

## 1. DUTY TO REPORT CHILD ABUSE

Any public or private official having reasonable cause to believe that any child with whom the official comes in contact has suffered abuse or that any person with whom the official comes in contact has abused a child shall immediately report the abuse. Oregon's Child Abuse Reporting Law is codified at ORS 419B.005 to 419B.050. A copy of the statute is attached as Appendix 1.

### A. Definitions

- **What constitutes child abuse?**

**Physical** – Any physical injury to a child caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.

**Mental** – Any mental injury to a child. Must be observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child.

**Rape** – Includes rape, sodomy, unlawful sexual penetration and incest.

**Sexual abuse**

**Sexual exploitation** – child pornography (photos, tapes, films, or any performance) or prostitution

**Negligent treatment or maltreatment of a child** – failure to provide adequate food, clothing, shelter or medical care.

**Threatened harm to a child** – subjecting a child to a substantial risk of harm to the child's health or welfare.

- **Who is considered a child?**

Unmarried person who is under 18 years of age

- **Who is a public or private official?**

Includes a school employee

### B. Reporting Requirements and Procedure

- **Who is required to report?**

A public or private official which includes a school employee

- **Where do you report?**

Department of Human Services (“DHS” or a designee)  
Local Law Enforcement Agency

- **What do you report?**

- The names and addresses of the child and parents or persons responsible for the care of the child
- Child’s age
- Nature and extent of the abuse
- Explanation for the abuse
- Other information helpful to establishing the cause of the abuse or identifying the perpetrator

- **Consequences of Failing to Report**

- Class A violation/18 month statute of limitations
- Civil liability

- **Immunity for Reporting**

- Anyone who makes a good faith report based on reasonable grounds has immunity for civil or criminal liability

**C. Investigation**

- Let DHS or law enforcement investigate
- If investigation is on school grounds, administrator must be notified, unless a subject of investigation
- The administrator may facilitate the investigation
- Information learned is confidential and should not be a part of student records

**2. SENATE BILL 755**

Senate Bill 755 became effective June 29, 2005. A copy of the Bill is attached as Appendix 2.

**A. Additions to the Law**

- In addition to reporting to DHS or law enforcement, a school employee must report suspected child abuse to his or her supervisor or Board designated person
- The Board must designate a person to receive reports of abuse by school employees and this person's name and contact information must be posted in each school building
- A good faith report of suspected child abuse may not adversely affect any terms or conditions of employment or work environment of the reporter
- A student will not be disciplined for a good faith report of suspected child abuse by a school employee
- The District will notify the person who initiated the report about action taken by the District based on the report
- When the designated person receives a report of suspected abuse by a school employee and determines that there is reasonable cause to support the report, the District must place the employee on paid administrative leave while DHS or a law enforcement agency determines that the report is:
  - Is unfounded or will not be pursued
  - Is founded and the District takes the appropriate disciplinary action against the employee
- If DHS or a law enforcement agency is unable to determine whether child abuse occurred, the employee may be reinstated or the District may take appropriate disciplinary action
- The disciplinary records of a school employee who is convicted of a crime listed in ORS 342.143 are not exempt under the public records law. Prior to disclosure of the records, the District must remove any information that would disclose the identity of a child, crime victim, or other school employee.

**B. Suggested Policy Language for Child Abuse Reporting Policy**

- Child abuse is not tolerated by school employees and all school employees are subject to the District's child abuse reporting policy
- Any school employee who has reasonable cause to believe that any child the employee comes into contact with has suffered abuse or any person the employee comes into contact with has abused a child shall report the abuse to

the Department of Human Services (“DHS”) or local law enforcement and his or her supervisor [or designated person]

