

DRAFT

SUMMARY

Prohibits district school board or superintendent from approving contract or other agreement that provides for members of law enforcement agency to be assigned to schools of school district. Prohibits district school board from establishing law enforcement agency or employing law enforcement personnel.

Limits situations for which law enforcement agency is contacted for disciplinary incidents to incidents that place school employee or another student in fear of imminent serious physical injury or to incidents that may constitute crime.

Requires certain moneys budgeted during 2021-2023 biennium for law enforcement agency, for employment of law enforcement personnel or for contracts or agreements to assign members of law enforcement agency to schools to be redistributed to community outreach and to meeting students' mental and behavioral health needs.

A BILL FOR AN ACT

Relating to law enforcement agency personnel in schools; creating new provisions; amending ORS 133.402, 238.005, 332.075 and 339.250; and repealing ORS 332.531.

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

SECTION 1. ORS 332.075 is amended to read:

332.075. (1) Any district school board may:

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

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

(c) Authorize the use of the schools for purposes of training students of

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.

an approved educator preparation provider, as defined in ORS 342.120, and for such purposes may enter into contracts with the approved educator preparation provider on such terms as may be agreed upon. Such contracts as they relate to student teachers shall have the same effect and be subject to the same regulations as a contract between a licensed teacher and a district school board.

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

(e) Authorize the school district to be a member of and pay fees, if any, to any voluntary organization that administers interscholastic activities or that facilitates the scheduling and programming of interscholastic activities only if the organization:

(A) Implements policies that address the use of derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule that occurs at an interscholastic activity, including by spectators of the interscholastic activity;

(B) Maintains a transparent complaint process that:

(i) Has a reporting system to allow participants of interscholastic activities or members of the public to make complaints about student, coach or spectator behavior;

(ii) Responds to a complaint made under sub-subparagraph (i) of this subparagraph within 48 hours of the complaint being received; and

(iii) Strives to resolve a complaint received under sub-subparagraph (i) of this subparagraph within 30 days of the complaint being received;

(C) Develops and implements a system of sanctions against schools, students, coaches and spectators if a complaint made under subparagraph (B) of this paragraph is verified; and

(D) Performs an annual survey of students and their parents to under-

stand and respond to potential violations of policies adopted under subparagraph (A) of this paragraph or violations of ORS 659.850.

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

(g) Enter into an approved written agreement with the governing body of a federally recognized Native American tribe in Oregon to allow the use of a mascot that represents, is associated with or is significant to the Native American tribe entering into the agreement. An agreement entered into under this paragraph must:

(A) Describe the acceptable uses of the mascot;

(B) Comply with rules adopted by the State Board of Education that:

(i) Are adopted after consultation with the federally recognized tribes in Oregon pursuant to ORS 182.164 (3); and

(ii) Prescribe the requirements for approval; and

(C) Be approved by the State Board of Education, which the board must provide if the agreement meets the requirements of this paragraph and the rules adopted under this paragraph.

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

(3) Notwithstanding subsection (2) of this section, a district school board may, by resolution or policy, authorize its superintendent or the superintendent's designee to enter into and approve payment on contracts for products, materials, supplies, capital outlay, equipment and services that are within appropriations made by the district school board pursuant to ORS 294.456. A district school board may not authorize its superintendent or the superintendent's designee under this subsection to enter into and approve payment on contracts that are collective bargaining agreements or service contracts that include the provision of labor performed by employees of the

1 school district.

2 **(4) A district school board may not:**

3 **(a) Approve a contract or other agreement that provides for mem-**
4 **bers of a law enforcement agency to be assigned to the schools of the**
5 **school district;**

6 **(b) Authorize its superintendent or the superintendent's designee**
7 **to enter into a contract or other agreement that provides for members**
8 **of a law enforcement agency to be assigned to the schools of the**
9 **school district; or**

10 **(c) Establish a law enforcement agency or employ law enforcement**
11 **personnel.**

12 **SECTION 2.** ORS 133.402 is amended to read:

13 133.402. (1)(a) A custodial interview inside a law enforcement facility that
14 is conducted by a peace officer[, *a school resource officer*] or a special campus
15 security officer shall be electronically recorded if the custodial interview is
16 conducted with a person under 18 years of age in connection with an inves-
17 tigation into a misdemeanor or a felony, or an allegation that the person
18 being interviewed committed an act that, if committed by an adult, would
19 constitute a misdemeanor or a felony.

