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Colt Gill

Deputy Superintendent of Public Instruction

HB 2945 - Relating To School Discipline

House Education Committee

March 16, 2021

Chair Alonso Leon, Vice-Chair Weber, Vice-Chair Neron, and members of the House Education Committee, I am Jessica Ventura, Government Relations Director for the Oregon Department of Education. I am submitting information for the committee to consider as you deliberate HB 2945. ODE has no position on the bill.

Current Law

- [ORS 339.250](#): Duty of student to comply with rules.
- ORS 339.250 requires school districts to adopt written policies for the discipline, suspension or expulsion of any refractory student.

ODE currently [collects data related to student discipline](#) that results in exclusion (In-School Suspensions; Out-of-School Suspensions; Expulsions; Removal to an Interim Alternative Educational Setting), as is federally required. All Oregon public education programs submit an annual report related to discipline that results in exclusion to the Department. This information is shared in compliance with the [USDOE ED Facts initiative](#). This information is also reported annually in the Oregon [Statewide Annual Report Card](#) and for The Every Student Succeeds Act (ESSA) – [Unsafe School Choice Option](#) (USCO). Additionally, it is federally required for school districts to examine disproportionate discipline and other [equity indicators](#) for IDEA eligible students who received long-term suspensions/expulsions.

Problem

As part of their educational experience, schools provide students with access to meals, classwork assigned, support services, access to courses held at other locations, and access to transportation needed for educational purposes. Currently, these services may be temporarily interrupted for students who have been suspended, for the duration of a suspension, based on the unique circumstances of the event. Suspension temporarily removes, from a student, the right to attend school or school activities for no more than 10 school days.

Students who are expelled lose their right to attend the suspending school. Prior to expulsion, the district must propose alternative programs of instruction or instruction combined with counseling to a student subject to expulsion. A student who has been expelled does not

typically receive access to support services or provisions received prior to the expulsion (such as access to classwork or meals) or during the duration of the expulsion.

It is known nationally and within Oregon that specific groups of students (e.g., students of color, students experiencing disability) are disproportionately assigned suspension and/or expulsion as a disciplinary consequence. The current statutory lacks a specific state prescribed requirement for the universal examination of disproportionately imposed discipline. Although it is considered a best practice, outside of federal special education requirements, school districts in Oregon are not currently required to examine discipline data with an equity lens or create an ensuing plan regarding discipline imposed.

Currently, school districts are required to submit an annual report to the Oregon Department of Education that provides information about the school district's discipline that results in an exclusion. This data collection is disaggregated based on demographics, including grade and race and includes the number of days a student was removed. However, there is not currently a mechanism to annually report *all* of a school district's disciplinary actions to the Department of Education.

What HB 2945 Does

If enrolled, this bill will:

1. Ensure that students for whom out-of-school suspensions or expulsions have been imposed, receive the specified services during suspensions or expulsions. Under this bill, school districts will need to ensure that each student who has been suspended or expelled:
 - a. Is provided with classwork assigned during the suspension or expulsion.
 - b. Receives any needed support services, including services to meet the student's mental and behavioral health needs or the student's educational needs.
 - c. Retains access to any courses that are not held at the school that imposed the suspension or expulsion, including career and technical education courses held at another location and dual credit program courses held at a community college.
 - d. Is provided access to transportation needed for educational purposes, including transportation to these courses.
 - e. Students who receive no cost meals receive meals they would have received if not for the suspension or expulsion.

2. Require school districts to submit an annual report to the Oregon Department of Education that provides information about the school district's discipline, suspensions, and expulsions.
 - a. The data must be disaggregated based on demographics, including grade and race.
 - b. Data about out-of-school suspensions (OSS) and expulsions shall include the number of days a student was removed from the classroom.
3. Allows the State Board of Education to adopt rules that enable:
 - a. The Department to determine whether school districts disproportionately impose discipline on any student groups that have historically experienced academic disparities.
4. If the Department makes such a determination about a district, under this bill, the Department:
 - a. Shall assist flagged school districts in developing and implementing a plan to impose discipline in an equitable manner.
 - b. May require the school district to cease to impose out-of-school suspensions and expulsions until the plan developed is implemented.

