

CHAPTER 92

AN ACT

HB 4016

Relating to harm to a child; amending ORS 338.115, 339.370, 339.372, 339.374, 339.378, 339.388, 339.392, 339.400, 419B.005 and 419B.010.

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

SECTION 1. ORS 419B.005 is amended to read: 419B.005. As used in ORS 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 described in ORS chapter 163.

(D) Sexual abuse, as described 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 or to patronize a prostitute, 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 or upon premises where methamphetamines are being manufactured.

(J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, that subjects a child to a

substantial risk of harm to the child's health or safety.

(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) "**Higher education institution**" means:

(a) **A community college as defined in ORS 341.005;**

(b) **A public university listed in ORS 352.002;**

(c) **The Oregon Health and Science University; and**

(d) **A private institution of higher education located in Oregon.**

[(3)] (4) "Law enforcement agency" means:

(a) A city or municipal police department.

(b) A county sheriff's office.

(c) The Oregon State Police.

(d) A police department established by a university under ORS 352.383.

(e) A county juvenile department.

[(4)] (5) "Public or private official" means:

(a) Physician, osteopathic physician, physician assistant, naturopathic physician, podiatric physician and surgeon, including any intern or resident.

(b) Dentist.

(c) **School employee, including an employee of a higher education institution.**

(d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide or employee of an in-home health service.

(e) Employee of the Department of Human Services, Oregon Health Authority, 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 program, a community 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) Regulated social worker.

(j) Optometrist.

(k) Chiropractor.

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

(m) Attorney.

(n) Licensed professional counselor.

(o) Licensed marriage and family therapist.

(p) Firefighter or emergency medical services provider.

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

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

(s) Member of the Legislative Assembly.

(t) Physical, speech or occupational therapist.

(u) Audiologist.

(v) Speech-language pathologist.

(w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.

(x) Pharmacist.

(y) An operator of a preschool recorded program under ORS 657A.255.

(z) An operator of a school-age recorded program under ORS 657A.257.

(aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.

(bb) Employee of a public or private organization providing child-related services or activities:

(A) Including but not limited to youth groups or centers, scout groups or camps, summer or day camps, survival camps or groups, centers or camps that are operated under the guidance, supervision or auspices of religious, public or private educational systems or community service organizations; and

(B) Excluding community-based, nonprofit organizations whose primary purpose is to provide confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.

(cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.

SECTION 2. ORS 339.370 is amended to read: 339.370. As used in ORS 339.370 to 339.400:

(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 School for the Deaf.

(c) An educational program under the Youth Corrections Education Program.

(d) A public charter school, as defined in ORS 338.005.

(e) An education service district, as defined in ORS 334.003.

(f) Any state-operated program that provides educational services to kindergarten through grade 12 students.

(g) A private school.

(4) "Investigation" means a detailed inquiry into the factual allegations of a report of suspected [child] abuse or sexual conduct that:

(a) Is based on interviews with the complainant, witnesses and the school employee **or student** who is the subject of the report; and

(b) **If the subject of the report is a school employee**, meets any negotiated standards of an employment contract or agreement.

(5) "Law enforcement agency" has the meaning given that term in ORS 419B.005.

(6) "Private school" means a school that provides to kindergarten through grade 12 students instructional programs that are not limited solely to dancing, drama, music, religious or athletic instruction.

(7) "School board" means the governing board or governing body of an education provider.

(8) "School employee" means an employee of an education provider.

(9)(a) "Sexual conduct" means any verbal or physical conduct by a school employee that:

(A) Is sexual in nature;

(B) Is directed toward a kindergarten through grade 12 student;

(C) Has the effect of unreasonably interfering with a student's educational performance; and

(D) Creates an intimidating, hostile or offensive educational environment.

(b) "Sexual conduct" does not include abuse.

(10) "Substantiated report" means a report of [child] abuse or sexual conduct that:

(a) An education provider has reasonable cause to believe is founded based on the available evidence after conducting an investigation; and

(b) Involves conduct that the education provider determines is sufficiently serious to be documented in the school employee's personnel file **or the student's education record**.

