

Enrolled Senate Bill 231

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Kate Brown for Department of Human Services)

CHAPTER

AN ACT

Relating to abuse reporting; creating new provisions; and amending ORS 339.372, 339.388, 418.258, 418.321, 418.532, 419B.015, 419B.017 and 419B.020.

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

SECTION 1. (1) As used in this section, “abuse reporting hotline” means a statewide toll-free telephone number operated by the Department of Human Services for reporting suspected abuse.

(2) The department shall develop and maintain a centralized child abuse reporting system. The system must include the abuse reporting hotline for oral reports of suspected abuse and a website for electronic reports of suspected child abuse.

SECTION 2. ORS 419B.015 is amended to read:

419B.015. (1)(a) A person making a **voluntary** report of child abuse[, *whether the report is made voluntarily or is required by ORS 419B.010, shall make an oral report by telephone or otherwise to the local office of the Department of Human Services, to the designee of the department*] **shall make an oral report to the Department of Human Services by telephone to the child abuse reporting hotline described in section 1 of this 2023 Act** or to a law enforcement agency within the county where the person making the report is located at the time of the contact. **A person making a report of child abuse that is required by ORS 419B.010 shall make the report to the department through the centralized child abuse reporting system described in section 1 of this 2023 Act or to a law enforcement agency within the county where the person making the report is located at the time of the contact.** The report [*shall*] **must** contain, if known, the names and addresses of the child and the parents of the child or other persons responsible for care of the child, the child’s age, the nature and extent of the abuse, including any evidence of previous abuse, the explanation given for the abuse and any other information that the person making the report believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator.

(b)(A) When a report of alleged child abuse is received by the department, the department shall notify a law enforcement agency within the county where the alleged abuse occurred or, if that county is unknown, the county where the child resides or, if that county is unknown, the county where the reporter came into contact with the child or the alleged perpetrator of the abuse.

[(B) *When a report of alleged child abuse is received by a designee of the department, the designee shall notify, according to the contract, either the department or a law enforcement agency within the county where the alleged abuse occurred or, if that county is unknown, the county where the child re-*]

sides or, if that county is unknown, the county where the reporter came into contact with the child or the alleged perpetrator of the abuse.]

[(C)] **(B)** When a report of alleged child abuse is received by a law enforcement agency, the agency shall notify the department by making a report of the alleged child abuse to the [child abuse reporting hotline] **centralized child abuse reporting system described in section 1 of this 2023 Act.**

(c) When a report of alleged child abuse is received by the department or by a law enforcement agency, the department or law enforcement agency, or both, may collect information concerning the military status of the parent or guardian of the child who is the subject of the report and may share the information with the appropriate military authorities. Disclosure of information under this paragraph is subject to ORS 419B.035 (7).

(2) When a report of alleged child abuse is received under subsection (1)(a) of this section, the entity receiving the report shall make the notification required by subsection (1)(b) of this section according to rules adopted by the department under ORS 419B.017.

(3)(a) When a report alleging that a child or ward in substitute care may have been subjected to abuse is received by the department, the department shall notify the attorney for the child or ward, the child's or ward's court appointed special advocate, the parents of the child or ward and any attorney representing a parent of the child or ward that a report has been received.

(b) The name and address of and other identifying information about the person who made the report may not be disclosed under this subsection. Any person or entity to whom notification is made under this subsection may not release any information not authorized by this subsection.

(c) The department shall make the notification required by this subsection within three business days of receiving the report of alleged child abuse.

(d) Notwithstanding the obligation imposed by this subsection, the department is not required under this subsection to notify the parent or parent's attorney that a report of alleged child abuse has been received if the notification may interfere with an investigation or assessment or jeopardize the child's or ward's safety.

SECTION 3. ORS 418.258 is amended to read:

418.258. (1) When the Department of Human Services becomes aware of a report of suspected child abuse of a child in care, whether in the form of an allegation, complaint or formal report made under this section, and whether made directly to the Director of Human Services, the department or an employee of the department, to [a hotline operated by the department] **the centralized child abuse reporting system described in section 1 of this 2023 Act**, through the mandatory abuse reporting process set forth in ORS 419B.005 to 419B.050 or otherwise, the department shall immediately:

(a) Notify appropriate personnel within the department, including but not limited to employees responsible for licensing, certifying or authorizing child-caring agencies, certified foster homes and developmental disabilities residential facilities.

(b) Notify any governmental agency that has a contract with the child-caring agency, certified foster home or developmental disabilities residential facility to provide care or services to the child in care.

(c) Notify the placement authorities of any other state that retains jurisdiction over a child in care receiving care or services from the child-caring agency, certified foster home or developmental disabilities residential facility.

