

Senate Bill 553

Sponsored by Senator GELSER; Senators ROBLAN, ROSENBAUM, Representative KOMP

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**.

Imposes limits on instances when student under 12 years of age may be suspended or expelled from school.

Declares emergency, effective July 1, 2015.

A BILL FOR AN ACT

1
2 Relating to school disciplinary policies; creating new provisions; amending ORS 339.250; and de-
3 claring an emergency.

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

5 **SECTION 1.** ORS 339.250 is amended to read:

6 339.250. (1) Public school students shall comply with rules for the government of such schools,
7 pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' au-
8 thority.

9 (2) Each district school board shall adopt written policies for the discipline, suspension or ex-
10 pulsion of any refractory student. The policies:

11 (a) May allow discipline, suspension or expulsion for conduct that includes, but is not limited
12 to:

13 (A) Willful disobedience;

14 (B) Open defiance of the authority of a school employee;

15 (C) Possession or distribution of tobacco, alcohol, drugs or other controlled substances;

16 (D) Use or display of profane or obscene language;

17 (E) Willful damage or injury to school property;

18 (F) Use of threats, intimidation, harassment or coercion against a student or a school employee;

19 (G) Assault of a school employee or another student; or

20 (H) Intentional attempts, by word or conduct, to place a school employee or another student in
21 fear of imminent serious physical injury.

22 (b) Must limit the use of expulsion to the following circumstances:

23 (A) For conduct that poses a threat to the health or safety of students or school employees;

24 (B) When other strategies to change student conduct have been ineffective; or

25 (C) When the expulsion is required by law.

26 (c) Must require consideration of [*the age of a student and*] the past pattern of behavior of a
27 student prior to imposing the suspension or expulsion of a student.

28 **(d) Must require consideration of the age of a student prior to imposing the suspension**
29 **or expulsion of a student, including not imposing the suspension or expulsion if the student**
30 **is under 12 years of age, unless:**

31 **(A) The student inflicted serious physical injury upon a student or school employee**

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 **through nonaccidental conduct;**

2 **(B) The student has made threatening gestures, by word or conduct, and possesses the**
 3 **means to inflict serious physical injury upon a student or school employee; or**

4 **(C) When required by law.**

5 **(e) Must require the convening of a team of school employees as soon as practicable after**
 6 **a student under 12 years of age has been suspended or expelled to:**

7 **(A) Ensure that the student returns to a classroom setting within 10 school days; and**

8 **(B) Plan for the return of the student to a classroom setting.**

9 [(d)] **(f) Must be limited so that:**

10 (A) The duration of an expulsion may not be more than one calendar year.

11 (B) The duration of a suspension may not be more than 10 school days.

12 [(e)] **(g) Notwithstanding ORS 336.010, may require a student to attend school during nonschool**
 13 **hours as an alternative to suspension if the total number of hours does not exceed the equivalent**
 14 **of 10 school days.**

15 (3) Pursuant to the policies adopted as provided by subsection (2) of this section, each school
 16 district shall develop a student handbook, code of conduct or other document that:

17 (a) Defines and helps create a learning environment that students respect;

18 (b) Defines acceptable norms of behavior for students and the types of behavior that are subject
 19 to discipline;

20 (c) Establishes procedures to address behavior or circumstances that pose a threat to the safety
 21 of students or employees of the school;

22 (d) Establishes a system of consequences that are designed to correct student misconduct and
 23 promote behavior within acceptable norms; and

24 (e) Makes the system of consequences known to the school community through the dissemination
 25 of information to students, parents, legal guardians and school district employees.

26 (4) Each district school board shall adopt written policies on managing students who threaten
 27 violence or harm in public schools. The policies adopted by a district school board under this section
 28 shall include all of the following:

29 (a) Staff reporting methods.

30 (b) Provisions that allow an administrator to consider and implement any of the following
 31 options:

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,
 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 that a school obtain an evaluation of a student by a licensed mental health pro-
 39 fessional before allowing the student to return to the classroom setting. A student who is removed
 40 from the classroom setting for an evaluation may not be removed for more than 10 school days un-
 41 less the administrator is able to show good cause that an evaluation could not be completed in that
 42 time period. The policy must describe the circumstances under which the district school board may
 43 enter into contracts with licensed mental health professionals to perform any evaluations required
 44 under this subparagraph.

45 (c) The requirement that an administrator provide to the parent or legal guardian of the student

1 notification that describes the student's behavior and the school's response.

2 (d) A provision for the allocation of any funds necessary for the school district to implement the
3 policies described in this subsection.

