

House Bill 2891

Sponsored by Representative EVANS (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act limits the number of records that a higher learning school may keep on a teaching employee. The Act allows a teaching employee to respond to the contents of a record. The Act allows a higher learning school to use only allowed files. The Act allows a teaching employee to sue the higher learning school for not following the law about records. (Flesch Readability Score: 65.9).

Restricts the number of personnel records concerning faculty members that a community college may maintain. Provides that a faculty member may respond to information in a personnel record.

Prohibits a community college or public university from basing an evaluation of a faculty member on information from personnel records other than authorized personnel records. Permits a faculty member to bring an action for damages or other equitable relief against a public university community college or individuals who participate in an evaluation in violation of the prohibition.

Becomes operative January 1, 2027.

A BILL FOR AN ACT

1
2 Relating to personnel records kept for faculty members at institutions of higher education; creating
3 new provisions; and amending ORS 352.226.

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

5 **SECTION 1. Section 2 of this 2025 Act is added to and made a part of ORS chapter 341.**

6 **SECTION 2. (1) As used in this section, "personnel record" means a record with infor-**
7 **mation that a community college keeps concerning a faculty member that the faculty mem-**
8 **ber or others submit at the faculty member's request or at the community college's request,**
9 **including information concerning discipline, membership activity, employment performance**
10 **or other personal records of individual persons.**

11 **(2) The board of education of a community college district may adopt any standard or**
12 **order for a community college that is under the board's control to govern access to any**
13 **personnel record that the community college maintains and that is less than 25 years old.**
14 **The president of the community college shall implement the board's standards and orders.**

15 **(3) In adopting any standard or order under subsection (2) of this section, a board shall**
16 **require restricted access to any personnel record unless the president of a community col-**
17 **lege finds that disclosing the personnel record would not adversely affect individual rights**
18 **to privacy. The board may limit access to any personnel record on the basis of designated**
19 **classes of information, to specified persons or to stated times and conditions. The board may**
20 **not limit access to any personnel record that is more than 25 years old.**

21 **(4) A community college may not use any standard or order to deny to a faculty member**
22 **full access to the faculty member's personnel record that the community college keeps, ex-**
23 **cept that the community college may deny the faculty member access to information that**
24 **would identify a person that submitted information in confidence to the community college,**
25 **as provided in subsection (8) of this section.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (5)(a) Except for a personnel record that contains the name identifying information of a
2 person that submitted information in confidence, as provided in subsection (8) of this section,
3 a community college may not keep more than three personnel records for a faculty member
4 for any purpose or in any form or format. The community college shall keep any personnel
5 record in a designated location that is available to the faculty member for whom the per-
6 sonnel record contains any information.

7 (b) A community college that keeps a personnel record for a faculty member that does
8 not meet the requirements of this section shall destroy the personnel record and may not
9 use any information from the personnel record for the purpose of evaluating a faculty
10 member.

11 (6) A community college shall document in each of a faculty member's personnel records
12 any information that the community college receives by telephone for inclusion in a person-
13 nel record by means of a written summary of the conversation that identifies the names of
14 the conversants.

15 (7) A faculty member may submit, for placement in any of the faculty member's per-
16 sonnel records that a community college keeps, evidence that rebuts, corrects, amplifies or
17 explains any information in the personnel record and other material that the member be-
18 lieves might assist in the evaluation process.

19 (8)(a) A community college shall maintain any letter or other information concerning a
20 faculty member that was submitted in confidence to the Higher Education Coordinating
21 Commission, a board or a community college, in a faculty member's personnel record au-
22 thorized under this section. If a faculty member requests access to the personnel record, the
23 community college shall protect the anonymity of the contributor of any letter or other in-
24 formation submitted in confidence by making the full text of the letter or other information
25 available and excising any portions of the text identifying the contributor of the letter or
26 other information. A community college may keep only the names of any contributors and
27 any excised portions of the documents in a personnel record other than the three personnel
28 records authorized under subsection (5) of this section.