- If a school employee is suspected of child abuse, a report must also be made to [designated person]. Designated person’s name and contact information will be posted in all school buildings
- If [designated person] determines there is reasonable cause to support the report, the employee will be placed on paid administrative leave until DHS or a law enforcement agency determines (a) the report is unfounded or will not be pursued; or (b) the report is founded and the District takes appropriate disciplinary action
- A good faith report of suspected child abuse may not adversely affect the terms and conditions or work environment of the reporter
- A student will not be disciplined for a good faith report of suspected child abuse by a school employee
- The District will notify any person who initiates a report of suspected child abuse about the District’s actions, to the extent allowed by law

### 3. CASE STUDY

#### A. **Facts**

A teacher advises you that a parent of one of her students is concerned about e-mails her daughter is receiving from a popular male teacher and coach. The parent is afraid to say anything because the teacher is very popular and her daughter is concerned about being ostracized from her friends.

#### B. **What do you do?**

- Do you investigate?
- Do you report to an outside agency?
- Do you report to TSPC?

- Do you place the teacher on leave?
  - Paid or unpaid
  
- Does paid leave ever become unpaid leave?
  
- Do you move for termination?
  
- If so, how? (See Appendix 3)
  
- What do you tell the reporting teacher?
  
- What do you tell the student and her family?
  
- What communications do you have with other teachers and staff?
  
- What do you tell other families?
  
- Do you make counselors available in the building?
  
- How do you deal with the media?
  
- What if others come forward

**REPORTING OF CHILD ABUSE**

**419B.005 Definitions.** As used in ORS 418.747, 418.748, 418.749 and 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) "Abuse" means:

(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.

(C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are defined in ORS chapter 163.

(D) Sexual abuse, as defined in ORS chapter 163.

(E) Sexual exploitation, including but not limited to:

(i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and

(ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution, as defined in ORS chapter 167.

(F) Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.

(G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.

(H) Buying or selling a person under 18 years of age as described in ORS 163.537.

(I) Permitting a person under 18 years of age to enter or remain in a place where methamphetamines are being manufactured.

(b) "Abuse" does not include reasonable discipline unless the discipline results in one

of the conditions described in paragraph (a) of this subsection.

(2) "Child" means an unmarried person who is under 18 years of age.

(3) "Public or private official" means:

(a) Physician, including any intern or resident.

(b) Dentist.

(c) School employee.

(d) Licensed practical nurse or registered nurse.

(e) Employee of the Department of Human Services, State Commission on Children and Families, Child Care Division of the Employment Department, the Oregon Youth Authority, a county health department, a community mental health and developmental disabilities program, a county juvenile department, a licensed child-caring agency or an alcohol and drug treatment program.

(f) Peace officer.

(g) Psychologist.

(h) Member of the clergy.

(i) Licensed clinical social worker.

(j) Optometrist.

(k) Chiropractor.

(L) Certified provider of foster care, or an employee thereof.

(m) Attorney.

(n) Naturopathic physician.

(o) Licensed professional counselor.

(p) Licensed marriage and family therapist.

(q) Firefighter or emergency medical technician.

(r) A court appointed special advocate, as defined in ORS 419A.004.

(s) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.

(t) Member of the Legislative Assembly.

(4) "Law enforcement agency" means:

(a) Any city or municipal police department.

(b) Any county sheriff's office.

(c) The Oregon State Police.

(d) A county juvenile department. [1993 c.546 §12; 1993 c.622 §1a; 1995 c.278 §50; 1995 c.766 §1; 1997 c.127 §1; 1997 c.561 §3; 1997 c.703 §3; 1997 c.873 §30; 1999 c.743 §22; 1999 c.954 §4; 2001 c.104 §148; 2003 c.191 §1]

**419B.007 Policy.** The Legislative Assembly finds that for the purpose of facilitating the use of protective social services to prevent further abuse, safeguard and enhance the welfare of abused children, and preserve

family life when consistent with the protection of the child by stabilizing the family and improving parental capacity, it is necessary and in the public interest to require mandatory reports and investigations of abuse of children and to encourage voluntary reports. [1993 c.546 §13]

**419B.010 Duty of officials to report child abuse; exceptions; penalty.** (1) Any public or private official having reasonable cause to believe that any child with whom the official comes in contact has suffered abuse or that any person with whom the official comes in contact has abused a child shall immediately report or cause a report to be made in the manner required in ORS 419B.015. Nothing contained in ORS 40.225 to 40.295 shall affect the duty to report imposed by this section, except that a psychiatrist, psychologist, member of the clergy or attorney shall not be required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295. An attorney is not required to make a report under this section by reason of information communicated to the attorney in the course of representing a client, if disclosure of the information would be detrimental to the client.

