

Enrolled
Senate Bill 155

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CHAPTER

AN ACT

Relating to interpersonal boundary invasions affecting youth; creating new provisions; amending ORS 338.115, 339.370, 339.372, 339.374, 339.378, 339.384, 339.388, 339.392, 339.400, 342.175, 342.176, 342.177, 342.183, 342.390, 419B.005, 419B.020 and 419B.035; and declaring an emergency.

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

REQUIREMENTS FOR SCHOOL DISTRICTS

SECTION 1. ORS 339.370 is amended to read:

339.370. As used in ORS 339.370 to 339.400:

(1) "Abuse" has the meaning given that term in ORS 419B.005.

(2) **"Agent" means a person acting as an agent for an education provider in a manner that requires the person to have direct, unsupervised contact with students.**

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

[(2) "*Disciplinary records*" means the records related to a personnel discipline action or materials or documents supporting that action.]

[(3)] (4)(a) "Education provider" means:

[(a)] (A) A school district, as defined in ORS 332.002.

[(b)] (B) The Oregon School for the Deaf.

[(c)] (C) An educational program under the Youth Corrections Education Program.

[(d)] (D) A public charter school, as defined in ORS 338.005.

[(e)] (E) An education service district, as defined in ORS 334.003.

[(f)] (F) Any state-operated program that provides educational services to [*kindergarten through grade 12*] students.

[(g)] (G) A private school.

(b) **"Education provider" does not include:**

(A) **The Oregon Youth Authority;**

(B) **The Department of Corrections; or**

(C) **The Department of Education, except when functioning as an education provider on behalf of:**

(i) **The Oregon School for the Deaf;**

- (ii) **An educational program under the Youth Corrections Education Program; or**
- (iii) **A public charter school, as defined in ORS 338.005, that is sponsored by the Department of Education.**

[(4)] (5) “Investigation” means a detailed inquiry into the factual allegations of a report of suspected abuse or **suspected** sexual conduct that:

(a) Is based on interviews with the [*complainant*] **person who initiated the report, the person who may have been subjected to abuse or sexual conduct**, witnesses and the [*school employee or student*] **person** who is the subject of the report; and

[(b) *If the subject of the report is a school employee, meets any negotiated standards of an employment contract or agreement.*]

(b) Results in a finding that the report:

(A) Is a substantiated report;

(B) Cannot be substantiated; or

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

[(5)] (6) “Law enforcement agency” has the meaning given that term in ORS 419B.005.

(7) **“License” includes a license, registration or certificate issued by the Teacher Standards and Practices Commission.**

[(6)] (8) “Private school” means a school that provides to [*kindergarten through grade 12*] students instructional programs that are not limited solely to dancing, drama, music, religious or athletic instruction.

[(7) *“School board” means the governing board or governing body of an education provider.*]

(9) **“School board” means the entity charged with adopting policies for an education provider.**

[(8)] (10) “School employee” means an employee of an education provider.

[(9)(a) *“Sexual conduct” means any verbal or physical conduct by a school employee that:*]

[(A) *Is sexual in nature;*]

[(B) *Is directed toward a kindergarten through grade 12 student;*]

[(C) *Has the effect of unreasonably interfering with a student’s educational performance; and*]

[(D) *Creates an intimidating, hostile or offensive educational environment.*]

[(b) *“Sexual conduct” does not include abuse.*]

[(10) *“Substantiated report” means a report of abuse or sexual conduct that:*]

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

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

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

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

(B) Of a sexual nature that are directed toward the student or that have the effect of unreasonably interfering with the student’s educational performance, or of creating an intimidating, hostile or offensive educational environment.

(b) “Sexual conduct” does not include touching:

(A) That is necessitated by the nature of the school employee’s job duties or by the services required to be provided by the contractor, agent or volunteer; and

(B) For which there is no sexual intent.

(12) **“Student” means any person:**

(a) Who is:

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

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

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

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

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

SECTION 2. The amendments to ORS 339.370 by section 1 of this 2019 Act apply to conduct that occurs before, on or after the effective date of this 2019 Act for purposes of:

(1) Reports of suspected abuse or suspected sexual conduct that are made on or after the effective date of this 2019 Act.

(2) Investigations of suspected abuse or suspected sexual conduct that are initiated on or after the effective date of this 2019 Act.

(3) A collective bargaining agreement, an employment contract, an agreement for resignation or termination, a severance agreement or any similar contract or agreement entered into on or after the effective date of this 2019 Act.

SECTION 3. ORS 339.372 is amended to read:

339.372. Each school board shall adopt policies on the reporting of **suspected** abuse and **suspected** sexual conduct by school employees, **contractors, agents and volunteers** and the reporting of **suspected** abuse by students. The policies shall:

(1) Specify that abuse and sexual conduct by school employees, **contractors, agents and volunteers** and abuse by students are not tolerated[;].

(2) Specify that all school employees, **contractors, agents, volunteers** and students are subject to the policies[;].

(3) Require all school employees who have reasonable cause to believe that another school employee **or a contractor, an agent or a volunteer** has engaged in abuse or sexual conduct or that a student has engaged in abuse to **report**:

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

[(b)] (a) *[Report suspected abuse or sexual conduct to the person]* **To the licensed administrator** designated as provided by subsection (4) of this section **all incidents of suspected abuse or suspected sexual conduct; and**

(b) **To a law enforcement agency, the Department of Human Services or a designee of the department as required by ORS 419B.010 and 419B.015 all incidents of suspected abuse, in addition to any report made as required under paragraph (a) of this subsection.**

(4) Designate a *[person]* **licensed administrator**, and an alternate **licensed administrator** in the event the designated *[person]* **licensed administrator** is the suspected abuser, to:

(a) Receive reports of suspected abuse or **suspected** sexual conduct by school employees, **contractors, agents or volunteers** or suspected abuse by students and specify the procedures to be followed by *[that person]* **the licensed administrator** upon receipt of a report; **and**

(b) **In the manner required by ORS 339.388 (2), inform the Teacher Standards and Practices Commission or the Department of Education of reports of suspected sexual conduct received under paragraph (a) of this subsection.**

(5) Specify the procedures to be followed after a report of suspected abuse or suspected sexual conduct is received, including notification that:

(a) All suspected abuse or suspected sexual conduct by school employees, contractors, agents or volunteers will be reported to a law enforcement agency or to a state agency, as appropriate, for investigation;

(b) A law enforcement agency or a state agency will complete an investigation regardless of any changes in the relationship or duties of the person about whom the report was made; and

(c) An education provider will take necessary actions as provided by ORS 339.388 to ensure the student's safety after a report is received, including placing a school employee on paid administrative leave pending an investigation or prohibiting a contractor, an agent or a volunteer from providing services to the education provider.

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

(a) The name and contact information for the [person] licensed administrator and alternate licensed administrator designated for the school building to receive reports of suspected abuse or suspected sexual conduct by school employees, contractors, agents and volunteers or suspected abuse by students and the procedures the [person] licensed administrator will follow upon receipt of a report; and

(b) The contact information for making a report of suspected abuse to a law enforcement agency, the Department of Human Services or a designee of the department as required by ORS 419B.010 and 419B.015 and a statement that the duty to report abuse is in addition to any requirement to make a report to a licensed administrator.

[6] (7) Specify that the initiation of a report in good faith about suspected abuse or **suspected** sexual conduct may not adversely affect any terms or conditions of employment or the work environment of the [complainant;] **person who initiated the report or who may have been subjected to abuse or sexual conduct.**

[7] (8) Specify that the [school board] **education provider** or any school employee, **contractor, agent or volunteer** will not discipline a student for the initiation of a report in good faith about suspected abuse or **suspected** sexual conduct by a school employee, **a contractor, an agent or a volunteer** or suspected abuse by a student[;].

