

Enrolled Senate Bill 4

Sponsored by Senator COURTNEY; Representative SOLLMAN (Pre-session filed.)

CHAPTER

AN ACT

Relating to physical education; creating new provisions; amending ORS 329.496 and 329.498; and declaring an emergency.

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

SECTION 1. ORS 329.496 is amended to read:

329.496. (1) Every public school student in kindergarten through grade [8] **eight** shall participate in physical education for the entire school year.

(2)(a) Students in kindergarten through grade [5] **five, and students in grade six at a school that teaches kindergarten through grade six**, shall participate in physical education for at least 150 minutes during each school week.

(b) **Except as provided by paragraph (a) of this subsection**, students in grades [6] **six** through [8] **eight** shall participate in physical education for at least 225 minutes during each school week.

(c) **Notwithstanding the time requirements established by paragraphs (a) and (b) of this subsection, the State Board of Education shall adopt rules that prorate the time requirements for:**

(A) School weeks with scheduled school closures, including closures for holidays, in-service days and days scheduled for parent-teacher conferences;

(B) School weeks with unscheduled school closures, including closures for inclement weather and emergencies;

(C) School weeks with out-of-school activities that occur during usual school hours, including field trips and outdoor school programs;

(D) Part-time school programs, including half-day kindergarten; and

(E) Irregular class schedules, including class schedules based on a four-day week.

(d) School districts and public charter schools are not required to comply with the time requirements established by paragraphs (a) and (b) of this subsection for school years during the biennium in which the total amounts appropriated or allocated to the State School Fund and available for distribution to school districts are less than the amounts determined to be needed for school districts through the State School Fund under the tentative budget prepared as provided by ORS 291.210. After the beginning of a biennium, a school district or a public charter school may cease to comply with the time requirements established by paragraphs (a) and (b) of this subsection if the amounts appropriated or allocated to the State School Fund and available for distribution to school districts are less than the amounts determined to be needed for distribution through the State School Fund, as calculated under ORS 291.210.

[2] (3) School districts and public charter schools shall offer instruction in physical education that meets the academic content standards for physical education adopted by the State Board of Education under ORS 329.045. The instruction shall be a sequential, developmentally appropriate curriculum that is designed, implemented and evaluated to help students develop the knowledge, motor skills, self-management skills, attitudes and confidence needed to adopt and maintain physical activity throughout their lives.

[3] (4)(a) School districts and public charter schools shall devote at least 50 percent of physical education class time to actual physical activity in each school week, with as much class time as possible spent in moderate physical activity.

(b)(A) For the purpose of satisfying the time requirements established by subsection (2) of this section, school districts and public charter schools may provide up to 45 minutes of activities during each school week that:

(i) Meet the academic content standards for physical education adopted by the State Board of Education under ORS 329.045;

(ii) Are provided for students by a teacher whose license allows the teacher to provide instruction in physical education to those students, even if the teacher does not have a physical education endorsement; and

(iii) Have been reviewed by a licensed teacher with a physical education endorsement.

(B) The Department of Education shall:

(i) Review and, as appropriate, approve activities that are developed by nonprofit professional organizations representing health and physical education educators if the activities meet the requirements of subparagraph (A) of this paragraph; and

(ii) Make available to school districts and public charter schools a list of activities approved as provided by this subparagraph.

(C) School districts and public charter schools may provide activities that meet the requirements of subparagraph (A) of this paragraph even if the activities are not approved as provided by subparagraph (B) of this paragraph.

[4(a)] (5)(a) Notwithstanding subsections [(1) and (3)] (1), (2) and (4) of this section, a student with disabilities shall have suitably adapted physical education incorporated as part of the individualized education program developed for the student under ORS 343.151.

(b) Notwithstanding subsections [(1) and (3)] (1), (2) and (4) of this section, a student who does not have an individualized education program but has chronic health problems, other disabling conditions or other special needs that preclude the student from participating in regular physical education instruction shall have suitably adapted physical education incorporated as part of an individualized health plan developed for the student by the school district or public charter school.

[5] (6) School districts and public charter schools shall assess school curricula at regular intervals to measure the attainment of the minimum number of minutes that students are required to participate in physical education under this section.

[6] (7)(a) All teachers of physical education for public school students in kindergarten through grade [8] **eight** shall be adequately prepared and shall regularly participate in professional development activities to effectively deliver the physical education program.

(b)(A) Notwithstanding any licensing or endorsement requirements established by the Teacher Standards and Practices Commission, a teacher with an elementary multiple subject endorsement may instruct students in activities described in subsection (4)(b) of this section if the activities are reviewed by a licensed teacher with a physical education endorsement.

