

# Senate Bill 522

Sponsored by Senator PROZANSKI

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs State Board of Education to adopt rules for administration of interscholastic activities. Directs Superintendent of Public Instruction to administer interscholastic activities, establish interscholastic activity districts and determine placement of schools in those districts. Allows school to request placement in another interscholastic activity district.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to interscholastic activities; creating new provisions; amending ORS 326.051, 332.075,  
3 332.593, 336.479, 339.250 and 339.315; repealing ORS 339.430; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** (1) As used in this section, "interscholastic activity" means a kindergarten  
6 through grade 12 public or private school activity with optional student participation which  
7 complements the curriculum, encourages students' physical, academic or social development,  
8 is supervised by school personnel and generally is conducted outside the instructional  
9 day. "Interscholastic activity" includes, but is not limited to, athletics, music, speech and  
10 other related activities. "Interscholastic activity" does not include activities that utilize  
11 school facilities as authorized under ORS 332.172.

12 (2) The State Board of Education shall adopt by rule:

13 (a) Criteria for the creation of interscholastic activity districts;

14 (b) Requirements for the participation of students in interscholastic activities; and

15 (c) Any other rules necessary for the administration of interscholastic activities.

16 (3) Based on the rules adopted by the board, the Superintendent of Public Instruction  
17 shall administer interscholastic activities. The superintendent shall:

18 (a) Establish interscholastic activity districts; and

19 (b) Determine the placement of schools in the districts.

20 (4) The superintendent may designate a voluntary organization to provide scheduling,  
21 programming or other administration of interscholastic activities. The superintendent may  
22 seek advice from a voluntary organization on the establishment of interscholastic activity  
23 districts and placement of schools in those districts.

24 (5) After the superintendent places a school in an interscholastic activity district, a  
25 school may make a request to the superintendent that it be placed in another interscholastic  
26 activity district.

27 (6) A public or private school may participate only in an interscholastic activity district  
28 that was established under this section.

29 **SECTION 2.** ORS 326.051 is amended to read:

30 326.051. Subject to ORS 417.300 and 417.305:

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (1) In addition to such other duties as are prescribed by law and pursuant to the requirement  
 2 of ORS chapter 183, the State Board of Education shall:

3 (a) Establish state standards for public kindergartens and public elementary and secondary  
 4 schools consistent with the policies stated in ORS 326.011.

5 (b) Adopt rules for the general governance of public kindergartens and public elementary and  
 6 secondary schools and public community colleges.

7 (c) Prescribe required or minimum courses of study.

8 *[(d) Adopt rules regarding school and interscholastic activities in accordance with standards es-*  
 9 *tablished pursuant to paragraph (f) of this subsection.]*

10 *[(e)]* (d) Adopt rules that provide that no public elementary or secondary school shall discrimi-  
 11 nate in determining participation in interscholastic activities. As used in this paragraph, “discrimi-  
 12 nation” has the meaning given that term in ORS 659.850.

13 *[(f) Adopt standards applicable to voluntary organizations that administer interscholastic activities*  
 14 *as provided in ORS 339.430.]*

15 *[(g)]* (e) Adopt rules that will eliminate the use and purchase of elemental mercury, mercury  
 16 compounds and mercury-added instructional materials by public elementary and secondary schools.

17 (2) The State Board of Education may:

18 (a) Consistent with the laws of this state, accept money or property not otherwise provided for  
 19 under paragraph (b) of this subsection, which is donated for the use or benefit of the public  
 20 kindergartens and public elementary and secondary schools and public community colleges and use  
 21 such money or property for the purpose for which it was donated. Until it is used, the board shall  
 22 deposit any money received under this paragraph in a special fund with the State Treasurer as  
 23 provided in ORS 293.265 to 293.275.

24 (b) Apply for federal funds and accept and enter into any contracts or agreements in behalf of  
 25 the state for the receipt of such funds from the federal government or its agencies for educational  
 26 purposes, including but not limited to any funds available for the school lunch program, for career  
 27 education purposes, for professional technical educational purposes, for adult education, for man-  
 28 power programs and any grants available to the state or its political subdivisions for general federal  
 29 aid for public kindergartens and public elementary and secondary schools and public community  
 30 colleges and their auxiliary services, improvement of teacher preparation, teacher salaries, con-  
 31 struction of school buildings, administration of the Department of Education and any other educa-  
 32 tional activities under the jurisdiction of the State Board of Education.

33 (c) Adopt rules to administer the United States Department of Agriculture’s National School  
 34 Lunch Program and School Breakfast Program for public and private prekindergarten through grade  
 35 12 schools and residential child care facilities.

36 (3) The State Board of Education shall provide a separate, identifiable place on its agenda six  
 37 times a year for community college issues. The state board may also consider matters affecting  
 38 community colleges at any regular or special meeting.

