

# Senate Bill 905

Sponsored by COMMITTEE ON EDUCATION AND GENERAL GOVERNMENT

## 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**.

Establishes program to certify persons as special education providers. Requires district school boards to use persons certified as special education providers to extent practicable.

## A BILL FOR AN ACT

1  
2 Relating to the provision of special education services; creating new provisions; and amending ORS  
3 329.007, 339.871, 342.120, 342.223, 342.227 and 343.221.

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

5 **SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS chapter 342.**

6 **SECTION 2. (1) The Teacher Standards and Practices Commission shall issue a certificate**  
7 **as a special education provider to a person who qualifies for certification as provided by this**  
8 **section. A special education provider shall provide special education and related services to**  
9 **a child with disabilities as prescribed in ORS chapter 343.**

10 **(2) A person qualifies for certification as a special education provider if the person:**

11 **(a) Is properly licensed as required for the person's profession or is properly trained and**  
12 **educated to provide the services of the person's profession;**

13 **(b) Is trained or educated in providing special education and related services to a child**  
14 **with a disability; and**

15 **(c) Complies with the rules adopted by the commission for certification as a special edu-**  
16 **cation provider.**

17 **(3) A person who is licensed or registered by the commission and who meets the quali-**  
18 **fications described in subsection (2) of this section shall be certified as a special education**  
19 **provider.**

20 **(4)(a) In addition to persons described in subsection (3) of this section, persons who**  
21 **qualify for certification as a special education provider include, but are not limited to:**

22 **(A) An audiologist licensed under ORS 681.250.**

23 **(B) A counselor licensed under ORS 675.715 to 675.835.**

24 **(C) A physical therapist licensed under ORS 688.010 to 688.201.**

25 **(D) A psychologist licensed under ORS 675.010 to 675.150.**

26 **(E) An occupational therapist licensed under ORS 675.210 to 675.340.**

27 **(F) A school nurse certified under ORS 342.475.**

28 **(G) A speech-language pathologist licensed under ORS 681.250.**

29 **(H) A social worker.**

30 **(b) For the purpose of ORS 343.221 (3), a person need not be certified under this section**  
31 **if the person is licensed to practice dentistry under ORS chapter 679, licensed to practice**

**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 **medicine under ORS chapter 677 or licensed to practice optometry under ORS 683.010 to**  
 2 **683.310.**

3 **(5) Except as provided in ORS 342.227, the commission may not issue an emergency spe-**  
 4 **cial education provider certificate or any other certificate for a special education provider**  
 5 **on a temporary or provisional basis.**

6 **(6) A certificate issued under this section is not a teaching license. A person holding a**  
 7 **certificate issued under subsection (4) of this section is not subject to ORS 238.280 or 342.805**  
 8 **to 342.937.**

9 **SECTION 3. (1) The Teacher Standards and Practices Commission shall adopt by rule**  
 10 **standards necessary for the issuance, denial, continuation, renewal, lapse or reinstatement**  
 11 **of special education provider certificates issued under section 2 of this 2009 Act and for the**  
 12 **establishment and collection of fees for certification as a special education provider. The**  
 13 **commission may adopt by rule procedures for revocation of a certificate issued under section**  
 14 **2 of this 2009 Act that are consistent with ORS 342.175 to 342.190.**

15 **(2) The commission shall consult with:**

16 **(a) The Department of Education regarding standards adopted by the Superintendent of**  
 17 **Public Instruction under ORS 343.055; and**

18 **(b) Any appropriate licensing boards or professional organizations regarding the quali-**  
 19 **fications and practices involved in the professions of the persons certified as provided by this**  
 20 **section.**

21 **SECTION 4. ORS 329.007 is amended to read:**

22 **329.007. As used in this chapter, unless the context requires otherwise:**

23 **(1) “Academic content standards” means expectations of student knowledge and skills adopted**  
 24 **by the State Board of Education under ORS 329.045.**

25 **(2) “Administrator” includes all persons whose duties require an administrative license.**

26 **(3) “Board” or “state board” means the State Board of Education.**

27 **(4) “Community learning center” means a school-based or school-linked program providing in-**  
 28 **formal meeting places and coordination for community activities, adult education, child care, infor-**  
 29 **mation and referral and other services as described in ORS 329.157. “Community learning center”**  
 30 **includes, but is not limited to, a community school program as defined in ORS 336.505, family re-**  
 31 **source centers as described in ORS 417.725, full service schools, lighted schools and 21st century**  
 32 **community learning centers.**