Equity Impact Analysis

When students are excluded from class they miss academic instructional time, social skill building time and being a part of a larger learning community. Research has shown that students who experience discipline that removes them from the classroom are more likely to repeat a grade, drop out of school, and become involved in the juvenile justice system.

Fiscal:

- One study found that 34% of OSS were issued for non-violent behaviors, such as disruption or willful defiance (Losen et al., 2014).
- A **single** OSS in 9th grade is associated with a 50% increase in dropping out and a 19% decrease in enrollment in postsecondary education (Balfanz et al., 2015).
- Controlling for other risk factors (e.g., antisocial behavior, deviant peer group), receipt of an OSS is a significant predictor of future antisocial behavior (Lee et al., 2011).
- The severity of the exclusionary practice is related to the severity of negative impacts on a student's long-term outcomes. OSS is more strongly related to negative outcomes than in-school suspension (ISS) (Noltemeyer et al., 2015).
- These effects are not seen only for students receiving the exclusion. Schools with high rates of OSS have lower school-wide achievement and lower perceptions of school safety by the student body as a whole (American Psychological Association, 2008).

Students who have been subjected to suspension and/or expulsion face disparities in outcomes and opportunity gaps as they move through the educational system. A March 2018 Government Accountability Office (GAO) study found, according to an analysis of U.S. Department of Education national civil rights data for school year 2013-14, that Black students, boys, and students experiencing disabilities were disproportionately disciplined (e.g., suspensions and expulsions) in K-12 public schools. These disparities were widespread and persisted regardless of the type of disciplinary action, level of school poverty, or type of public school attended. For example, Black students accounted for 15.5 percent of all public school students, but represented about 39 percent of students suspended from school—an overrepresentation of about 23 percentage points.

This is an equity issue, as our education system is responsible for enforcing federal civil rights laws that prohibit discrimination in the administration of discipline in public schools. Assuring that Oregon students graduate from high school, college and career ready requires the state to promote and maintain the engagement and inclusion of ALL learners in healthy learning environments. It is recommended that a racialized equity lens, such as the [Oregon Equity Lens](#), be continually utilized in the adoption of associated rules and plans, to ensure focus on equity is further embedded to better serve all students on their path to graduation.

HB 2945 Fiscal Impact on ODE

Without knowing exact amounts, and assuming legislative intent is for the Department to collect data on all information about each school district's discipline and make determinations about disproportionate disciplinary practices within districts, we can still assume the following impacts:

Additional ODE Capacity Required:

The development of a statewide plan and process for assuring school districts impose discipline in an equitable manner will require additional FTE within the Department, This will require a half-time (.5 FTE) limited duration OPA4 to support rulemaking, implementation, and policy support for districts. A half-time (.5 FTE) Research Analyst focused on supporting the data collection and data analysis to inform the professional development and technical assistance to be provided. Finally, a full-time (1.00 FTE) Education Program Specialist 2 position who will be hired. The staff in the School Safety and Discipline team will engage in the following activities:

- Engage stakeholders to support the creation and implementation of the rules and statewide plan.
- Develop and review culturally responsive discipline practices and pedagogy in support of the plan.
- Draft the plan including identifying necessary research on exclusionary discipline practices to plan allocation of resources and identify interventions.
- Determine schools that need support by identifying student groups that receive disproportionately high rates of exclusions.
- Work with schools to identify possible root causes of the discipline disparities.
- Draft any necessary administrative rules in conjunction with the Department’s existing staff to implement plan elements.
- Implement elements of the plan including data analysis to flag districts that exceed the indicated threshold or target set by the state to determine that a school district disproportionately imposed discipline on any student groups.
- Create guidance and provide technical assistance to school districts (to include resources for administrators, teachers, specialists, and paraprofessionals) on issues relating to the new Oregon equity in school discipline disproportionality requirements, as per HB 2945 to reduce unnecessary disciplinary exclusions.
- Work with the data owner to make data collection changes to the Discipline Incidents collection necessary to comply with HB 2945.
- Continue to monitor trends to ensure progress toward reducing unnecessary exclusionary discipline and adjust interventions if needed.

State Board of Education Action:

The bill allows the State Board of Education to adopt rules that enable the Department to determine whether a school district disproportionately imposes discipline on any student groups that have historically experienced academic disparities.

