

Requested by SENATE COMMITTEE ON EDUCATION

**PROPOSED AMENDMENTS TO
SENATE BILL 1522**

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

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

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

10 “(C) Conduct or communications described in paragraph (a) of this sub-
11 section if the school employee, contractor, agent or volunteer is also a stu-
12 dent.”.

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

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

16 Delete lines 43 through 45.

17 On page 5, delete lines 1 and 2.

18 After line 10, insert:

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

20 “339.391. (1)(a) When the Department of Education receives a report of
21 suspected sexual conduct that may have been committed by a school em-

1 ployee, contractor, agent or volunteer that is not licensed with the Teacher
2 Standards and Practices Commission, the department shall immediately ini-
3 tiate an investigation.

4 “(b) An investigation and final determination related to the report re-
5 ceived under paragraph (a) of this subsection must be completed and notifi-
6 cation of the final determination must be made to the education provider
7 within 90 calendar days following the date on which the report was filed
8 with the department.

9 “(c) Notwithstanding paragraph (b) of this subsection, the prescribed
10 timeline for an investigation and final determination may be extended if the
11 department determines that, for good cause, a longer period of time is nec-
12 essary.

13 “(2) The department shall appoint an investigator and shall furnish the
14 investigator with appropriate professional and other special assistance rea-
15 sonably required to conduct an investigation. An investigator appointed un-
16 der this subsection is empowered to:

17 “(a) Issue subpoenas to require the attendance of witnesses or the pro-
18 duction of documents;

19 “(b) Subpoena witnesses; and

20 “(c) Swear witnesses and compel obedience in the same manner as pro-
21 vided under ORS 183.440 (2).

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

24 “(A) The person charged;

25 “(B) The student and, if applicable, the student’s parents;

26 “(C) The education provider;

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

28 “(E) Any regulatory board that is not the Teacher Standards and Prac-
29 tices Commission and that licenses, registers, certifies or otherwise author-
30 izes the school employee, contractor, agent or volunteer to practice a

1 profession or to provide professional services.

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

4 “(A) The statutory authority of the department to conduct the investi-
5 gation;

6 “(B) The procedural background for the investigation;

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

8 “(D) The department’s findings of fact from the investigation;

9 “(E) The department’s final determination based on the investigation; and

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

11 “(4)(a) Except as provided in [*paragraph (b)*] **paragraphs (b) to (d)** of this
12 subsection, The documents and materials used in the investigation under-
13 taken under this section, and the report related to the investigation, are
14 confidential and not subject to public inspection.

15 **“(b) Documents, materials and reports that are confidential under**
16 **paragraph (a) of this subsection may be disclosed to an entity listed**
17 **in paragraph (c) or (d) of this subsection only as provided by this**
18 **subsection and rules adopted by the State Board of Education. The**
19 **entity that receives documents, materials or reports must maintain**
20 **their confidentiality unless disclosure is allowed or required under this**
21 **section or other state or federal law.**

22 “[*b*] (c) To the extent allowed by state and federal law, the department
23 shall make available any documents, materials and reports **that are confi-**
24 **dential under paragraph (a) of this subsection** to:

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

27 “(B) The Teacher Standards and Practices Commission if necessary for
28 the commission to conduct an investigation under ORS 339.390[; *and*].

29 “[*C*] (d) **The Department of Education shall make available the**
30 **department’s investigative report** to an education provider if necessary

1 for the education provider to take any disciplinary action or changes in the
2 employment relationship or duties of the school employee, contractor, agent
3 or volunteer.

4 “[~~(c)~~] (e) The Department of Education shall retain documents and mate-
5 rials related to any report received under this section, regardless of whether
6 the department found sufficient cause to justify holding a hearing under this
7 section.

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

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

12 In line 11, delete “4” and insert “5”.

13 On page 7, line 29, delete “5” and insert “6” and delete “4” and insert
14 “5”.

15 After line 30, insert:

16 “**SECTION 7.** Section 2, chapter 301, Oregon Laws 2017, is amended to
17 read:

18 “**Sec. 2. (1)(a) Only for school years prior to the 2021-2022 school**
19 **year, a school district may not be considered nonstandard under ORS**
20 **327.103 and moneys may not be withheld or any other penalty or**
21 **sanctions imposed on a school district that does not comply with the**
22 **participation requirement of ORS 329.496 (1) for students in grades six**
23 **through eight.**

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

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

1 each school week.