33 **(5) “Department” means the Department of Education.**

34 **(6) “English” includes, but is not limited to, reading and writing.**

35 **(7) “History, geography, economics and civics” includes, but is not limited to, Oregon Studies.**

36 **(8) “Oregon Studies” means history, geography, economics and civics specific to the State of**  
 37 **Oregon. Oregon Studies instruction in Oregon government shall include municipal, county, tribal**  
 38 **and state government, as well as the electoral and legislative processes.**

39 **(9) “Parents” means parents or guardians of students who are covered by this chapter.**

40 **(10) “Public charter school” has the meaning given that term in ORS 338.005.**

41 **(11) “School district” means a school district as defined in ORS 332.002, a state-operated school**  
 42 **or any legally constituted combination of such entities.**

43 **(12) “Second languages” means any foreign language or American Sign Language.**

44 **(13) “Teacher” means any licensed employee of a school district who has direct responsibility**  
 45 **for instruction, coordination of educational programs or supervision of students and who is com-**

1    pensated for such services from public funds. “Teacher” does not include **a person:**

2        **(a) Who is** a school nurse, as defined in ORS 342.455[, *or a person*];

3        **(b) Whose** duties require an administrative license[.]; **or**

4        **(c) Who is certified as a special education provider as provided by section 2 (4) of this**  
 5 **2009 Act.**

6        (14) “The arts” includes, but is not limited to, literary arts, performing arts and visual arts.

7        (15) “21st Century Schools Council” means a council established pursuant to ORS 329.704.

8        **SECTION 5.** ORS 339.871 is amended to read:

9        339.871. (1) A school administrator, school nurse, **special education provider**, teacher or other  
 10 school employee designated by the school administrator is not liable in a criminal action or for civil  
 11 damages as a result of a student’s self-administration of medication, as described in ORS 339.866, if  
 12 the school administrator, school nurse, **special education provider**, teacher or other school em-  
 13 ployee, in compliance with the instructions of the student’s Oregon licensed health care professional,  
 14 in good faith assists the student’s self-administration of the medication pursuant to written permis-  
 15 sion and instructions of the student’s parent, guardian or Oregon licensed health care professional.

16        (2) The civil and criminal immunities imposed by this section do not apply to an act or omission  
 17 amounting to gross negligence or willful and wanton misconduct.

18        **SECTION 6.** ORS 342.120 is amended to read:

19        342.120. As used in this chapter, unless the context requires otherwise:

20        (1) “Administrator” includes all superintendents, assistant superintendents and principals in the  
 21 public schools or education service districts.

22        (2) “Approved teacher education institution” is one which meets the standards of the Teacher  
 23 Standards and Practices Commission for preparation of teachers for preprimary programs and grades  
 24 1 through 12.

25        (3) “Approved teacher education program” is one offered by an approved teacher education in-  
 26 stitution and is so recognized by the Teacher Standards and Practices Commission, after considering  
 27 recommendations of the State Board of Education.

28        (4) “Commission” means the Teacher Standards and Practices Commission.

29        (5) “Educational assistant” means a classified school employee who does not require a license  
 30 to teach, who is employed by a school district or education service district and whose assignment  
 31 consists of and is limited to assisting a licensed teacher in accordance with rules established by the  
 32 State Board of Education.

33        (6) “Instruction” includes direction of learning in class, in small groups, in individual situations,  
 34 in the library and in guidance and counseling, but does not include the provision of related services,  
 35 as defined in ORS 343.035, to a child identified as a child with a disability pursuant to ORS 343.146  
 36 to 343.183 when provided in accordance with ORS 343.221.

37        (7) “Intern teacher” means a regularly enrolled student of an approved teacher education insti-  
 38 tution who teaches under the supervision of the staff of the institution and of the employing school  
 39 district in order to acquire practical experience in teaching and for which the student receives both  
 40 academic credit from the institution and financial compensation from the school district or educa-  
 41 tion service district.

42        (8) “State board” means the State Board of Education.

43        (9) “Teacher” includes all licensed employees in the public schools or employed by an education  
 44 service district who have direct responsibility for instruction, coordination of educational programs  
 45 or supervision or evaluation of teachers and who are compensated for their services from public

1 funds. "Teacher" does not include a **person who is a** school nurse as defined in ORS 342.455 **or a**  
 2 **person certified as a special education provider as provided by section 2 (4) of this 2009 Act.**

3 (10) "Teaching license" means a license issued under ORS 342.125 or 342.144.