SECTION 3. ORS 339.372 is amended to read:

339.372. Each school board shall adopt policies on the reporting of [child] abuse and sexual conduct by school employees **and the reporting of abuse by students**. The policies shall:

(1) Specify that [child] abuse and sexual conduct by school employees **and abuse by students** are not tolerated;

(2) Specify that all school employees **and students** are subject to the policies;

(3) Require all school employees who have reasonable cause to believe that another school employee has engaged in [child] abuse or sexual conduct **or that a student has engaged in abuse** to:

(a) 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

(b) Report suspected [child] abuse or sexual conduct to the [employees' supervisors or other persons designated by the school board] **person designated as provided by subsection (4) of this section**;

(4) Designate a person, **and an alternate in the event the designated person is the suspected abuser**, to receive reports of suspected [child] abuse or sexual conduct by school employees **or suspected abuse by students** 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 or sexual conduct by

school employees **or suspected abuse by students** 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 or sexual conduct 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 or sexual conduct by a school employee **or suspected abuse by a student**;

(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; and

(9) Require the education provider to furnish to a school employee at the time of hire the following:

(a) A description of conduct that may constitute *[child]* abuse or sexual conduct; and

(b) A description of the information and records that will be disclosed as provided by ORS 339.378 or 339.388 (7) if a report of suspected *[child]* abuse or sexual conduct is substantiated.

SECTION 4. ORS 339.388 is amended to read:

339.388. (1)(a) A school employee having reasonable cause to believe that a child with whom the employee comes in contact has suffered abuse by another school employee **or by a student**, or that another school employee **or a student** 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*]

(A) The person designated in the policy adopted under ORS 339.372; 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.

(b) A school employee having reasonable cause to believe that a student with whom the employee comes in contact has been subjected to sexual conduct by another school employee, or that another school employee with whom the employee comes in contact has engaged in sexual conduct, shall immediately report the information to [*a supervisor or other person designated by the school board*] **the person designated in the policy adopted under ORS 339.372.**

(2) A [*supervisor or other person designated by the school board*] **person** who receives a report under subsection (1) of this section[,] shall follow the procedures required by the policy adopted by the school board under ORS 339.372.

(3)(a) Except as provided in subsection (4) of this section, when an education provider receives a report of suspected *[child]* abuse or sexual conduct by one of its employees, and the education provider's designee determines that there is reasonable cause to support the report, the education provider:

(A) In the case of suspected *[child]* abuse, shall place the school employee on paid administrative leave; or

(B) In the case of suspected sexual conduct, may place the school employee on paid administrative leave or in a position that does not involve direct, unsupervised contact with children.

(b) A school employee who is placed on paid administrative leave under paragraph (a)(A) of this subsection shall remain on administrative leave until:

(A) The Department of Human Services or a law enforcement agency determines that the report cannot be substantiated 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 substantiated and the education provider takes the appropriate disciplinary action against the school employee.

(4) An education provider may reinstate a school employee placed on paid administrative leave for suspected *[child]* abuse as provided under subsection (3) of this section or may take the appropriate disciplinary action against the employee 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.

(5) If, following an investigation, an education provider determines that [*the*] **a** report of suspected *[child]* abuse or sexual conduct **by a school employee** is a substantiated report, the education provider shall:

(a) Inform the school employee that the education provider has determined that the report has been substantiated.

(b) Provide the school employee with information about the appropriate appeal process for the determination made by the education provider. The appeal process may be the process provided by a collective bargaining agreement or a process administered by a neutral third party and paid for by the school district.

(c) Following notice of a school employee's decision not to appeal the determination or following the determination of an appeal that sustained the substantiated report, create a record of the substantiated report and place the record in the personnel file of the school employee. Records created pursuant to this paragraph are confidential and are not public records as defined in ORS 192.410. An education provider may use the record as a basis for providing the information required to be disclosed under ORS 339.378.

(d) Inform the school employee that information about substantiated reports may be disclosed to a potential employer as provided by subsection (7) of this section and ORS 339.378.

(6) 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 or former school employee.

(7)(a) The disciplinary records of a school employee or former school employee convicted of a crime listed in ORS 342.143 are not exempt from disclosure under ORS 192.501 or 192.502.

(b) If 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.

(c) If a former school employee is convicted of a crime listed in ORS 342.143, the education provider that was the employer of the former employee when the crime was committed shall disclose the disciplinary records of the former employee to any person upon request.

(8) Prior to disclosure of a disciplinary record under subsection (7) 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 or former school employee who is not the subject of the disciplinary record.

SECTION 5. ORS 339.374 is amended to read:

339.374. Except as provided in ORS 339.384, before an education provider may hire an applicant for a position with the education provider, the education provider shall:

(1) Require the applicant to provide:

(a) A list of the applicant's current and former employers who are education providers.

(b) A written authorization that authorizes the applicant's current and former employers that are education providers to disclose the information requested under subsection (2) of this section.

(c) A written statement of whether the applicant:

(A) Has been the subject of a substantiated report of [*child*] abuse or sexual conduct; or

(B) Is the subject of an ongoing investigation related to a report of suspected [*child*] abuse or sexual conduct.