39 **SECTION 3.** ORS 332.075 is amended to read:

40 332.075. (1) Any district school board may:

41 (a) Fix the days of the year and the hours of the day when schools shall be in session.

42 (b) Adopt textbooks and other instructional materials as provided in ORS 337.120 and 337.141  
 43 and courses of study for the use of such schools as provided in ORS 336.035.

44 (c) Authorize the use of the schools for purposes of training students of an approved teacher  
 45 education institution, as defined in ORS 342.120, and for such purposes may enter into contracts

1 with the approved teacher education institutions on such terms as may be agreed upon. Such con-  
 2 tracts as they relate to student teachers shall have the same effect and be subject to the same  
 3 regulations as a contract between a licensed teacher and a district school board.

4 (d) Develop and operate with other school districts or community college districts secondary  
 5 professional technical education programs for pupils of more than one district and fix by agreement  
 6 the duration of the district's obligation to continue such activity, subject to the availability of funds  
 7 therefor.

8 (e) Authorize the school district to be a member of and pay fees, if any, to any voluntary  
 9 organization[, *approved under ORS 339.430, that administers interscholastic activities or*] that facili-  
 10 tates the scheduling, [*and*] programming **or other administration** of interscholastic activities, **as**  
 11 **defined in section 1 of this 2007 Act.**

12 (f) Accept money or property donated for the use or benefit of the school district and, consistent  
 13 with the laws of this state, use such money or property for the purpose for which it was donated.

14 (2) All contracts of the school district must be approved by the district school board before an  
 15 order can be drawn for payment. If a contract is made without the authority of the district school  
 16 board, the individual making such contract shall be personally liable.

17 (3) Notwithstanding subsection (2) of this section, a district school board may, by resolution or  
 18 policy, authorize its superintendent or the superintendent's designee to enter into and approve pay-  
 19 ment on contracts for products, materials, supplies, capital outlay, equipment and services that are  
 20 within appropriations made by the district school board pursuant to ORS 294.435. A district school  
 21 board may not authorize its superintendent or the superintendent's designee under this subsection  
 22 to enter into and approve payment on contracts that are collective bargaining agreements or service  
 23 contracts that include the provision of labor performed by employees of the school district.

24 **SECTION 4.** ORS 332.593 is amended to read:

25 332.593. Each district school board shall adopt policies governing the solicitation and sale of  
 26 travel services to students enrolled in kindergarten through grade 12. The policies shall address the  
 27 solicitation and sale of travel services to students on school property under the jurisdiction of the  
 28 school district, at activities under the jurisdiction of the school district and at interscholastic ac-  
 29 tivities [*administered by a voluntary organization approved by the State Board of Education under*  
 30 *ORS 339.430*] **as defined in section 1 of this 2007 Act.**

31 **SECTION 5.** ORS 336.479 is amended to read:

32 336.479. (1) As used in this section, "participation" means participation in sports practices and  
 33 actual interscholastic sports competition.

34 (2) Each school district shall require students who participate in extracurricular sports in  
 35 grades 7 through 12 in the schools of the district to have a physical examination prior to partic-  
 36 ipation. A person conducting the physical examination shall use a form and protocol prescribed by  
 37 rule of the State Board of Education pursuant to subsection (6) of this section.

38 (3) A school district shall require students who continue to participate in extracurricular sports  
 39 in grades 7 through 12 to have a physical examination once every two years.

40 (4) Notwithstanding subsection (3) of this section, a school district shall require a student who  
 41 is diagnosed with a significant illness or has had a major surgery to have a physical examination  
 42 prior to further participation in extracurricular sports.

43 (5) Any physical examination required by this section shall be conducted by a:

44 (a) Physician possessing an unrestricted license to practice medicine;

45 (b) Licensed naturopathic physician;

1 (c) Licensed physician assistant;

2 (d) Certified nurse practitioner; or

3 (e) Licensed chiropractic physician who has clinical training and experience in detecting  
4 cardiopulmonary diseases and defects.

5 (6) The State Board of Education shall by rule prescribe the form and protocol to be used for  
6 physical examinations required by this section. [*The board shall consult with a voluntary organiza-*  
7 *tion approved by the State Board of Education under ORS 339.430 in adopting rules under this*  
8 *section.*]

9 **SECTION 6.** ORS 339.250 is amended to read:

10 339.250. (1) Public school students shall comply with rules for the government of such schools,  
11 pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' au-  
12 thority.

13 (2) Pursuant to the written policies of a district school board, an individual who is a teacher,  
14 administrator, school employee or school volunteer may use reasonable physical force upon a stu-  
15 dent when and to the extent the individual reasonably believes it necessary to maintain order in the  
16 school or classroom or at a school activity or event, whether or not it is held on school property.  
17 The district school board shall adopt written policies to implement this subsection and shall inform  
18 such individuals of the existence and content of these policies.