(d) Commence an investigation to determine whether the report of suspected abuse is substantiated, unsubstantiated or inconclusive under ORS 418.259 if:

(A) The reported abuse occurred in this state;

(B) The reported abuse occurred in any other state and involves a child in care placed by the department in an out-of-state child-caring agency; or

(C) The reported abuse occurred in any other state and the department reasonably believes that the reported abuse poses a danger to the health, safety or wellness of a child in care placed by the department in an out-of-state child-caring agency.

(e) Report to a law enforcement agency any crime that the department has reason to believe has occurred with respect to a child in care or at a child-caring agency, proctor foster home, certified foster home or developmental disabilities residential facility even if the suspected crime is not related to a report of abuse made under this section.

(2)(a) As a condition for issuance or renewal of a license, certificate or authorization to a child-caring agency, certified foster home or developmental disabilities residential facility, the department shall require and verify that the child-caring agency, certified foster home or developmental disabilities residential facility has procedures and protocols that:

(A) Require employees of the child-caring agency, a proctor foster home certified by the child-caring agency, the certified foster home or the developmental disabilities residential facility to immediately report suspected abuse of a child in care to the director, the director's designee or personnel within the department who have been specifically designated to receive reports of abuse of children in care;

(B) Mandate that the child-caring agency, certified foster home or developmental disabilities residential facility provide an annual training and written materials that include information about the [*child abuse reporting hotline*] **centralized child abuse reporting system described in section 1 of this 2023 Act**, and that the agency, home or facility advise and educate employees of the child-caring agency and any proctor foster home certified by the child-caring agency, of the certified foster home or of the developmental disabilities residential facility of the duty under this section and ORS 419B.005 to 419B.050 to report abuse of a child in care; and

(C) Inform employees of child-caring agencies, proctor foster homes, certified foster homes and developmental disabilities residential facilities that the duty to report abuse of a child in care is personal to the employee and that the duty is not fulfilled by reporting the abuse to the owner, operator or any other employee of the child-caring agency, proctor foster home, certified foster home or developmental disabilities residential facility even if the owner, operator or other employee reports the abuse of a child in care to the director, the director's designee or the department.

(b) A child-caring agency, certified foster home or developmental disabilities residential facility need not develop and maintain procedures and protocols or provide an annual training and written materials under paragraph (a) of this subsection if the agency, home or facility does not have any employees, staff or volunteers.

(3) Interference or hindering an investigation of abuse of a child in care, including but not limited to the intimidation of witnesses, falsification of records or denial or limitation of interviews with the child in care who is the subject of the investigation or with witnesses, may constitute grounds for the revocation, suspension or placing of conditions on the license, certificate or other authorization of a child-caring agency, proctor foster home, certified foster home or developmental disabilities residential facility.

(4)(a) Anyone, including but not limited to an employee of a child-caring agency, proctor foster home, certified foster home or developmental disabilities residential facility, who makes a report of suspected abuse of a child in care to the Governor, the Department of Justice, the Director of Human Services, the director's designee or the department under this section in good faith and who has reasonable grounds for the making of the report shall have immunity:

(A) From any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of such report;

(B) From disciplinary action taken by the person's employer; and

(C) With respect to participating in any judicial proceeding resulting from or involving the report.

(b) A person making a report under this section may include references to otherwise confidential information for the sole purpose of making the report, and any such disclosure must be protected from further disclosure to other persons or entities for any other purpose not related to the making of the report.

SECTION 4. ORS 418.321 is amended to read:

418.321. (1) Subject to ORS 418.322, the Department of Human Services may place a child in an out-of-state child-caring agency only if:

(a) The out-of-state child-caring agency is licensed to provide or engage in the provision of care or services by the department under ORS 418.205 to 418.327 and complies with the licensing requirements under ORS 418.215;

(b) The department has a current contract with the child-caring agency; and

(c) The department's contract with the child-caring agency meets the criteria under subsection (3) of this section.

(2)(a) The department shall license an out-of-state child-caring agency pursuant to the same licensure requirements the department would impose if the out-of-state child-caring agency was located in this state.

(b) Notwithstanding paragraph (b) of Article V of the Interstate Compact on the Placement of Children and ORS 417.230, the department may not delegate the department's licensing, visitation, inspection, investigation or supervision of an out-of-state child-caring agency licensed by the department to provide care or services to an Oregon child.

(3)(a) The department shall review the department's contract with an out-of-state child-caring agency prior to placing a child with the child-caring agency.

(b) The contract must, at a minimum, meet the following criteria:

(A) At the time the contract is executed, the child-caring agency must provide the department with a current list of every entity for which the child-caring agency is providing placement services.

(B) No later than 15 days after accepting placement of a child from a new entity, the child-caring agency must notify the department in writing of the child-caring agency's association with the new entity. The notice must include the name and contact information of the new entity and the name and contact information of an individual associated with the new entity.