20 (b) A custodial interview anywhere outside of a law enforcement facility
21 that is conducted by a peace officer[, *a school resource officer*] or a special
22 campus security officer shall be electronically recorded if:

23 (A) The custodial interview is conducted with a person under 18 years of
24 age in connection with an investigation into a misdemeanor or a felony, or
25 an allegation that the person being interviewed committed an act that, if
26 committed by an adult, would constitute a misdemeanor or a felony; and

27 (B) A video camera is worn upon the officer's person.

28 (2) Subsection (1) of this section does not apply to:

29 (a) A statement made before a grand jury;

30 (b) A statement made on the record in open court;

31 (c) A custodial interview conducted in another state in compliance with

1 the laws of that state;

2 (d) A custodial interview conducted by a federal law enforcement officer
3 in compliance with the laws of the United States;

4 (e) A statement that was spontaneously volunteered and did not result
5 from a custodial interview;

6 (f) A statement made during custody processing in response to a routine
7 question;

8 (g) A law enforcement agency that employs five or fewer peace officers;

9 (h) A custodial interview conducted in connection with an investigation
10 carried out by a youth corrections officer or a staff member of the Oregon
11 State Hospital in the performance of the officer's or staff member's official
12 duties of treatment, custody, control or supervision of individuals committed
13 to or confined in a place of incarceration or detention;

14 (i) A custodial interview for which the state demonstrates good cause for
15 the failure to electronically record the custodial interview; or

16 (j) A custodial interview if the defendant's or youth's age was unknown
17 to the officer or would not have been objectively apparent to a reasonable
18 officer.

19 (3)(a) If the state offers an unrecorded statement made under the circum-
20 stances described in subsection (1) of this section in a criminal proceeding
21 alleging the commission of a misdemeanor or a felony, or an allegation that
22 a person being interviewed committed an act that, if committed by an adult,
23 would constitute a misdemeanor or a felony, and the state is unable to
24 demonstrate, by a preponderance of the evidence, that an exception described
25 in subsection (2) of this section applies, upon the request of the defendant,
26 the court shall instruct the jury regarding the legal requirement described
27 in subsection (1) of this section and the superior reliability of electronic re-
28 cordings when compared with testimony about what was said and done.

29 (b) The court may not exclude the defendant's statement or dismiss crim-
30 inal charges as a result of a violation of this section.

31 (c) If each of the statements made by the defendant that the state offers

1 into evidence is recorded, the court may not give a cautionary jury instruc-
2 tion regarding the content of the defendant's statements.

3 (4) If the state offers an unrecorded statement made under the circum-
4 stances described in subsection (1) of this section in a juvenile delinquency
5 proceeding alleging the commission of an act that, if committed by an adult
6 would constitute a misdemeanor or a felony, and the state is unable to
7 demonstrate, by a preponderance of the evidence, that an exception described
8 in subsection (2) of this section applies, the court shall consider the superior
9 reliability of electronic recordings when compared with testimony about
10 what was said and done when determining the evidentiary value of the
11 statement.

12 (5) A law enforcement agency that creates an electronic recording of a
13 custodial interview shall preserve the recording until the defendant's con-
14 viction or youth's adjudication for the offense is final and all direct, post-
15 conviction relief and habeas corpus appeals are exhausted, or until the
16 prosecution of the offense is barred by law.

17 (6) The state shall provide an electronic copy of a defendant's or youth's
18 custodial interview to a defendant or youth in accordance with ORS 135.805
19 to 135.873. Providing an electronic copy of the custodial interview to the
20 defendant or youth constitutes compliance with ORS 135.815 (1)(b), and the
21 state is not required to provide the defendant or youth with a transcript of
22 the contents of the custodial interview. Unless the court orders otherwise,
23 the defendant's or youth's attorney may not copy, disseminate or republish
24 the electronic copy of the custodial interview, except to provide a copy to
25 an agent of the defendant's or youth's attorney for the limited purpose of
26 case preparation.

