



## Overview of Reporting Requirements

- Sexual Conduct
- Child Abuse
- Students charged with certain criminal charges
- Reports of threats
- TSPC reports

## Four Main Aspects of HB 2062

1. Definitions
2. Reporting
3. Personnel Action
4. Reference Checking/Responding

## Newly Defined Terms (ORS 339.370)

- “Sexual Conduct”
- “Investigation”
- “Substantiated Report”

## Sexual Conduct

- Sexual Conduct = Any verbal or physical conduct by a school employee that:
  - A. Is sexual in nature;
  - B. Is directed toward a K-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.
- THE SAME CONDUCT CANNOT BE BOTH CHILD ABUSE AND SEXUAL CONDUCT UNDER THE LAW

## Investigation

- Under ORS 339.370, any investigation into child abuse or sexual conduct must include, at minimum, the following:
  - Interview with the complainant;
  - Interview with the school employee who is the subject of the report; and
  - Interviews with witnesses
- The investigation must meet the requirement of being a "detailed inquiry into the factual allegations of a report of suspected child abuse or sexual conduct."

## Substantiated Report

Substantiated Report = 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.

## Reporting (ORS 339.375)

- In addition to the pre-existing duty to report child abuse, school employees now have a duty to report "sexual conduct" committed by another school employee.
- A report of sexual conduct by a school employee must be made to a supervisor or other person designated by board policy.
- A report of sexual conduct, as opposed to child abuse, does not need to be made to a law enforcement agency or designated social services agency.

## Personnel Actions

- Under HB 2062, there are three categories of personnel actions that must occur:
  1. Leave
  2. Investigation
  3. Documentation

## Placing the School Employee on Leave (ORS 339.375)

<u>Child Abuse</u>	<u>Sexual Conduct</u>
Employee <i>must</i> be placed on paid administrative leave until law enforcement or DHS determines that complaint can't be substantiated.	Employee <i>may</i> be placed on paid administrative leave until law enforcement or DHS determines that complaint can't be substantiated.  In the alternative, the employee may be temporarily assigned to position that does not involve direct, unsupervised contact with children.

## Child Abuse Reporting

- All school employees “having *reasonable cause* to believe that *any* child with whom the employee comes in contact has suffered abuse or that any person with whom the employee comes in contact has abused a child *shall immediately* report or cause a report to be made.”

## Who must report child abuse?

- All school employees have a duty to report
- Not limited to on-the-job information; duty applies to school employees off the job as well as on
- Asking another employee to make a report does not satisfy this duty

## What is child abuse?

- Any non-accidental physical injury
- Mental injury: substantial impairment to child's mental ability to function caused by cruelty to child
- Sexual abuse
- Negligent treatment: includes failure to provide adequate food, clothing, shelter, or medical care that is likely to endanger health of child
- Threatened harm to child: includes witnessing domestic violence, presence of sex offender or illegal drugs in home

## Making child abuse report

- Report must be made immediately
- Report is made either to law enforcement or state/county family services agency
- Report may be made by phone
- If suspect abuser is District employee, you must also report abuse to designated District administrator
- Also, check any other district policies that may require your to report to supervisor

## How is the report investigated?

- State agency or police will control the investigation, even if conducted at school
- School personnel may be allowed to present during interviews conducted at school
- If suspected abuser is school employee, District must investigate and place employee on administrative leave until completion of investigation

## Any risks from reporting?

- A good faith report, even if not substantiated, cannot be basis for any legal action nor can it adversely affect employment
- Failure to report is a Class A violation with monetary fine
- Failure to report violates District policy and TSPC rules



## SB 1092 (2008) & SB 512 (2009)

These laws impose obligation on districts to inform staff about students who are involved with criminal charges.

## Notice about which students?

- Charged or “convicted” in juvenile court
- Charged or convicted of Measure 11 crime
- On probation or being released from OYA facility
- Transfer student with history of activities posing risk to safety
- When charges are “dismissed”

## Which crimes trigger notice to school?

- Serious physical injury or threat
- Animal abuse
- Felony sex offenses except statutory rape or incest
- Crime involving use or threatened use of weapon
- Possession or manufacture of destructive device or hoax
- Any offense involving manufacture or delivery of alcohol or controlled substance
- Any other circumstance if judge determines notice is necessary

## Who sends the notice?

- The County DA or City Attorney
- County juvenile department
- Oregon Youth Authority

## Who must get the notice?

- School personnel needing to safeguard school, students and staff
- School personnel needing to arrange counseling and education
- If charges are being “dropped,” school personnel previously notified about the charges

## When must the notice be provided to staff?

- Within 48 hours after school or school district receives the notice
- Must ask for records from transferee’s prior school within 10 days of enrollment
- Must provide information to staff when received from prior school

## What limits on use of information by staff?

- Communicate only to staff with “need to know”
- Communicate with parents or attorney of youth
- Communicate with law enforcement or juvenile officer
- DO NOT COMMUNICATE WITH YOUTH except about restrictions

## What effect on school district action?

- May trigger risk assessment, safety plan, or referral
- May be used for placement or determining services
- May be used for discipline or admission if school-related
- If not school-related, may be used for discipline only if separate verifying information is obtained by school

CONFIDENTIAL

Date \_\_\_\_\_

Student \_\_\_\_\_ Grade level \_\_\_\_\_

The District has been notified that this student has had involvement with the criminal justice system, as follows:

\_\_\_\_\_ The student has made a first appearance before the juvenile court on a petition (is being charged with) alleging that the student engaged in the following conduct (out of school, unless indicated):

\_\_\_\_\_ The student has admitted to or has been adjudicated by the juvenile court (found to have engaged in) the following conduct:

\_\_\_\_\_ The student has been ( ) charged with or ( ) convicted of a Measure 11 crime involving the following conduct:

\_\_\_\_\_ The student has been put on probation in connection with the following criminal actions:

- \_\_\_\_\_ Serious physical injury or serious threatened physical injury to a person
- \_\_\_\_\_ Sexual assault of an animal or animal abuse in any degree
- \_\_\_\_\_ Felony sex offense
- \_\_\_\_\_ A crime involving a weapon or the threatened use of a weapon
- \_\_\_\_\_ Possession or manufacture of a destructive device or hoax destructive device
- \_\_\_\_\_ An offense involving manufacture or delivery of alcohol or a controlled substance
- \_\_\_\_\_ Other circumstances where a judge has directed that the school be notified

Any conditions/limitations set by the court or juvenile justice system or any conditions of release or parole regarding the student: \_\_\_\_\_

OR

\_\_\_\_\_ The student was previously the subject of a juvenile court petition, which has now been dismissed. ALL PREVIOUS NOTICES AND RECORDS ABOUT THIS MATTER MUST BE REMOVED FROM SCHOOL RECORDS AND DESTROYED.

Under state law, you are being notified because this information is necessary in order to safeguard the safety and security of the school, students and staff and/or you have involvement in arranging for appropriate counseling and education for the student. This information must be kept confidential and shared only with other school staff who have a need to know for the same reasons. This document must be kept confidential in a secure space or shredded. Please do not make any notation of this information in any other school record. Please do not discuss this matter with the student, except as to any conditions that have been placed on the student.

(See reverse side)

ACTION TO BE TAKEN IN ADDITION TO THIS NOTICE:

\_\_\_\_\_ Referral to Student Study Team. Date \_\_\_\_\_ Action \_\_\_\_\_

\_\_\_\_\_ Risk Assessment. Date ordered \_\_\_\_\_ Date completed \_\_\_\_\_ Result \_\_\_\_\_

\_\_\_\_\_ Safety Plan to be created. Date completed \_\_\_\_\_ (Attach)

\_\_\_\_\_ Other \_\_\_\_\_

TRACKING RECORD *Reminder: All notices must be delivered in a sealed envelope.*

Notice received by school official (counselor/administrator) \_\_\_\_\_ on \_\_\_\_/\_\_\_\_/\_\_\_\_.

Notice distributed by school official (counselor/administrator/clerk staff) \_\_\_\_\_ on \_\_\_\_/\_\_\_\_/\_\_\_\_ to:

Teachers:

- \_\_\_\_\_ 1st period \_\_\_\_\_
- \_\_\_\_\_ 2nd period \_\_\_\_\_
- \_\_\_\_\_ 3rd period \_\_\_\_\_
- \_\_\_\_\_ 4th period \_\_\_\_\_
- \_\_\_\_\_ 5th period \_\_\_\_\_
- \_\_\_\_\_ 6th period \_\_\_\_\_
- \_\_\_\_\_ 7th period \_\_\_\_\_
- \_\_\_\_\_ 8th period \_\_\_\_\_

- \_\_\_\_\_ Library personnel \_\_\_\_\_
- \_\_\_\_\_ Counselor \_\_\_\_\_
- \_\_\_\_\_ Transportation Department \_\_\_\_\_
- \_\_\_\_\_ Head Secretary \_\_\_\_\_
- \_\_\_\_\_ Athletic Director \_\_\_\_\_
- \_\_\_\_\_ Coach \_\_\_\_\_
- \_\_\_\_\_ Principal \_\_\_\_\_
- \_\_\_\_\_ Assistant Principal \_\_\_\_\_

Others with a need to know:

- \_\_\_\_\_ Food Service \_\_\_\_\_
- \_\_\_\_\_ Health center worker/nurse \_\_\_\_\_
- \_\_\_\_\_ Custodians \_\_\_\_\_
- \_\_\_\_\_ Translator(s) \_\_\_\_\_
- \_\_\_\_\_ Instructional Assistant(s) \_\_\_\_\_

## Notice of Threats

- Report required when superintendent has reasonable cause to believe that a person, while in school, has or has been in possession of a list that threatens harm to others
- Must notify parent or guardian of any students on list or staff member on list

## Notice of Threats, cont'd

- Notice also required where there is no list, but a student has threatened another student
- Must attempt to make report by phone or in person within 12 hours of discovery and follow-up with written notice
- Immune from liability if report is made in good faith

## Required Reports to TSPC

- The district's chief administrator must report to TSPC within 30 days when, *after appropriate investigation*, the chief administrator reasonably believes that an educator has violated standards by committing acts of gross neglect of duty or gross unfitness.

## What triggers TSPC Report?

- Gross neglect of duty: any serious and material inattention to or breach of professional responsibilities
- Gross unfitness: any conduct which renders an educator unqualified to perform his or her professional responsibilities. May include conduct occurring outside of school hours and off school premises when such conduct bears a demonstrable relationship to the educator's ability to fulfill professional responsibilities effectively