19 (3) The district school board may authorize the discipline, suspension or expulsion of any  
20 refractory student and may suspend or expel any student who assaults or menaces a school em-  
21 ployee or another student. The age of a student and the past pattern of behavior of a student shall  
22 be considered prior to a suspension or expulsion of a student. As used in this subsection "menace"  
23 means by word or conduct the student intentionally attempts to place a school employee or another  
24 student in fear of imminent serious physical injury.

25 (4)(a) Willful disobedience, willful damage or injury to school property, use of threats, intim-  
26 idation, harassment or coercion against any fellow student or school employee, open defiance of a  
27 teacher's authority or use or display of profane or obscene language is sufficient cause for discipline,  
28 suspension or expulsion from school.

29 (b) District school boards shall develop policies on managing students who threaten violence or  
30 harm in public schools. The policies adopted by a school district shall include staff reporting meth-  
31 ods and shall require an administrator to consider:

32 (A) Immediately removing from the classroom setting any student who has threatened to injure  
33 another person or to severely damage school property.

34 (B) Placing the student in a setting where the behavior will receive immediate attention, in-  
35 cluding, but not limited to, the office of the school principal, vice principal, assistant principal or  
36 counselor or a school psychologist licensed by the Teacher Standards and Practices Commission or  
37 the office of any licensed mental health professional.

38 (C) Requiring the student to be evaluated by a licensed mental health professional before al-  
39 lowing the student to return to the classroom setting.

40 (c) The administrator shall notify the parent or legal guardian of the student's behavior and the  
41 school's response.

42 (d) District school boards may enter into contracts with licensed mental health professionals to  
43 perform the evaluations required under paragraph (b) of this subsection.

44 (e) District school boards shall allocate any funds necessary for school districts to implement  
45 the policies adopted under paragraph (b) of this subsection.

1 (5) Expulsion of a student shall not extend beyond one calendar year and suspension shall not  
2 extend beyond 10 school days.

3 (6)(a) Notwithstanding subsection (5) of this section, a school district shall have a policy that  
4 requires the expulsion from school for a period of not less than one year of any student who is de-  
5 termined to have:

6 (A) Brought a weapon to a school, to school property under the jurisdiction of the district or  
7 to an activity under the jurisdiction of the school district;

8 (B) Possessed, concealed or used a weapon in a school or on school property or at an activity  
9 under the jurisdiction of the district; or

10 (C) Brought to or possessed, concealed or used a weapon at an interscholastic activity [*admin-*  
11 *istered by a voluntary organization approved by the State Board of Education under ORS 339.430*] **as**  
12 **defined in section 1 of this 2007 Act.**

13 (b) The policy shall allow an exception for courses, programs and activities approved by the  
14 school district that are conducted on school property, including but not limited to hunter safety  
15 courses, Reserve Officer Training Corps programs, weapons-related sports or weapons-related voca-  
16 tional courses. In addition, the State Board of Education may adopt by rule additional exceptions  
17 to be included in school district policies.

18 (c) The policy shall allow a superintendent to modify the expulsion requirement for a student  
19 on a case-by-case basis.

20 (d) The policy shall require a referral to the appropriate law enforcement agency of any student  
21 who is expelled under this subsection.

22 (e) For purposes of this subsection, "weapon" includes a:

23 (A) "Firearm" as defined in 18 U.S.C. 921;

24 (B) "Dangerous weapon" as defined in ORS 161.015; or

25 (C) "Deadly weapon" as defined in ORS 161.015.

26 (7) The Department of Education shall collect data on any expulsions required pursuant to  
27 subsection (6) of this section including:

28 (a) The name of each school;

29 (b) The number of students expelled from each school; and

30 (c) The types of weapons involved.

31 (8) Notwithstanding ORS 336.010, a school district may require a student to attend school during  
32 nonschool hours as an alternative to suspension.

33 (9) Unless a student is under expulsion for an offense that constitutes a violation of a school  
34 district policy adopted pursuant to subsection (6) of this section, a school district board shall con-  
35 sider and propose to the student prior to expulsion or leaving school, and document to the parent,  
36 legal guardian or person in parental relationship, alternative programs of instruction or instruction  
37 combined with counseling for the student that are appropriate and accessible to the student in the  
38 following circumstances:

39 (a) When a student is expelled pursuant to subsection (4) of this section;

40 (b) Following a second or subsequent occurrence within any three-year period of a severe dis-  
41 ciplinary problem with a student;

42 (c) When it has been determined that a student's attendance pattern is so erratic that the stu-  
43 dent is not benefiting from the educational program; or

44 (d) When a parent or legal guardian applies for a student's exemption from compulsory attend-  
45 ance on a semiannual basis as provided in ORS 339.030 (2).