(2) Notwithstanding subsection (1) of this section, a report need not be made under this section if the public or private official acquires information relating to abuse by reason of a report made under this section, or by reason of a proceeding arising out of a report made under this section, and the public or private official reasonably believes that the information is already known by a law enforcement agency or the Department of Human Services.

(3) A person who violates subsection (1) of this section commits a Class A violation. Prosecution under this subsection shall be commenced at any time within 18 months after commission of the offense. [1993 c.546 §14; 1999 c.1051 §180; 2001 c.104 §149; 2001 c.904 §15]

**419B.015 Report form and content; notice to law enforcement agencies and local office of Department of Human Services.** A person making a report of child abuse, whether voluntarily or pursuant to 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 or to a law enforcement agency within the county where the person making the report is located at the time of the contact. Such reports shall 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 pre-

vious abuse, the explanation given for the abuse and any other information which the person making the report believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator. When a report is received by the department, the department shall immediately notify a law enforcement agency within the county where the report was made. When a report 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 report was made. When a report is received by a law enforcement agency, the agency shall immediately notify the local office of the department within the county where the report was made. [1993 c.546 §15; 1993 c.734 §1a]

**419B.020 Duty of department or law enforcement agency receiving report; investigation; notice to parents; physical examination; child's consent.** (1) Upon receipt of an oral report of child abuse, the Department of Human Services or the law enforcement agency shall immediately:

(a) Cause an investigation to be made to determine the nature and cause of the abuse of the child; and

(b) Notify the Child Care Division if the alleged child abuse occurred in a child care facility as defined in ORS 657A.250.

(2) 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 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.

(3) 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.

(4)(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.

(5) 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.

(6) A minor child of 12 years of age or older may refuse to consent to the examination described in subsection (5) of this section. The examination shall be conducted by or under the supervision of a physician licensed under ORS chapter 677 or a nurse practitioner licensed under ORS chapter 678 and, whenever practicable, trained in conducting such examinations. [1993 c.546 §16; 1993 c.622 §7a; 1997 c.130 §13; 1997 c.703 §1; 1997 c.873 §33]

**419B.025 Immunity of person making report in good faith.** Anyone participating in good faith in the making of a report of child abuse and who has reasonable grounds for the making thereof shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of such report. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from such report. [1993 c.546 §17]

**419B.028 Photographing child during investigation; photographs as records.** (1) In carrying out its duties under ORS 419B.020, any law enforcement agency or the Department of Human Services may photograph or cause to have photographed any child subject of the investigation for purposes of preserving evidence of the child's condition at the time of the investigation.

(2) For purposes of ORS 419B.035, photographs taken under authority of subsection (1) of this section shall be considered records. [1993 c.546 §18]

**419B.030 Central registry of reports.**

(1) A central state registry shall be established and maintained by the Department of Human Services. The local offices of the department shall report to the state registry in writing when an investigation has shown reasonable cause to believe that a child's condition was the result of abuse even if the cause remains unknown. Each registry shall contain current information from reports catalogued both as to the name of the child and the name of the family.

