



# **SEXUAL MISCONDUCT REPORTING GUIDE**

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**OREGON  
DEPARTMENT OF  
EDUCATION**

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## THE DEPARTMENT'S AUTHORITY TO CONDUCT INVESTIGATIONS OF SUSPECTED SEXUAL MISCONDUCT

The Oregon Department of Education (department) is authorized to investigate incidents of suspected sexual misconduct involving a student and a person who is a school employee or a contractor, agent, or volunteer of an education provider if that person is not licensed by the Teacher Standards and Practices Commission (TSPC). ORS 339.391(1).

The department of education does not have the authority to make employment or other Human Resources decisions for education providers. The department does not hire, fire, or make any other employment decisions regarding educators. Likewise, the department does not make any decisions regarding the provision of services to an education provider by a contractor, agent, or volunteer. Following an investigation, the department provides its report to the education provider, who makes any decisions regarding employment or the provision of services to the education provider.

### PURPOSE OF THE SEXUAL MISCONDUCT REPORT FORM

[The Sexual Misconduct Report Form](#) is to be used to report to the department any incidents of suspected sexual misconduct involving a student and a person who is a school employee, contractor, agent, or volunteer who is not licensed with TSPC.

**PLEASE NOTE:** Reports of suspected sexual misconduct involving a student and a school employee, contractor, agent, or volunteer who is licensed with TSPC should be filed with TSPC. You can find the form to submit a report of sexual misconduct on the [TSPC website](#) or you can contact the agency by phone at 503-378-3586.

If you are not sure whether the individual involved in the report is licensed with TSPC, you may file a report with either TSPC or the department. The two agencies will work together to make sure that the correct agency receives and responds to the report.

The department is not a primary reporting agency for instances of abuse. If you need to report an incident of suspected physical or sexual abuse involving a child and a person who is a school employee, contractor, agent, or volunteer, please contact law enforcement or the Oregon Department of Human Services (DHS). To make a report of abuse to DHS, please call the DHS hotline at 1-855-503-SAFE (7233).

If your report involves both sexual misconduct and abuse, please file a report of abuse with DHS **prior** to filing a report of sexual misconduct with the department.

## WHO MAY SUBMIT A REPORT OF SUSPECTED SEXUAL MISCONDUCT?

### Designated licensed administrators/school employees

Oregon law requires that a designated licensed administrator report to the department any incident of suspected sexual misconduct involving a student and a non-licensed school employee, contractor, agent, or volunteer. ORS 339.388(2).

*\*NOTE: If the person submitting this [sexual misconduct report form](#) is a school employee, but is not the designated licensed administrator for the school/school district, the law requires that you report suspected sexual misconduct to the designated licensed administrator for your school/school district. See ORS 339.388(1).*

### Members of the public

The department also will take reports about suspected sexual misconduct from members of the public.

## IMPORTANT INFORMATION ABOUT SUBMITTING A REPORT

### How does the department accept reports of sexual misconduct?

Reports must be submitted on the official [Sexual Misconduct Report Form](#).

The form may be filled out online and must be submitted to the department via a secure file transfer. To create a secure file transfer to the department:

- Please visit the [Secure File Transfer webpage](#);
- Select the following email from the ODE Email List as the recipient of the secure transfer [ODE.ReportSexualMisconduct@ode.state.or.us](mailto:ODE.ReportSexualMisconduct@ode.state.or.us);
- Add your email to the “Email of person sending the file” section;
- Attach your report in the “File being sent” section;
- Add a message specifying that you are submitting a report of suspected sexual misconduct; and
- Click on “Send file.”

If you need to print the form to fill out by hand, there is a printable version of the form available. Reports filled out by hand can be mailed to the department's Investigations and Complaints Unit at the following address:

Investigation and Complaints Unit  
Oregon Department of Education  
255 Capitol Street NE  
Salem, OR 97310

You may add one additional page, if needed, to allow more space for the description of the incident.

**What if I don't know some of the information that is requested on the form?**

Please complete each section of the form to the best of your ability based on the information available to you. First-hand information is best. Second-hand information is very difficult to verify or prove. Whenever possible, provide first-hand accounts, with names and contact information for any witnesses to the incident.