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

5 “(c) If a school district fails to comply with paragraph (a) or (b) of this
6 subsection, the school district may be considered nonstandard under ORS
7 327.103.

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

11 “(b) For the 2022-2023 school year and every school year thereafter, stu-
12 dents identified in ORS 329.496 (2)(b) shall participate in physical education
13 for at least 225 minutes during each school week.

14 “(c) If a school district fails to comply with paragraph (a) or (b) of this
15 subsection, the school district may be considered nonstandard under ORS
16 327.103.

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

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

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

23 “(c) Cease to comply with the time requirements provided by this section
24 if the conditions described in ORS 329.496 (2)(d) are satisfied.

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

26 “192.660. (1) ORS 192.610 to 192.690 do not prevent the governing body of
27 a public body from holding executive session during a regular, special or
28 emergency meeting, after the presiding officer has identified the authori-
29 zation under ORS 192.610 to 192.690 for holding the executive session.

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

1 “(a) To consider the employment of a public officer, **an** employee, **a** staff
2 member or **an** individual agent.

3 “(b) **Except as provided by paragraph (c) of this subsection,** to con-
4 sider the dismissal or disciplining of, or to hear complaints or charges
5 brought against, a public officer, **an** employee, **a** staff member or **an** indi-
6 vidual agent who does not request an open hearing.

7 “(c) **To consider the dismissal or disciplining of, or to hear com-
8 plaints or charges brought against, a public officer, an employee, a
9 staff member or an individual agent of a public education provider if
10 the subject is allegations of sexual violence, sexual conduct or sexual
11 harassment and the individual or individuals aggrieved by the alleged
12 conduct do not request an open hearing.**

13 “[(c)] (d) To consider matters pertaining to the function of the medical
14 staff of a public hospital licensed pursuant to ORS 441.015 to 441.087 in-
15 cluding, but not limited to, all clinical committees, executive, credentials,
16 utilization review, peer review committees and all other matters relating to
17 medical competency in the hospital.

18 “[(d)] (e) To conduct deliberations with persons designated by the gov-
19 erning body to carry on labor negotiations.

20 “[(e)] (f) To conduct deliberations with persons designated by the gov-
21 erning body to negotiate real property transactions.

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

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

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

30 “[(i)] (j) To review and evaluate the employment-related performance of

1 the chief executive officer of any public body, a public officer, employee or
2 staff member who does not request an open hearing.

3 “[*j*] (**k**) To carry on negotiations under ORS chapter 293 with private
4 persons or businesses regarding proposed acquisition, exchange or liqui-
5 dation of public investments.

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

8 “[*L*] (**m**) If the governing body is a health professional regulatory board,
9 to consider information obtained as part of an investigation of licensee or
10 applicant conduct.

11 “[*m*] (**n**) If the governing body is the State Landscape Architect Board,
12 or an advisory committee to the board, to consider information obtained as
13 part of an investigation of registrant or applicant conduct.

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

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

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

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

20 “(i) Electricity;

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

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

23 “(iv) Petroleum products;

24 “(v) Sewage; or

25 “(vi) Water.

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

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

29 “(3) Labor negotiations shall be conducted in open meetings unless
30 negotiators for both sides request that negotiations be conducted in execu-

1 tive session. Labor negotiations conducted in executive session are not sub-
2 ject to the notification requirements of ORS 192.640.

3 “(4) Representatives of the news media shall be allowed to attend execu-
4 tive sessions other than those held under subsection [(2)(d)] **(2)(e)** of this
5 section relating to labor negotiations or executive session held pursuant to
6 ORS 332.061 (2) but the governing body may require that specified informa-
7 tion be undisclosed.

8 “(5) When a governing body convenes an executive session under sub-
9 section [(2)(h)] **(2)(i)** of this section relating to conferring with counsel on
10 current litigation or litigation likely to be filed, the governing body shall
11 bar any member of the news media from attending the executive session if
12 the member of the news media is a party to the litigation or is an employee,
13 agent or contractor of a news media organization that is a party to the liti-
14 gation.

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

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

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

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

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

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

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

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

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

29 “(D) In the case of a chief executive officer, the governing body has
30 adopted hiring standards, criteria and policy directives in meetings open to

1 the public in which the public has had the opportunity to comment on the
2 standards, criteria and policy directives.

