

# D R A F T

## SUMMARY

Clarifies education duties of State Board of Education, Department of Education, Superintendent of Public Instruction and district school boards.

### A BILL FOR AN ACT

Relating to the distribution of education duties; amending ORS 326.051, 326.111, 326.310, 329.085 and 332.107.

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

**SECTION 1.** ORS 326.051 is amended to read:

326.051. [*Subject to ORS 417.300 and 417.305:*] **(1) The State Board of Education is charged with the duty of providing supervision, management and control of:**

**(a) The public elementary and secondary schools of this state; and**

**(b) Early childhood special education and early intervention services provided in this state.**

[(1)] **(2)** In addition to such other duties as are prescribed by law and pursuant to the requirement of ORS chapter 183, the State Board of Education shall:

(a) Establish state standards for public kindergartens and public elementary and secondary schools consistent with the policies stated in ORS 326.011.

(b) Adopt rules for the general governance of public kindergartens and public elementary and secondary schools.

(c) Prescribe required or minimum courses of study.

(d) Adopt rules for public kindergartens and public elementary and sec-

ondary schools consistent with the policy stated in ORS 342.437.

(e) Adopt rules regarding school and interscholastic activities.

(f) Adopt rules that provide that no public elementary or secondary school shall discriminate in determining participation in interscholastic activities. As used in this paragraph, “discrimination” has the meaning given that term in ORS 659.850.

(g) Adopt rules that will eliminate the use and purchase of elemental mercury, mercury compounds and mercury-added instructional materials by public elementary and secondary schools.

[(2)] **(3)** The State Board of Education may:

(a) Consistent with the laws of this state, accept money or property not otherwise provided for under paragraph (b) of this subsection, which is donated for the use or benefit of the public kindergartens and public elementary and secondary schools and use such money or property for the purpose for which it was donated. Until it is used, the board shall deposit any money received under this paragraph in a special fund with the State Treasurer as provided in ORS 293.265 to 293.275.

(b) Apply for federal funds, accept and enter into any contracts or agreements on behalf of the state for the receipt of funds from the federal government or its agencies and disburse or expend the federal funds as provided by ORS 327.128. This paragraph applies to federal funds to be used for:

(A) Educational purposes, including but not limited to any funds available for the school lunch program;

(B) Career and technical education programs in public elementary and secondary schools; and

(C) Any grants available to the state or its political subdivisions for general federal aid for public kindergartens, public elementary schools and public secondary schools and their auxiliary services, improvement of teacher preparation, teacher salaries, construction of school buildings, administration of the Department of Education and any other educational activities under the jurisdiction of the State Board of Education.

(c) Adopt rules to administer the United States Department of Agriculture's National School Lunch Program and School Breakfast Program for public and private prekindergarten through grade 12 schools and residential child care facilities.

**SECTION 2.** ORS 326.111 is amended to read:

326.111. (1) The Department of Education is created and shall function under the direction and control of the State Board of Education with the Superintendent of Public Instruction serving as an administrative officer for public school matters.

(2) The Department of Education shall consist of:

(a) Agencies and officers that are added by law to the Department of Education; and

(b) The administrative organizations and staffs required for the performance of the department's functions.

(3) All administrative functions of the State Board of Education shall be exercised through the Department of Education, and the department shall exercise all administrative functions of the state relating to supervision, management and control of **public elementary and secondary schools and early childhood special education and early intervention services** not conferred by law on some other agency[.], **including the enforcement of state and federal directives that:**

(a) **Have the force of law, including statutes, court decisions, administrative rules and regulations, orders issued in compliance with ORS chapter 183, executive orders and any other directives, declarations or statements that are issued in compliance with the law as having the force of law;**

(b) **Are issued by the state government, as defined in ORS 174.111, or by the federal government with administrative or enforcement functions delegated to the state education agency; and**

(c) **Relate to the administration and operation of the public elementary and secondary schools of this state or to early childhood**

**special education and early intervention services provided in this state.**

**SECTION 3.** ORS 326.310 is amended to read:

326.310. Except as provided by ORS 326.041, 326.051, 341.015, 341.440, 341.455, 341.626, 341.655 and 341.933, the Superintendent of Public Instruction shall exercise, under the direction of the State Board of Education, a general superintendence of school officers and the public schools. In carrying out the duties of office, the Superintendent of Public Instruction shall:

(1) Act as administrative officer of the State Board of Education, **including overseeing the administrative functions of the state relating to the supervision, management and control of public elementary and secondary schools and early childhood special education and early intervention services.**

(2) Act as executive head of the Department of Education and direct and supervise all activities of the department, **including enforcing the state and federal directives described in ORS 326.111 (3).**

(3) Assist all district school boards and education service district boards in answering questions concerning the proper administration of the school laws, the rules of the State Board of Education and the ministerial duties of school officers and teachers. The decision of the superintendent shall guide school officers and teachers in the performance of their duties relating to the matters decided. The superintendent may submit any question to the State Board of Education which shall then decide the question.

(4) Obtain and compile such statistical information relative to the condition and operation of the public schools as the superintendent or the state board may consider advisable for the advancement of education and for the information of the state board and the public.

(5) Appoint, subject to the State Personnel Relations Law and with the approval of the State Board of Education, such personnel as may be necessary for the performance of the duties of the office of the superintendent. The Superintendent of Public Instruction may designate one or more suitable persons to sign or countersign warrants, vouchers, certificates or other pa-

pers and documents requiring the signature of the superintendent.

(6) Administer and supervise adult education programs in the public elementary and secondary schools.

(7) Perform such other functions as may be necessary to the performance of the duties of the superintendent.

**SECTION 4.** ORS 332.107 is amended to read:

332.107. (1) **As used in this section, “state and federal law” means a state or federal directive that:**

(a) **Has the force of law, including a statute, a court decision, an administrative rule or regulation, an order issued in compliance with ORS chapter 183, an executive order or any other directive, declaration or statement that is issued in compliance with the law as having the force of law;**

(b) **Is issued by the state government, as defined in ORS 174.111, or by the federal government with administrative or enforcement functions delegated to the state education agency; and**

(c) **Relates to the administration and operation of the public elementary and secondary schools of this state.**

(2) Each district school board shall **exercise local control and** establish rules for the government of the schools and pupils **of the school district overseen by the district school board. Actions and rules of the district school board must be** consistent with [*the rules of the State Board of Education*] **state and federal law.**

**SECTION 5.** ORS 329.085 is amended to read:

329.085. (1) To facilitate the attainment and successful implementation of educational standards under ORS 326.051 [(1)(a)] **(2)(a)** and 329.025, the State Board of Education or its designee shall assess the effectiveness of each public school, public charter school and school district. The findings of the assessment shall be reported to the school or school district within six months.

(2) The board shall establish the standards, including standards of acces-

1 sibility to educational opportunities, upon which the assessment is based.  
2 (3) On a periodic basis, the board shall review school and school district  
3 standards and credit and performance requirements. The board shall seek  
4 public input in this process.

5 \_\_\_\_\_