Office of Information Technology Impact:

There will be significant costs for ODE’s IT department, as large-scale changes to the Discipline Incidents collection will need to occur. ODE currently collects data related to student discipline that results in exclusion (In-School Suspensions; Out-of-School Suspensions; Expulsions; Removal to an Interim Alternative Educational Setting), as is federally required. This bill requires each school district to report “information about the school districts’ discipline”. If legislative intent is for districts to report all student disciplinary actions to ODE, the current collection software will need extensive redesign.

Impacts on School Districts

If HB 2945 becomes law, school districts will need to update their written policies and student handbook/code of conduct pertaining to discipline, suspension or expulsion to comply with the new requirements of this statute. In addition:

- Districts will also need to assure professional development so staff are adequately trained on the new policy for effective implementation. This includes transportation, food services, career and technical education courses and dual credit programs held at community colleges.
- Districts will need to update their data collection systems to comply with the changes in HB 2945, with a mechanism for reporting information about the school district's discipline to the Department. This will take a significant amount of additional staff time.
- Districts will need to be trained on implementation of the new state requirements adopted by rule regarding the examination of data and the possibility of an ensuing plan to address imposing discipline in an equitable manner.

Suggestions To Improve The Bill

Specified services during suspensions or expulsions

- Separate the requirements pertaining to specified services for suspensions and expulsions. They are not interchangeable processes and are delineated as separate and distinct currently within ORS 339.250, in definition, rule and process.
- Clarify vague language, specifically where the bill notes that "the student...receives any needed support services, including services to meet the student's mental and behavioral health needs or the student's educational needs".
 - Amend this with the requirement to consider a behavioral safety assessment and other provisions outlined in [ORS 339.341](#) via the Statewide School Safety and Prevention System.
 - This existing system provides assistance to school districts to identify, assess and support students who present a potential risk for violence to others.
 - Amend the language to suggest or require re-entry planning with culturally specific support for students suspended or expelled to ensure they are prepared to successfully return to school after an exclusion.

- Assure the required specified services are not contrary to the mandate within ORS 339.250 relating to policies on managing students who threaten violence or harm in public schools.
- Amend the bill to include in Section 1(2)b: “Must require consideration of the impact of conscious and unconscious bias, particularly related to race, during the evaluation of prior patterns of behavior as well as in the current incident that lead to a recommendation for suspension and/or expulsion.”

Data Collection

As mentioned before, all Oregon public education programs submit an annual report related to discipline that results in exclusion to the Department. This information is shared in compliance with the [USDOE ED Facts initiative](#). This information is also reported annually in the Oregon [Statewide Annual Report Card](#) and for The Every Student Succeeds Act (ESSA) – [Unsafe School Choice Option](#) (USCO). Additionally, it is federally required for school districts to examine disproportionate discipline and other [equity indicators](#) for IDEA eligible students who received long-term suspensions/expulsions. Important considerations:

- Clarify language, specifically where the bill notes the requirement that districts report “information about the school district’s discipline” to ODE. This bill could be improved by requiring the SBE to adopt rules specifying the format of the report districts are to provide to ODE. ODE will need to provide technical assistance to ensure districts can complete the report as expected.
- Consider continuing to assure that all data related to student discipline that results in exclusion (In School Suspensions; Out of School Suspensions; Expulsions; Removal to an Interim Alternative Educational Setting), include the number of days a student was removed, is reported. This will make the bill more fiscally feasible, as this data is currently collected by the Department.
- Consider moving the reporting requirement mandates of HB 2945 into Division 22, considering a district that is not compliant with annual discipline reporting as nonstandard under ORS 327.103.

Departmental Assistance

As there are times that expulsion is required by law, this bill could be improved by removing or further clarifying the option that the Department “may require the school district to cease to impose out-of-school suspensions and expulsions” until school district equitable discipline plans are implemented.

Academic Disparities Only

When examining disproportionate use of discipline for specific student groups, exploring disproportionality only by those groups that have historically experienced academic disparities limits the holistic view of a well-rounded education that school districts provide. It is recommended that “If the department determines that a school district disproportionately imposes discipline on any student groups that have historically experienced academic disparities” be updated to more broadly reflect the many ways in which schools can underserved specific student groups (e.g., academics, attendance, discipline).

Thank you for your consideration,

Jessica Ventura

Government Relations Director