(2) When the department provides specific case information from the central state registry, the department shall include a notice that the information does not necessarily reflect any subsequent proceedings that are not within the jurisdiction of the department. [1993 c.546 §19]

**419B.035 Confidentiality of records; when available to others.**

(1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and 192.610 to 192.990 relating to confidentiality and accessibility for public inspection of public records and public documents, reports and records compiled under the provisions of ORS 419B.010 to 419B.050 are confidential and are not accessible for public inspection. However, the Department of Human Services shall make records available to:

(a) Any law enforcement agency or a child abuse registry in any other state for the purpose of subsequent investigation of child abuse;

(b) Any physician, at the request of the physician, regarding any child brought to the physician or coming before the physician for examination, care or treatment;

(c) Attorneys of record for the child or child's parent or guardian in any juvenile court proceeding;

(d) Citizen review boards established by the Judicial Department for the purpose of periodically reviewing the status of children, youths and youth offenders under the jurisdiction of the juvenile court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to participants in case reviews;

(e) A court appointed special advocate in any juvenile court proceeding in which it is alleged that a child has been subjected to child abuse or neglect;

(f) The Child Care Division for certifying, registering or otherwise regulating child care facilities; and



(g) The Office of Children's Advocate.

(2) The Department of Human Services may make reports and records available to any person, administrative hearings officer, court, agency, organization or other entity when the department determines that such disclosure is necessary to administer its child welfare services and is in the best interests of the affected child, or that such disclosure is necessary to investigate, prevent or treat child abuse and neglect, to protect children from abuse and neglect or for research when the Director of Human Services gives prior written approval. The Department of Human Services shall adopt rules setting forth the procedures by which it will make the disclosures authorized under this subsection and subsection (1) of this section. The name, address and other identifying information about the person who made the report may not be disclosed pursuant to this subsection and subsection (1) of this section.

(3) A law enforcement agency may make reports and records available to other law enforcement agencies, district attorneys, city attorneys with criminal prosecutorial functions and the Attorney General when the law enforcement agency determines that disclosure is necessary for the investigation or enforcement of laws relating to child abuse and neglect.

(4) A law enforcement agency, upon completing an investigation and closing the file in a specific case relating to child abuse or neglect, shall make reports and records in the case available upon request to any law enforcement agency or community corrections agency in this state, to the Department of Corrections or to the State Board of Parole and Post-Prison Supervision for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release. A law enforcement agency may make reports and records available to law enforcement, community corrections, corrections or parole agencies in an open case when the law enforcement agency determines that the disclosure will not interfere with an ongoing investigation in the case. The name, address and other identifying information about the person who made the report may not be disclosed under this subsection or subsection (5)(b) of this section.

(5)(a) Any record made available to a law enforcement agency or community corrections agency in this state, to the Department of Corrections or the State Board of Parole and Post-Prison Supervision or to a physician in this state, as authorized by subsections (1) to (4) of this section, shall be kept confidential by the agency, department, board or

physician. Any record or report disclosed by the Department of Human Services to other persons or entities pursuant to subsections (1) and (2) of this section shall be kept confidential.

(b) Notwithstanding paragraph (a) of this subsection, a law enforcement agency, a community corrections agency, the Department of Corrections and the State Board of Parole and Post-Prison Supervision may disclose records made available to them under subsection (4) of this section to each other and to law enforcement, community corrections, corrections and parole agencies of other states for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release.

(6) An officer or employee of the Department of Human Services or of a law enforcement agency or any person or entity to whom disclosure is made pursuant to subsections (1) to (4) of this section may not release any information not authorized by subsections (1) to (5) of this section.

(7) As used in this section, "law enforcement agency" has the meaning given that term in ORS 181.010.

(8) A person who violates subsection (5)(a) or (6) of this section commits a Class A violation. [1993 c.546 §20,20a; 1995 c.278 §51; 1997 c.328 §8; 1999 c.1051 §181; 2003 c.14 §224; 2003 c.412 §1; 2003 c.591 §8]

**419B.040 Certain privileges not grounds for excluding evidence in court proceedings on child abuse.** (1) In the case of abuse of a child, the privileges created in ORS 40.230 to 40.255, including the psychotherapist-patient privilege, the physician-patient privilege, the privileges extended to nurses, to staff members of schools and to registered clinical social workers and the husband-wife privilege, shall not be a ground for excluding evidence regarding a child's abuse, or the cause thereof, in any judicial proceeding resulting from a report made pursuant to ORS 419B.010 to 419B.050.