27 (7) An electronic recording of a custodial interview, and any transcription
28 of the recording, that is certified as containing a complete recording, or a
29 complete transcription, of the entirety of the custodial interview, from the
30 advisement of constitutional rights to the conclusion of the custodial inter-
31 view, is admissible in any preadjudication or post-adjudication hearing for

1 the purpose of establishing the contents of a statement made in the recording
2 and the identity of the person who made the statement, if the statement is
3 otherwise admissible. A certification that complies with this subsection sat-
4 isfies the requirements of ORS 40.505 and 132.320 for the recording or tran-
5 scription. This subsection does not prohibit a party from calling a witness
6 to testify regarding the custodial interview.

7 (8) As used in this section:

8 (a) “Custodial interview” means an interview in which the person ques-
9 tioned is in custody and is required to be advised of the person’s constitu-
10 tional rights.

11 (b) “Good cause” includes, but is not limited to, situations in which:

12 (A) The defendant or youth refused, or expressed an unwillingness, to
13 have the custodial interview electronically recorded;

14 (B) The failure to electronically record the custodial interview was the
15 result of equipment failure and a replacement device was not immediately
16 available;

17 (C) The person operating the recording equipment believed, in good faith,
18 that the equipment was recording the custodial interview;

19 (D) Electronically recording the custodial interview would jeopardize the
20 safety of any person or the identity of a confidential informant;

21 (E) Exigent circumstances prevented the recording of the custodial inter-
22 view; or

23 (F) The person conducting the custodial interview did not possess a
24 wearable video camera to electronically record the custodial interview out-
25 side of a law enforcement facility.

26 (c) “Law enforcement facility” means a courthouse, building or premises
27 that is a place of operation for a municipal police department, county
28 sheriff’s office or other law enforcement agency at which persons may be
29 detained in connection with a juvenile delinquency petition or criminal
30 charge.

31 (d) “Peace officer” has the meaning given that term in ORS 133.005.

1 [(e) "School resource officer" means a peace officer who is assigned to a
2 school.]

3 [(f)] (e) "Special campus security officer" means a special campus security
4 officer described in ORS 352.118.

5 **SECTION 3.** ORS 238.005 is amended to read:

6 238.005. For purposes of this chapter:

7 (1) "Active member" means a member who is presently employed by a
8 participating public employer in a qualifying position and who has completed
9 the six-month period of service required by ORS 238.015.

10 (2) "Annuity" means payments for life derived from contributions made
11 by a member as provided in this chapter.

12 (3) "Board" means the Public Employees Retirement Board.

13 (4) "Calendar year" means 12 calendar months commencing on January 1
14 and ending on December 31 following.

15 (5) "Continuous service" means service not interrupted for more than five
16 years, except that such continuous service shall be computed without regard
17 to interruptions in the case of:

18 (a) An employee who had returned to the service of the employer as of
19 January 1, 1945, and who remained in that employment until having estab-
20 lished membership in the Public Employees Retirement System.

21 (b) An employee who was in the armed services on January 1, 1945, and
22 returned to the service of the employer within one year of the date of being
23 otherwise than dishonorably discharged and remained in that employment
24 until having established membership in the Public Employees Retirement
25 System.

26 (6) "Creditable service" means any period of time during which an active
27 member is being paid a salary by a participating public employer and for
28 which benefits under this chapter are funded by employer contributions and
29 earnings on the fund. For purposes of computing years of "creditable
30 service," full months and major fractions of a month shall be considered to
31 be one-twelfth of a year and shall be added to all full years. "Creditable

service” includes all retirement credit received by a member.

(7) “Earliest service retirement age” means the age attained by a member when the member could first make application for retirement under the provisions of ORS 238.280.

(8) “Employee” includes, in addition to employees, public officers, but does not include:

(a) Persons engaged as independent contractors.

(b) Seasonal, emergency or casual workers whose periods of employment with any public employer or public employers do not total 600 hours in any calendar year.

(c) Persons provided sheltered employment or made-work by a public employer in an employment or industries program maintained for the benefit of such persons.

(d) Persons employed and paid from federal funds received under a federal program intended primarily to alleviate unemployment. However, any such person shall be considered an “employee” if not otherwise excluded by paragraphs (a) to (c) of this subsection and the public employer elects to have the person so considered by an irrevocable written notice to the board.

