

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2184**

1 In line 2 of the printed A-engrossed bill, after the semicolon insert “cre-
2 ating new provisions; amending ORS 339.372, 339.374, 339.378 and 339.388;”.

3 After line 12, insert:

4 **“SECTION 2.** ORS 339.388, as amended by section 4, chapter 92, Oregon
5 Laws 2012, is amended to read:

6 “339.388. (1)(a) A school employee having reasonable cause to believe that
7 a child with whom the employee comes in contact has suffered abuse by an-
8 other school employee or by a student, or that another school employee or
9 a student with whom the employee comes in contact has abused a child, shall
10 immediately report the information to:

11 “(A) The person designated in the policy adopted under ORS 339.372; and

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

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

20 “(2) A person who receives a report under subsection (1) of this section
21 shall follow the procedures required by the policy adopted by the school
22 board under ORS 339.372.

1 “(3)(a) Except as provided in subsection (4) of this section, when an edu-
2 cation provider receives a report of suspected abuse or sexual conduct by one
3 of its employees, and the education provider’s designee determines that there
4 is reasonable cause to support the report, the education provider:

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

7 “(B) In the case of suspected sexual conduct, may place the school em-
8 ployee on paid administrative leave or in a position that does not involve
9 direct, unsupervised contact with children.

10 “(b) A school employee who is placed on paid administrative leave under
11 paragraph (a)(A) of this subsection shall remain on administrative leave un-
12 til:

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

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

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

25 “(5) If, following an investigation, an education provider determines that
26 a report of suspected abuse or sexual conduct by a school employee is a
27 substantiated report, the education provider shall:

28 “(a) Inform the school employee that the education provider has deter-
29 mined that the report has been substantiated.

30 “(b) Provide the school employee with information about the appropriate

1 appeal process for the determination made by the education provider. The
2 appeal process may be the process provided by a collective bargaining
3 agreement or a process administered by a neutral third party and paid for
4 by the school district.

5 “(c) Following notice of a school employee’s decision not to appeal the
6 determination or following the determination of an appeal that sustained the
7 substantiated report, create a record of the substantiated report and place
8 the record in the personnel file of the school employee. Records created
9 pursuant to this paragraph are confidential and are not public records as
10 defined in ORS 192.410. An education provider may use the record as a basis
11 for providing the information required to be disclosed under ORS 339.378.

12 “(d) Inform the school employee that information about substantiated re-
13 ports may be disclosed to a potential employer as provided by subsection
14 [(7)] (8) of this section and ORS 339.378.

15 “**(6)(a) Notwithstanding the requirements of subsections (3), (4) and**
16 **(5) of this section, an education provider that is a private school may**
17 **discipline or terminate a school employee according to:**

18 “**(A) The provisions of subsections (3), (4) and (5) of this section;**
19 **or**

20 “**(B) The standards and policies of the private school.**

21 “**(b) A private school that chooses to discipline or terminate a**
22 **school employee according to the standards and policies of the school**
23 **must ensure that a sufficient record is created and maintained to al-**
24 **low the private school to provide the information required to be dis-**
25 **closed under ORS 339.378.**

26 “[6] (7) Upon request from a law enforcement agency, the Department
27 of Human Services or the Teacher Standards and Practices Commission, a
28 school district shall provide the records of investigations of suspected abuse
29 by a school employee or former school employee.

30 “[7(a)] (8)(a) The disciplinary records of a school employee or former

1 school employee convicted of a crime listed in ORS 342.143 are not exempt
2 from disclosure under ORS 192.501 or 192.502.

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

6 “(c) If a former school employee is convicted of a crime listed in ORS
7 342.143, the education provider that was the employer of the former employee
8 when the crime was committed shall disclose the disciplinary records of the
9 former employee to any person upon request.

10 “[~~(8)~~] (9) Prior to disclosure of a disciplinary record under subsection
11 [~~(7)~~] (8) of this section, an education provider shall remove any personally
12 identifiable information from the record that would disclose the identity of
13 a child, a crime victim or a school employee or former school employee who
14 is not the subject of the disciplinary record.