29 (b) Any confidential letter or other information that the Higher Education Coordinating
30 Commission, a board or a community college received or solicited before employing a faculty
31 member is exempt from this section, except that the community college must place the in-
32 formation described in this paragraph into a personnel record for a faculty member that the
33 community college currently employs. If a faculty member requests access to the faculty
34 member's personnel records, the community college shall protect the anonymity of the con-
35 tributor of any confidential preemployment letter or other preemployment information by
36 making the full text of the letter or other information available and excising any portions
37 of the text identifying the contributor of the letter or other information. A community col-
38 lege may keep only the names of any contributors and any excised portions of the documents
39 in a personnel record other than the three personnel records authorized under subsection
40 (5) of this section.

41 (9) Classroom survey evaluations by students of a faculty member's classroom or labo-
42 ratory performance must be anonymous. A community college shall place the record of
43 evaluation reports in at least one of the three personnel records authorized under subsection
44 (5) of this section. The community college shall return to the faculty member any survey
45 instrument used to obtain evaluation data.

1 (10) The Higher Education Coordinating Commission, a board and a community college
 2 when evaluating employed faculty members may not solicit or accept any letter, document
 3 or other material, given orally or in written form, from any individual or group who requests
 4 anonymity or who wants the community college to keep information that the individual or
 5 group provides confidential.

6 (11) Notwithstanding any provision of an employment contract between a community
 7 college and an individual faculty member or the faculty member's appropriate bargaining
 8 unit, as defined in ORS 243.650, the faculty member may appeal an evaluation that a com-
 9 munity college bases on information from a personnel record to the board. A right of appeal
 10 under this subsection extends to a faculty member if the faculty member previously received
 11 satisfactory performance ratings for a consecutive period of 10 years or for 11 of 13 non-
 12 consecutive years.

13 (12)(a) A community college may not evaluate a faculty member with information from
 14 a personnel record other than a personnel record authorized under this section.

15 (b) A faculty member may bring an action for damages or for other equitable relief in a
 16 court of this state against a community college or any individual involved in an evaluation
 17 that is based on information from a personnel record other than a personnel record author-
 18 ized under this section.

19 (c) The Governor, without the consent of a board or the Higher Education Coordinating
 20 Commission, may remove from a position at a community college any individual who partic-
 21 ipates in an evaluation of a faculty member in violation of paragraph (a) of this subsection.

22 (13) A standard or order promulgated under this section does not limit the authority of
 23 a community college to use a personnel record to prepare statistical or demographic reports
 24 that do not identify any individual who has not consented to the identification.

25 (14) Any category of personnel records specifically designated as confidential under a
 26 valid standard or order under this section is not a public record for the purposes of ORS
 27 192.314.

28 **SECTION 3.** ORS 352.226 is amended to read:

29 352.226. (1) A governing board as defined in ORS 352.029 may, for the public university under
 30 *[its]* **the governing board's** control, adopt standards and *[specific]* orders by or through the presi-
 31 dent of each public university governing access to **any** personnel *[records]* **record** of the public
 32 university or office, department or activity that *[are]* is less than 25 years old.

33 (2) *[Standards]* **Any standard or order** adopted under subsection (1) of this section *[shall]* **must**
 34 require that a personnel *[records]* **record** be subjected to restrictions on access unless upon a find-
 35 ing by the president of the public university that the public interest in maintaining individual rights
 36 to privacy in an adequate educational environment would not suffer by disclosure of *[such records]*
 37 **the personnel record**. Access to *[such records]* **a personnel record** may be limited to designated
 38 classes of information or persons, or to stated times and conditions, or to both, but *[cannot]* **may**
 39 **not** be limited for *[records]* **a personnel record that is** more than 25 years old.

40 (3) A *[standard or order promulgated pursuant to this section]* **public university** may not **use**
 41 **any standard or order** to deny to a faculty member full access to the member's personnel *[file or*
 42 *records]* **record** kept by the public university, except **that the public university may deny the**
 43 **faculty member access to information that would identify a person that submitted informa-**
 44 **tion in confidence to the public university**, as provided in subsections (7) and (8) of this section.