(e) Persons who are employees of a railroad, as defined in ORS 824.020, and who, as such employees, are included in a retirement plan under federal railroad retirement statutes. This paragraph shall be deemed to have been in effect since the inception of the system.

(f) Persons employed in positions classified as post-doctoral scholar positions by a public university listed in ORS 352.002, or by the Oregon Health and Science University, under ORS 350.370.

(9) “Final average salary” means whichever of the following is greater:

(a) The average salary per calendar year paid by one or more participating public employers to an employee who is an active member of the system in three of the calendar years of membership before the effective date of retirement of the employee, in which three years the employee was paid the highest salary. The three calendar years in which the employee was paid the

largest total salary may include calendar years in which the employee was employed for less than a full calendar year. If the number of calendar years of active membership before the effective date of retirement of the employee is three or fewer, the final average salary for the employee is the average salary per calendar year paid by one or more participating public employers to the employee in all of those years, without regard to whether the employee was employed for the full calendar year.

(b) One-third of the total salary paid by a participating public employer to an employee who is an active member of the system in the last 36 calendar months of active membership before the effective date of retirement of the employee.

(10) "Firefighter" does not include a volunteer firefighter, but does include:

(a) The State Fire Marshal, the chief deputy fire marshal and deputy state fire marshals;

(b) An employee of the State Forestry Department who is certified by the State Forester as a professional wildland firefighter and whose primary duties include the abatement of uncontrolled fires as described in ORS 477.064; and

(c) An employee of the Oregon Military Department whose primary duties include fighting structural, aircraft, wildland or other fires.

(11) "Fiscal year" means 12 calendar months commencing on July 1 and ending on June 30 following.

(12) "Fund" means the Public Employees Retirement Fund.

(13) "Inactive member" means a member who is not employed in a qualifying position, whose membership has not been terminated in the manner described by ORS 238.095 and who is not retired for service or disability.

(14) "Institution of higher education" means a public university listed in ORS 352.002, the Oregon Health and Science University and a community college, as defined in ORS 341.005.

(15) "Member" means a person who has established membership in the

1 system and whose membership has not been terminated as described in ORS
2 238.095. "Member" includes active, inactive and retired members.

3 (16) "Member account" means the regular account and the variable ac-
4 count.

5 (17) "Normal retirement age" means:

6 (a) For a person who establishes membership in the system before January
7 1, 1996, as described in ORS 238.430, 55 years of age if the employee retires
8 at that age as a police officer or firefighter or 58 years of age if the employee
9 retires at that age as other than a police officer or firefighter.

10 (b) For a person who establishes membership in the system on or after
11 January 1, 1996, as described in ORS 238.430, 55 years of age if the employee
12 retires at that age as a police officer or firefighter or 60 years of age if the
13 employee retires at that age as other than a police officer or firefighter.

14 (18) "Pension" means annual payments for life derived from contributions
15 by one or more public employers.

16 (19) "Police officer" includes:

17 (a) Employees of institutions defined in ORS 421.005 as Department of
18 Corrections institutions whose duties, as assigned by the Director of the
19 Department of Corrections, include the custody of persons committed to the
20 custody of or transferred to the Department of Corrections and employees
21 of the Department of Corrections who were classified as police officers on
22 or before July 27, 1989, whether or not such classification was authorized
23 by law.

24 (b) Employees of the Department of State Police who are classified as
25 police officers by the Superintendent of State Police.

26 (c) Employees of the Oregon Liquor Control Commission who are classi-
27 fied as regulatory specialists by the administrator of the commission.

28 (d) Sheriffs and those deputy sheriffs or other employees of a sheriff
29 whose duties, as classified by the sheriff, are the regular duties of police
30 officers or corrections officers.

31 (e) Police chiefs and police personnel of a city who are classified as police

officers by the council or other governing body of the city.

(f) Police officers who are commissioned by a university under ORS 352.121 or 353.125 and who are classified as police officers by the university.

(g) Parole and probation officers employed by the Department of Corrections, parole and probation officers who are transferred to county employment under ORS 423.549 and adult parole and probation officers, as defined in ORS 181A.355, who are classified as police officers for the purposes of this chapter by the county governing body. If a county classifies adult parole and probation officers as police officers for the purposes of this chapter, and the employees so classified are represented by a labor organization, any proposal by the county to change that classification or to cease to classify adult parole and probation officers as police officers for the purposes of this chapter is a mandatory subject of bargaining.

