

June 22, 2018

Dear School District, Department of Human Services, Law Enforcement Agency and District Attorney Partners:

This joint memo is to update you on new legislation clarifying the Department of Human Services (DHS) and law enforcement agencies' (LEA) authority to conduct interviews with students at all schools when there are allegations of abuse.

Senate Bill (SB) 1540, passed in the 2018 session and effective as of April 3, 2018, makes clear that DHS and LEA have authority to conduct investigations regarding a report of child abuse on school premises. Further, it clarifies that after a DHS staff or LEA investigator produce adequate identification schools must cooperate by:

- Allowing access to the student;
- Providing a private place for the DHS staff or LEA investigator to interview the student; and
- Providing information regarding a child's relevant disabling condition(s) prior to the interview.

The bill also clarifies and reiterates that:

- LEA or DHS staff are not required to disclose any information about the investigation to the school;
- While the school may request that an administrator or staff person be present to facilitate the investigation, it is up to the discretion of the LEA investigator or DHS staff to allow their presence;
- The school shall not notify anyone regarding the investigation, including the child's parents or guardian, except for the appropriate school employee(s) necessary to enable the investigation; Information obtained by DHS or LEA in the investigation is not part of the child's school record; and
- Any records created or obtained by the district may be subject to FERPA.

In addition, the bill protects the school from liability for civil damages under state law when following the law and also clarifies that a school administrator or staff person may testify at any subsequent court proceeding relating to the investigation.

Schools have been clear that they desire a standard form to fill out when LEA investigators or DHS staff come to the school to investigate a report of child abuse. Attached is a form agreed upon by the Oregon School Board Association on behalf of its members, and representatives of DHS, law enforcement agencies and District Attorneys. Note that there is a signature line on the form; it is only for means of logging the presence of the LEA or DHS staff as would happen for any school visitor. This is on a separate form in order to maintain student privacy by not having the signature on the public sign-in sheet. The law does not require a signature for LEA or DHS to interview a child at school.

Schools are not required to use a form. However, if a school chooses to use a form, schools are encouraged to use the form as is, modifying it only to brand with District name and/or school name and logo. This will help with consistency of investigations and protocols across the state and minimize any

confusion from one district to another. A school that chooses to use a form will be responsible for providing the form to LEA investigators and DHS staff.

The passage of this law and creation of the form has been a collaborative statewide effort. We encourage you to replicate this spirit of collaboration by discussing the new law and its mandates at your next local Child Abuse Multidisciplinary Team meetings and ensuring that all appropriate staff are trained on what to do when a LEA or DHS investigation necessitates an interview of a child at a school. Ensuring this process is smooth will help reduce confusion for all system partners facilitate timely interviews and safeguard adequate and complete child abuse investigations.

Thank you for your attention to this matter, if you have any questions, please contact your representatives at the Oregon School Boards Association, the Department of Human Services, Oregon Association of Chiefs of Police, Oregon State Sheriffs' Association or the Oregon District Attorney's Association.