(B) A teacher described in this paragraph may provide instruction in activities described in subsection (4)(b) of this section to students who are not regularly taught by the teacher as long as the instruction in the activities to students who are not regularly taught by the teacher does not exceed 45 minutes during each school week. Nothing in this subparagraph allows a school district to employ a teacher for the sole purpose of providing instruction in activities described in subsection (4)(b) of this section.

(8) A school district that does not comply with the requirements of this section is considered to be nonstandard under ORS 327.103.

SECTION 2. (1) Except as provided by subsections (2) and (3) of this section and only for school years prior to the 2022-2023 school year, a school district may not be considered nonstandard under ORS 327.103 and moneys may not be withheld or any other penalty or sanctions imposed on a school district that does not comply with the time requirements established by ORS 329.496 (2).

(2)(a) For the 2019-2020 school year, students identified in ORS 329.496 (2)(a) shall participate in physical education for at least 120 minutes during each school week.

(b) For the 2020-2021 school year and every school year thereafter, students identified in ORS 329.496 (2)(a) shall participate in physical education for at least 150 minutes during each school week.

(c) If a school district fails to comply with paragraph (a) or (b) of this subsection, the school district may be considered nonstandard under ORS 327.103.

(3)(a) For the 2021-2022 school year, students identified in ORS 329.496 (2)(b) shall participate in physical education for at least 180 minutes during each school week.

(b) For the 2022-2023 school year and every school year thereafter, students identified in ORS 329.496 (2)(b) shall participate in physical education for at least 225 minutes during each school week.

(c) If a school district fails to comply with paragraph (a) or (b) of this subsection, the school district may be considered nonstandard under ORS 327.103.

(4) For the purposes of this section, a school district may:

(a) Prorate time requirements provided by this section in compliance with rules adopted by the State Board of Education under ORS 329.496 (2)(c);

(b) Apply up to 45 minutes of activities described in ORS 329.496 (4)(b) to the time requirements provided by this section; and

(c) Cease to comply with the time requirements provided by this section if the conditions described in ORS 329.496 (2)(d) are satisfied.

SECTION 3. Section 2 of this 2017 Act is repealed on July 1, 2022.

SECTION 4. ORS 329.498 is amended to read:

329.498. (1) The Department of Education shall collect data from school districts on:

(a) The number of minutes of physical education that are provided to students in kindergarten through grade [8] **eight** each school week in each public school within the district;

(b) The physical capacity of public schools to provide students [*in kindergarten through grade 5 with at least 150 minutes of physical education during each school week and to provide students in grades 6 through 8 with at least 225 minutes of physical education during each school week*] **with the number of minutes of physical education specified by ORS 329.496 (2);** and

(c) The additional facilities required by public schools to provide physical education to students as described in paragraph (b) of this subsection.

(2) The department shall collect the data described in subsection (1) of this section:

(a) Annually, for data described in subsection (1)(a) of this section.

(b) Whenever a public school increases or decreases the school's physical capacity to provide students with physical education, for data described in subsection (1)(b) and (c) of this section.

(3) **The department shall provide technical assistance to school districts and public charter schools to enable the school districts and public charter schools to comply with the requirements of ORS 329.496.**

SECTION 5. (1) The Department of Education shall develop recommendations for implementing the provisions of ORS 329.496 (2)(b).

(2) For the purpose of developing the recommendations, the department shall collaborate with advocates for physical education, representatives of school districts, educators and other interested stakeholders. Collaboration may be in person, electronically, or a combination of both.

(3) When developing the recommendations, the department shall consider:

(a) Best practices for providing physical education to students in grades six through eight and balance those best practices with resources available for providing physical education to students in grades six through eight, including scheduling issues, facility availability, costs for adding or upgrading facilities, moneys available for adding or upgrading facilities, the availability and costs of licensed physical education teachers and any other issues identified by the entities identified in subsection (2) of this section.

(b) All options for implementing the requirements of ORS 329.496 (2)(b) and other alternatives to the requirements of ORS 329.496 (2)(b) that are available for providing physical education to students in grades six through eight.

(4) All agencies of state government, as defined in ORS 174.111, and school districts are directed to assist the department in the performance of the department's duties under this section and, to the extent permitted by laws relating to confidentiality, to furnish information and advice the department considers necessary to perform its duties.

(5) The department may accept donations of time and money for the purpose of fulfilling the duties of the department under this section.

(6) The department shall submit any recommendations for legislation to the interim committees of the Legislative Assembly related to education no later than November 15, 2018.

SECTION 6. Section 5 of this 2017 Act becomes operative on January 1, 2018.

SECTION 7. Section 5 of this 2017 Act is repealed on December 31, 2018.

SECTION 8. This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect July 1, 2017.

Passed by Senate April 18, 2017

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 5, 2017

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2017

Approved:

.....M.,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2017

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Dennis Richardson, Secretary of State