

DRAFT

SUMMARY

Directs State Board of Education to adopt by rule procedures for receiving and investigating complaints of violations of safety, discrimination and welfare laws.

Prescribes requirements for process of taking complaint that school or education service district is nonstandard.

Expands investigative authority of Superintendent of Public Instruction to investigate and resolve complaints of violations relating to special education or early childhood special education.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to violations of education law; creating new provisions; amending ORS 327.102, 334.217, 339.303 and 343.041; and declaring an emergency.

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

SECTION 1. (1) As used in this section, “violations of safety, discrimination and welfare laws” means violations of:

(a) Any requirement for which a school district may be found nonstandard under ORS 327.103.

(b) Any requirement for which an education service district may be found nonstandard under ORS 334.217.

(c) Any of the following statutes or any rules promulgated pursuant to any of the following statutes:

(A) ORS 332.075 (1)(g) (Native American mascots).

(B) ORS 339.115 (admission of students).

(C) ORS 339.250 or 339.252 (discipline).

(D) ORS 339.256 (access to specialized learning areas or common

1 areas).

2 (E) ORS 339.285 to 339.303 and 339.308 (restraint and seclusion).

3 (F) ORS 343.161 (abbreviated school days).

4 (G) ORS 659.850 or 659.852 (discrimination and retaliation in educa-
5 tion).

6 (H) ORS 659A.006 (1) or (2) (unlawful discrimination).

7 (d) Any other violations of statute or rule identified by the State
8 Board of Education.

9 (2) The board shall adopt by rule procedures for receiving and in-
10 vestigating complaints of violations of safety, discrimination and wel-
11 fare laws and for resolving any violations.

12 (3)(a) The procedures adopted under this section must allow for in-
13 vestigations of violations of safety, discrimination and welfare laws to
14 be initiated for any individual student or any class or group of stu-
15 dents. The Department of Education may immediately initiate an in-
16 vestigation:

17 (A) When the department has reasonable cause to believe that a
18 violation has occurred, which may be based on a complaint or on in-
19 formation from a credible source; and

20 (B) Before a final decision has been made by a school district or an
21 education service district, if failure to immediately correct the vio-
22 lation may:

23 (i) Result in physical or emotional harm to a student or an em-
24 ployee or a volunteer of the school district or education service dis-
25 trict;

26 (ii) Cause a student to be denied five or more full or partial in-
27 structional days, as compared to other students in the same school
28 district or education service district in the same grade, that are pro-
29 vided in person or virtually, or any combination thereof; or

30 (iii) Cause a student to be denied 10 or more full or partial in-
31 structional days, as compared to other students in the same school

district or education service district in the same grade, that are provided in person.

(b) For the purpose of paragraph (a)(B) of this subsection, calculations of denied instructional days shall include any full or partial instructional days denied before a complaint is received, an investigation is commenced or an investigation is completed.

(c) When the department initiates an investigation as provided by this section, the department must provide written notification of the investigation to the school district or education service district that may be in violation of safety, discrimination and welfare laws.

(4)(a) Notwithstanding ORS 327.103 and 334.217, if a school district or an education service district is found in violation of safety, discrimination and welfare laws, the department may immediately take any of the following actions:

(A) Issue technical guidance;

(B) Issue a corrective action plan;

(C) Issue a penalty authorized under law in relation to the violation;

(D) Withhold State School Fund moneys; or

(E) Take any other action prescribed by the board by rule.

(b) Nothing in this subsection prohibits the Superintendent of Public Instruction from taking any action authorized by ORS 327.103 or 334.217.

SECTION 2. ORS 327.102 is amended to read:

327.102. (1) The State Board of Education shall adopt by rule requirements for the process that a school district must use when the district receives a complaint pertaining to whether a school in the district is a standard school as defined in ORS 327.006.

(2) The rules adopted by the board shall require school districts to establish and implement a process for the prompt resolution of a complaint and shall require the [process] school district to:

(a) Accept complaints made by, or on behalf of, any resident of this

state;

(b) Accept complaints submitted in any language;

(c) Prescribe the information required to be submitted when a person makes a complaint, but not require a complaint to be submitted on a specific form or in a specific format and not require the complaint to refer to specific statutes or regulations;

(d) Notify a person making a complaint when a complaint is incomplete, specify the information that is necessary for the specific complaint to be considered complete and allow a completed complaint to be resubmitted;

[(a)] (e) Have specific timelines for the completion of the investigation and resolution process by both the district and the person making the complaint;

[(b)] (f) Have a specific time period within which the district must make a final decision on a complaint, after which the final decision on the complaint may be appealed to the Superintendent of Public Instruction; and

[(c)] (g) Recognize that if a district does not provide a written decision within the specific time period, failure to provide such a decision will be regarded as the district's final decision.

(3) Nothing in this section prevents the investigation of complaints as provided by section 1 of this 2022 Act.

SECTION 3. ORS 334.217 is amended to read:

334.217. (1) The State Board of Education by rule shall establish standards to determine the adequacy of services and facilities provided by the education service districts. In establishing such standards, the [state] board shall consider the most economic method of providing services and facilities, the quality of the services and facilities according to the best educational standards, and the needs of the students.

