



NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 419

OFFICE OF TRAINING, INVESTIGATIONS AND SAFETY

FILED

10/22/2025 12:08 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Update the Definition of Education Provider in OTIS Rules for Child Abuse Investigations in Schools

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/17/2025 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

The Oregon Department of Human Services (ODHS), Office of Training, Investigations and Safety (OTIS) is a shared service with the ODHS Office of Child Welfare Programs for mandatory child abuse reporting and investigations described in ORS 419B.005 through ORS 419B.050.

As of January 2020, OTIS partners with the Oregon Department of Education (ODE) for investigating child abuse by an education provider's school employee, agent, contractor or volunteer, as required in ORS 419B.019. "Education provider" is defined in ORS 419B.019 as meaning the same as ORS 339.370.

The rules in OAR chapter 419, division 230 describes OTIS responses to reported child abuse of a student. OAR 419-230-0110 defines the terms used for OTIS screening, investigating, determining the abuse finding, and assuring notice of rights to appeal a substantiated abuse finding.

Three legislative bills changed ORS 339.370, the definition of what an education provider means and does not include. OTIS definition rule states the same statutory text for education provider as a courtesy to readers. OTIS needs to update their rule text to match statute. Specific legislative changes are:

- * 2021 SB 51 (effective June 23, 2021) removed the references to ODE functioning as an education provider on behalf of the Youth Corrections Education Program or an ODE-sponsored public charter school. ODE testified that 2019 SB 155 added these to ORS 339.370, was inaccurate and created responsibilities unable to be carried out.
- * 2023 HB 2767 (effective July 1, 2023) added recovery schools under ORS 339.680 to the definition of an education provider, a new program.
- * 2025 SB 867 (effective January 1, 2026) added clarification prekindergarten only programs who are not under the direct control of a kindergarten through grade 12 education provider, are not an education provider.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

- * 2021 SB 51 [2021 OR Law 386]: <https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/SB51>
 - * 2023 HB 2767 [2023 OR Law 513]: <https://olis.oregonlegislature.gov/liz/2023R1/Measures/Overview/HB2767>
 - * 2025 SB 867 [2025 OL Chapter 111]: <https://olis.oregonlegislature.gov/liz/2025R1/Measures/Overview/SB867>
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STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The rule changes reflect alignment to text in statute that do not affect racial equity.

FISCAL AND ECONOMIC IMPACT:

The rule changes mainly impact OTIS, who are required under ORS 419B.019 to act on reported child abuse of students by their education provider's employee, agent, contractor or volunteer. The costs are minimal to none to update OTIS investigator guidance for the technical correction and clarification for the term education provider to match statute (changed due to 2021 SB 51 and 2025 SB 867) Also, minimal OTIS costs to add recovery schools (due to 2023 HB 2767), a planned phase-in from one in 2023 to nine new programs over six years (three, two-year budget cycles).

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

Others affected by OTIS rules include the Oregon Department of Education (ODE), Teachers Standards and Practices Commission, education providers and their employees, agents, contractors, volunteers, students and their parents or guardians. Education providers include school districts defined in ORS 332.002, Oregon School for the Deaf, Youth Corrections Education Programs, public charter schools defined in ORS 338.005, education service districts defined in ORS 334.003, recovery schools defined in ORS 336.680, state-operated programs that provides prekindergarten through grade 12 educational services, and private schools.

The fiscal impact for the proposed OTIS rule change is considered minimal to none, due to being a technical fix and clarification to match the ORS 339.370 definition of an education provider that ODE identified.

It is unknown the number of small businesses that contract with an education provider for services and have direct, unsupervised contact with students. OTIS expects no costs for contractors who are a small business and in compliance to laws prohibiting child abuse.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Rule changes due to legislation. Small businesses that contract with an education provider for services and have direct, unsupervised contact with students are welcome to provide public comment.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

Rule Advisory Committee exception approved under ODHS policy, as rulemaking is the result of state legislation for the rule text. In July 2025, OTIS partnered with the Oregon Department of Education for engagement opportunities, requesting comment on the initial drafted notice and rule changes that ODE shared with their partner organizations (such as the Coalition of Oregon School Administrators and the Oregon School Board Association) with no comments received prior to filing this notice.

