

# **Complaints and Appeals**

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# Types of ODE Complaints and Appeals

# Complaint and Appeals Resolution (CARE) Unit

- Division 22 Standards
- Discrimination
- Restraint and Seclusion
- Retaliation
- Religious Activity

#### **Other ODE Units**

- Special Education (IDEA)
- Child Nutrition
- Sexual Conduct
- Abbreviated School Day Programs

### **Current CARE Unit Caseload**

- Discrimination cases: 48
  - On the basis of sex, sexual orientation, or gender identity: 23
  - On the basis of race, ethnicity, or national origin: 21
  - On the basis of disability: 20
  - On the basis of other protected class: 3
- Division 22 cases: 3
- Other cases: 4

\*Data compiled on January 14, 2025

# Senate Bill 867, Section 1

Current ODE Enforcement Authority for All Types of CARE Cases

- Adoption or Revision of a Policy
- ODE Approved Training
- Providing Notice of Rights
- Public Engagement
- ODE Technical Assistance

#### Proposed Additional ODE Enforcement Authority for Discrimination Cases Only

- Directly providing students with missed educational or extracurricular activities or services
- Reimbursing students for reasonable costs incurred in obtaining missed educational or extracurricular activities or services



# **Reports & Investigations of Sexual Conduct**

Maya Heim – RISC Unit Manager

# Senate Bill 155 (2019) Background

- Reporting: Requires that education providers report to ODE suspected sexual conduct involving a student and a non-licensed school employee, contractor, agent or volunteer
- Investigation: Requires that ODE investigate reports of suspected sexual conduct involving a student and a non-licensed school employee, contractor, agent or volunteer
- Verification: Requires that education providers verify with ODE whether nonlicensed individuals have open investigations or substantiated reports of sexual conduct prior to hiring or accepting services form the individual
- Effective as of July 1, 2020

# Senate Bill 867, Section 2: Prekindergarten

**Issue**: Lack of clarity about the applicability of sexual conduct provisions to education providers who only serve prekindergarten students

*Example*: Does an "education provider" include a childcare center that provides educational activities for 3- to 4-year-olds?

**Proposal**: Modification to the definition of "education provider" under ORS 339.370

Excludes education providers that only serve pre-kindergarten students, unless the provider is under the direct control of an education provider that serves students in any grade from kindergarten to grade 12

#### Senate Bill 867, Section 3: Seasonal Services

**Issue**: ODE does not have authority to substantiate reports involving a seasonal contractor, agent or volunteer who engages in sexual conduct with a student outside of their service dates

*Example*: If a seasonal swim coach with annual service dates from November to February engages in sexual conduct with a student in July, ODE cannot substantiate

**Proposal**: Modification to the procedures under ORS 339.391(1)(a) to provide ODE with authority to substantiate reports of sexual conduct occurring within 2 years of the subject's contract or service dates

Services: Aug. 2025 to Jun. 2026 Sexual conduct w/student: Dec. 2027 ✓ Within ODE's authority Services: Aug. 2025 to Jun. 2026 Sexual conduct w/student: Jul. 2028 **\* Outside of ODE's authority** 

### Senate Bill 867, Section 3: Determination

**Issue**: Statutory language requires that ODE provide its confidential determination to the individual who submitted the report, regardless of the individual's role with the student, subject or education provider

*Example*: If the former spouse of a school employee reports the employee for sexual conduct, ODE is required to provide the confidential determination the former spouse

**Proposal**: Modification to procedures under ORS 339.339(3) to require that ODE only inform an individual reporter of the investigation outcome, rather than provide the reporter with the confidential determination

## Senate Bill 867, Section 4: Law Enforcement

**Issue**: ODE's requests for law enforcement record requests are routinely denied because statutory language does not expressly identify ODE as an agency with which law enforcement is required to share investigation reports

**Proposal**: Modification to procedures under ORS 339.339(5) to expressly identify ODE as an agency that law enforcement must provide investigation records to for purposes of sexual conduct investigations