45 (4)(a) *[The number of files relating to the evaluation of a faculty member is limited to three, to be*

1 *kept in designated, available locations.] Except with respect to a personnel record that contains*
 2 **the name and any identifying information of a person that submitted information in confi-**
 3 **dence, as provided in subsections (7) and (8) of this section, a public university may not keep**
 4 **more than three personnel records for a faculty member for evaluation purposes, or for any**
 5 **other purpose, in any form or format. The public university shall keep any personnel record**
 6 **in a designated location that is available to the faculty member for whom the personnel re-**
 7 **cord contains any information.**

8 **(b) A public university that keeps a faculty member's personnel record that does not**
 9 **meet the requirements of this section shall destroy the personnel record and may not use**
 10 **any information from the personnel record for the purpose of evaluating a faculty member.**

11 (5) Any evaluation received by telephone must be documented in each of the faculty member's
 12 *[files]* **personnel records** by means of a written summary of the conversation with the names of the
 13 conversants identified.

14 (6) A faculty member *[is entitled to]* **may** submit, for placement in *[the three files]* **the faculty**
 15 **member's personnel record**, evidence rebutting, correcting, amplifying or explaining any document
 16 contained *[therein]* **in the personnel record** and other material that the member believes might be
 17 of assistance in the evaluation process.

18 (7) Letters and other information submitted in confidence to the State Board of Higher Educa-
 19 tion or *[its]* **the board's** public universities, offices, departments or activities prior to July 1, 1975,
 20 *[shall]* **must** be maintained in the *[files]* **personnel record** designated by the governing board of the
 21 public university currently employing the faculty member. *[However, if]* **If** a faculty member requests
 22 access to *[those files]* **the faculty member's personnel record**, the anonymity of the contributor
 23 of letters and other information obtained prior to July 1, 1975, *[shall]* **must** be protected. The full
 24 text *[shall]* **must** be made available, except that portions of the text that would serve to identify the
 25 contributor *[shall]* **must** be excised by a faculty committee. Only the names of the contributors and
 26 the excised portions of the documents may be kept in a *[file]* **personnel record** other than the three
 27 prescribed by subsection (4) of this section.

28 (8)(a) Confidential letters and other information submitted to or solicited after July 1, 1975, by
 29 the State Board of Higher Education or *[its]* **the board's** public universities, offices, departments
 30 or activities prior to the employment of a prospective faculty member are exempt from the pro-
 31 visions of this section. *[However, if]* **If** the **faculty** member is currently employed by a public uni-
 32 versity or *[its]* **the** offices, departments or activities **of the public university**, the confidential
 33 preemployment materials *[shall]* **must** be placed in the three authorized *[files]* **personnel records**.
 34 If a faculty member requests access to the **faculty** member's *[files]* **personnel record**, the anonymity
 35 of the contributor of confidential preemployment letters and other preemployment information
 36 *[shall]* **must** be protected. The full text *[shall]* **must** be made available, except that portions of the
 37 text that would serve to identify the contributor *[shall]* **must** be excised and retained in a *[file]*
 38 **personnel record** other than the three designated in subsection (4) of this section.

39 (b) Confidential letters and other information submitted to or solicited by a public university
 40 listed in ORS 352.002 after the date that the university obtained a governing board, and prior to the
 41 employment of a prospective faculty member are exempt from the provisions of this section. *[How-*
 42 *ever, if]* **If** the **faculty** member is employed by the university, the confidential preemployment mate-
 43 rials *[shall]* **must** be placed in the three authorized *[files]* **personnel records**. If a faculty member
 44 requests access to the **faculty** member's *[files]* **personnel record**, the anonymity of the contributor
 45 of confidential preemployment letters and other preemployment information *[shall]* **must** be pro-

1 tected. The full text *[shall]* **must** be made available, except that portions of the text that would
 2 serve to identify the contributor *[shall]* **must** be excised and retained in a *[file]* **personnel record**
 3 other than the three designated in subsection (4) of this section.