(h) Police officers appointed under ORS 276.021 or 276.023.

(i) Employees of the Port of Portland who are classified as airport police by the Board of Commissioners of the Port of Portland.

(j) Employees of the State Department of Agriculture who are classified as livestock police officers by the Director of Agriculture.

(k) Employees of the Department of Public Safety Standards and Training who are classified by the department as other than secretarial or clerical personnel.

(L) Investigators of the Criminal Justice Division of the Department of Justice.

(m) Corrections officers as defined in ORS 181A.355.

(n) Employees of the Oregon State Lottery Commission who are classified by the Director of the Oregon State Lottery as enforcement agents pursuant to ORS 461.110.

(o) The Director of the Department of Corrections.

(p) An employee who for seven consecutive years has been classified as a police officer as defined by this section, and who is employed or transferred by the Department of Corrections to fill a position designated by the Direc-

tor of the Department of Corrections as being eligible for police officer status.

(q) An employee of the Department of Corrections classified as a police officer on or prior to July 27, 1989, whether or not that classification was authorized by law, as long as the employee remains in the position held on July 27, 1989. The initial classification of an employee under a system implemented pursuant to ORS 240.190 does not affect police officer status.

[(r) Employees of a school district who are appointed and duly sworn members of a law enforcement agency of the district as provided in ORS 332.531 or otherwise employed full-time as police officers commissioned by the district.]

[(s)] (r) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050, 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who have supervisory, control or teaching responsibilities over juveniles committed to the custody of the Department of Corrections or the Oregon Youth Authority.

[(t)] (s) Employees at youth correction facilities as defined in ORS 420.005 whose primary job description involves the custody, control, treatment, investigation or supervision of juveniles placed in such facilities.

[(u)] (t) Employees of the Oregon Youth Authority who are classified as juvenile parole and probation officers.

[(v)] (u) Employees of the Department of Human Services who are prohibited from striking under ORS 243.726 and whose duties include the care of residents of residential facilities, as defined in ORS 443.400, that house individuals with intellectual or developmental disabilities.

(20) "Prior service credit" means credit provided under ORS 238.442 or under ORS 238.225 (2) to (6) (1999 Edition).

(21) "Public employer" means the state, one of its agencies, any city, county, or municipal or public corporation, any political subdivision of the state or any instrumentality thereof, or an agency created by one or more such governmental organizations to provide governmental services. For pur-

poses of this chapter, such agency created by one or more governmental organizations is a governmental instrumentality and a legal entity with power to enter into contracts, hold property and sue and be sued.

(22) "Qualifying position" means one or more jobs with one or more participating public employers in which an employee performs 600 or more hours of service in a calendar year, excluding any service in a job for which a participating public employer does not provide benefits under this chapter pursuant to an application made under ORS 238.035.

(23) "Regular account" means the account established for each active and inactive member under ORS 238.250.

(24) "Retired member" means a member who is retired for service or disability.

(25) "Retirement credit" means a period of time that is treated as creditable service for the purposes of this chapter.

(26)(a) "Salary" means the remuneration paid an employee in cash out of the funds of a public employer in return for services to the employer, plus the monetary value, as determined by the Public Employees Retirement Board, of whatever living quarters, board, lodging, fuel, laundry and other advantages the employer furnishes the employee in return for services.

(b) "Salary" includes but is not limited to:

(A) Payments of employee and employer money into a deferred compensation plan, which are deemed salary paid in each month of deferral;

(B) The amount of participation in a tax-sheltered or deferred annuity, which is deemed salary paid in each month of participation;

(C) Retroactive payments described in ORS 238.008; and

(D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS 652.190.