4 **SECTION 7.** ORS 342.223, as amended by section 8, chapter 39, Oregon Laws 2008, is amended  
 5 to read:

6 342.223. (1) For the purpose of requesting a state or nationwide criminal records check under  
 7 ORS 181.534, the Teacher Standards and Practices Commission may require the fingerprints of:

8 (a) A person who is applying for initial issuance of a license under ORS 342.120 to 342.430 as  
 9 a teacher, administrator or personnel specialist if the person has not submitted to a criminal records  
 10 check by the commission within the previous year.

11 (b) A person who is applying for reinstatement of a license as a teacher, administrator or per-  
 12 sonnel specialist whose license has lapsed for at least three years.

13 (c) A person who is applying for initial issuance of a certificate under ORS 342.475 as a school  
 14 nurse **or under section 2 (4) of this 2009 Act as a special education provider.**

15 (d) A person who is registering with the commission for student teaching, practicum or  
 16 internship as a teacher, administrator or personnel specialist, if the person has not submitted to a  
 17 criminal records check by the commission within the previous three years for student teaching,  
 18 practicum or internship as a teacher, administrator or personnel specialist.

19 (e) A person who is applying for initial issuance of a registration as a public charter school  
 20 teacher or administrator under ORS 342.125.

21 (2) The making of any false statement as to the conviction of a crime is grounds for refusal to  
 22 issue, renew or reinstate a license, certificate or registration and is in addition to the grounds stated  
 23 in ORS 342.143.

24 (3) A person may appeal the refusal to issue an initial license, certificate or registration under  
 25 this section as a contested case under ORS 183.413 to 183.470, but the refusal to renew or reinstate  
 26 a license or registration is subject to ORS 342.175 to 342.180, and the commission shall notify the  
 27 person of the right to appeal.

28 **SECTION 8.** ORS 342.227 is amended to read:

29 342.227. The Teacher Standards and Practices Commission may issue to an individual a tempo-  
 30 rary license or certificate as a teacher, administrator, personnel specialist, [or] school nurse **or**  
 31 **special education provider** pending the return of the criminal records check by the Federal Bureau  
 32 of Investigation.

33 **SECTION 9.** ORS 343.221 is amended to read:

34 343.221. In order to provide special education for children with disabilities, the district school  
 35 board of any school district in which there are school-age children who require special education:

36 (1) Shall submit an annual projected activities and cost statement to the Superintendent of  
 37 Public Instruction for a program of special education for the district's children with disabilities. The  
 38 proposed district program shall include provisions for providing special education and related ser-  
 39 vices and be designed to meet the unique needs of all resident children with disabilities.

40 (2) Shall provide special education for such children consistent with the projected activities and  
 41 cost statement.

42 (3) **Shall, when practicable, ensure that special education and related services are pro-**  
 43 **vided by persons certified as special education providers under section 2 of this 2009 Act.**  
 44 **Prior to entering into a contract with an entity to provide special education and related**  
 45 **services, the board shall require the entity to describe efforts made by the entity to hire**

1 **persons certified as special education providers and to train other personnel to be certified**  
2 **as a special education providers.**

3 [(3)] (4) May, when the board considers a contract to be economically feasible and in the inter-  
4 ests of the learning opportunities of eligible children, contract for special education for such chil-  
5 dren with another school district if the district school boards jointly agree to provide special  
6 education.

7 [(4)] (5) May, when the board considers a contract to be economically feasible and in the inter-  
8 ests of the learning opportunities of eligible children, contract for special education for such chil-  
9 dren with an education service district if:

10 (a) The contract is consistent with the local service plan of the education service district de-  
11 veloped pursuant to ORS 334.175 and the school districts within the education service district ap-  
12 prove the contract by a resolution adopted in the manner provided in ORS 334.175.

13 (b) The school district contracts with an education service district pursuant to ORS 334.185.

14 [(5)] (6) May contract with private agencies or organizations approved by the State Board of  
15 Education for special education.

16 [(6)] (7) May use the services of public agencies, including community mental health and devel-  
17 opmental disabilities programs, which provide diagnostic, evaluation and other related services for  
18 children.

19 [(7)] (8) May contract for the provision of related services by a person in private practice if that  
20 person is registered, certified or licensed by the State of Oregon as qualified to provide a particular  
21 related service that requires registration, certification or licensing by the state.

22