(2) In any judicial proceedings resulting from a report made pursuant to ORS 419B.010 to 419B.050, either spouse shall be a competent and compellable witness against the other. [1993 c.546 §21]

**419B.045 Investigation conducted on public school premises; notification; role of school personnel.** If an investigation of a report of child abuse is conducted on public school premises, the school administrator shall first be notified that the investigation is to take place, unless the school administrator is a subject of the investigation. The school administrator or a school staff mem-

ber designated by the administrator may, at the investigator's discretion, be present to facilitate the investigation. The Department of Human Services or the law enforcement agency making the investigation shall be advised of the child's disabling conditions, if any, prior to any interview with the affected child. A school administrator or staff member is not authorized to reveal anything that transpires during an investigation in which the administrator or staff member participates nor shall the information become part of the child's school records. The school administrator or staff member may testify at any subsequent trial resulting from the investigation and may be interviewed by the respective litigants prior to any such trial. [1993 c.546 §22; 2003 c.14 §225]

**419B.050 Authority of health care provider to disclose information; immunity from liability.** (1) Upon notice by either a law enforcement agency or the Department of Human Services that a child abuse investigation is being conducted under ORS 419B.020, a health care provider may permit the law enforcement agency or the department to inspect and copy medical records, including, but not limited to, prenatal and birth records, of the child involved in the investigation without the consent of the child, or the parent or guardian of the child. A health care provider who in good faith disclosed medical records under this section is not civilly or criminally liable for the disclosure.

(2)(a) As used in this section, "health care provider" means a person licensed by one of the following agencies, or any employee of a person licensed by one of the following agencies:

- (A) State Board of Examiners for Speech-Language Pathology and Audiology;
- (B) State Board of Chiropractic Examiners;
- (C) State Board of Clinical Social Workers;
- (D) Oregon Board of Licensed Professional Counselors and Therapists;
- (E) Oregon Board of Dentistry;
- (F) State Board of Denture Technology;
- (G) Board of Examiners of Licensed Dietitians;
- (H) State Board of Massage Therapists;
- (I) State Mortuary and Cemetery Board;
- (J) Board of Naturopathic Examiners;
- (K) Oregon State Board of Nursing;
- (L) Board of Examiners of Nursing Home Administrators;
- (M) Oregon Board of Optometry;
- (N) State Board of Pharmacy;

- (O) Board of Medical Examiners;
- (P) Occupational Therapy Licensing Board;
- (Q) Physical Therapist Licensing Board;
- (R) State Board of Psychologist Examiners; or
- (S) Board of Radiologic Technology.

(b) For the purposes of this section, "health care provider" includes a health care facility as defined in ORS 442.015 and emergency medical technicians certified by the Department of Human Services. [1997 c.873 §27; 1999 c.537 §3; 2001 c.104 §150]

**JUVENILE COURT**

**(Generally)**

**419B.090 Juvenile court; jurisdiction; policy.** (1) The juvenile court is a court of record and exercises jurisdiction as a court of general and equitable jurisdiction and not as a court of limited or inferior jurisdiction. The juvenile court is called "The \_\_\_\_\_ Court of \_\_\_\_\_ County, Juvenile Department."

(2)(a) It is the policy of the State of Oregon to recognize that children are individuals who have legal rights. Among those rights are the right to:

- (A) Permanency with a safe family;
- (B) Freedom from physical, sexual or emotional abuse or exploitation; and
- (C) Freedom from substantial neglect of basic needs.

(b) Parents and guardians have a duty to afford their children the rights listed in paragraph (a) of this subsection. Parents and guardians have a duty to remove any impediment to their ability to perform parental duties that afford these rights to their children. When a parent or guardian fails to fulfill these duties, the juvenile court may determine that it is in the best interests of the child to remove the child from the parent or guardian either temporarily or permanently.

