

SB 51-A4
(LC 624)
5/21/21 (HRL/ps)

Requested by HOUSE COMMITTEE ON HUMAN SERVICES (at the request of Representative Anna Williams)

**PROPOSED AMENDMENTS TO RESOLVE CONFLICTS TO
A-ENGROSSED SENATE BILL 51**

1 On page 1 of the printed A-engrossed bill, line 3, after “419B.035;” insert
2 “repealing section 4, chapter ___, Oregon Laws 2021 (Enrolled House Bill
3 2136);”

4 On page 3, after line 9, insert:

5 **“SECTION 1a. If House Bill 2136 becomes law, section 4, chapter ___,**
6 **Oregon Laws 2021 (Enrolled House Bill 2136) (amending ORS 339.370),**
7 **is repealed and ORS 339.370, as amended by section 1 of this 2021 Act,**
8 **is amended to read:**

9 “339.370. As used in ORS 339.370 to 339.400:

10 “(1) ‘Abuse’ has the meaning given that term in ORS 419B.005.

11 “(2) ‘Agent’ means a person acting as an agent for an education provider
12 in a manner that requires the person to have direct, unsupervised contact
13 with students.

14 **“(3) ‘Commission licensee’ has the meaning given that term in ORS**
15 **342.120.**

16 “[3] (4) ‘Contractor’ means a person providing services to an education
17 provider under a contract in a manner that requires the person to have di-
18 rect, unsupervised contact with students.

19 “[4(a)] (5)(a) ‘Education provider’ means:

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

21 “(B) The Oregon School for the Deaf.

1 “(C) An educational program under the Youth Corrections Education
2 Program.

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

4 “(E) An education service district, as defined in ORS 334.003.

5 “(F) Any state-operated program that provides educational services to
6 students.

7 “(G) A private school.

8 “(b) ‘Education provider’ does not include:

9 “(A) The Oregon Youth Authority;

10 “(B) The Department of Corrections; or

11 “(C) The Department of Education, except when functioning as an edu-
12 cation provider on behalf of

13 “the Oregon School for the Deaf.

14 “[5] (6) ‘Investigation’ means a detailed inquiry into the factual
15 allegations of a report of suspected abuse or suspected sexual conduct that:

16 “(a) Is based on interviews with the person who initiated the report, the
17 person who may have been subjected to abuse or sexual conduct, witnesses
18 and the person who is the subject of the report; and

19 “(b) Results in a finding that the report:

20 “(A) Is a substantiated report;

21 “(B) Cannot be substantiated; or

22 “(C) Is not a report of abuse or sexual conduct.

23 “[6] (7) ‘Law enforcement agency’ has the meaning given that term in
24 ORS 419B.005.

25 “[7] ‘License’ includes a license, registration or certificate issued by the
26 Teacher Standards and Practices Commission.]

27 “(8) ‘Licensed administrator’ means a person who is employed as an ad-
28 ministrator of an education provider and who:

29 “(a) Holds an administrative license issued by the Teacher Standards and
30 Practices Commission **under ORS 342.125 (3)(f) or (g)**; or

1 “(b) Does not hold an administrative license issued by the commission
2 because the person is employed by an education provider that does not re-
3 quire administrators to be licensed by the commission.

4 “(9) ‘Private school’ means a school that provides to students instruc-
5 tional programs that are not limited solely to dancing, drama, music, reli-
6 gious or athletic instruction.

7 “(10) ‘School board’ means the entity charged with adopting policies for
8 an education provider.

9 “(11) ‘School employee’ means an employee of an education provider.

10 “(12)(a) ‘Sexual conduct’ means verbal or physical conduct or verbal,
11 written or electronic communications by a school employee, a contractor, an
12 agent or a volunteer that involve a student and that are:

13 “(A) Sexual advances or requests for sexual favors directed toward the
14 student; or

15 “(B) Of a sexual nature that are directed toward the student or that have
16 the effect of unreasonably interfering with the student’s educational per-
17 formance, or of creating an intimidating, hostile or offensive educational
18 environment.

19 “(b) ‘Sexual conduct’ does not include touching:

20 “(A) That is necessitated by the nature of the school employee’s job duties
21 or by the services required to be provided by the contractor, agent or vol-
22 unteer; and

23 “(B) For which there is no sexual intent.

24 “(13) ‘Student’ means any person:

25 “(a) Who is:

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

27 “(B) Twenty-one years of age or younger and receiving educational or
28 related services from an education provider that is not a post-secondary in-
29 stitution of education; or

30 “(b) Who was previously known as a student by the person engaging in

1 sexual conduct and who left school or graduated from high school within 90
2 days prior to the sexual conduct.

3 “(14) ‘Substantiated report’ means a report of abuse or sexual conduct
4 that a law enforcement agency, the Department of Human Services, the
5 Teacher Standards and Practices Commission, the Department of Education
6 or an education provider has reasonable cause to believe, based on the
7 available evidence after conducting an investigation, is founded.

8 “(15) ‘Volunteer’ means a person acting as a volunteer for an education
9 provider in a manner that requires the person to have direct, unsupervised
10 contact with students.

11 **“SECTION 1b. If House Bill 2136 becomes law, the amendments to**
12 **ORS 339.370 by section 1a of this 2021 Act become operative on January**
13 **1, 2022.”**

14