3 “(8) A governing body may not use an executive session for purposes of
4 evaluating a chief executive officer or other officer, employee or staff mem-
5 ber to conduct a general evaluation of an agency goal, objective or operation
6 or any directive to personnel concerning agency goals, objectives, operations
7 or programs.

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

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

13 “(b) ORS 671.338 governs the public disclosure of minutes, transcripts or
14 recordings relating to the substance and disposition of registrant or appli-
15 cant conduct investigated by the State Landscape Architect Board or an ad-
16 visory committee to the board.

17 “(10) Notwithstanding ORS 244.290, the Oregon Government Ethics Com-
18 mission may not adopt rules that establish what entities are considered rep-
19 resentatives of the news media that are entitled to attend executive sessions
20 under subsection (4) of this section.

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

22 “338.135. (1) Employee assignment to a public charter school shall be
23 voluntary.

24 “(2)(a) A public charter school or the sponsor of the public charter school
25 is considered the employer of any employees of the public charter school. If
26 a school district board is not the sponsor of the public charter school, the
27 school district board may not be the employer of the employees of the public
28 charter school and the school district board may not collectively bargain
29 with the employees of the public charter school. The public charter school
30 governing body shall control the selection of employees at the public charter

1 school.

2 “(b) If a virtual public charter school or the sponsor of a virtual public
3 charter school contracts with a for-profit entity to provide educational ser-
4 vices through the virtual public charter school, the for-profit entity may not
5 be the employer of any employees of the virtual public charter school unless:

6 “(A) The employee is an administrator who does not have any teaching
7 responsibilities; and

8 “(B) Both the executive officer of the sponsor and the public charter
9 school governing body approve employment by the for-profit entity. The
10 executive officer or governing body may choose to grant approval under this
11 subparagraph:

12 “(i) For all employees of the for-profit entity who meet the description in
13 subparagraph (A) of this paragraph;

14 “(ii) Based on the job categories of the employees who meet the de-
15 scription in subparagraph (A) of this paragraph; or

16 “(iii) On a case-by-case basis for each employee who meets the description
17 in subparagraph (A) of this paragraph.

18 “(3) The school district board of the school district within which the
19 public charter school is located shall grant a leave of absence to any em-
20 ployee who chooses to work in the public charter school. The length and
21 terms of the leave of absence shall be set by negotiated agreement or by
22 board policy. However, the length of the leave of absence may not be less
23 than two years unless:

24 “(a) The charter of the public charter school is terminated or the public
25 charter school is dissolved or closed during the leave of absence; or

26 “(b) The employee and the school district board have mutually agreed to
27 a different length of time.

28 “(4) An employee of a public charter school operating within a school
29 district who is granted a leave of absence from the school district and re-
30 turns to employment with the school district shall retain seniority and ben-

1 efits as an employee pursuant to the terms of the leave of absence.
2 Notwithstanding ORS 243.650 to 243.806, a school district that was the em-
3 ployer of an employee of a public charter school not operating within the
4 school district may make provisions for the return of the employee to em-
5 ployment with the school district.

6 “(5)(a) For purposes of ORS chapters 238 and 238A, a public charter
7 school shall be considered a public employer and as such shall participate
8 in the Public Employees Retirement System.

9 **“(b) For purposes of determining the salary of an active member
10 of the Public Employees Retirement System under ORS 238A.005 (17),
11 remuneration paid to a member in return for services to a public
12 charter school shall be treated as if it were includable in the member’s
13 taxable income under Oregon law during a period of continuous em-
14 ployment with any public charter school if:**

15 **“(A) The member was hired in a qualifying position by a public
16 charter school on or after August 29, 2003, and on or before December
17 31, 2017;**

18 **“(B) The member was informed in writing by the public charter
19 school during the period of continuous employment that the member
20 was eligible to participate in the Public Employees Retirement System
21 and the public charter school made contributions to the system on the
22 member’s behalf; and**

23 **“(C) The member resided and performed services in the United
24 States during the period of continuous employment.**

25 **“(c) As used in this subsection, ‘continuous employment’ means
26 employment with a public charter school that is not interrupted by a
27 period of more than 30 consecutive calendar days.**

28 “(6) For teacher licensing, employment experience in public charter
29 schools shall be considered equivalent to experience in public schools.

30 “(7)(a) Any person employed as an administrator in a public charter

1 school shall be licensed or registered to administer by the Teacher Standards
2 and Practices Commission.

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

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

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

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

20 In line 31, delete “6” and insert “10”.

21