(c) The provisions of this chapter shall be liberally construed to the end that a child coming within the jurisdiction of the court may receive such care, guidance, treatment and control as will lead to the child's welfare and the protection of the community.

(3) It is the policy of the State of Oregon to guard the liberty interest of parents protected by the Fourteenth Amendment to the United States Constitution and to protect the rights and interests of children, as provided in subsection (2) of this section. The provisions of this chapter shall be construed and applied in compliance with federal constitutional limitations on state action established

**Enrolled  
Senate Bill 755**

Sponsored by Senator WALKER; Senator DEVLIN, Representatives FLORES, MINNIS

CHAPTER .....

AN ACT

Relating to education employees; creating new provisions; amending ORS 338.025 and 338.115; and declaring an emergency.

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

**SECTION 1.** As used in this section and sections 2 and 3 of this 2005 Act:

- (1) "Abuse" has the meaning given that term in ORS 419B.005.
- (2) "Disciplinary records" means the records related to a personnel discipline action or materials or documents supporting that action.
- (3) "Education provider" means:
  - (a) A school district as defined in ORS 332.002.
  - (b) The Oregon State School for the Blind.
  - (c) The Oregon State School for the Deaf.
  - (d) An educational program under the Youth Corrections Education Program.
  - (e) A public charter school as defined in ORS 338.005.
  - (f) An education service district as defined in ORS 334.003.
  - (g) Any state-operated program that provides educational services to kindergarten through grade 12 students.
  - (h) A private school.
- (4) "Law enforcement agency" has the meaning given that term in ORS 419B.005.
- (5) "Private school" means a school that provides educational services as defined in ORS 345.505 to kindergarten through grade 12 students.
- (6) "School board" means the governing board or governing body of an education provider.
- (7) "School employee" means an employee of an education provider.

**SECTION 2.** Each school board shall adopt policies on the reporting of child abuse. The policies shall:

- (1) Specify that child abuse by school employees is not tolerated;
- (2) Specify that all school employees are subject to the policies;
- (3) Require that all school employees report suspected child abuse to a law enforcement agency, the Department of Human Services or a designee of the department as required by ORS 419B.010 and 419B.015 and report suspected child abuse to the employees' supervisors or other persons designated by the school board;
- (4) Designate a person to receive reports of suspected child abuse by school employees and specify the procedures to be followed by that person upon receipt of a report;

(5) Require the posting in each school building of the name and contact information for the person designated for the school building to receive reports of suspected child abuse by school employees and the procedures the person will follow upon receipt of a report;

(6) Specify that the initiation of a report in good faith about suspected child abuse may not adversely affect any terms or conditions of employment or the work environment of the complainant;

(7) Specify that the school board or any school employee will not discipline a student for the initiation of a report in good faith about suspected child abuse by a school employee; and

(8) Require notification by the education provider to the person who initiated the report about actions taken by the education provider based on the report.

**SECTION 3.** (1) Any school employee having reasonable cause to believe that any child with whom the employee comes in contact has suffered abuse by another school employee, or that another school employee with whom the employee comes in contact has abused a child, shall immediately report the information to:

(a) A supervisor or other person designated by the school board; and

(b) A law enforcement agency, the Department of Human Services or a designee of the department as required by ORS 419B.010 and 419B.015.

(2) A supervisor or other person designated by the school board who receives a report under subsection (1) of this section, shall follow the procedures required by the policy adopted by the school board under section 2 of this 2005 Act.

(3) Except as provided in subsection (4) of this section, when an education provider receives a report of suspected child abuse by one of its employees, and the education provider's designee determines that there is reasonable cause to support the report, the education provider shall place the school employee on paid administrative leave until either:

(a) The Department of Human Services or a law enforcement agency determines that the report is unfounded or that the report will not be pursued; or

(b) The Department of Human Services or a law enforcement agency determines that the report is founded and the education provider takes the appropriate disciplinary action against the school employee.