[8] (9) Require notification, **as allowed by state and federal law**, by the education provider to the person who [initiated the report] **was subjected to the suspected abuse or suspected sexual conduct** about **any** actions taken by the education provider based on the report[; and].

[9] (10) Require the education provider to furnish to a school employee at the time of hire, **or to a contractor, an agent or a volunteer at the time of beginning service for the education provider**, the following:

(a) A description of conduct that may constitute abuse or sexual conduct; [and]

(b) A description of the **investigatory process and possible consequences** [information and records that will be disclosed as provided by ORS 339.378 or 339.388 (8)] if a report of suspected abuse or **suspected** sexual conduct is substantiated[.]; **and**

(c) A description of the prohibitions imposed on school employees, contractors and agents when another school employee, contractor or agent attempts to obtain a new job, as provided by ORS 339.378 (2).

(11) Specify and make available to students, school employees, contractors, agents and volunteers a policy of appropriate electronic communications with students.

SECTION 4. ORS 339.374 is amended to read:

339.374. (1) Except as provided in ORS 339.384, before an education provider may hire an applicant for a position with the education provider **as a school employee**, the education provider shall:

[1] (a) Require the applicant to provide:

[a] (A) A list of the applicant's current and former employers who are education providers.

[b] (B) A written authorization that authorizes [the applicant's current and former employers that are] education providers **identified in subparagraph (A) of this paragraph** to disclose the information requested under [subsection (2) of this section] **paragraph (b) of this subsection.**

[c] (C) A written statement of whether the applicant:

[A] (i) Has been the subject of a substantiated report of abuse or sexual conduct; or

[B] (ii) Is the subject of an ongoing investigation related to a report of suspected abuse or **suspected** sexual conduct.

[2] (b) Conduct a review of the employment history of the applicant **with education providers** by contacting the three most recent [*employers of the applicant who are*] education providers **identified in paragraph (a)(A) of this subsection** and requesting **from each education provider**:

[a] *The following information:*

(A) The dates of employment of the applicant by the education provider[;].

(B) Whether the **education provider conducted an investigation and determined that the** applicant was the subject of any substantiated reports of abuse or sexual conduct related to the applicant's employment with the education provider[;] **and, if so, the following additional information:**

[C] (i) The dates of any substantiated reports;

[D] (ii) The definitions of "abuse" and "sexual conduct" used by the education provider when the education provider determined that any reports were substantiated; and

[E] (iii) The standards used by the education provider to determine whether any reports were substantiated.

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

[3] (c) For an applicant who is licensed[, *registered or certified*] with the Teacher Standards and Practices Commission, [*access online information provided by*] **request** the commission to verify:

[a] (A) That the applicant is licensed[, *registered or certified*] by the commission; and

[b] (B) Whether the commission has [*provided any information*] **an ongoing investigation or has a substantiated report** relating to conduct by the applicant that may constitute [*abuse or*] sexual conduct.

(d) **For an applicant who is not licensed with the Teacher Standards and Practices Commission, request the Department of Education to verify whether the department has an ongoing investigation or has a substantiated report relating to conduct by the applicant that may constitute sexual conduct.**

[4] (e) Conduct a nationwide criminal records check if required by ORS 326.603.

(2) **Before an education provider may accept the services of a contractor, agent or volunteer, the education provider shall:**

(a) **For a person who is licensed with the Teacher Standards and Practices Commission, request the commission to verify whether the commission has an ongoing investigation or has a substantiated report relating to conduct by the person that may constitute sexual conduct.**

(b) **For a person who is not licensed with the Teacher Standards and Practices Commission, request the Department of Education to verify whether the department has an ongoing investigation or has a substantiated report relating to conduct by the person that may constitute sexual conduct.**

(c) **Conduct any background checks required under ORS 326.603, 326.604 or 326.607.**

SECTION 5. ORS 339.378 is amended to read:

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

[2] (b) An education provider may disclose the information on a standardized form and is not required to provide any additional information related to a substantiated report of abuse or sexual conduct other than the information that is required by ORS 339.374 [2] (1)(b).

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

(2)(a) **Except as provided by paragraphs (b) and (c) of this subsection, an individual who is a school employee, a contractor or an agent may not assist another school employee,**

contractor or agent in obtaining any new job if the individual knows, or has reasonable cause to believe, that the school employee, contractor or agent engaged in abuse or sexual conduct.

(b) Nothing in paragraph (a) of this subsection prevents an education provider from:

(A) Disclosing the information described in subsection (1) of this section; or

(B) Providing the routine transmission of administrative and personnel files.

(c) The prohibition prescribed by paragraph (a) of this subsection does not apply if the school employee, contractor or agent knows, or has reasonable cause to believe:

(A) That the suspected abuse or suspected sexual conduct was reported to a law enforcement agency, the Department of Human Services, the Teacher Standards and Practices Commission or the Department of Education; and

(B) Any of the following are true:

(i) The report could be neither substantiated nor found to be unsubstantiated following an investigation;

(ii) The report was found to be unsubstantiated;

(iii) The report was found to be a substantiated report; or

(iv) The investigation into the report remains ongoing after four years.

(3)(a) The commission may take disciplinary action against a licensed school employee for failure to disclose information as required by subsection (1)(a) of this section. In determining whether to take disciplinary action, the commission may take into consideration any evidence presented by the school employee that a longer period of time was necessary for good cause.

(b) Any violation of the provisions of subsection (2) of this section shall be considered gross neglect of duty under ORS 342.175.

SECTION 6. ORS 339.384 is amended to read:

339.384. (1) An education provider may not hire an applicant [*who*] **to be a school employee if the applicant** does not comply with the requirements of ORS 339.374 (1)(a). A refusal **by the education provider** to hire an applicant under this subsection removes the applicant from any education provider policies, any collective bargaining provisions regarding dismissal procedures and appeals and any provisions of ORS 342.805 to 342.937.

(2) An education provider may hire an applicant **to be a school employee** on a conditional basis pending the education provider's review of information [*and records*] received under ORS 339.378 (1).

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

(a) [*A current or former employer of an applicant*] **An education provider identified by the applicant under ORS 339.374 (1)(a)(A)** fails or refuses to comply with the requirements of ORS 339.378 (1); or

(b) [*The applicant has or had an out-of-state employer*] **One or more education providers identified by the applicant under ORS 339.374 (1)(a)(A) are located in another state** and the laws or rules of that state prevent the release of information [*or records*] requested under ORS 339.378 (1).

SECTION 7. ORS 339.388 is amended to read:

339.388. [(1)(a) *A school employee having reasonable cause to believe that a child with whom the employee comes in contact has suffered abuse by another school employee or by a student, or that another school employee or a student with whom the employee comes in contact has abused a child, shall immediately report the information to:*]

[(A) *The person designated in the policy adopted under ORS 339.372; and*]

[(B) *A law enforcement agency, the Department of Human Services or a designee of the department as required by ORS 419B.010 and 419B.015.*]

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

(1)(a) A school employee shall immediately submit a report as provided by paragraph (b) of this subsection if the school employee has reasonable cause to believe that:

(A) A student has been subjected to abuse by another school employee or by a contractor, an agent, a volunteer or a student;

(B) A student has been subjected to sexual conduct by another school employee or by a contractor, an agent or a volunteer; or

(C) Another school employee or a contractor, an agent or a volunteer has engaged in sexual conduct.

(b) The report required under paragraph (a) of this subsection shall be made to:

(A) The licensed administrator designated in the policies adopted under ORS 339.372, for all reports of suspected abuse or suspected sexual conduct; and

(B) A law enforcement agency, the Department of Human Services or a designee of the department as required by ORS 419B.010 and 419B.015, for all reports of suspected abuse.