(2) Conduct a review of the employment history of the applicant by contacting the three most recent employers of the applicant who are education providers and requesting:

(a) The following information:

(A) The dates of employment of the applicant by the education provider;

(B) Whether the applicant was the subject of any substantiated reports of [*child*] abuse or sexual conduct related to the applicant's employment with the education provider;

(C) The dates of any substantiated reports;

(D) The definitions of [*child*] abuse and sexual conduct used by the education provider when the education provider determined that any reports were substantiated; and

(E) The standards used by the education provider to determine whether any reports were substantiated.

(b) Any disciplinary records required to be released as provided by ORS 339.388 (7).

(3) For an applicant who is licensed, registered or certified with the Teacher Standards and Practices Commission, access online information provided by the commission to verify:

(a) That the applicant is licensed, registered or certified by the commission; and

(b) Whether the commission has provided any information relating to conduct by the applicant that may constitute [*child*] abuse or sexual conduct.

(4) Conduct a nationwide criminal records check if required by ORS 326.603.

SECTION 6. ORS 339.378 is amended to read:

339.378. (1) Not later than 20 days after receiving a request under ORS 339.374, an education provider that has or has had an employment relationship with the applicant shall disclose the information requested and any disciplinary records that must be disclosed as provided by ORS 339.388 (7).

(2) An education provider may disclose the information on a standardized form and is not required to provide any additional information related to a substantiated report of [*child*] abuse or sexual conduct other than the information that is required by ORS 339.374 (2).

(3) Information received under this section is confidential and is not a public record as defined in ORS 192.410. An education provider may use the information only for the purpose of evaluating an applicant's eligibility to be hired.

SECTION 7. ORS 339.392 is amended to read:

339.392. (1) An education provider may not enter into a collective bargaining agreement, an employment contract, an agreement for resignation or termination, a severance agreement or any other contract or agreement that:

(a) Has the effect of suppressing information relating to an ongoing investigation related to a report of suspected [*child*] abuse or sexual conduct or relating to a substantiated report of [*child*] abuse or sexual conduct by a current or former employee;

(b) Affects the duties of the education provider to report suspected [*child*] abuse or sexual conduct or to discipline a current or former employee for a substantiated report of [*child*] abuse or sexual conduct;

(c) Impairs the ability of the education provider to discipline an employee for a substantiated report of [*child*] abuse or sexual conduct; or

(d) Requires the education provider to expunge substantiated information about [*child*] abuse or sexual conduct from any documents maintained by an education provider.

(2) Any provision of an employment contract or agreement that is contrary to this section is void and unenforceable.

(3) Nothing in this section prevents an education provider from entering into a collective bargaining agreement that includes:

(a) Standards for investigation of a report of [*child*] abuse or sexual conduct; or

(b) An appeal process from the determination by an education provider that a report of [*child*] abuse or sexual conduct has been substantiated as provided in ORS 339.388 (5).

SECTION 8. ORS 339.400 is amended to read:

339.400. (1) An education provider shall provide to school employees training each school year on the prevention and identification of [*child*] abuse and sexual conduct and on the obligations of school employees under ORS 419B.005 to 419B.050 and under policies adopted by the school board to report [*child*] abuse and sexual conduct.

(2) An education provider shall make the training provided under subsection (1) of this section available each school year to parents and legal guardians of children who attend a school operated by the education provider. The training shall be provided separately from the training provided to school employees under subsection (1) of this section.

(3) An education provider shall make training that is designed to prevent [*child*] abuse and sexual conduct available each school year to children who attend a school operated by the education provider.

SECTION 9. 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 do not apply to public charter schools. However, the following laws do apply to public charter schools:

- (a) Federal law;
- (b) ORS 30.260 to 30.300 (tort claims);
- (c) ORS 192.410 to 192.505 (public records law);
- (d) ORS 192.610 to 192.690 (public meetings law);
- (e) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);
- (f) ORS 326.565, 326.575 and 326.580 (student records);
- (g) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);
- (h) ORS 329.045 (academic content standards and instruction);
- (i) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative certificate);
- (j) The statewide assessment system developed by the Department of Education for mathematics, science and English under ORS 329.485 (2);
- (k) ORS 337.150 (textbooks);
- (L) ORS 339.141, 339.147 and 339.155 (tuition and fees);
- (m) ORS 339.250 (12) (prohibition on infliction of corporal punishment);
- (n) ORS 339.326 (notice concerning students subject to juvenile court petitions);
- (o) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of [*child*] abuse **and sexual conduct** and training on prevention and identification of [*child*] abuse **and sexual conduct**);

(p) ORS chapter 657 (Employment Department Law);

(q) ORS 659.850, 659.855 and 659.860 (discrimination);

(r) Any statute or rule that establishes requirements for instructional time provided by a school during each day or during a year;

(s) Health and safety statutes and rules;

(t) Any statute or rule that is listed in the charter;

(u) ORS 339.119 (consideration for educational services); and

(v) 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" include public charter school as those terms are used in that statute or rule.

