

## **SB 867 -1 STAFF MEASURE SUMMARY**

### **Senate Committee On Education**

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**Prepared By:** Chris Bechtel, LPRO Fellow

**Sub-Referral To:** Joint Committee On Ways and Means

**Meeting Dates:** 1/27, 2/24

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#### **WHAT THE MEASURE DOES:**

This measure allows the State Board of Education to implement a broader set of penalties when a public school or education program does not comply with antidiscrimination laws. The measure also allows the Oregon Department of Education (ODE) to investigate and determine whether allegations of sexual conduct are supported by evidence, and requires ODE to inform the reporting individual. This measure also allows any Oregon resident to submit a complaint related to religious activity in public schools and changes the definition used to define a violation.

Fiscal impact: May have fiscal impact, but no statement yet issued.

Revenue impact: May have revenue impact, but no statement yet issued.

#### Detailed Summary

#### **Sanction When Discrimination in Education is Found**

##### Section 1

Allows the State Board of Education to impose a broader set of sanctions including requiring schools or programs to adopt or revise policies, undergo training, disseminate information or receive technical assistance. Allows the State Board of Education to provide a student access to the educational services or difference in the aid, benefit or service if the discriminatory conduct results in a student missing educational or extracurricular activities. Allows the State Board of Education to order schools or programs to reimburse the student or their family for reasonable costs incurred in obtaining the educational or extracurricular activity.

#### **ODE Authority Related to Investigation of Abuse and Sexual Conduct**

##### Section 2

Excludes education providers that only serve children who have not yet entered kindergarten unless the provider is under the direct control of an education provider for students in kindergarten through grade 12.

##### Section 3

Allows the Oregon Department of Education (ODE) to investigate and make a final determination on allegations of sexual conduct alleged against anyone who served as a school employee, a contractor, an agent, or a volunteer within the previous two years. Revises the procedures following the completion of an investigation, requiring the department to provide less information to person who reported if the report and to any relevant regulatory boards. Requires ODE to inform the reporting individual and relevant regulatory boards only if the report is substantiated or not.

##### Section 4

Requires law enforcement agencies to make reports and records in specific cases of child abuse or neglect available to the Department of Education upon request. Allows law enforcement agencies to make their records and reports available to the Department of Education for sexual conduct investigations.

#### **Religious Activity**

Section 5

Changes the requirement for who may submit a complaint about violations of religious activity in public schools from a citizen of Oregon to a resident of this state. Changes the definition from specific examples of religious activity to violations of the Establishment Clause of the First Amendment or Article I, Section 5, of the Oregon Constitution.

Section 6

States that units used will not become part of Oregon Law.

**ISSUES DISCUSSED:**

- Oregon Department of Education case backlog.
- Information about the Oregon Department of Education's complaint process.
- Availability of the information on ODE's website.

**EFFECT OF AMENDMENT:**

-1 This amendment modifies the reimbursement sanction from educational or extracurricular activity to a comparable educational or extracurricular activity. This amendment deletes section 5.

**BACKGROUND:**

**Sanctions When Discrimination in Education is Found**

Currently, if an elementary, secondary or educational program is found non-compliant with discriminations laws, the Superintendent of Public Instruction can only impose financial sanctions by withholding all or part of the state funding.

**ODE Authority Related to Investigations of Abuse and Sexual Conduct**

In 2019, Senate Bill 155 required the Oregon Department of Education to investigate reports of suspected sexual conduct involving students and an individual who is a school employee, contractor, agent or volunteer that is not licensed with the Teacher Standards and Practices Commission. At the time, Oregon law was not in alignment with federal law, Every Student Succeeds Act, which prohibits school districts, the ODE, school employees, contractors, or agents from assisting individuals investigated for sexual misconduct from obtaining new jobs unless certain reporting requirements are met.

**Religious Activity in Schools**

ORS 327.109 allows citizens to file a complaint when a school district or public charter school sponsors, financially supports or is actively involved with religious activity. The First Amendment of the US Constitution prohibits Congress and state governments from making laws about the establishment of religion. Article 1, Section 5, of the Oregon Constitution prevents money from the state treasury to benefit any religious or theological institution and that no money can be appropriated for any payments of any religious services in either house of the Legislative Assembly.