(2) [A person] The licensed administrator who receives a report under subsection (1) of this section shall follow the procedures required by the [policy] policies adopted by the school board under ORS 339.372, including:

(a) Notifying the Teacher Standards and Practices Commission as soon as possible of any reports of suspected sexual conduct that may have been committed by a person who is licensed by the commission; and

(b) Notifying the Department of Education as soon as possible of any reports of suspected sexual conduct that may have been committed by a person who is not licensed by the commission.

(3)(a) [Except as provided in subsection (4) of this section, when an education provider] When a licensed administrator receives a report of suspected abuse or suspected sexual conduct by [one of its employees,] a school employee and [the education provider's designee determines that] there is reasonable cause to support the report, the education provider shall:

[(A) In the case of suspected abuse, shall place the school employee on paid administrative leave; or]

[(B) In the case of suspected sexual conduct, may place the school employee on paid administrative leave or in a position that does not involve direct, unsupervised contact with children.]

(A) Place the school employee on paid administrative leave; and

(B) Take necessary actions to ensure the student's safety.

(b) A school employee who is placed on paid administrative leave under paragraph [(a)(A)] (a) of this subsection shall remain on administrative leave until:

[(A) The Department of Human Services or a law enforcement agency determines that the report cannot be substantiated or that the report will not be pursued; or]

[(B) The Department of Human Services or a law enforcement agency determines that the report is substantiated and the education provider takes the appropriate disciplinary action against the school employee.]

(A) For a report of suspected abuse, a law enforcement agency or the Department of Human Services determines that the report:

(i) Is substantiated and the education provider takes the appropriate employment action against the school employee; or

(ii) Cannot be substantiated or is not a report of abuse and the education provider:

(I) Determines that an employment policy has been violated and takes appropriate employment action against the school employee; or

(II) Determines that an employment policy has not been violated and employment action against the school employee is not required.

(B) For a report of suspected sexual conduct, the Teacher Standards and Practices Commission or the Department of Education determines that the report:

(i) Is substantiated and the education provider takes the appropriate employment action against the school employee; or

(ii) Cannot be substantiated or is not a report of sexual conduct and the education provider:

(I) Determines that an employment policy has been violated and takes appropriate employment action against the school employee; or

(II) Determines that an employment policy has not been violated and that employment action against the school employee is not required.

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

(c) When a school employee is placed on paid administrative leave under paragraph (a) of this subsection, the education provider may not require the school employee to use any accrued leave during the paid administrative leave.

(4)(a) Except as provided in paragraph (c) of this subsection, when a licensed administrator receives a report of suspected abuse or suspected sexual conduct by a contractor, an agent or a volunteer, the education provider:

(A) May immediately prohibit the contractor, agent or volunteer from providing services to the education provider.

(B) Shall prohibit the contractor, agent or volunteer from providing services to the education provider if the education provider determines that there is reasonable cause to support a report of abuse or sexual conduct.

(b) Except as provided in paragraph (c) of this subsection, an education provider is not required to reinstate a contractor, an agent or a volunteer. Any reinstatement of a contractor, an agent or a volunteer that does occur may not occur until:

(A) For a report of suspected abuse, a law enforcement agency or the Department of Human Services determines that the report:

(i) Is substantiated and the education provider takes the appropriate actions to protect students; or

(ii) Cannot be substantiated or is not a report of abuse and the education provider:

(I) Takes the appropriate actions to protect students; or

(II) Determines that no other actions are required to protect students.

(B) For a report of suspected sexual conduct, the Teacher Standards and Practices Commission or the Department of Education determines that the report:

(i) Is substantiated and the education provider takes the appropriate actions to protect students; or

(ii) Cannot be substantiated or is not a report of sexual conduct and the education provider:

(I) Takes the appropriate actions to protect students; or

(II) Determines that no other actions are required to protect students.

(c) If a contract under which a contractor provides services to an education provider or an agreement under which an agent provides services to an education provider sets forth any negotiated standards for the relationship between the contractor or agent and the education provider, the education provider shall comply with those standards but may not in any instance grant the contractor or agent more rights than granted to a school employee under subsection (3) of this section.

(d) Nothing in this subsection:

(A) Establishes an employment relationship between an education provider and a contractor or an agent; or

(B) Confers onto a contractor or an agent any rights of employment.

(5)(a) When a report of suspected abuse or suspected sexual conduct is investigated by a law enforcement agency, the Department of Human Services, the Teacher Standards and Practices Commission or the Department of Education, an education provider may use the

findings of the entity that conducted the investigation for the purpose of subsection (3) or (4) of this section and for making any determinations described in subsection (6) of this section.

(b) Nothing in this subsection prohibits an education provider from:

(A) Conducting an investigation related to a report of suspected abuse or suspected sexual conduct, except that the education provider must:

(i) If requested, allow the investigation to be led by an entity identified in paragraph (a) of this subsection, as applicable;

(ii) Follow any protocols and procedures of entities identified in paragraph (a) of this subsection that are involved in the investigation; and

(iii) Cooperate with the entities identified in paragraph (a) of this subsection that are involved in the investigation, including by:

(I) Suspending any investigations of the education provider at the request of the entity; and

(II) Sharing information with the entity as provided by subsection (10) of this section.

(B) Taking an employment action, based on information available to the education provider, before an investigation conducted by an entity identified in paragraph (a) of this subsection is completed.

(6)(a) For each report of suspected abuse or suspected sexual conduct by a school employee, an education provider must determine if:

(A) An employment policy of the education provider was violated; and

(B) The education provider will take any employment actions, including disciplinary action against the school employee or changes to the employment relationship or duties of the school employee.

(b) Determinations made under paragraph (a) of this subsection must be based on the findings of an investigation conducted by:

(A) A law enforcement agency, the Department of Human Services, the Teacher Standards and Practices Commission or the Department of Education; or

(B) The education provider, if the education provider conducts an investigation.

(c) A final determination by a law enforcement agency, the Department of Human Services, the Teacher Standards and Practices Commission or the Department of Education that a report of suspected abuse or suspected sexual conduct cannot be substantiated or is not a report of abuse or sexual conduct does not:

(A) Relieve an education provider of the requirement to make determinations under paragraph (a) of this subsection; or

(B) Prohibit an education provider from taking any employment actions against a school employee.

(d) Except as provided by paragraph (e) of this subsection, determinations made under paragraph (a) of this subsection must be made:

(A) Within 60 calendar days from the date the education provider received from a law enforcement agency, the Department of Human Services, the Teacher Standards and Practices Commission or the Department of Education a final determination that a report of suspected abuse or suspected sexual conduct involving a school employee is a substantiated report; or

(B) Within 90 calendar days from the date the education provider:

(i) Received from a law enforcement agency, the Department of Human Services, the Teacher Standards and Practices Commission or the Department of Education a final determination that a report of suspected abuse or suspected sexual conduct involving a school employee cannot be substantiated or is not a report of abuse or sexual conduct; or

(ii) Received a report of suspected abuse or suspected sexual conduct if the education provider conducts an investigation.

(e) The timelines prescribed by paragraph (d) of this subsection may be extended if, for good cause, a longer period of time is necessary. For an education provider that conducts an investigation, good cause may include suspending an investigation as required by subsection (5)(b) of this section.

(7) If, in the course of an investigation by an education provider, the education provider becomes aware of new information that gives rise to a reasonable cause to believe that abuse or sexual conduct occurred, the education provider shall ensure that a report is made to a law enforcement agency, the Department of Human Services, a designee of the department as required by ORS 419B.010 and 419B.015, the Teacher Standards and Practices Commission or the Department of Education.