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

(b) For a public charter school that provides educational services under a cooperative agreement described in ORS 338.080, the public charter school is in compliance with the requirements of this subsection if the public charter school provides educational services under the cooperative agreement to at least 25 students, without regard to the school districts in which the students are residents.

(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 capacities and employees of a sponsor acting in their official capacities 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, public university listed in ORS 352.002, 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, a modified diploma, an extended diploma or an alternative certificate to any public charter school student who meets the district's and state's standards for a high school diploma, a modified di-

ploma, an extended diploma or an alternative certificate.

(12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a public charter school grants to the holder the same rights and privileges as a high school diploma, a modified diploma, an extended diploma or an alternative certificate 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 10. ORS 338.115, as amended by section 7, chapter 839, Oregon Laws 2007, section 12, chapter 50, Oregon Laws 2008, section 4, chapter 618, Oregon Laws 2009, section 3, chapter 53, Oregon Laws 2010, section 3, chapter 94, Oregon Laws 2011, section 118, chapter 637, Oregon Laws 2011, and section 5, chapter 682, Oregon Laws 2011, is amended to read:

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

- (a) Federal law;
- (b) ORS 30.260 to 30.300 (tort claims);
- (c) ORS 192.410 to 192.505 (public records law);
- (d) ORS 192.610 to 192.690 (public meetings law);
- (e) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);
- (f) ORS 326.565, 326.575 and 326.580 (student records);
- (g) ORS 181.534, 326.603, 326.607, 342.223 and 342.232 (criminal records checks);
- (h) ORS 329.045 (academic content standards and instruction);
- (i) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative certificate);
- (j) ORS 329.496 (physical education);
- (k) The statewide assessment system developed by the Department of Education for mathematics, science and English under ORS 329.485 (2);
- (L) ORS 337.150 (textbooks);
- (m) ORS 339.141, 339.147 and 339.155 (tuition and fees);
- (n) ORS 339.250 (12) (prohibition on infliction of corporal punishment);
- (o) ORS 339.326 (notice concerning students subject to juvenile court petitions);
- (p) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of *[child]* abuse **and sexual conduct** and training on prevention and identification of *[child]* abuse **and sexual conduct**);
- (q) ORS chapter 657 (Employment Department Law);

(r) ORS 659.850, 659.855 and 659.860 (discrimination);

(s) Any statute or rule that establishes requirements for instructional time provided by a school during each day or during a year;

(t) Health and safety statutes and rules;

(u) Any statute or rule that is listed in the charter;

(v) ORS 339.119 (consideration for educational services); and

(w) 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” include public charter school as those terms are used in that statute or rule.

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

(b) For a public charter school that provides educational services under a cooperative agreement described in ORS 338.080, the public charter school is in compliance with the requirements of this subsection if the public charter school provides educational services under the cooperative agreement to at least 25 students, without regard to the school districts in which the students are residents.

(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 capacities and employees of a sponsor acting in their official capacities 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, public university listed in ORS 352.002, 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, a modified diploma, an extended diploma or an alternative certificate to any public charter school student who meets the district’s and state’s standards for a high school diploma, a modified diploma, an extended diploma or an alternative certificate.

(12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a public charter school grants to the holder the same rights and privileges as a high school diploma, a modified diploma, an extended diploma or an alternative certificate 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 11. ORS 419B.010 is amended to read:

419B.010. (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 or 419B.234 (6) affects the duty to report imposed by this section, except that a psychiatrist, psychologist, member of the clergy, attorney or guardian ad litem appointed under ORS 419B.231 is not required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295 or 419B.234 (6). 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) The duty to report under this section is personal to the public or private official alone, regardless of whether the official is employed by, a volunteer of or a representative or agent for any type of entity or organization that employs persons or uses persons as volunteers who are public or private officials in its operations.

(4) The duty to report under this section exists regardless of whether the entity or organization that employs the public or private official or uses the official as a volunteer has its own procedures or policies for reporting abuse internally within the entity or organization.

~~[(3)]~~ **(5)** 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.

Approved by the Governor April 11, 2012
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