(C) The child-caring agency must make mandatory reports of child abuse, as defined in ORS 418.257 and 419B.005, involving Oregon children both to the [*Oregon child abuse hotline*] **centralized child abuse reporting system described in section 1 of this 2023 Act** and as required under the laws of the state in which the child-caring agency is located.

(D) The child-caring agency must allow the department full access to the child-caring agency's facilities, residents, records and personnel as necessary for the department to conduct child abuse investigations and licensing activities or investigations.

(E) The child-caring agency must notify the department in writing no later than three business days after any state determines that an allegation of child abuse or a license violation involving the child-caring agency is founded, regardless of whether the child abuse or violation involves an Oregon child.

(F) The child-caring agency must notify the department in writing no later than three business days after the child-caring agency receives notice from any other state imposing a restriction on placement of children with the child-caring agency, suspending or revoking the child-caring agency's license with that state or indicating the state's intent to suspend or revoke the child-caring agency's license with that state.

(G) The child-caring agency must notify the department immediately, verbally and in writing:

(i) Any time a child from any state who is in the care of the child-caring agency dies, is sexually assaulted or suffers serious physical injury; or

(ii) When the child-caring agency becomes aware of any criminal investigation, arrest or criminal charges involving an agency staff member if the alleged offense involved a child or could have reasonably posed a risk to the health, safety or welfare of a child.

(H) Except with respect to protected information described in ORS 418.256 (5), the child-caring agency may not ask or require an employee or volunteer to sign a nondisclosure or other agreement prohibiting the employee or volunteer from the good faith disclosure of information concerning the abuse or mistreatment of a child who is in the care of the child-caring agency, violations of licensing or certification requirements, criminal activity at the child-caring agency, violations of state or

federal laws or any practice that threatens the health and safety of a child in the care of the child-caring agency.

(I) The child-caring agency must ensure staffing ratio and staff training and education requirements that meet, at a minimum, the standards set by the department by rule for intensive behavioral support services.

(J) The child-caring agency must meet all of the program, discipline, behavior support, supervision and child rights requirements adopted by the department by rule for behavioral rehabilitation services provided in this state.

(K) The child-caring agency may not practice conversion therapy, as defined in ORS 675.850.

(L) The child-caring agency must identify a child by the child's preferred name and pronouns and may not implement a dress code that prohibits or requires clothing on the basis of biological sex.

(M) Genetic testing, including testing for psychopharmacological purposes, must be approved by a court and may not be included as a standing order for a child in care.

(N) Neither the child-caring agency nor its contractors or volunteers may use chemical or mechanical restraints on a child, including during secure transport.

(O) The child-caring agency must ensure that the use of any psychotropic medications for a child placed with the child-caring agency by the department is in compliance with ORS 418.517 and any rules regarding psychotropic medications adopted by the department.

(4) The department shall develop rules outlining a process for review of the out-of-state placement of a child who is identified as a child with an intellectual or developmental disability or who is suspected of having an intellectual or developmental disability. At a minimum, the rules must:

(a) Identify a process for expediting review of the child's eligibility for developmental disability services.

(b) Require that a multidisciplinary review team, including administrators in the developmental disability services program, review the placement before the child is placed out-of-state.

(c) Require that a multidisciplinary team, including administrators in the developmental disability services program, monitor the progress of the child in the out-of-state placement.

(d) Require that contracts for placement of the child ensure that the child has the same rights and protections that the child would have if the child was placed in this state.

(5)(a) A department child welfare services employee must accompany a child who is placed in an out-of-state child-caring agency any time the child is transported to an initial out-of-state placement, any time the child is moved to a new placement and any time the child is moved by secure transport.

(b) Notwithstanding paragraph (a) of this subsection, if a child placed in an out-of-state child-caring agency requires secure transport from the out-of-state placement due to an emergency, a department child welfare services employee is not required to accompany the child if the time it would take for the employee to travel to the child's out-of-state location would pose a risk to the health, safety or welfare of the child. If a department child welfare services employee does not accompany a child transported to an alternate out-of-state placement, as provided in this paragraph, the child welfare services employee must immediately travel to meet the child at the new out-of-state facility.

(6)(a) As used in this subsection, "juvenile offender" means a person under 18 years of age who has or is alleged to have committed an act that is a violation, or, if done by an adult, would constitute a violation, of a law or ordinance of the United States or a county or city in this state.

(b) Except as provided in paragraph (c) of this subsection, the department may not place a child in an out-of-state child-caring agency if the child-caring agency provides care to juvenile offenders.

(c) The department may place a child in an out-of-state child-caring agency that provides care to juvenile offenders if:

(A) The child-caring agency is a qualified residential treatment program licensed by the department;

(B) The child-caring agency maintains site-specific accreditation from a nationally recognized organization;

(C) The child being placed is a juvenile offender; and

(D) Prior to the hearing to approve the placement, the court and all parties to the dependency case have been informed of the nature of the services offered by the program and of the population served by the program, and the court, having considered the nature of the services and composition of the facility population and the report of the qualified individual, has found that placement in the facility is the least restrictive setting available to appropriately meet the child's treatment needs.