[(5)] (8) If, following an investigation, [an education provider determines that a report of suspected abuse or sexual conduct by a school employee is a substantiated report] **an education provider determines that the education provider will take an employment action**, the education provider shall:

(a) Inform the school employee [that the education provider has determined that the report has been substantiated] **of the employment action that will be taken by the education provider**.

(b) Provide the school employee with information about the appropriate appeal process for the [determination made] **employment action taken** by the education provider. The appeal process may be the process provided by a collective bargaining agreement or a process administered by a neutral third party and paid for by the [school district] **education provider**.

(c) Following notice of a school employee's decision not to appeal the [determination] **employment action of an education provider** or following the determination of an appeal that sustained the [substantiated report] **employment action taken by the education provider**, create a record of the **findings of the substantiated report and the employment action taken by the education provider** and place the record in [the personnel file of the school employee] **any documents maintained by the education provider on the school employee**. Records created pursuant to this paragraph are confidential and are not public records as defined in ORS 192.311. An education provider may use the record as a basis for providing the information required to be disclosed **about a school employee** under ORS 339.378 (1).

(d) Inform the school employee that information about substantiated reports may be disclosed to a potential employer as provided by [subsection (8) of this section and] ORS 339.378 (1).

[(6)(a)] (9)(a) Notwithstanding the requirements [of subsections (3), (4) and (5)] of this section, an education provider that is a private school:

(A) May [discipline or terminate] **take an employment action in relation to** a school employee, **a contractor, an agent or a volunteer** according to:

(i) The provisions of [subsections (3) and (4) of] this section; or

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

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

(b) A private school that chooses to [discipline or terminate] **take an employment action or other action in relation to** a school employee, **a contractor, an agent or a volunteer** according to the standards and policies of the **private** school must provide the information required to be disclosed under ORS 339.378 (1).

[(7) Upon request from a law enforcement agency, the Department of Human Services or the Teacher Standards and Practices Commission, a school district shall provide the records of investigations of suspected abuse by a school employee or former school employee.]

[(8)(a) The disciplinary records of a school employee or former school employee convicted of a crime listed in ORS 342.143 are not exempt from disclosure under ORS 192.345 or 192.355.]

[(b) If a school employee is convicted of a crime listed in ORS 342.143, the education provider that is the employer of the employee shall disclose the disciplinary records of the employee to any person upon request.]

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

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

(10) Upon request from a law enforcement agency, the Department of Human Services, the Teacher Standards and Practices Commission or the Department of Education, in conducting an investigation related to suspected abuse or suspected sexual conduct, an education provider shall immediately provide any requested documents or materials, to the extent allowed by state and federal law, including laws protecting a person from self-incrimination.

SECTION 8. ORS 339.392 is amended to read:

339.392. (1) An education provider may not enter into a collective bargaining agreement, an employment contract, an agreement for resignation or termination, a severance agreement or any *[other]* **similar** contract or agreement that:

(a) Has the effect of **impairing or terminating an ongoing investigation, or** suppressing information relating to an ongoing investigation, related to a report of suspected abuse or **suspected** sexual conduct *[or]*;

(b) **Has the effect of suppressing information** relating to a substantiated report of abuse or sexual conduct by a current or former **school employee, contractor, agent or volunteer;**

[(b)] (c) Affects the duties of the education provider to report suspected abuse or **suspected** sexual conduct or to discipline a current or former **school employee, contractor, agent or volunteer** for a substantiated report of abuse or sexual conduct;

[(c)] (d) Impairs the ability of the education provider to discipline *[an employee]* **a school employee, a contractor, an agent or a volunteer** for a substantiated report of abuse or sexual conduct; or

[(d)] (e) Requires the education provider to expunge substantiated information about abuse or sexual conduct from any documents maintained by an education provider.

(2) Any provision of an employment contract or agreement that is contrary to this section is void and unenforceable.

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

(a) Standards for investigation of a report of **suspected** abuse or **suspected** sexual conduct; or

(b) An appeal process from the determination **made by or the action taken** by an education provider *[that]* **related to** a report of abuse or sexual conduct *[has been substantiated as provided in ORS 339.388 (5)].*

SECTION 9. The amendments to ORS 339.392 by section 8 of this 2019 Act apply to agreements and contracts entered into on or after January 1, 2020.

SECTION 10. ORS 339.400 is amended to read:

339.400. (1) An education provider shall provide to school employees *[training]* each school year **training on:**

(a) The prevention and identification of abuse and sexual conduct *[and on]*;

(b) The obligations of school employees under ORS **339.388 and** 419B.005 to 419B.050 and under policies adopted by the school board to report **suspected** abuse and **suspected** sexual conduct*[,]*; **and**

(c) **Appropriate electronic communications with students as provided by ORS 339.372 (11).**

(2) **An education provider shall provide to contractors, agents and volunteers each school year information on:**

- (a) **The prevention and identification of abuse and sexual conduct;**
- (b) **The obligations of school employees under policies adopted by the school board to report abuse and sexual conduct; and**
- (c) **Appropriate electronic communications with students as described in ORS 339.372 (11).**

[2] (3) An education provider shall make the training provided under subsection (1) of this section available each school year **to contractors, agents and volunteers and** to parents and legal guardians of [*children*] **students** who attend a school operated by the education provider. The training shall be provided separately from the training provided to school employees under subsection (1) of this section.

[3] (4) An education provider shall make [*training that is designed to prevent abuse and sexual conduct*] available each school year to [*children*] **students** who attend a school operated by the education provider **a training that is designed to prevent abuse and sexual conduct.**

SECTION 11. ORS 338.115 is amended to read:

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

- (a) Federal law;
- (b) ORS 30.260 to 30.300 (tort claims);
- (c) ORS 192.311 to 192.478 (public records law);
- (d) ORS 192.610 to 192.690 (public meetings law);
- (e) ORS chapters 279A, 279B and 279C (Public Contracting Code);
- (f) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);
- (g) ORS 326.565, 326.575 and 326.580 (student records);
- (h) ORS 181A.195, 326.603, 326.607 and 342.223 (criminal records checks);
- (i) ORS 329.045 (academic content standards and instruction);
- (j) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative certificate);
- (k) ORS 329.496 (physical education);
- (L) The statewide assessment system developed by the Department of Education for mathematics, science and English under ORS 329.485 (2);
- (m) ORS 336.840 (use of personal electronic devices);
- (n) ORS 337.150 (textbooks);
- (o) ORS 339.119 (consideration for educational services);
- (p) ORS 339.141, 339.147 and 339.155 (tuition and fees);
- (q) ORS 339.250 (9) (prohibition on infliction of corporal punishment);
- (r) ORS 339.326 (notice concerning students subject to juvenile court petitions);
- (s) ORS 339.370[, 339.372, 339.388 and] **to** 339.400 (reporting of **suspected** abuse and **suspected** sexual conduct [*and training on prevention and identification of abuse and sexual conduct*]);
- (t) ORS 342.856 (core teaching standards);
- (u) ORS chapter 657 (Employment Department Law);
- (v) ORS 659.850, 659.855 and 659.860 (discrimination);
- (w) Any statute or rule that establishes requirements for instructional time provided by a school during each day or during a year;
- (x) Statutes and rules that expressly apply to public charter schools;
- (y) Statutes and rules that apply to a special government body, as defined in ORS 174.117, or a public body, as defined in ORS 174.109;
- (z) Health and safety statutes and rules;
- (aa) Any statute or rule that is listed in the charter; and
- (bb) This chapter.

(2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules that apply only to school district boards, school districts and other public schools may apply to a public charter school.

