

**From:** [Kron Michael C](#)  
**To:** [Charlie Fisher](#); [Smith, Morgan](#)  
**Cc:** [Foltz Andrew](#)  
**Subject:** Subcommittee met May 9  
**Date:** Friday, May 17, 2024 3:46:55 PM

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This month our subcommittee heard from Rachel Alexander, an editor and education reporter with the Salem Reporter, and from Louis De Sitter a representative of the Oregon Education Association. Both expressed concerns around disclosure of information about allegations that TSPC deems unsubstantiated. They both seemed to feel that allegations about teachers have more impact in the community – and on the teacher – than Ms. Alexander indicated that exemptions are not the primary concern of journalists in this field but rather the length of investigations. Both agreed, however, that treating such information as unconditionally exempt could impede the public’s ability to assess whether TSPC is handling matters appropriately. At one point the two agreed that requiring disclosure of past complaints about a teacher that had been deemed unsubstantiated would make sense if a teacher were later found liable for harming a child. The two also agreed that disclosure of aggregate information about complaints and outcomes would help with public oversight. And both agreed that the identities of minors should be protected in any disclosure.

After hearing from these stakeholders, the subcommittee discussed the preliminary report Bennett delivered to the larger committee in March and whether our views had changed in light of the testimony. While Ultimately the subcommittee felt that the committee would likely want to discuss at least three options:

1. The Colorado model, as outlined in Andy’s report of his multistate review. That would mean disclosure of unsubstantiated complaints (subject to redactions for other reasons) if the public interest requires disclosure.
2. A similar model that imposed a heightened public interest requirement. Currently there are exemptions that require a requester to show that the public interest clearly requires disclosure, for example. This contrasts with the typical conditional exemptions where Oregon courts apply a presumption in favor of disclosure. The subcommittee noted a downside, though, in that having different public interest tests for different exemptions could add unwanted complexity to the public records law overall.
3. A model similar to what we recommended with respect to medical professionals, as Bennett previously reported. The subcommittee notes, though, that stakeholders on both sides of this issue expressed real concern that knowledge of complaints against teachers that are deemed unsubstantiated could negatively impact teachers and school communities.