15 **“SECTION 3.** ORS 339.372, as amended by section 3, chapter 92, Oregon
16 Laws 2012, is amended to read:

17 “339.372. Each school board shall adopt policies on the reporting of abuse
18 and sexual conduct by school employees and the reporting of abuse by stu-
19 dents. The policies shall:

20 “(1) Specify that abuse and sexual conduct by school employees and abuse
21 by students are not tolerated;

22 “(2) Specify that all school employees and students are subject to the
23 policies;

24 “(3) Require all school employees who have reasonable cause to believe
25 that another school employee has engaged in abuse or sexual conduct or that
26 a student has engaged in abuse to:

27 “(a) Report suspected abuse to a law enforcement agency, the Department
28 of Human Services or a designee of the department as required by ORS
29 419B.010 and 419B.015; and

30 “(b) Report suspected abuse or sexual conduct to the person designated

1 as provided by subsection (4) of this section;

2 “(4) Designate a person, and an alternate in the event the designated
3 person is the suspected abuser, to receive reports of suspected abuse or sex-
4 ual conduct by school employees or suspected abuse by students and specify
5 the procedures to be followed by that person upon receipt of a report;

6 “(5) Require the posting in each school building of the name and contact
7 information for the person designated for the school building to receive re-
8 ports of suspected abuse or sexual conduct by school employees or suspected
9 abuse by students and the procedures the person will follow upon receipt of
10 a report;

11 “(6) Specify that the initiation of a report in good faith about suspected
12 abuse or sexual conduct may not adversely affect any terms or conditions
13 of employment or the work environment of the complainant;

14 “(7) Specify that the school board or any school employee will not disci-
15 pline a student for the initiation of a report in good faith about suspected
16 abuse or sexual conduct by a school employee or suspected abuse by a stu-
17 dent;

18 “(8) Require notification by the education provider to the person who in-
19 itiated the report about actions taken by the education provider based on the
20 report; and

21 “(9) Require the education provider to furnish to a school employee at the
22 time of hire the following:

23 “(a) A description of conduct that may constitute abuse or sexual conduct;
24 and

25 “(b) A description of the information and records that will be disclosed
26 as provided by ORS 339.378 or 339.388 [(7)] (8) if a report of suspected abuse
27 or sexual conduct is substantiated.

28 **“SECTION 4.** ORS 339.374, as amended by section 5, chapter 92, Oregon
29 Laws 2012, is amended to read:

30 “339.374. Except as provided in ORS 339.384, before an education provider

1 may hire an applicant for a position with the education provider, the edu-
2 cation provider shall:

3 “(1) Require the applicant to provide:

4 “(a) A list of the applicant’s current and former employers who are edu-
5 cation providers.

6 “(b) A written authorization that authorizes the applicant’s current and
7 former employers that are education providers to disclose the information
8 requested under subsection (2) of this section.

9 “(c) A written statement of whether the applicant:

10 “(A) Has been the subject of a substantiated report of abuse or sexual
11 conduct; or

12 “(B) Is the subject of an ongoing investigation related to a report of
13 suspected abuse or sexual conduct.

14 “(2) Conduct a review of the employment history of the applicant by
15 contacting the three most recent employers of the applicant who are educa-
16 tion providers and requesting:

17 “(a) The following information:

18 “(A) The dates of employment of the applicant by the education provider;

19 “(B) Whether the applicant was the subject of any substantiated reports
20 of abuse or sexual conduct related to the applicant’s employment with the
21 education provider;

22 “(C) The dates of any substantiated reports;

23 “(D) The definitions of abuse and sexual conduct used by the education
24 provider when the education provider determined that any reports were
25 substantiated; and

26 “(E) The standards used by the education provider to determine whether
27 any reports were substantiated.

28 “(b) Any disciplinary records required to be released as provided by ORS
29 339.388 [(7)] **(8)**.

30 “(3) For an applicant who is licensed, registered or certified with the

1 Teacher Standards and Practices Commission, access online information
2 provided by the commission to verify:

3 “(a) That the applicant is licensed, registered or certified by the commis-
4 sion; and

5 “(b) Whether the commission has provided any information relating to
6 conduct by the applicant that may constitute abuse or sexual conduct.

7 “(4) Conduct a nationwide criminal records check if required by ORS
8 326.603.

9 **“SECTION 5.** ORS 339.378, as amended by section 6, chapter 92, Oregon
10 Laws 2012, is amended to read:

11 “339.378. (1) Not later than 20 days after receiving a request under ORS
12 339.374, an education provider that has or has had an employment relation-
13 ship with the applicant shall disclose the information requested and any
14 disciplinary records that must be disclosed as provided by ORS 339.388 [(7)]
15 **(8).**

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

20 “(3) Information received under this section is confidential and is not a
21 public record as defined in ORS 192.410. An education provider may use the
22 information only for the purpose of evaluating an applicant’s eligibility to
23 be hired.”.

24 In line 13, delete “2” and insert “6”.

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