**What should I do if I need help making a report of suspected sexual misconduct?**

If you need assistance accessing/filling out the reporting form or if you have questions, please contact the department at [ODE.ReportSexualMisconduct@ode.state.or.us](mailto:ODE.ReportSexualMisconduct@ode.state.or.us) or at (503) 947-4227.

**Does the department accept evidence or attachments with a report of sexual misconduct?**

No. If you have documents, photographs, recordings, or other evidence that you would like to submit to the department, please indicate this in the field provided for entering a description of the incident on the form. If the report is assigned for investigation, the assigned investigator will contact you to obtain any information or materials that are needed for the investigation.

**Can I submit an anonymous report of suspected sexual misconduct?**

The department does not accept anonymous reports from education providers. If you are an employee of an education provider, you must include your contact information because you are required by law to report suspected sexual misconduct.

The department will accept anonymous reports from members of the community. However, the department strongly discourages anonymous reports as they impede the investigative process. Anonymous reports limit the department's ability to investigate the allegations raised in the report, as the department will not be able to speak with the person making the report.

Under the law, documents and materials used in an investigation of suspected sexual misconduct are confidential and not subject to public inspection. ORS 339.391(4).

### **What happens after I submit a report of suspected sexual misconduct?**

- When the department receives a report of suspected sexual misconduct, it will review the report to determine whether: 1) the report alleges something that, if true, would constitute sexual misconduct; and 2) a school employee, contractor, agent, or volunteer who is not licensed with TSPC is alleged to have committed the sexual misconduct.
- If the department determines that both of those requirements are met, the department will open an investigation and send notice to the education provider of the investigation.
- The department then investigates the allegations raised in the report. Unless there is good cause for an extension, the department will issue its final report within 90 calendar days of receiving a report of suspected sexual misconduct. In its final report, the department will indicate whether the allegations raised: 1) are substantiated; 2) cannot be substantiated; or 3) do not constitute a report of sexual misconduct.
- An individual who receives a substantiated report of sexual misconduct has a right to a hearing. If your report of suspected sexual misconduct proceeds to an administrative hearing, you may be asked to testify at the hearing.

## **PERTINENT DEFINITIONS**

For purposes of this guide and the Sexual Misconduct Report Form, the following definitions apply:

### **Agent:**

“Agent” means a person acting as an agent for an education provider in a manner that requires the person to have direct, unsupervised contact with students.

### **Contractor:**

“Contractor” means a person providing services to an education provider under a contract in a manner that requires the person to have direct, unsupervised contact with students.

**Education provider:**

“Education provider” means:

- A school district, as defined in ORS 332.002.
- The Oregon School for the Deaf.
- An educational program under the Youth Corrections Education Program.
- A public charter school, as defined in ORS 338.005.
- An education service district, as defined in ORS 334.003.
- Any state-operated program that provides educational services to students.
- A private school.

**Education provider does not include:**

- The Oregon Youth Authority;
- The Department of Corrections; or
- The Department of Education, except when functioning as an education provider on behalf of:
  - The Oregon School for the Deaf;
  - An educational program under the Youth Corrections Education Program; or
  - A public charter school, as defined in ORS 338.005, that is sponsored by the Department of Education.

**School employee:**

“School employee” means an employee of an education provider.

**Sexual misconduct:**

“Sexual misconduct” means verbal or physical conduct or verbal, written or electronic communications by a school employee, a contractor, an agent or a volunteer that involve a student and that are:

- Sexual advances or requests for sexual favors directed toward the student; or
- Of a sexual nature that are directed toward the student or that have the effect of unreasonably interfering with the student’s educational performance, or of creating an intimidating, hostile or offensive educational environment.

**Sexual misconduct does not include:**

Sexual misconduct does not include touching:

- That is necessitated by the nature of the school employee’s job duties or by the services required to be provided by the contractor, agent, or volunteer; and
- For which there is no sexual intent.

**Student:**

“Student” means any person:

- Who is:
  - In any grade from prekindergarten through grade 12; or
  - Twenty-one years of age or younger and receiving educational or related services from an education provider that is not a post-secondary institution of education; or
- Who was previously known as a student by the person engaging in sexual misconduct and who left school or graduated from high school within 90 days prior to the sexual misconduct.