4 (9) Classroom survey *[evaluation]* **evaluations** by students of a faculty member's classroom or
 5 laboratory performance *[shall]* **must** be anonymous. The record of tabulated reports *[shall]* **must**
 6 be placed in at least one of the *[files]* **personnel records** designated in subsection (4) of this section.
 7 All survey instruments used to obtain evaluation data *[shall]* **must** be returned to the faculty
 8 member.

9 (10) A public university listed in ORS 352.002 and, after July 1, 1975, but before the date on
 10 which the public university obtained a governing board, the State Board of Higher Education and
 11 *[its]* **the board's** public universities, offices, departments or activities, when evaluating *[its]* em-
 12 ployed faculty members, may not solicit or accept letters, documents or other materials, given orally
 13 or in written form, from individuals or groups who wish their identity **to be** kept anonymous or the
 14 information they provide **to be** kept confidential.

15 (11) **Notwithstanding any provision of an employment contract between a public univer-**
 16 **sity and a faculty member or the faculty member's appropriate bargaining unit, as defined**
 17 **in ORS 243.650, the faculty member may appeal an evaluation that a public university bases**
 18 **on information from a personnel record to the public university's governing board. A right**
 19 **of appeal under this subsection extends to a faculty member without tenure if the faculty**
 20 **member previously received satisfactory performance ratings for a consecutive period of 10**
 21 **years or for 11 of 13 nonconsecutive years.**

22 (12)(a) **A public university may not evaluate a faculty member with information from a**
 23 **personnel record other than a personnel record authorized under this section.**

24 (b) **A faculty member may bring an action for damages or for other equitable relief in a**
 25 **court of this state against a public university or any individual involved in an evaluation that**
 26 **is based on information from a personnel record other than a personnel record authorized**
 27 **under this section.**

28 (c) **The Governor, without the consent of a public university's governing board or the**
 29 **Higher Education Coordinating Commission, may remove from a position at the public uni-**
 30 **versity any individual who participates in an evaluation of a faculty member in violation of**
 31 **paragraph (a) of this subsection.**

32 (13) A standard or order promulgated *[pursuant to]* **under** this section does not limit the au-
 33 thority of a public university to *[prepare, without identification of individual persons who have not*
 34 *consented thereto,]* **use a personnel record to prepare** statistical or demographic reports *[from*
 35 *personnel records]* **that do not identify any individual who has not consented to the identifica-**
 36 **tion.**

37 *[(12)]* (14) Any category of personnel records specifically designated as confidential *[pursuant to*
 38 *valid standards or orders pursuant to]* **under a valid standard or order under** this section is not
 39 a public record for the purposes of ORS 192.314.

40 *[(13)]* (15) As used in this section, "personnel *[records]* **record**" means *[records]* **any record**
 41 containing information kept by the public university, office, department or activity concerning a
 42 faculty member and furnished by the faculty member or by others about the faculty member at the
 43 request of the faculty member or the public university, office, department or activity, including, but
 44 not limited to, information concerning discipline, membership activity, employment performance or
 45 other personal records of individual persons.

1 **SECTION 4.** Section 2 of this 2025 Act and the amendments to ORS 352.226 by section 3
2 of this 2025 Act apply to faculty evaluations that occur on or after the operative date speci-
3 fied in section 5 of this 2025 Act.

4 **SECTION 5.** (1) Section 2 of this 2025 Act and the amendments to ORS 352.226 by section
5 3 of this 2025 Act become operative January 1, 2027.

6 (2) The Higher Education Coordinating Commission, the State Board of Education, a
7 board of education of a community college district, a public university or a community col-
8 lege may adopt rules and take any other action before the operative date specified in sub-
9 section (1) of this section that is necessary to enable the commission, board, public
10 university or community college to exercise, on and after the operative date specified in
11 subsection (1) of this section, all of the duties, functions and powers conferred on the com-
12 mission, board, public university or community college by section 2 of this 2025 Act and the
13 amendments to ORS 352.226 by section 3 of this 2025 Act.

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