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

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

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

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

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

(7) The sponsor, members of the governing board of the sponsor acting in their official capacities and employees of a sponsor acting in their official capacities are immune from civil liability with respect to all activities related to a public charter school within the scope of their duties or employment.

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

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

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

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

(12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a public charter school grants to the holder the same rights and privileges as a high school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a nonchartered public school.

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

(14) A public charter school may receive services from an education service district in the same manner as a nonchartered public school in the school district in which the public charter school is located.

SECTION 12. The amendments to ORS 338.115, 339.372, 339.374, 339.378, 339.384, 339.388, 339.392 and 339.400 by sections 3 to 8, 10 and 11 of this 2019 Act become operative on January 1, 2020.

REQUIREMENTS FOR THE DEPARTMENT OF HUMAN SERVICES

SECTION 13. Section 14 of this 2019 Act is added to and made a part of ORS 419B.005 to 419B.050.

SECTION 14. (1) As used in this section:

(a) “Agent” means a person who:

(A) Acts as an agent for an education provider in a manner that requires the person to have direct, unsupervised contact with children; and

(B) Interacts with a child because of the person's status as an agent for an education provider.

(b) "Contractor" means a person who:

(A) Provides services to an education provider under a contract in a manner that requires the person to have direct, unsupervised contact with children; and

(B) Interacts with a child because of the person's status as a contractor for an education provider.

(c) "Education provider" has the meaning given that term in ORS 339.370.

(d) "School employee" means a person who:

(A) Is an employee of an education provider; and

(B) Interacts with a child because of the person's status as an employee of an education provider.

(e) "Volunteer" means a person who:

(A) Acts as a volunteer for an education provider in a manner that requires the person to have direct, unsupervised contact with children; and

(B) Interacts with a child because of the person's status as a volunteer of an education provider.

(2) A law enforcement agency or the Department of Human Services must conduct an investigation as provided by ORS 419B.020 if the law enforcement agency or department receives a report of abuse that involves a child and a person who is a school employee, contractor, agent or volunteer.

(3) A law enforcement agency shall notify the department as provided by ORS 419B.015 if the law enforcement agency receives a report described in subsection (2) of this section. The department shall notify a law enforcement agency as provided by ORS 419B.015 if the department receives a report described in subsection (2) of this section. The department shall ensure that an investigation related to the report is conducted if the report is not investigated by a law enforcement agency.

(4)(a) Within three business days of receiving a report or notification of a report described in subsection (2) of this section, the department shall notify:

(A) The Teacher Standards and Practices Commission, if the department believes the school employee, contractor, agent or volunteer is licensed or registered by the commission; or

(B) The Department of Education, if the Department of Human Services believes the report of suspected abuse:

(i) Occurred in a school or was related to a school-sponsored activity; or

(ii) Involves a child and a person who is a school employee, contractor, agent or volunteer.

(b) For the purpose of notification made under this subsection, the Department of Human Services may not disclose the name and address of, and other identifying information about, the person who made the report, but the department shall make available any information necessary to ensure the safety of the child, including the name of the school and the name of the person who may have conducted the suspected abuse. Any person or entity to whom notification is made under this subsection may not release any information not authorized by this subsection.

(c) When the Department of Education receives notification under this subsection, the department shall immediately notify the appropriate education providers to ensure the safety of the child.

(5) The Department of Human Services may adopt any rules necessary for the administration of this section.

NOTE: Section 15 was deleted by amendment. Subsequent sections were not renumbered.

SECTION 16. ORS 419B.005 is amended to read:

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

(1)(a) "Abuse" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Is under 18 years of age; or

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

(3) "Higher education institution" means:

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

(b) A public university listed in ORS 352.002;

(c) The Oregon Health and Science University; and

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

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

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

[(4)] (5) "Law enforcement agency" means:

(a) A city or municipal police department.

(b) A county sheriff's office.

(c) The Oregon State Police.

- (d) A police department established by a university under ORS 352.121 or 353.125.
- (e) A county juvenile department.
- [(5)] (6) "Public or private official" means:
 - (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician, including any intern or resident.
 - (b) Dentist.
 - (c) School employee, including an employee of a higher education institution.
 - (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide or employee of an in-home health service.
 - (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205 or an alcohol and drug treatment program.
 - (f) Peace officer.
 - (g) Psychologist.
 - (h) Member of the clergy.
 - (i) Regulated social worker.
 - (j) Optometrist.
 - (k) Chiropractor.
 - (L) Certified provider of foster care, or an employee thereof.
 - (m) Attorney.
 - (n) Licensed professional counselor.
 - (o) Licensed marriage and family therapist.
 - (p) Firefighter or emergency medical services provider.
 - (q) A court appointed special advocate, as defined in ORS 419A.004.
 - (r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
 - (s) Member of the Legislative Assembly.
 - (t) Physical, speech or occupational therapist.
 - (u) Audiologist.
 - (v) Speech-language pathologist.
 - (w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.
 - (x) Pharmacist.
 - (y) An operator of a preschool recorded program under ORS 329A.255.
 - (z) An operator of a school-age recorded program under ORS 329A.257.
 - (aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.
 - (bb) Employee of a public or private organization providing child-related services or activities:
 - (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day camps, survival camps or groups, centers or camps that are operated under the guidance, supervision or auspices of religious, public or private educational systems or community service organizations; and
 - (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.
 - (cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.
 - (dd) Personal support worker, as defined by rule adopted by the Home Care Commission.
 - (ee) Home care worker, as defined in ORS 410.600.

SECTION 17. ORS 419B.005, as amended by section 21, chapter 75, Oregon Laws 2018, is amended to read:

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

(1)(a) "Abuse" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Is under 18 years of age; or

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

(3) "Higher education institution" means:

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

(b) A public university listed in ORS 352.002;

(c) The Oregon Health and Science University; and

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

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

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

[4] (5) "Law enforcement agency" means:

- (a) A city or municipal police department.
- (b) A county sheriff's office.
- (c) The Oregon State Police.
- (d) A police department established by a university under ORS 352.121 or 353.125.
- (e) A county juvenile department.

[5] (6) "Public or private official" means:

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

(b) Dentist.

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

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

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

(f) Peace officer.

(g) Psychologist.

(h) Member of the clergy.

(i) Regulated social worker.

(j) Optometrist.

(k) Chiropractor.

(L) Certified provider of foster care, or an employee thereof.

(m) Attorney.

(n) Licensed professional counselor.

(o) Licensed marriage and family therapist.

(p) Firefighter or emergency medical services provider.

(q) A court appointed special advocate, as defined in ORS 419A.004.

(r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.

(s) Member of the Legislative Assembly.

(t) Physical, speech or occupational therapist.

(u) Audiologist.

(v) Speech-language pathologist.

(w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.

(x) Pharmacist.

(y) An operator of a preschool recorded program under ORS 329A.255.

(z) An operator of a school-age recorded program under ORS 329A.257.

(aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.

(bb) Employee of a public or private organization providing child-related services or activities:

(A) Including but not limited to youth groups or centers, scout groups or camps, summer or day camps, survival camps or groups, centers or camps that are operated under the guidance, supervision or auspices of religious, public or private educational systems or community service organizations; and

(B) Excluding community-based, nonprofit organizations whose primary purpose is to provide confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.

(cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.

(dd) Personal support worker, as defined in ORS 410.600.

(ee) Home care worker, as defined in ORS 410.600.

SECTION 18. ORS 419B.020 is amended to read:

419B.020. (1) If the Department of Human Services or a law enforcement agency receives a report of child abuse, the department or the agency shall immediately:

(a) Cause an investigation to be made to determine the nature and cause of the abuse of the child; and

(b) *[Notify]* **Make the following notifications:**

(A) To the Office of Child Care if the alleged child abuse occurred in a child care facility as defined in ORS 329A.250[.]; or

(B) To the Department of Education if the alleged child abuse occurred in a school or was related to a school-sponsored activity.

