

**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:

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Secretary of Senate

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

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President of Senate

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Governor

Passed by House June 13, 2005

Filed in Office of Secretary of State:

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Speaker of House

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Secretary of State