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PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 419
OFFICE OF TRAINING, INVESTIGATIONS AND SAFETY

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

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AMEND: 419-230-0110

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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, clarify Department means ODHS, 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~~ ODHS 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