(2) The Department of Human Services shall ensure that an investigation required by subsection (1) of this section is completed if the report is not investigated by a law enforcement agency.

[(2)] **(3) If the abuse reported in subsection (1) of this section is alleged to have occurred at a child care facility or in a school or was related to a school-sponsored activity:**

(a) The Department of Human Services and the law enforcement agency shall jointly determine the roles and responsibilities of the department and the agency in their respective investigations; and

(b) The department and the agency shall each report the outcomes of their investigations to the Office of Child Care **or to the Department of Education.**

[(3)] **(4) If the law enforcement agency conducting the investigation finds reasonable cause to believe that abuse has occurred, the law enforcement agency shall notify by oral report followed by written report the local office of the department. The Department of Human Services shall provide protective social services of its own or of other available social agencies if necessary to prevent further abuses to the child or to safeguard the child's welfare.**

[(4)] **(5) If a child is taken into protective custody by the department, the department shall promptly make reasonable efforts to ascertain the name and address of the child's parents or guardian.**

[(5)(a)] **(6)(a) If a child is taken into protective custody by the department or a law enforcement official, the department or law enforcement official shall, if possible, make reasonable efforts to advise the parents or guardian immediately, regardless of the time of day, that the child has been taken into custody, the reasons the child has been taken into custody and general information about the child's placement, and the telephone number of the local office of the department and any after-hours telephone numbers.**

(b) Notice may be given by any means reasonably certain of notifying the parents or guardian, including but not limited to written, telephonic or in-person oral notification. If the initial notification is not in writing, the information required by paragraph (a) of this subsection also shall be provided to the parents or guardian in writing as soon as possible.

(c) The department also shall make a reasonable effort to notify the noncustodial parent of the information required by paragraph (a) of this subsection in a timely manner.

(d) If a child is taken into custody while under the care and supervision of a person or organization other than the parent, the department, if possible, shall immediately notify the person or organization that the child has been taken into protective custody.

[(6)] **(7) If a law enforcement officer or the department, when taking a child into protective custody, has reasonable cause to believe that the child has been affected by sexual abuse and rape of a child as defined in ORS 419B.005 (1)(a)(C) and that physical evidence of the abuse exists and is likely to disappear, the court may authorize a physical examination for the purposes of preserving evidence if the court finds that it is in the best interest of the child to have such an examination. Nothing in this section affects the authority of the department to consent to physical examinations of the child at other times.**

[7] (8) A minor child of 12 years of age or older may refuse to consent to the examination described in subsection [(6)] (7) of this section. The examination shall be conducted by or under the supervision of a physician licensed under ORS chapter 677, a physician assistant licensed under ORS 677.505 to 677.525, a naturopathic physician licensed under ORS chapter 685 or a nurse practitioner licensed under ORS chapter 678 and, whenever practicable, trained in conducting such examinations.

[(8)] (9) When the department completes an investigation under this section, if the person who made the report of child abuse provided contact information to the department, the department shall notify the person about whether contact with the child was made, whether the department determined that child abuse occurred and whether services will be provided. The department is not required to disclose information under this subsection if the department determines that disclosure is not permitted under ORS 419B.035.

SECTION 19. ORS 419B.035 is amended to read:

419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.478 and 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of public records and public documents, reports and records compiled under the provisions of ORS 419B.010 to 419B.050 are confidential and may not be disclosed except as provided in this section. The Department of Human Services shall make the records available to:

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

(b) Any physician, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or nurse practitioner licensed under ORS 678.375 to 678.390, at the request of the physician, physician assistant, naturopathic physician or nurse practitioner, regarding any child brought to the physician, physician assistant, naturopathic physician or nurse practitioner or coming before the physician, physician assistant, naturopathic physician or nurse practitioner for examination, care or treatment;

(c) Attorneys of record for the child or child's parent or guardian in any juvenile court proceeding;

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

(e) A court appointed special advocate in any juvenile court proceeding in which it is alleged that a child has been subjected to child abuse or neglect;

(f) The Office of Child Care for certifying, registering or otherwise regulating child care facilities;

(g) The Office of Children's Advocate;

(h) The Teacher Standards and Practices Commission for investigations conducted under ORS 342.176 or section 23 of this 2019 Act involving any child or any student [*in grade 12 or below*];

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

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

(k) With respect to a report of abuse occurring at a school or in an educational setting that involves a child with a disability, Disability Rights Oregon[.];

(L) The Department of Education for purposes of investigations conducted under section 32 of this 2019 Act; and

(m) An education provider for the purpose of making determinations under ORS 339.388.

(2)(a) When disclosing reports and records pursuant to subsection (1)(i) of this section, the Department of Human Services may exempt from disclosure the names, addresses and other identifying information about other children, witnesses, victims or other persons named in the report or record if the department determines, in written findings, that the safety or well-being of a person named in

the report or record may be jeopardized by disclosure of the names, addresses or other identifying information, and if that concern outweighs the public's interest in the disclosure of that information.

(b) If the Department of Human Services does not have a report or record of abuse regarding a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015, the department may disclose that information.

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

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

(5) A law enforcement agency, upon completing an investigation and closing the file in a specific case relating to child abuse or neglect, shall make reports and records in the case available upon request to any law enforcement agency or community corrections agency in this state, to the Department of Corrections or to the State Board of Parole and Post-Prison Supervision for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release. A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to law enforcement, community corrections, corrections or parole agencies in an open case when the law enforcement agency determines that the disclosure will not interfere with an ongoing investigation in the case. The name, address and other identifying information about the person who made the report may not be disclosed under this subsection or subsection (6)(b) of this section.

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

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

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

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

(7) An officer or employee of the Department of Human Services or of a law enforcement agency or any person or entity to whom disclosure is made pursuant to subsections (1) to (6) of this section may not release any information not authorized by subsections (1) to (6) of this section.

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

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

SECTION 20. (1) Section 14 of this 2019 Act and the amendments to ORS 419B.005, 419B.020 and 419B.035 by sections 16 to 19 of this 2019 Act become operative on January 1, 2020.

(2) Section 14 of this 2019 Act and the amendments to ORS 419B.005, 419B.020 and 419B.035 by sections 16 to 19 of this 2019 Act apply to reports received on or after January 1, 2020.

SECTION 21. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Human Services by section 1 (1), chapter __, Oregon Laws 2019 (Enrolled House Bill 5026), for central services and state assessments and enterprise-wide costs, for the biennium beginning July 1, 2019, is increased by \$1,344,780 for the purpose of complying with the requirements of this 2019 Act.

SECTION 21a. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Human Services by section 1 (3), chapter __, Oregon Laws 2019 (Enrolled House Bill 5026), for child welfare, for the biennium beginning July 1, 2019, is increased by \$1,116,115 for the purpose of complying with the requirements of this 2019 Act.

SECTION 21b. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 2 (5), chapter __, Oregon Laws 2019 (Enrolled House Bill 5026), for the biennium beginning July 1, 2019, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts and Medicare receipts and including federal funds for indirect cost recovery, Social Security Supplemental Security Income recoveries and the Child Care and Development Fund, but excluding lottery funds and federal funds not described in this section, collected or received by the Department of Human Services, for shared services, is increased by \$820,749 for the purpose of complying with the requirements of this 2019 Act.