(4) If the Department of Human Services or a law enforcement agency is unable to determine, based on a report of suspected child abuse, whether child abuse occurred, an education provider may reinstate a school employee placed on paid administrative leave under subsection (3) of this section or may take the appropriate disciplinary action against the employee.

(5) Upon request from a law enforcement agency, the Department of Human Services or the Teacher Standards and Practices Commission, a school district shall provide the records of investigations of suspected child abuse by a school employee.

(6) The disciplinary records of a school employee convicted of a crime listed in ORS 342.143 are not exempt from disclosure under ORS 192.501 or 192.502. When a school employee is convicted of a crime listed in ORS 342.143, the education provider that is the employer of the employee shall disclose the disciplinary records of the employee to any person upon request.

(7) Prior to disclosure of a disciplinary record under subsection (6) of this section, an education provider shall remove any personally identifiable information from the record that would disclose the identity of a child, a crime victim or a school employee who is not the subject of the disciplinary record.

**SECTION 4.** ORS 338.115 is amended to read:

338.115. (1) Statutes and rules that apply to school district boards, school districts or other public schools [shall] do not apply to public charter schools. However, the following laws [shall] apply to public charter schools:

(a) Federal law;

(b) ORS 192.410 to 192.505 (public records law);

- (c) ORS 192.610 to 192.690 (public meetings law);
- (d) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);
- (e) ORS 181.539, 326.603, 326.607 and 342.232 (criminal records checks);
- (f) ORS 337.150 (textbooks);
- (g) ORS 339.141, 339.147 and 339.155 (tuition and fees);
- (h) ORS 659.850 and 659.855 (discrimination);
- (i) ORS 30.260 to 30.300 (tort claims);
- (j) Health and safety statutes and rules;
- (k) Any statute or rule that is listed in the charter;
- (L) The statewide assessment system developed by the Department of Education for mathematics, science and English under ORS 329.485 (1);
- (m) ORS 329.045 (academic content standards and instruction);
- (n) Any statute or rule that establishes requirements for instructional time provided by a school during each day or during a year;
- (o) ORS 339.250 (12) (prohibition on infliction of corporal punishment);
- (p) Sections 1, 2 and 3 of this 2005 Act (reporting of child abuse); and
- [(p)] (q) This chapter.

(2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules that apply to school district boards, school districts and other public schools may apply to a public charter school.

(3) If a statute or rule applies to a public charter school, then the terms "school district" and "public school" shall include public charter school as those terms are used in that statute or rule.

(4) A public charter school [shall] may not violate the Establishment Clause of the First Amendment to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion based.

(5) A public charter school shall maintain an active enrollment of at least 25 students.

(6) A public charter school may sue or be sued as a separate legal entity.

(7) The sponsor, members of the governing board of the sponsor acting in their official capacity and employees of a sponsor acting in their official capacity are immune from civil liability with respect to all activities related to a public charter school within the scope of their duties or employment.

(8) A public charter school may enter into contracts and may lease facilities and services from a school district, education service district, state institution of higher education, other governmental unit or any person or legal entity.

(9) A public charter school may not levy taxes or issue bonds under which the public incurs liability.

(10) A public charter school may receive and accept gifts, grants and donations from any source for expenditure to carry out the lawful functions of the school.

(11) The school district in which the public charter school is located shall offer a high school diploma, certificate, Certificate of Initial Mastery or Certificate of Advanced Mastery to any public charter school student who meets the district's and state's standards for a high school diploma, certificate, Certificate of Initial Mastery or Certificate of Advanced Mastery. If the school district offers a Certificate of Initial Mastery subject area endorsement to students who attend school in the district, then the school district shall offer the endorsement to any public charter school student who meets the district's and state's standards for the endorsement.