1 (10) A school district board may consider and propose to a student who is under expulsion or  
2 to a student prior to expulsion for an offense that constitutes a violation of a school district policy  
3 adopted pursuant to subsection (6) of this section, and document to the parent, legal guardian or  
4 person in parental relationship, alternative programs of instruction or instruction combined with  
5 counseling for the student that are appropriate and accessible to the student.

6 (11) Information on alternative programs provided under subsections (9) and (10) of this section  
7 shall be in writing. The information need not be given to the student and the parent, guardian or  
8 person in parental relationship more often than once every six months unless the information has  
9 changed because of the availability of new programs.

10 (12)(a) The authority to discipline a student does not authorize the infliction of corporal pun-  
11 ishment. Every resolution, bylaw, rule, ordinance or other act of a district school board, a public  
12 charter school or the Department of Education that permits or authorizes the infliction of corporal  
13 punishment upon a student is void and unenforceable.

14 (b) As used in this subsection, "corporal punishment" means the willful infliction of, or willfully  
15 causing the infliction of, physical pain on a student.

16 (c) As used in this subsection, "corporal punishment" does not mean:

17 (A) The use of physical force authorized by ORS 161.205 for the reasons specified therein; or

18 (B) Physical pain or discomfort resulting from or caused by participation in athletic competition  
19 or other such recreational activity, voluntarily engaged in by a student.

20 **SECTION 7.** ORS 339.315 is amended to read:

21 339.315. (1)(a) Any employee of a public school district, an education service district or a private  
22 school who has reasonable cause to believe that a person, while in a school, is or within the previ-  
23 ous 120 days has been in possession of a firearm or destructive device in violation of ORS 166.250,  
24 166.370 or 166.382 shall report the person's conduct immediately to a school administrator, school  
25 director, the administrator's or director's designee or law enforcement agency within the county. A  
26 school administrator, school director or the administrator's or director's designee, who has reason-  
27 able cause to believe that the person, while in a school, is or within the previous 120 days has been  
28 in possession of a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382, shall  
29 promptly report the person's conduct to a law enforcement agency within the county. If the school  
30 administrator, school director or employee has reasonable cause to believe that a person has been  
31 in possession of a firearm or destructive device as described in this paragraph more than 120 days  
32 previously, the school administrator, school director or employee may report the person's conduct  
33 to a law enforcement agency within the county.

34 (b) Anyone participating in the making of a report under paragraph (a) of this subsection who  
35 has reasonable grounds for making the report is immune from any liability, civil or criminal, that  
36 might otherwise be incurred or imposed with respect to the making or content of the report. Any  
37 participant has the same immunity with respect to participating in any judicial proceeding resulting  
38 from the report.

39 (c) Except as required by ORS 135.805 to 135.873 and 419C.270 (5) or (6), the identity of a person  
40 participating in good faith in the making of a report under paragraph (a) of this subsection who has  
41 reasonable grounds for making the report is confidential and may not be disclosed by law enforce-  
42 ment agencies, the district attorney or any public or private school administrator, school director  
43 or employee.

44 (2) When a law enforcement agency receives a report under subsection (1) of this section, the  
45 law enforcement agency shall promptly conduct an investigation to determine whether there is

1 probable cause to believe that the person, while in a school, did possess a firearm or destructive  
2 device in violation of ORS 166.250, 166.370 or 166.382.

3 (3) As used in this section, "school" means:

4 (a) A public or private institution of learning providing instruction at levels kindergarten  
5 through grade 12, or their equivalents, or any part thereof;

6 (b) The grounds adjacent to the institution; and

7 (c) Any site or premises that at the time is being used exclusively for a student program or  
8 activity that is sponsored or sanctioned by the institution, a public school district, an education  
9 service district or a voluntary organization [*approved by the State Board of Education under ORS*  
10 *339.430*] and that is posted as such.

11 (4) For purposes of subsection (3)(c) of this section, a site or premises is posted as such when  
12 the sponsoring or sanctioning entity has posted a notice identifying the sponsoring or sanctioning  
13 entity and stating, in substance, that the program or activity is a school function and that the pos-  
14 session of firearms or dangerous weapons in or on the site or premises is prohibited under ORS  
15 166.370.

16 **SECTION 8. ORS 339.430 is repealed.**

17 **SECTION 9. Section 1 of this 2007 Act, the amendments to ORS 326.051, 332.075, 332.593,**  
18 **336.479, 339.250 and 339.315 by sections 2 to 7 of this 2007 Act and the repeal of ORS 339.430**  
19 **by section 8 of this 2007 Act first apply to the 2007-2008 school year.**

20 **SECTION 10. This 2007 Act being necessary for the immediate preservation of the public**  
21 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**  
22 **on its passage.**