SECTION 21c. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 3 (1), chapter __, Oregon Laws 2019 (Enrolled House Bill 5026), for the biennium beginning July 1, 2019, as the maximum limit for payment of expenses from federal funds, excluding federal funds described in section 2, chapter __, Oregon Laws 2019 (Enrolled House Bill 5026), collected or received by the Department of Human Services, for central services and state assessments and enterprise-wide costs, is increased by \$392,329 for the purpose of complying with the requirements of this 2019 Act.

REQUIREMENTS FOR THE TEACHER STANDARDS AND PRACTICES COMMISSION

SECTION 22. Section 23 of this 2019 Act is added to and made a part of ORS 339.370 to 339.400.

SECTION 23. (1)(a) When the Teacher Standards and Practices Commission receives a report of suspected sexual conduct that may have been committed by a licensed school employee, contractor, agent or volunteer, the commission shall immediately initiate an investigation.

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

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

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

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

(b) Subpoena witnesses; and

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

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

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

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

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

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

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

(c) The education provider; and

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

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

(a) The person charged;

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

(c) The education provider; and

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

(7)(a) Except as provided in paragraph (b) of this subsection, the documents and materials used in the investigation undertaken under this section, and the report related to the investigation, are confidential and not subject to public inspection unless the commission makes a final determination to suspend or revoke a license, discipline a person holding a license or revoke the right to apply for a license, as provided under ORS 342.175.

(b) To the extent allowed by state and federal law, the commission shall make available any documents, materials and reports to:

(A) A law enforcement agency or the Department of Human Services for the purpose of conducting an investigation under ORS 419B.005 to 419B.050;

(B) The Department of Education for the purpose of conducting an investigation under section 32 of this 2019 Act; or

(C) An education provider for the purpose of taking any disciplinary actions or making changes in the employment relationship or duties of the school employee, contractor, agent or volunteer.

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

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

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

SECTION 24. ORS 342.175 is amended to read:

342.175. (1) The Teacher Standards and Practices Commission may suspend or revoke the license or registration of a teacher or administrator, discipline a teacher or administrator, or suspend or revoke the right of any person to apply for a license or registration, if the licensee, registrant or applicant has held a license or registration at any time within five years prior to issuance of the notice of charges under ORS 342.176 or **section 23 of this 2019 Act** based on the following:

- (a) Conviction of a crime not listed in ORS 342.143 (3);
- (b) Gross neglect of duty;
- (c) Any gross unfitness;
- (d) Conviction of a crime for violating any law of this state or any state or of the United States involving the illegal use, sale or possession of controlled substances;
- (e) Conviction of a crime described in ORS 475B.010 to 475B.545;
- (f) Any false statement knowingly made in an application for issuance, renewal or reinstatement of a license or registration; or
- (g) Failure to comply with any condition of reinstatement under subsection (4) of this section or any condition of probation under ORS 342.177 (3)(b).

(2) If a person is enrolled in an approved educator preparation program under ORS 342.147, the commission may issue a public reprimand or may suspend or revoke the right to apply for a license or registration based on the following:

- (a) Conviction of a crime listed in ORS 342.143 (3) or a crime described by the commission by rule;
- (b) Conviction of a crime for violating any law of this state or any state or of the United States involving the illegal use, sale or possession of controlled substances; or
- (c) Any conduct that may cause the commission to issue a public reprimand for a teacher or to suspend or revoke the license or registration of a teacher.

(3) The commission shall revoke any license or registration and shall revoke the right of any person to apply for a license or registration if the person has been convicted of any crime listed in ORS 342.143 (3).

(4)(a) Except for convictions for crimes listed in ORS 342.143 (3) and subject to subsection (5) of this section, any person whose license or registration has been revoked, or whose right to apply for a license or registration has been revoked, may apply to the commission for reinstatement of the license or registration after one year from the date of the revocation.

(b) Any person whose license or registration has been suspended, or whose right to apply for a license or registration has been suspended, may apply to the commission for reinstatement of the license or registration.

(c) The commission may require an applicant for reinstatement to furnish evidence satisfactory to the commission of good moral character, mental and physical health and such other evidence as the commission may consider necessary to establish the applicant's fitness. The commission may impose a probationary period and such conditions as the commission considers necessary upon approving an application for reinstatement.

(5) The commission shall reconsider immediately a license or registration suspension or revocation or the situation of a person whose right to apply for a license or registration has been revoked, upon application therefor, when the license or registration suspension or revocation or the right revocation is based on a criminal conviction that is reversed on appeal.

(6) Violation of rules adopted by the commission relating to competent and ethical performance of professional duties shall be admissible as evidence of gross neglect of duty or gross unfitness.

(7) A copy of the record of conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of a conviction described in this section.

SECTION 25. ORS 342.176 is amended to read:

342.176. (1)(a) A person may file a complaint with the Teacher Standards and Practices Commission regarding a person licensed by the commission. **If a complaint concerns an allegation of sexual conduct that may have been committed by a licensed school employee, contractor,**

agent or volunteer, the complaint process provided by this section does not apply and the commission shall investigate the complaint as provided by section 23 of this 2019 Act.

(b) Prior to beginning an investigation based on a complaint filed under paragraph (a) of this subsection, the commission may require verification that attempts were made to resolve the complaint through the complaint process of the school district that employs the person against whom the complaint was filed.

(c) After receiving sufficient verification as provided by paragraph (b) of this subsection, the [Teacher Standards and Practices] commission shall promptly undertake an investigation upon receipt of a complaint or information that may constitute grounds for:

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

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

(C) Discipline for failure to provide appropriate notice prior to resignation, as provided under ORS 342.553.

(2) The commission may appoint an investigator and shall furnish the investigator with appropriate professional and other special assistance reasonably required to conduct the investigation, and the investigator is empowered to issue subpoenas to require the attendance of witnesses or the production of documents over the signature of the executive director of the **Teacher Standards and Practices** Commission, subpoena witnesses over the signature of the executive director, swear witnesses and compel obedience in the same manner as provided under ORS 183.440 (2).

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

(a) The commission, meeting in executive session, at its next regular meeting following completion of the investigation; and

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

(4)(a) Except as provided in paragraph (b) of this subsection, the documents and materials used in the investigation undertaken as provided by this section and the report related to the investigation are confidential and not subject to public inspection unless the commission makes a final determination to:

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

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

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

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

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

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

(b) The complainant; and

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

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

(a) The person charged;

(b) The complainant; and

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

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

SECTION 26. ORS 342.177 is amended to read:

342.177. (1)(a) Hearings under ORS 342.176 and **section 23 of this 2019 Act** shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605.

(b) Any hearing conducted under this section shall be private unless the person against whom the charge is made requests a public hearing. Students attending school in the employing district may not attend any hearing except as witnesses duly subpoenaed to testify with respect to the charges made. Students attending a public charter school that employs the person may not attend any hearing except as witnesses duly subpoenaed to testify with respect to the charges made. The person charged shall have the right to be represented by counsel and to present evidence and argument. The evidence must be confined to the charges.

(2) The Teacher Standards and Practices Commission or the person charged may have subpoenas issued to compel attendance at the hearing. The person charged may have subpoenas issued by an attorney of record subscribed by the signature of the attorney or by the executive director **of the Teacher Standards and Practices Commission**. Witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the commission, shall receive fees and mileage as prescribed by law for witnesses in ORS 44.415 (2). The commission or the person charged shall have the right to compel the attendance and obedience of witnesses in the same manner as provided under ORS 183.440 (2).

(3) The commission shall render its decision at its next regular meeting following the hearing. If the decision of the commission is that the charge described in ORS 342.175 (1) has been proven, the commission may take any or all of the following disciplinary action against the person charged:

(a) Issue a public reprimand.

(b) Place the person on probation for a period not to exceed four years and subject to such conditions as the commission considers necessary.