(12) A high school diploma, certificate, Certificate of Initial Mastery, Certificate of Initial Mastery subject area endorsement or Certificate of Advanced Mastery issued by a public charter school shall grant to the holder the same rights and privileges as a high school diploma, certificate, Certificate of Initial Mastery, Certificate of Initial Mastery subject area endorsement or Certificate of Advanced Mastery issued by a nonchartered public school.

(13) Prior to beginning operation, the public charter school shall show proof of insurance to the sponsor as specified in the charter.

(14) A public charter school may receive services from an education service district in the same manner as a nonchartered public school in the school district in which the public charter school is located.

**SECTION 5.** ORS 338.025 is amended to read:

338.025. (1) The State Board of Education may adopt any rules necessary for the implementation of this chapter. The rules shall follow the intent of this chapter.

(2) Upon application by a public charter school, the State Board of Education may grant a waiver of any provision of this chapter if the waiver promotes the development of programs by providers, enhances the equitable access by underserved families to the public education of their choice, extends the equitable access to public support by all students or permits high quality programs of unusual cost. The State Board of Education may not waive any appeal provision in this chapter or any provision under ORS 338.115 (1)(a) to [(o)] (p).

**SECTION 6.** Sections 1 to 3 of this 2005 Act and the amendments to ORS 338.115 and 338.025 by sections 4 and 5 of this 2005 Act apply to contracts entered into on or after the effective date of this 2005 Act.

**SECTION 7.** This 2005 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect on its passage.

Passed by Senate April 5, 2005

Received by Governor:

Repassed by Senate June 15, 2005

.....M.,....., 2005

Approved:

.....  
Secretary of Senate

.....M.,....., 2005

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President of Senate

.....  
Governor

Passed by House June 13, 2005

Filed in Office of Secretary of State:

.....M.,....., 2005

.....  
Speaker of House

.....  
Secretary of State

*Certified Mail Return Receipt*

Dear :

As you know, on \_\_\_\_\_, I placed you on paid administrative leave pending the outcome of an investigation by the District into allegations made against you. The District has now concluded its initial investigation into the incidents reported regarding your behavior. The following allegations have been made concerning your conduct:

- 1.
- 2.
- 3.

These are very serious allegations that may lead to discipline up to and including termination.

I have scheduled a time for you to meet with me on \_\_\_\_\_, in my office to respond to these allegations. You are entitled to have representation at this meeting.

Sincerely,



*Via Certified Mail*

Re: Recommendation for Dismissal

Dear :

This letter is notification that I intend to recommend to the Board of Directors your dismissal for immorality pursuant to ORS 342.865(1)(a) and other cause which constitutes grounds for revoking your teaching license pursuant to ORS 342.865(1)(i). The Board will consider this recommendation at its \_\_\_\_\_ meeting at which time you will have the opportunity to respond to this recommendation before the Board makes a decision.

Below please find a statement of facts I relied on to make my decision. Enclosed please find a copy of the Accountability for Schools for the 21<sup>st</sup> Century Law, ORS 342.805 – ORS 342.937.

**STATEMENT OF FACTS**

Put in the facts you are relying on as well as prior procedural history

**BASIS FOR RECOMMENDATION**

Your \_\_\_\_\_ constitutes immorality and gross unfitness as defined in the District's job description and performance standards and policies, and in the Teachers Standards and Practices Commission Standards for Competent and Ethical Performance of Oregon Educators. Therefore, I will be recommending your dismissal to the Board of





Directors for immorality pursuant to ORS 342.865(1)(i) and other cause which constitutes grounds for revoking your teaching license pursuant to ORS 342.865(1)(i).

Please advise me if you wish to have a hearing at the \_\_\_\_\_, Board meeting in which you may call witnesses and be represented by counsel. Pursuant to ORS 192.660(1)(b), the Board will meet in Executive session to consider my recommendation unless you request an open hearing. Please let me know no later than \_\_\_\_\_ if you request an open hearing.

Very truly yours,

Superintendent

Enclosure

cc: Board of Directors  
Fair Dismissal Appeals Board