(c) "Salary" or "other advantages" does not include:

(A) Travel or any other expenses incidental to employer's business which is reimbursed by the employer;

(B) Payments for insurance coverage by an employer on behalf of em-

1 ployee or employee and dependents, for which the employee has no cash op-
2 tion;

3 (C) Payments made on account of an employee's death;

4 (D) Any lump sum payment for accumulated unused sick leave;

5 (E) Any accelerated payment of an employment contract for a future pe-
6 riod or an advance against future wages;

7 (F) Any retirement incentive, retirement severance pay, retirement bonus
8 or retirement gratuitous payment;

9 (G) Payments for periods of leave of absence after the date the employer
10 and employee have agreed that no future services qualifying pursuant to ORS
11 238.015 (3) will be performed, except for sick leave and vacation;

12 (H) Payments for instructional services rendered to public universities
13 listed in ORS 352.002 or the Oregon Health and Science University when
14 such services are in excess of full-time employment subject to this chapter.
15 A person employed under a contract for less than 12 months is subject to this
16 subparagraph only for the months to which the contract pertains;

17 (I) Payments made by an employer for insurance coverage provided to a
18 domestic partner of an employee;

19 (J) Compensation described and authorized under ORS 341.556 that is not
20 paid by the community college employing the faculty member;

21 (K) Compensation described and authorized under ORS 352.232 that is not
22 paid by the public university employing the officer or employee;

23 (L) Compensation described and authorized under ORS 353.270 that is not
24 paid by Oregon Health and Science University; or

25 (M) For years beginning on or after January 1, 2020, any amount in excess
26 of \$195,000 for a calendar year. If any period over which salary is determined
27 is less than 12 months, the \$195,000 limitation for that period shall be
28 multiplied by a fraction, the numerator of which is the number of months in
29 the determination period and the denominator of which is 12. On January 1
30 of each year, the board shall adjust the dollar limit provided by this sub-
31 paragraph to reflect any percentage changes in the Consumer Price Index for

1 All Urban Consumers, West Region (All Items), as published by the Bureau
2 of Labor Statistics of the United States Department of Labor.

3 (27) "School year" means the period beginning July 1 and ending June 30
4 next following.

5 (28) "System" means the Public Employees Retirement System.

6 (29) "Variable account" means the account established for a member who
7 participates in the Variable Annuity Account under ORS 238.260.

8 (30) "Vested" means being an active member of the system in each of five
9 calendar years.

10 (31) "Volunteer firefighter" means a firefighter whose position normally
11 requires less than 600 hours of service per year.

12 **SECTION 4.** ORS 339.250 is amended to read:

13 339.250. (1) Public school students shall comply with rules for the gov-
14 ernment of such schools, pursue the prescribed course of study, use the pre-
15 scribed textbooks and submit to the teachers' authority.

16 (2) Each district school board shall adopt written policies for the disci-
17 pline, suspension or expulsion of any refractory student. The policies:

18 (a) May allow discipline, suspension or expulsion for conduct that in-
19 cludes, but is not limited to:

20 (A) Willful disobedience;

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

22 (C) Possession or distribution of tobacco, alcohol, drugs or other con-
23 trolled substances;

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

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

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

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

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

31 (b) Must require consideration of the age of a student and the past pat-

tern of behavior of a student prior to imposing the suspension or expulsion of a student.

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

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

(B) When other strategies to change student conduct have been ineffective, except that expulsion may not be used to address truancy; or

(C) When the expulsion is required by law.

(d) In addition to any limitations imposed by paragraph (c) of this subsection, for a student who is in fifth grade or lower, must limit the use of out-of-school suspension or of expulsion to the following circumstances:

(A) For nonaccidental conduct causing serious physical harm to a student or school employee;

(B) When a school administrator determines, based upon the administrator's observation or upon a report from a school employee, that the student's conduct poses a direct threat to the health or safety of students or school employees; or

(C) When the suspension or expulsion is required by law.

(e) When an out-of-school suspension is imposed as provided under paragraph (d) of this subsection, must require the school district to take steps to prevent the recurrence of the behavior that led to the out-of-school suspension and return the student to a classroom setting so that the disruption of the student's academic instruction is minimized.

(f) Must be limited so that:

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

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

(g) Must limit the situations for which a law enforcement agency is contacted to incidents that place a school employee or another student in fear of imminent serious physical injury or to incidents that may constitute a crime.

[(g)] (h) Notwithstanding ORS 336.010, may require a student to attend

1 school during nonschool hours as an alternative to suspension if the total
2 number of hours does not exceed the equivalent of 10 school days.

3 (3) Pursuant to the policies adopted as provided by subsection (2) of this
4 section, each school district shall develop a student handbook, code of con-
5 duct or other document that:

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

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

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

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

13 (e) Makes the system of consequences known to the school community
14 through the dissemination of information to students, parents, legal guardi-
15 ans and school district employees.