AMEND: 419-230-0110

RULE SUMMARY: Due to legislative changes to ORS 339.370(5), update rule section (10) to match the statute definition of an "education provider" as used in OTIS rules in OAR chapter 419, division 230. Specifically:

- 2021 SB 51 removed references to Oregon Department of Education functioning as an education provider on behalf of the Youth Corrections Education Program or an ODE-sponsored public charter school.
- 2023 HB 2767 added recovery schools under ORS 339.680 as an education provider.
- 2025 SB 867 added to the definition of not an education provider, prekindergarten only programs who are not under direct control of a kindergarten through grade 12 education provider.

Also, minor corrections of punctuation and to rule sections (23) and (24) to be in alphabetical order.

CHANGES TO RULE:

419-230-0110

Definitions

Unless the context indicates otherwise, the following definitions apply to these rules, OAR chapter 419, division 230:¶

- (1) "Abuse" has the same meaning as defined in 419B.005. (See OAR 419-230-0170(2) and OAR 419-230-0173.)¶
- (2) "Abuse determination" means the determination OTIS makes after an investigation under these rules (OAR chapter 419, division 230) that a report of abuse is founded, unfounded or unable to determine as described in OAR 419-230-0170 and OAR 419-230-0173.¶
- (3) "Abuse investigation report" means the report the OTIS investigator completes as provided in OAR 419-230-0180 on a report of abuse that is determined to require an investigation under OAR 419-230-0130(1)(b).¶
- (4) "Agent" as defined in ORS 419B.019 means, a person who:¶
 - (a) Acts as an agent for an education provider in a manner that requires the person to have direct, unsupervised contact with children; and¶
 - (b) Interacts with a child because of the person's status as an agent for an education provider.¶
- (5) "Alleged victim" means the child who is reported, alleged or determined to be subjected to abuse under these rules. (OAR chapter 419, division 230)¶
- (6) "Business days" means all consecutive calendar days, not counting Saturdays, Sundays and legal holidays as defined in ORS 187.010.¶
- (7) "Child" means an unmarried person who:¶
 - (a) Is under 18 years of age; or¶
 - (b) Is a child in care, as defined in ORS 418.257.¶
- (8) "Contractor" as defined in ORS 419B.019 means, a person who:¶
 - (a) Provides services to an education provider under a contract in a manner that requires the person to have direct, unsupervised contact with children; and¶
 - (b) Interacts with a child because of the person's status as a contractor for an education provider.¶
- (9) "Department" means the Oregon Department of Human Services (ODHS).¶
- (10) "Education Provider" has the same meaning as defined in ORS 339.370.¶
 - (a) Education Provider ~~includes~~ means:¶
 - (A) A school district, as defined in ORS 332.002; ~~or~~¶
 - (B) The Oregon School for the Deaf; ~~or~~¶
 - (C) An educational program under the Youth Corrections Education Program; ~~or~~¶
 - (D) A public charter school, as defined in ORS 338.005; ~~or~~¶
 - (E) An education service district, as defined in ORS 334.003; ~~or~~¶
 - (F) An approved recovery school, as defined in ORS 336.680; ~~or~~¶
 - ~~(G)~~ Any state-operated program that provides educational services to students; ~~or~~¶
 - ~~(H)~~ A private school.¶
 - (b) "Education Provider" does not include:¶
 - (A) The Oregon Youth Authority;¶
 - (B) The Department of Corrections; ~~or~~¶
 - (C) The Department of Education, except when functioning as an education provider on behalf of the Oregon School for the Deaf; or¶
 - (D) An education provider that only serves students who have not yet entered kindergarten, except when the education provider is under the direct control of an education provider for students in any grade from kindergarten through grade 12.¶
- ~~(i) The Oregon School for the Deaf;~~
- ~~(ii) An educational program under the Youth Corrections Education Program; or~~
- ~~(iii) A public charter school, as defined in ORS 338.005, that is sponsored by the Department of Education.~~

