
40 “(e) The commission shall retain documents and materials related to any report received under
41 this section, regardless of whether the commission found sufficient cause to justify holding a hearing
42 under this section.
43 “(8) Notwithstanding ORS 192.660 (6), the commission may make its findings under this section
44 in executive session. The provisions of ORS 192.660 (4) apply to executive sessions held pursuant to
45 this subsection.