4 (5) In establishing and enforcing discipline, suspension and expulsion policies, a district school
5 board shall ensure that the policy is designed to:

6 (a) Protect students and school employees from harm;

7 (b) Provide opportunities for students to learn from their mistakes;

8 (c) Foster positive learning communities;

9 (d) Keep students in school and attending class;

10 (e) Impose disciplinary sanctions without bias against students from a protected class, as defined
11 in ORS 339.351;

12 (f) Implement a graduated set of age-appropriate responses to misconduct that are fair,
13 nondiscriminatory and proportionate in relation to each student's individual conduct;

14 (g) Employ a range of strategies for prevention, intervention and discipline that take into ac-
15 count a student's developmental capacities and that are proportionate to the degree and severity
16 of the student's misbehavior;

17 (h) Propose, prior to a student's expulsion or leaving school, alternative programs of instruction
18 or instruction combined with counseling for the student that are appropriate and accessible to the
19 student in the following circumstances:

20 (A) Following a second or subsequent occurrence within any three-year period of a severe dis-
21 ciplinary problem with the student;

22 (B) When it has been determined that the student's attendance pattern is so erratic that the
23 student is not benefiting from the educational program; or

24 (C) When a parent or legal guardian applies for the student's exemption from compulsory at-
25 tendance on a semiannual basis as provided in ORS 339.030 (2);

26 (i) To the extent practicable, use approaches that are shown through research to be effective in
27 reducing student misbehavior and promoting safe and productive social behavior; and

28 (j) Ensure that school conduct and discipline codes comply with all state and federal laws con-
29 cerning the education of students with disabilities.

30 (6) Except for policies adopted under subsection (7) of this section, any policies adopted under
31 this section must provide for the dissemination of information about alternative programs of in-
32 struction or instruction combined with counseling, as described in subsection (5)(h) of this section,
33 in writing to the student and the parent, legal guardian or person in parental relationship with the
34 student at least once every six months, unless the information has changed because of the avail-
35 ability of new programs.

36 (7) Each district school board shall adopt a written policy involving firearms, as defined in 18
37 U.S.C. 921. The policy shall:

38 (a) Require expulsion from school for a period of not less than one year of any student who is
39 determined to have:

40 (A) Brought a firearm to a school, to school property under the jurisdiction of the school district
41 or to an activity under the jurisdiction of the school district;

42 (B) Possessed, concealed or used a firearm in a school, on school property under the jurisdiction
43 of the school district or at an activity under the jurisdiction of the school district; or

44 (C) Brought to or possessed, concealed or used a firearm at an interscholastic activity adminis-
45 tered by a voluntary organization.

1 (b) Allow exceptions:

2 (A) For courses, programs and activities approved by the school district that are conducted on
 3 school property, including, but not limited to, hunter safety courses, Reserve Officer Training Corps
 4 programs, firearm-related sports or firearm-related vocational courses; and

5 (B) Identified by and adopted by the State Board of Education by rule.

6 (c) Allow a superintendent of a school district to:

7 (A) Modify the expulsion requirement for a student on a case-by-case basis.

8 (B) Propose alternative programs of instruction or instruction combined with counseling for a
 9 student that are appropriate and accessible to the student. If alternative programs are appropriate
 10 for a student, the superintendent shall ensure that information about programs of instruction or in-
 11 struction combined with counseling is provided in writing to the student and the parent, legal
 12 guardian or person in parental relationship with the student at least once every six months, or at
 13 any time the information changes because of the availability of new programs.

14 (d) Require a referral to the appropriate law enforcement agency of any student who is expelled
 15 under this subsection.

16 (e) Require an annual reporting to the Department of Education of the name of each school that
 17 had an expulsion under this subsection and the number of students expelled from each school.

18 (8) Each district school board shall adopt and disseminate written policies for the use of physical
 19 force upon a student. The policies must allow an individual who is a teacher, administrator, school
 20 employee or school volunteer to use reasonable physical force upon a student when and to the ex-
 21 tent the application of force is consistent with ORS 339.291.

22 (9)(a) The authority to discipline a student does not authorize the infliction of corporal punish-
 23 ment. Every resolution, bylaw, rule, ordinance or other act of a district school board, a public
 24 charter school or the Department of Education that permits or authorizes the infliction of corporal
 25 punishment upon a student is void and unenforceable.

26 (b) As used in this subsection:

27 (A) "Corporal punishment" means the willful infliction of, or willfully causing the infliction of,
 28 physical pain on a student.

29 (B) "Corporal punishment" does not include:

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

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

33 **(10) For purposes of this section, calculations of the number of school days that a student
 34 is removed from a classroom setting shall be as follows:**

35 **(a) As a half day if the student is out of school for less than three hours; and**

36 **(b) As a full day if the student is out of school for three or more hours.**

37 **SECTION 2. The amendments to ORS 339.250 apply to disciplinary action taken on or
 38 after the effective date of this 2015 Act.**

39 **SECTION 3. This 2015 Act being necessary for the immediate preservation of the public
 40 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
 41 July 1, 2015.**