(11) "Indian child" as defined in 25 U.S.C. § 1903 (4) means any unmarried individual who is under age 18 and either:

(a) Is a member or citizen of an Indian Tribe; or¶

(b) Is eligible for membership or citizenship in an Indian Tribe and is the biological child of a member or citizen of an Indian Tribe.¶

(12) "Investigation" as defined in ORS 419B.005(4) means a detailed inquiry into or assessment of the safety of a child alleged to have experienced abuse. "Investigation" does not include screening activities conducted upon the receipt of a report. ¶

(13) "Law enforcement agency" has the same meaning as defined in ORS 419B.005(5).¶

(14) "Legal Guardian" means for an individual under the age of 18, the parent, unless a court appoints another person or agency to act as the individual's guardian.¶

(15) "Licensed administrator" also known as "Chief administrator" means the person designated by the education provider's policies adopted under ORS 339.372 to receive reports of suspected child abuse and includes an alternate licensed administrator, if the designee is the respondent.¶

(16) "OTIS investigator" means a Department: Office of Training, Investigations and Safety (OTIS) employee who is authorized and receives OTIS approved training to screen or investigate reports of abuse under these rules, OAR chapter 419, division 230.¶

(17) "OTIS response" means how OTIS will respond to a report of abuse that is determined at the conclusion of the OTIS screening process.¶

(18) "Reasonable cause" means a subjectively and objectively reasonable belief, given all of the circumstances and based on specific and articulable facts. (ORS 419B.150)¶

(19) "Reasonable suspicion" for purposes of complying with ORS 419B.023 (Karly's Law) means a reasonable belief given all the circumstances, based upon specific and describable facts, that the suspicious physical injury may be the result of abuse.¶

(20) "Redacted" means information deemed confidential under state or federal law has been protected from view.¶

(21) "Reporter" means an individual who makes a report of suspected child abuse to the Department.¶

(22) "Respondent" means:¶

(a) The adult alleged in a report to have committed abuse; or¶

(b) A public education program as defined in ORS 339.285, for incidents occurring on or after July 1, 2023.¶

~~(23) "Screening" means the process used by OTIS to determine the response to reports that are determined to be the responsibility of OTIS.¶~~

(23) "School employee" as defined in ORS 419B.019, means a person who:¶

(a) Is an employee of an education provider; and¶

(b) Interacts with a child because of the person's status as an employee of an education provider.¶

~~(24) "Screening" means the process used by OTIS to determine the response to reports that are determined to be the responsibility of OTIS.¶~~

(25) "Severe harm" as defined in ORS 419B.150 means:¶

(a) Life -threatening damage; or¶

(b) Significant or acute injury to a person's physical, sexual, or psychological functioning.¶

(26) "Sex trafficking" as defined in ORS 418.322(1)(b) means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of an individual under the age of 18 for the purpose of a commercial sex act.¶

(27) "Suspicious physical injury" has the same meaning as defined in ORS 419B.023 (Karly's Law).¶

(28) "Volunteer" means as defined in ORS 419B.019, a person who:¶

(a) Acts as a volunteer for an education provider in a manner that requires the person to have direct, unsupervised contact with children; and¶

(b) Interacts with a child because of the person's status as a volunteer of an education provider.

Statutory/Other Authority: ORS 409.050, ORS 419B.019

Statutes/Other Implemented: ORS 419B.005 - 419B.050, Section 8, chapter 581, OL 2023 (Note ORS 419B), ORS 339.296