

SB 242-A3  
(LC 2054)  
5/18/21 (HRL/ps)

Requested by HOUSE COMMITTEE ON EDUCATION (at the request of Representative Teresa  
Alonso Leon)

**PROPOSED AMENDMENTS TO RESOLVE CONFLICTS TO  
A-ENGROSSED SENATE BILL 242**

1 On page 1 of the printed A-engrossed bill, line 2, after “419B.005;” insert  
2 “repealing section 8, chapter \_\_, Oregon Laws 2021 (Enrolled House Bill  
3 2136);”.

4 On page 5, after line 8, insert:

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7 **is repealed and ORS 339.390, as amended by section 3 of this 2021 Act,**  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

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

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

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

21 “(2) The commission shall appoint an investigator and shall furnish the

1 investigator with appropriate professional and other special assistance rea-  
2 sonably required to conduct an investigation. An investigator appointed un-  
3 der this subsection is empowered to:

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

6 “(b) Subpoena witnesses; and

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

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

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

15 “(4) The executive director or the investigator shall report in writing the  
16 findings and any recommendations to the commission. The commission shall  
17 decide if there is sufficient cause to justify holding a hearing under ORS  
18 342.177.

19 “(5) If the commission finds that there is sufficient cause to justify hold-  
20 ing a hearing under ORS 342.177, the commission shall notify in writing:

21 “(a) The person charged, enclosing a statement of the charges and a no-  
22 tice of opportunity for hearing;

23 “(b) The student and, if applicable, the student’s parents;

24 “(c) The education provider; and

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

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

28 “(a) The person charged;

29 “(b) The student and, if applicable, the student’s parents;

30 “(c) The education provider; and

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

2 “(7)(a) The documents and materials used in the investigation undertaken  
3 under this section, and the report related to the investigation, are confiden-  
4 tial and not subject to public inspection:

5 “(A) Unless the commission makes a final determination [*to suspend or*  
6 *revoke a license, discipline a person holding a license or revoke the right to*  
7 *apply for a license*] **to discipline a commission licensee**, as provided under  
8 ORS 342.175.

9 “(B) Except as provided by paragraphs (b) to (d) of this subsection.

10 “(b) Documents, materials and reports that are confidential under para-  
11 graph (a) of this subsection may be disclosed to an entity listed in paragraph  
12 (c) or (d) of this subsection only as provided by this subsection and rules  
13 adopted by the commission. The entity that receives documents, materials  
14 or reports must maintain their confidentiality unless disclosure is allowed  
15 or required under this section or other state or federal law.

16 “(c) To the extent allowed by state and federal law, the commission shall  
17 make available any documents, materials and reports that are confidential  
18 under paragraph (a) of this subsection to:

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

22 “(B) The Department of Education for the purpose of conducting an in-  
23 vestigation under ORS 339.391.

24 “(d)(A) The commission shall make available the commission’s investi-  
25 gative report to:

26 “(i) An education provider for the purpose of the education provider tak-  
27 ing any disciplinary actions or making changes in the employment relation-  
28 ship or duties of the [*school employee, contractor, agent or volunteer*]  
29 **commission licensee**; and

30 “(ii) The [*school employee, contractor, agent or volunteer*] **commission**

1 **licensee** who is the subject of the report.

2 “(B) The commission must redact the executive director’s recommendation  
3 from the report made available under this paragraph.

4 “(C) A [*school employee, contractor, agent or volunteer*] **commission**  
5 **licensee** who receives a report under this paragraph may share the report  
6 with the person’s attorney or union representative. An attorney or union  
7 representative who receives a report under this subparagraph must maintain  
8 the report’s confidentiality unless disclosure is allowed or required under  
9 this section or other state or federal law.

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

13 “(8) Notwithstanding ORS 192.660 (6), the commission may make its  
14 findings under this section in executive session. The provisions of ORS  
15 192.660 (4) apply to executive sessions held pursuant to this subsection.

16 “(9) The commission shall adopt any rules necessary for the adminis-  
17 tration of this section, including a process to appeal the findings of the  
18 commission under this section.”.

19

---