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

20 (a) Staff reporting methods.

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

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

25 (B) Placing the student in a setting where the behavior will receive im-
26 mediate attention, including, but not limited to, the office of the school
27 principal, vice principal, assistant principal, counselor or a school psychol-
28 ogist licensed by the Teacher Standards and Practices Commission or the
29 office of any licensed mental health professional.

30 (C) Requiring that a school obtain an evaluation of a student by a li-
31 censed mental health professional before allowing the student to return to

1 the classroom setting. A student who is removed from the classroom setting
2 for an evaluation may not be removed for more than 10 school days unless
3 the administrator is able to show good cause that an evaluation could not
4 be completed in that time period. The policy must describe the circumstances
5 under which the district school board may enter into contracts with licensed
6 mental health professionals to perform any evaluations required under this
7 subparagraph.

8 (c) The requirement that an administrator provide to the parent or legal
9 guardian of the student notification that describes the student's behavior and
10 the school's response.

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

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

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

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

17 (c) Foster positive learning communities;

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

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

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

24 (g) Employ a range of strategies for prevention, intervention and disci-
25 pline that take into account a student's developmental capacities and that
26 are proportionate to the degree and severity of the student's misbehavior;

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

31 (A) Following a second or subsequent occurrence within any three-year

1 period of a severe disciplinary problem with the student; or

2 (B) When a parent or legal guardian applies for the student's exemption
3 from compulsory attendance on a semiannual basis as provided in ORS
4 339.030 (2);

5 (i) To the extent practicable, use approaches that are shown through re-
6 search to be effective in reducing student misbehavior and promoting safe
7 and productive social behavior; and

8 (j) Ensure that school conduct and discipline codes comply with all state
9 and federal laws concerning the education of students with disabilities.

10 (6) Except for policies adopted under subsection (7) of this section, any
11 policies adopted under this section must provide for the dissemination of
12 information about alternative programs of instruction or instruction com-
13 bined with counseling, as described in subsection (5)(h) of this section, in
14 writing to the student and the parent, legal guardian or person in parental
15 relationship with the student at least once every six months, unless the in-
16 formation has changed because of the availability of new programs.

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

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

21 (A) Brought a firearm to a school, to school property under the jurisdic-
22 tion of the school district or to an activity under the jurisdiction of the
23 school district;

24 (B) Possessed, concealed or used a firearm in a school, on school property
25 under the jurisdiction of the school district or at an activity under the ju-
26 risdiction of the school district; or

27 (C) Brought to or possessed, concealed or used a firearm at an inter-
28 scholastic activity administered by a voluntary organization.

29 (b) Allow exceptions:

30 (A) For courses, programs and activities approved by the school district
31 that are conducted on school property, including, but not limited to, hunter

safety courses, Reserve Officer Training Corps programs, firearm-related sports or firearm-related vocational courses; and

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

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

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

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

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

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

(8) Each district school board shall adopt and disseminate written policies for the use of physical force upon a student. The policies must allow an individual who is a teacher, administrator, school employee or school volunteer to use reasonable physical force upon a student when and to the extent the application of force is consistent with ORS 339.285 to 339.303.

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

(b) As used in this subsection:

(A) "Corporal punishment" means the willful infliction of, or willfully

causing the infliction of, physical pain on a student.

(B) “Corporal punishment” does not include:

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

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

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

(a) As a half day if the student is out of school for half, or less than half, of the scheduled school day; and

(b) As a full day if the student is out of school for more than half of the scheduled school day.

SECTION 5. Any school district that, on the effective date of this 2021 Act, has a law enforcement agency or employs law enforcement personnel, as authorized by ORS 332.531, must dissolve the law enforcement agency and cease to employ law enforcement agency personnel.

SECTION 6. (1) Any school district that, on the effective date of this 2021 Act, had a law enforcement agency, employed law enforcement personnel or otherwise had a contract or other agreement with a law enforcement agency to assign members of a law enforcement agency to the schools of the school district must redistribute moneys that had been budgeted for those purposes to community outreach and to meeting students’ mental and behavioral health needs.

(2) This section is repealed on June 30, 2023.

SECTION 7. ORS 332.531 is repealed.