(c) Suspend the license or registration of the teacher or administrator for a period not to exceed one year.

(d) Revoke the license or registration of the teacher or administrator.

(e) Revoke the right to apply for a license or registration.

(4) If the decision of the commission is that the charge is not proven, the commission shall order the charges dismissed.

(5) The commission shall notify in writing the person charged and the employing district or public charter school of the decision.

SECTION 27. ORS 342.183 is amended to read:

342.183. (1) The Teacher Standards and Practices Commission may issue a letter of informal reproof to a person licensed, registered or certified by the commission if:

(a) Following the completion of an investigation, the commission determines that the person has engaged in conduct that affects the person's ability to be professionally effective, based on standards adopted by the commission by rule; and

(b) Subject to subsection (5) of this section, the commission agrees not to pursue disciplinary action against the person under ORS 342.175 and the person agrees to the terms of the letter of informal reproof, including a monitoring period.

(2) A letter of informal reproof issued as provided by subsection (1) of this section shall establish the terms of a monitoring period for the person to whom the letter is issued.

(3) Upon the issuance of a letter of informal reproof, the commission shall notify the employer of the person to whom the letter is issued, including any terms of the letter that the employer may need to know to assist the person in complying with the terms of the letter.

(4) A letter of informal reproof issued as provided by subsection (1) of this section:

(a) Is confidential; and

(b) Except when a disciplinary action is taken as provided in subsection (5) of this section, may not be posted on an interstate clearinghouse related to educator license sanctions.

(5) If a person fails to comply with the terms of a letter of informal reproof, the commission may take disciplinary action against the person based on one or both of the following:

- (a) The conduct underlying the letter of informal reapproval; or
 - (b) The failure to comply with the terms of the letter of informal reapproval.
- (6) If the executive director of the **Teacher Standards and Practices** Commission determines that a person failed to meet the terms of a letter of informal reapproval, the executive director shall report the failure to the commission for the commission to make a final determination pursuant to ORS 342.176 or **section 23 of this 2019 Act**.
- (7) The documents and materials used in an investigation for the purposes of this section are confidential and are not subject to public inspection unless the commission makes a final determination to discipline the person pursuant to ORS 342.175.

SECTION 28. ORS 342.390 is amended to read:

342.390. (1) The Teacher Standards and Practices Commission shall meet at least once every six months at a place, day and hour determined by the commission. The commission shall also meet at such other times and places as are specified by the call of the chairperson or of a majority of the members of the commission **or as required by the executive director of the Teacher Standards and Practices Commission for the purposes of section 23 of this 2019 Act**.

(2) A member of the commission who is employed at a public school or by a private educator preparation provider or by a public university listed in ORS 352.002:

- (a) May not receive compensation for services as a member.
- (b) Shall receive actual and necessary travel and other expenses incurred in the performance of official duties as provided by ORS 292.495 (2) and subject to any other applicable law regulating travel and other expenses for state officers.

(3) A member of the commission who serves on the commission in the capacity of a district school board member or as a member of the general public shall be entitled to compensation and expenses as provided in ORS 292.495 (1) and (2).

SECTION 29. (1) **Section 23 of this 2019 Act and the amendments to ORS 342.175, 342.176, 342.177, 342.183 and 342.390 by sections 24 to 28 of this 2019 Act become operative on January 1, 2020.**

(2) **Section 23 of this 2019 Act and the amendments to ORS 342.175, 342.176, 342.177, 342.183 and 342.390 by sections 24 to 28 of this 2019 Act apply to reports of suspected sexual conduct received on or after January 1, 2020.**

(3) Notwithstanding the operative date set forth in subsection (1) of this section, the Teacher Standards and Practices Commission may take any action before the operative date set forth in subsection (1) of this section that is necessary to enable the commission to exercise, on and after the operative date set forth in subsection (1) of this section, all of the duties, functions and powers conferred on the commission by section 23 of this 2019 Act.

SECTION 30. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1, chapter __, Oregon Laws 2019 (Enrolled Senate Bill 5537), for the biennium beginning July 1, 2019, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Teacher Standards and Practices Commission, is increased by \$525,000 for the purpose of complying with the requirements of section 23 of this 2019 Act.

REQUIREMENTS FOR THE DEPARTMENT OF EDUCATION

SECTION 31. Section 32 of this 2019 Act is added to and made a part of ORS 339.370 to 339.400.

SECTION 32. (1)(a) When the Department of Education receives a report of suspected sexual conduct that may have been committed by a school employee, contractor, agent or volunteer that is not licensed with the Teacher Standards and Practices Commission, the department shall immediately initiate an investigation.

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

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

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

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

(b) Subpoena witnesses; and

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

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

(A) The person charged;

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

(C) The education provider;

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

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

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

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

(B) The procedural background for the investigation;

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

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

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

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

(4)(a) Except as provided in paragraph (b) of this subsection, the documents and materials used in the investigation undertaken under this section, and the report related to the investigation, are confidential and not subject to public inspection.

(b) To the extent allowed by state and federal law, the department shall make available any documents, materials and reports to:

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

(B) The Teacher Standards and Practices Commission if necessary for the commission to conduct an investigation under section 23 of this 2019 Act; and

(C) An education provider if necessary for the education provider to take any disciplinary action or changes in the employment relationship or duties of the school employee, contractor, agent or volunteer.

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

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

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

SECTION 33. (1) Section 32 of this 2019 Act becomes operative on July 1, 2020.

(2) Section 32 of this 2019 Act applies to reports of suspected sexual conduct received on or after July 1, 2020.

(3)(a) For the purposes of ORS 339.372 (4)(b) and 339.388 (2)(b), a licensed administrator is not required to inform the Department of Education of reports of suspected sexual conduct involving a person who is not licensed by the Teacher Standards and Practices Commission if the report is received before July 1, 2020.

(b) For the purpose of ORS 339.374 (1)(d), an education provider is not required to verify with the Department of Education whether the department has an ongoing investigation or has a substantiated report relating to conduct by an applicant who is not licensed with the Teacher Standards and Practices Commission if the applicant is considered for employment before July 1, 2020.

(c) For the purpose of ORS 339.374 (2)(b), an education provider is not required to verify with the Department of Education whether the department has an ongoing investigation or has a substantiated report relating to conduct by a person who is not licensed with the Teacher Standards and Practices Commission if the person begins providing services to the education provider before July 1, 2020.

(d) Notwithstanding ORS 339.388, an education provider must conduct an investigation related to a report of suspected sexual conduct by a person who is not licensed by the Teacher Standards and Practices Commission if the report is received before July 1, 2020. An investigation conducted under this paragraph must be completed as provided by ORS 339.388 (6)(d)(B)(ii).

(e) The Department of Education is not required to take any action on information received under section 14 of this 2019 Act or ORS 419B.020 if the department receives the information before July 1, 2020.

(4) Notwithstanding the operative date set forth in subsection (1) of this section, the Department of Education and the State Board of Education may take any action before the operative date set forth in subsection (1) of this section that is necessary to enable the department to exercise, on and after the operative date set forth in subsection (1) of this section, all of the duties, functions and powers conferred on the department by section 32 of this 2019 Act.

SECTION 34. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Education by section 1 (1), chapter __, Oregon Laws 2019 (Enrolled House Bill 5015), for operations, for the biennium beginning July 1, 2019, is increased by \$1,621,607 for the purpose of complying with the requirements of section 32 of this 2019 Act.

CAPTIONS

SECTION 35. The unit captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.

EFFECTIVE DATE

SECTION 36. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect July 1, 2019.

Passed by Senate June 29, 2019

.....
Lori L. Brocker, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House June 30, 2019

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

.....
Bev Clarno, Secretary of State