

D R A F T

SUMMARY

Requires school districts to make annual report related to incidences of out-of-school suspensions or expulsions. Prescribes required components of reports.

A BILL FOR AN ACT

Relating to reports on the use of certain disciplinary measures in schools; amending ORS 339.250.

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

SECTION 1. ORS 339.250 is amended to read:

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

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

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

(A) Willful disobedience;

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

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

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

(E) Willful damage or injury to school property;

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

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

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

4 (b) Must require consideration of the age of a student and the past pat-
5 tern of behavior of a student prior to imposing the suspension or expulsion
6 of a student.

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

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

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

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

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

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

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

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

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

28 (f) Must be limited so that:

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

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

31 (g) Notwithstanding ORS 336.010, may require a student to attend school

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

3 **(h) Must require an annual reporting to the Department of Educa-**
4 **tion of all incidences of out-of-school suspensions or expulsions that**
5 **occurred in the school district during the previous school year. The**
6 **report must accurately reflect the following information, regardless**
7 **of any legal agreements entered into in relation to a specific student**
8 **and regardless of the information contained in a student's education**
9 **record as the result of a legal agreement:**

10 **(A) The number of incidences of out-of-school suspensions or ex-**
11 **pulsions that occurred in each school of the school district for the**
12 **school year.**

13 **(B) The median number of school days missed during the school**
14 **year as the result of out-of-school suspensions and expulsions.**

15 **(C) To the extent that the confidentiality of students may be**
16 **maintained, the demographics of the students who received out-of-**
17 **school suspensions and expulsions, including the grade, gender and**
18 **race of the students and whether any of the students has an individ-**
19 **ualized education program or a plan developed in accordance with**
20 **section 504 of the Rehabilitation Act of 1978, 29 U.S.C. 794.**

21 **(D) Any other information required by the State Board of Education**
22 **by rule.**

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

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

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

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

31 (d) Establishes a system of consequences that are designed to correct

1 student misconduct and promote behavior within acceptable norms; and

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

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

9 (a) Staff reporting methods.

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

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

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

19 (C) Requiring that a school obtain an evaluation of a student by a li-
20 censed mental health professional before allowing the student to return to
21 the classroom setting. A student who is removed from the classroom setting
22 for an evaluation may not be removed for more than 10 school days unless
23 the administrator is able to show good cause that an evaluation could not
24 be completed in that time period. The policy must describe the circumstances
25 under which the district school board may enter into contracts with licensed
26 mental health professionals to perform any evaluations required under this
27 subparagraph.

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

31 (d) A provision for the allocation of any funds necessary for the school

1 district to implement the policies described in this subsection.

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

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

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

6 (c) Foster positive learning communities;

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

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

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

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

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

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

22 (B) When a parent or legal guardian applies for the student's exemption
23 from compulsory attendance on a semiannual basis as provided in ORS
24 339.030 (2);

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

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

30 (6) Except for policies adopted under subsection (7) of this section, any
31 policies adopted under this section must provide for the dissemination of

1 information about alternative programs of instruction or instruction com-
2 bined with counseling, as described in subsection (5)(h) of this section, in
3 writing to the student and the parent, legal guardian or person in parental
4 relationship with the student at least once every six months, unless the in-
5 formation has changed because of the availability of new programs.

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

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

10 (A) Brought a firearm to a school, to school property under the jurisdic-
11 tion of the school district or to an activity under the jurisdiction of the
12 school district;

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

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

18 (b) Allow exceptions:

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

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

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

25 (A) Modify the expulsion requirement for a student on a case-by-case ba-
26 sis.

27 (B) Propose alternative programs of instruction or instruction combined
28 with counseling for a student that are appropriate and accessible to the
29 student. If alternative programs are appropriate for a student, the super-
30 intendent shall ensure that information about programs of instruction or
31 instruction combined with counseling is provided in writing to the student

1 and the parent, legal guardian or person in parental relationship with the
2 student at least once every six months, or at any time the information
3 changes because of the availability of new programs.

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

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

9 (8) Each district school board shall adopt and disseminate written policies
10 for the use of physical force upon a student. The policies must allow an in-
11 dividual who is a teacher, administrator, school employee or school volunteer
12 to use reasonable physical force upon a student when and to the extent the
13 application of force is consistent with ORS 339.291.

14 (9)(a) The authority to discipline a student does not authorize the in-
15 fliction of corporal punishment. Every resolution, bylaw, rule, ordinance or
16 other act of a district school board, a public charter school or the Depart-
17 ment of Education that permits or authorizes the infliction of corporal pun-
18 ishment upon a student is void and unenforceable.

19 (b) As used in this subsection:

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

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

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

25 (ii) Physical pain or discomfort resulting from or caused by participation
26 in athletic competition or other such recreational activity, voluntarily en-
27 gaged in by a student.

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

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

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

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