

(Child Abuse and Sexual Conduct)
339.370 Definitions for ORS 339.370 to 339.400.

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 who is the subject of the report; and
 - (b) 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.

[2005 c.367 §1; 2007 c.501 §1; 2007 c.858 §68; 2009 c.93 §1; 2009 c.562 §22; 2011 c.301 §6]

339.372 Policies of school boards on reporting of child abuse and sexual conduct.

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

- (1) Specify that child abuse and sexual conduct by school employees are not tolerated;
- (2) Specify that all school employees 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 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;
- (4) Designate a person to receive reports of suspected child abuse or sexual conduct 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 or sexual conduct 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 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;
- (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.

[2005 c.367 §2; 2009 c.93 §2]

339.374 Required background checks by education provider of applicant for position with education provider. 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. [2009 c.93 §7; 2012 c.92 § 5; 2013 c.553 §3]

Note: Section 1, chapter 21, Oregon Laws 2013, provides:

Sec. 1. Applicability of duties of education provider related to abuse and sexual conduct.

(1) The requirements of ORS 339.374 (2), relating to the information requested by an education provider from other education providers who are recent employers of an applicant, and ORS 339.378, relating to the information that education providers must provide upon request, apply to all of an applicant's conduct that is known by the employer, regardless of whether the conduct occurred before, on or after July 1, 2010, if the employer has complied with the procedural provisions described in ORS 339.388.

(2) The requirements of ORS 339.392, relating to the prohibition against entering into certain agreements and contracts after July 1, 2010, apply to all conduct described in ORS 339.392, regardless of whether the conduct occurred before, on or after July 1, 2010. [2013 c.21 §1]

339.375 [2005 c.367 §3; 2007 c.233 §1; 2009 c.93 §4; renumbered 339.388 in 2009]

339.377 [2007 c.501 §2; 2009 c.93 §5; renumbered 339.400 in 2009]