SECTION 5. ORS 418.532 is amended to read:

418.532. (1) Each child in care receiving services from a child-caring agency must be provided with information that:

(a) Explains the provisions of ORS 418.519 to 418.532;

(b) Provides instruction regarding how a child in care may report suspected inappropriate use of restraint or involuntary seclusion;

(c) Assures the child in care that the child will not experience retaliation for reporting suspected inappropriate uses of restraint or involuntary seclusion; and

(d) Includes the telephone number for the toll-free child abuse hotline described in ORS 417.805, **information regarding the centralized child abuse reporting system described in section 1 of this 2023 Act** and the telephone numbers and electronic mail addresses for the program's licensing or certification agency, the child in care's caseworker and attorney, the child in care's court appointed special advocate and Disability Rights Oregon.

(2) The information described in subsection (1) of this section must be provided by:

(a) The Department of Human Services if the department placed the child in care in the child-caring agency;

(b) The Oregon Youth Authority if the child in care has been committed to the custody of the authority; or

(c) The child-caring agency, as required by the department by rule, for all other children in care.

SECTION 6. ORS 419B.017 is amended to read:

419B.017. (1) The Department of Human Services shall adopt rules establishing:

(a) The time within which the notification required by ORS 419B.015 (1)(b) must be made. At a minimum, the rules shall:

(A) Establish which reports of child abuse require notification within 24 hours after receipt;

(B) Provide that all other reports of child abuse require notification within 10 days after receipt; and

(C) Establish criteria that enable the department[, *the designee of the department*] or a law enforcement agency to quickly and easily identify reports that require notification within 24 hours after receipt.

(b) How the notification is to be made.

(2) The department shall appoint an advisory committee to advise the department in adopting rules required by this section. The department shall include as members of the advisory committee representatives of law enforcement agencies and multidisciplinary teams formed pursuant to ORS 418.747 and other interested parties.

(3) The department may recommend practices and procedures to local law enforcement agencies to meet the requirements of rules adopted under this section.

SECTION 7. 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) 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.

(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:

(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.

(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 by making an oral report followed by a written report to the centralized child abuse reporting system described in section 1 of this 2023 Act.** 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.

(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.

(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.

(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.

(8) A minor child of 12 years of age or older may refuse to consent to the examination described in subsection (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 or a nurse practitioner licensed under ORS chapter 678 and, whenever practicable, trained in conducting such examinations.

(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.

(10) When the Department of Education receives a notification under subsection (1) of this section or a report on the outcomes of an investigation under subsection (3) of this section, the department shall act under, and is subject to, ORS 339.389.

SECTION 8. 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) 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[,] **or** 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 licensed administrator, and an alternate licensed administrator in the event the designated 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 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.

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

(a) The name and contact information for the 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 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[,] **or** 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.

(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 person who initiated the report or who may have been subjected to abuse or sexual conduct.

(8) Specify that the 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.

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

(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;

(b) A description of the investigatory process and possible consequences 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 9. ORS 339.388 is amended to read:

339.388. (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[,] **or** 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) The licensed administrator who receives a report under subsection (1) of this section shall follow the procedures required by the 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 a commission licensee; 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 a commission licensee.

(3)(a) When a licensed administrator receives a report of suspected abuse or suspected sexual conduct by a school employee and there is reasonable cause to support the report, the education provider shall:

(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) of this subsection shall remain on administrative leave 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 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.

(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 investi-

gation, 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[,] or 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.

(8) If, following an investigation, an education provider determines that the education provider will take an employment action, the education provider shall:

(a) Inform the school employee 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 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 education provider.

(c) Following notice of a school employee's decision not to appeal the employment action of an education provider or following the determination of an appeal that sustained the 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 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 ORS 339.378 (1).

(9)(a) Notwithstanding the requirements of this section, an education provider that is a private school:

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

(i) The provisions 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 students compared to the safeguards described in this section.

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

(b) A private school that chooses to 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).

(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 10. The amendments to ORS 339.372, 339.388, 418.258, 418.321, 418.532, 419B.015, 419B.017 and 419B.020 by sections 2 to 9 of this 2023 Act apply to reports of child abuse made on or after the effective date of this 2023 Act.

Passed by Senate March 2, 2023

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Lori L. Brocker, Secretary of Senate

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Rob Wagner, President of Senate

Passed by House May 16, 2023

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Dan Rayfield, Speaker of House

Received by Governor:

.....M,....., 2023

Approved:

.....M,....., 2023

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M,....., 2023

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Secretary of State