



December 17, 2020

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On behalf of OSBA membership, including 197 school districts, 19 Education Service Districts, and 17 community colleges throughout the state of Oregon, thank you for the opportunity to testify in support of LC 21, which would protect public school districts from lawsuits during this unprecedented COVID-19 pandemic.

The bill would prohibit lawsuits against school districts, community colleges, ESDs, and public charter schools for COVID-related damages. This protection would be limited. Districts would only be eligible for this protection if staff adhered to all safety protocols required by federal and state law. The protection would not extend to reckless, wanton, or intentional conduct. The protection would only exist for the duration of the declared emergency period of the pandemic. And, of course, the district must be eligible for in-person instruction under Governor Brown's public health metrics system.

The bill intentionally targets only COVID-19 damages. It would not make any changes to existing specialized instruction laws that protect a student's right to a free and appropriate public education. Additionally, this legislation will not limit employee rights under state and federal laws prohibiting discrimination and retaliation in the workplace. At the request of stakeholders, it includes provisions designed to clarify that the Oregon statutory whistleblower laws provide the same level of protection for contracted employees as for school employees.

The bill is necessary because of the risk COVID-19 damages represent to individual districts. In other areas, districts commonly use a familiar tool to mitigate risk: insurance. If insurance were an option, then districts would likely use it as a tool to mitigate COVID-19 risk. However, since the onset of the pandemic, the international insurance market has stopped offering infectious disease insurance. Schools are unable to purchase insurance. It is simply not available.

Without the option to insure against COVID damages any judgment against a district would have to come out of operational funds. The potential damages for just one COVID infection are large enough that one case could surpass the annual budget for some of our smaller districts. In the face of this level of risk, school district leaders will likely keep public access to district facilities greatly curtailed, continuing the harm to students, parents, and the broader community.

There is dire need for this bill. Oregon schools have been working tirelessly to adapt to the coronavirus pandemic and to minimize disruptions to our children's education. But despite their best efforts, distance learning cannot replace what is provided in the classroom – particularly for students struggling with connectivity issues and our traditionally underserved students. These students, in particular, are suffering.

Please support LC 21 with a yes vote during the upcoming third special session of 2020. I am happy to answer any questions from the committee.

Sincerely,

A handwritten signature in black ink that reads "Lori Sattenspiel". The signature is written in a cursive, flowing style.

Lori Sattenspiel  
Director of Legislative Services, Oregon School Boards Association