(2)(a) The board shall adopt by rule requirements for the process that an education service district must use when the district receives a complaint pertaining to whether the district meets the standards

1 established under this section. The rules adopted by the board shall
2 require education service districts to establish and implement a pro-
3 cess for the prompt resolution of a complaint and shall require the
4 education service district to:

5 (A) Accept complaints made by, or on behalf of, any resident of this
6 state;

7 (B) Accept complaints submitted in any language;

8 (C) Prescribe the information required to be submitted when a
9 person makes a complaint, but not require a complaint to be submit-
10 ted on a specific form or in a specific format and not require the
11 complaint to refer to specific statutes or regulations;

12 (D) Notify a person making a complaint when a complaint is in-
13 complete, specify the information that is necessary for the specific
14 complaint to be considered complete and allow a completed complaint
15 to be resubmitted;

16 (E) Have specific timelines for the completion of the investigation
17 and resolution process by both the district and the person making the
18 complaint;

19 (F) Have a specific time period within which the district must make
20 a final decision on a complaint, after which the final decision on the
21 complaint may be appealed to the Superintendent of Public Instruc-
22 tion; and

23 (G) Recognize that if a district does not provide a written decision
24 within the specific time period, failure to provide such a decision will
25 be regarded as the district's final decision.

26 (b) Nothing in this subsection prevents the investigation of com-
27 plaints as provided by section 1 of this 2022 Act.

28 [(2)] (3) When the Superintendent of Public Instruction determines pur-
29 suant to rule that an education service district is nonstandard, the district
30 designated nonstandard shall file a plan to meet standards over a specified
31 period of time. The Superintendent of Public Instruction may accept, reject

or modify the plan and order the nonstandard district to comply with the plan as approved by the superintendent. Once a plan is approved, the district shall be conditionally standard until all deficiencies are corrected. If a district corrects all deficiencies, the district shall be designated as standard. The district shall have 180 days from the date the plan is accepted to make all corrections. After that time, the Superintendent of Public Instruction may impose sanctions on the district if the district has not made the necessary corrections.

[(3)] (4) The [state] board shall establish by rule appropriate sanctions for noncompliance. The sanctions may include:

- (a) Mandatory merger of the nonstandard education service district with a contiguous education service district that is standard;
- (b) The sanctions described in ORS 342.173, if applicable;
- (c) The withholding of funds from the State School Fund;
- (d) The removal of the superintendent of the education service district;
- (e) The temporary governance of the education service district by the [state] board; or
- (f) Dissolution of the education service district.

SECTION 4. ORS 339.303 is amended to read:

339.303. The State Board of Education shall adopt by rule:

(1) A process for an organization or an individual to submit to the Superintendent of Public Instruction a written, signed complaint alleging that a public education program is violating or has violated a provision of ORS 339.285 to 339.303. The complaint must indicate that, prior to submitting the complaint to the superintendent, the organization or individual *[attempted to seek a remedy for the complaint from the board or governing body overseeing the entity that has jurisdiction over]* **made a written or oral report to** the public education program against which the complaint is being submitted.

(2) A process for investigating a complaint submitted under subsection (1) of this section.

(3) The minimum standards for any rooms used by a public education

program for seclusion of a student. The standards must:

(a) Take into account the health and safety of students and personnel of the public education program and the respect and dignity of students; and

(b) Include consideration of the size, safety features, lighting and ventilation of the rooms.

SECTION 5. ORS 343.041 is amended to read:

343.041. (1) Pursuant to rules of the State Board of Education, the Superintendent of Public Instruction shall be responsible for the general supervision of all special education programs for children with disabilities, early childhood special education and early intervention services for preschool children with disabilities within the state, including all such programs administered by any state agency or common or union high school district or education service district.

(2) All special education programs for children with disabilities, early childhood special education and early intervention services for preschool children with disabilities within this state shall meet the standards and criteria established therefor by the State Board of Education.

(3) The State Board of Education shall adopt by rule procedures whereby the superintendent investigates and resolves complaints that the Department of Education, a local education agency or an early intervention or early childhood special education contractor has violated a federal **or state** law or statute that applies to [a] special education or early childhood special education [program]. **Nothing in this subsection may be construed to prevent the superintendent or department from investigating and providing a resolution for any of the following:**

(a) **Violations not identified in the complaint if, during the course of an investigation, other violations of federal or state law or statute that apply to special education or early childhood special education are discovered;**

(b) **Violations of federal or state law or statute that apply to special education or early childhood special education and that are not limited**

1 **in applicability to a specific child if the complaint alleges, or the su-**
 2 **perintendent finds, that the violation applies to a class or group of**
 3 **children; or**

4 **(c) Violations of federal or state law or statute that do not apply**
 5 **to special education or early childhood special education if, during the**
 6 **course of an investigation, violations of other federal or state laws or**
 7 **statutes are discovered and the superintendent or department is re-**
 8 **quired or allowed to investigate those violations.**

9 (4) The State Board of Education shall adopt rules relating to the estab-
 10 lishment and maintenance of standards to ensure that personnel providing
 11 special education and early childhood special education and early inter-
 12 vention services are appropriately and adequately trained.

13 (5) The Governor shall direct that agencies affected by this section enter
 14 into cooperative agreements to achieve necessary uniformity in meeting the
 15 standards and criteria established by the state board under subsection (2) of
 16 this section.

17 (6) The Governor shall direct that each public agency obligated under
 18 federal or state law to provide or pay for any services that are also consid-
 19 ered special education or related services necessary for ensuring a free ap-
 20 propriate public education to children with disabilities, including but not
 21 limited to the Department of Human Services, enter into cooperative agree-
 22 ments with the Department of Education concerning:

23 (a) Allocation among agencies of financial responsibility for providing
 24 services;

25 (b) Conditions, terms and procedures for reimbursement; and

26 (c) Policies and procedures for coordinating timely and appropriate de-
 27 livery of services.

28 (7) All cooperative agreements entered into under subsections (5) and (6)
 29 of this section shall include procedures for resolving interagency disputes.

30 **SECTION 6. This 2022 Act being necessary for the immediate pres-**
 31 **ervation of the public peace, health and safety, an emergency is de-**

1 **clared to exist, and this 2022 Act takes effect on its passage.**

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