



Oregon Teacher Standards and Practices Commission FAQ for School Districts Regarding Senate Bill 155

1. What does Senate Bill (SB) 155 require of the Oregon Teacher Standards and Practices Commission (TSPC) beginning on January 1, 2020?

Senate Bill 155 was passed into law during the 2019 Session of the Oregon State Legislature. Generally speaking, SB155 contains new requirements for Oregon school districts, the Oregon Department of Human Services (DHS), the Oregon Department of Education, and TSPC regarding the handling and investigation of allegations of Sexual Conduct by employees, contractors, and volunteers at Oregon public schools and charter schools.

Under Senate Bill 155, TSPC retains the authority and jurisdiction to receive complaints regarding only TSPC licensed educators, and to investigate those complaints in order to determine if a violation of TSPC Rules has occurred. SB155 provides that for received complaints of Sexual Conduct, TSPC shall complete the investigation within 90 calendar days from the date the complaint was received, unless for good cause*. The bill also requires that TSPC verify either on-going or founded Sexual Conduct investigations of TSPC licensed educators for school district hiring purposes.

*Beginning January 1, 2020, the phrase 'Good Cause' is defined in OAR 584-020-0005.

2. What is considered 'Sexual Conduct'?

Senate Bill 155 defines Sexual Conduct as *verbal or physical conduct or verbal, written, or electric communication by a school employee, a contractor, an agent or a volunteer that involve a student and that are:*

- (A) Sexual advances or requests for sexual favors directed toward the student; or*
- (B) 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 Conduct does not include touching:

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

3. Does SB155 place any requirements on TSPC for complaints of Abuse to a student?

Oregon Revised Statute 419B.005 provides a broad definition of *Abuse* which includes both physical abuse and sexual abuse. As such, the definition of *Abuse* and the definition of *Sexual Conduct* in Senate Bill 155 contain overlapping elements.

Both physical abuse of students and sexual conduct with students are violations of TSPC rules and must be appropriately reported. However, TSPC is only required to investigate in the 90 Day timeline when the abuse contains sexual conduct as defined by SB155. For physical abuse only, SB155 places DHS or law enforcement as the primary investigative agencies. TSPC will collaborate with a DHS investigation of physical abuse by a TSPC licensed educator whenever possible, but TSPC is not held to the 90 Day investigation requirement in such cases.

(Continued on Page 2)

4. Does the process to file a complaint with TSPC change under Senate Bill 155?

No. Senate Bill 155 does not change the manner in which school districts file complaints for investigation by TSPC. When a school district has knowledge or reasonable belief of Sexual Conduct conducted by a TSPC licensed educator, and after [Mandatory Reporting](#) requirements are satisfied, a complaint should be submitted to TSPC through the completion of the appropriate complaint form available at <https://www.oregon.gov/tspc/PP/Pages/Complaint-Form.aspx>.

Completed complaint form should be emailed to complaints.tspc@oregon.gov.

5. Who makes the determination whether a complaint filed with TSPC constitutes Sexual Conduct?

Ultimately, TSPC retains the authority to determine whether the TSPC investigation will be conducted under the provisions of Senate Bill 155, or under previously existing TSPC procedures. Within 3 business days of TSPC receiving a complaint, a determination of whether the allegation(s) documented within the complaint constitute Sexual Conduct, as defined by Senate Bill 155, will be made by TSPC. This determination will be based upon information provided in the submitted complaint, as well as any additional information the assigned TSPC Investigator may gather within the initial 3 business days of investigation.

6. What if the person believed to have committed Sexual Conduct is not a TSPC licensed educator?

Regardless of licensure status with TSPC, the first action to take when one knows or reasonably believes a school employee or school volunteer is engaging in Sexual Conduct with a student is to file a report with either law enforcement or DHS. (DHS Abuse Hotline: 1-855-503-7233)

Under Oregon law, TSPC can only investigate educators licensed by TSPC. Under SB155, school personnel or volunteers who are not licensed by TSPC are to be investigated by either law enforcement, or DHS, and/or the Oregon Department of Education.

7. If I don't know the TSPC Investigator assigned to my school district, how may I find that information?

TSPC has posted this information as a PDF to the [TSPC website](#). You may access the PDF [HERE](#).

8. Does a 'Founded Report' of Abuse issued by DHS mean that a TSPC investigation of the same incident will also result in a 'Founded Report' of Abuse?

Not necessarily. Although DHS and TSPC may be investigating the same incident, the two agencies operate on different Standard of Proof thresholds for their respective investigations. TSPC has long operated under the 'Preponderance of the Evidence' threshold for investigations. This is the same threshold used by civil courts, and means that the evidence must demonstrate the accused person be at least 51% guilty verse 49% innocent in order for TSPC to seek a 'Founded Report' of Abuse or Sexual Conduct. DHS operates on a 'Reasonable Belief' standard of proof threshold for their investigations. This standard of proof is a considerably lower bar to meet in order for DHS to issue a 'Founded Report'. When DHS and TSPC investigation outcomes differ, school districts may wish to consult with their own legal counsel for appropriate 'Next Steps'.

(Continued on Page 3)

9. Senate Bill 155 requires school districts to verify with TSPC whether a licensed educator is currently under investigation for Sexual Conduct, or has a Founded Investigation for Sexual Conduct, for hiring purposes. How is this verification to be accomplished?

The TSPC online licensure application system (eLicensing) has been adapted to provide school districts with a direct access to information in this regard. School district central office personnel – most likely HR personnel - already have been granted access to the “School District Sponsor Portal” within eLicensing. Beginning December 18, 2019, a search of any educator in the School District Sponsor Portal will – in addition to original functions of the portal - also provide the district user with information as to whether that educator is under TSPC investigation for Sexual Conduct, or has a Founded Investigation for Sexual Conduct.

A separate guidance document on this eLicensing tool is available.

10. My school district uses a 3rd party service (i.e. a private company) to distribute substitute teachers to our schools. Does SB155 have any implications for this type of employment situation?

Senate Bill 155 doesn’t explicitly speak to this type of employment situation, but implications exist of which school districts who utilize 3rd party providers of substitute teachers should be aware. TSPC does, of course, license substitute teachers in Oregon, and those teachers fall under TSPC’s jurisdiction for investigation whenever necessary. In instances of TSPC ‘Founded Reports’ of Sexual Conduct, 3rd party providers of substitute teachers will not have access to the eLicensing tool for Sexual Conduct verification described previously in this document. Ultimately, school districts are responsible for the persons entering their schools, and should be vigilant in the screening of substitute teachers working within the school district.