

SENATE AMENDMENTS TO SENATE BILL 1578

By COMMITTEE ON EDUCATION

February 11

1 On page 1 of the printed bill, delete lines 5 through 27 and delete pages 2 and 3.

2 On page 4, delete lines 1 through 7 and insert:

3 **“SECTION 1. (1) The State Board of Education shall adopt by rule procedures for the**
4 **Department of Education to investigate and resolve allegations of violations of state or fed-**
5 **eral law, as specified under subsection (2) of this section, regardless of how the department**
6 **becomes aware of the alleged violations.**

7 **“(2)(a) Rules adopted by the board under this section must allow the department to im-**
8 **mediately investigate allegations that a school district or an education service district has**
9 **violated a state or federal law if the department has reasonable cause to believe that failure**
10 **to immediately correct the violation may:**

11 **“(A) Result in physical harm to a student, employee or volunteer of the school district**
12 **or education service district;**

13 **“(B) Cause a student to be denied five or more full or partial instructional days, whether**
14 **provided in person or virtually or any combination thereof, as compared to the majority of**
15 **other students who are in the same grade within the student’s resident school district;**

16 **“(C) Cause a student to be denied 10 or more full or partial instructional days that are**
17 **provided in person, as compared to the majority of other students who are in the same grade**
18 **within the student’s resident school district; or**

19 **“(D) Cause risk of significant harm or substantial interference with a student’s ability**
20 **to safely access public education because the violation subjects a person to discrimination,**
21 **as defined in ORS 659.850.**

22 **“(b) For the purpose of paragraph (a) of this subsection, calculations of denied instruc-**
23 **tional days:**

24 **“(A) Must include any full or partial instructional days denied before an investigation is**
25 **commenced or completed.**

26 **“(B) May not include any instructional time that is reduced or denied in compliance with:**

27 **“(i) ORS 339.250;**

28 **“(ii) ORS 433.235 to 433.284 or 433.441 to 433.452;**

29 **“(iii) A court order; or**

30 **“(iv) A written treatment plan from the student’s licensed health care professional.**

31 **“(3)(a) When the department becomes aware of an alleged violation of state or federal law**
32 **and the department has reasonable cause to believe that failure to immediately correct the**
33 **violation may have the result described in subsection (2)(a) of this section, the department**
34 **shall immediately:**

35 **“(A) Make any reports required under ORS 339.370 to 339.400 or 419B.005 to 419B.050;**

1 **“(B) Provide written notification of the investigation to the school district or education**
2 **service district that is the subject of the investigation; and**

3 **“(C) Instruct the school district or education service district to do the following for the**
4 **duration of the investigation and resolution of allegations:**

5 **“(i) Cease actions that may result in physical harm to a student, employee or volunteer;**
6 **or**

7 **“(ii) Restore, within five school days, access to instructional time in a manner that is**
8 **consistent with the majority of other students who are in the same grade within the**
9 **student’s resident school district. Instructional time must be provided in person unless pro-**
10 **viding instruction virtually is consistent with the majority of other students who are in the**
11 **same grade within the student’s resident school district.**

12 **“(b) Notwithstanding paragraph (a)(C)(ii) of this subsection, a school district or education**
13 **service district may request the Superintendent of Public Instruction to waive the require-**
14 **ment to restore access to instructional time if, within three school days of receiving the**
15 **written notification described in this subsection, the school district or education service**
16 **district provides documentation that:**

17 **“(A) The reduced instructional time should not be calculated as provided by subsection**
18 **(2)(b)(B) of this section; or**

19 **“(B) The school district or education service district complied with all of the following:**

20 **“(i) Giving the written notice described in ORS 343.159 prior to the initiation of the re-**
21 **duction of instructional time or restriction of access to in-person learning as compared to**
22 **the majority of other students who are in the same grade within the student’s resident**
23 **school district;**

24 **“(ii) Satisfying the requirements of ORS 343.161 (3)(a) prior to the reduction of instruc-**
25 **tional time or restriction of access to in-person learning as compared to the majority of**
26 **other students who are in the same grade within the student’s resident school district;**

27 **“(iii) Satisfying the requirement of a signed acknowledgment, as described in ORS 343.161**
28 **(4)(b), that is current and was executed prior to the reduction of instructional time or re-**
29 **striction of access to in-person learning as compared to the majority of other students who**
30 **are in the same grade within the student’s resident school district;**

31 **“(iv) Satisfying the requirement for a written statement under ORS 343.161 (4)(c) prior**
32 **to the reduction of instructional time or restriction of access to in-person learning as com-**
33 **pared to the majority of other students who are in the same grade within the student’s**
34 **resident school district; and**

35 **“(v) For a student who is a foster youth, satisfying the requirements of ORS 343.161 (3)(b)**
36 **in a timely manner and prior to the reduction of instructional time or restriction of access**
37 **to in-person learning as compared to the majority of other students who are in the same**
38 **grade within the student’s resident school district.**

39 **“(c) Nothing in this section requires the department to officially commence an investi-**
40 **gation before taking an action described in this subsection.**

41 **“(4)(a) If a school district or an education service district is found in violation of a state**
42 **or federal law as specified under subsection (2) of this section, the department may:**

43 **“(A) Issue technical guidance;**

44 **“(B) Issue a corrective action plan;**

45 **“(C) Issue a penalty authorized under law in relation to the violation; or**

1 “(D) Make any other advisory actions or take any other similar actions prescribed by the
2 board by rule.

3 “(b) Notwithstanding ORS 327.103 or 334.217 and in addition to any action taken under
4 paragraph (a) of this subsection, the superintendent may immediately withhold State School
5 Fund moneys if the school district or education service district is found to be in violation
6 of a state or federal law as specified under subsection (2) of this section and:

7 “(A) The school district or education service district does not comply with the technical
8 guidance, corrective action plan or other action prescribed by the board under paragraph
9 (a)(D) of this subsection by the timeline identified by the department; or

10 “(B) The school district or education service district has been found, within the previous
11 two years, to have violated the same state or federal law and the current violation:

12 “(i) Resulted in physical harm to a student, employee or volunteer of the school district
13 or education service district;

14 “(ii) Caused one or more students to be denied five or more full or partial instructional
15 days, whether provided in person or virtually or any combination thereof, as compared to the
16 majority of other students who are in the same grade within the student’s resident school
17 district; or

18 “(iii) Caused one or more students to be denied 10 or more full or partial instructional
19 day that are provided in person, as compared to the majority of other students who are in
20 the same grade within the student’s resident school district.

21 “(c) Nothing in this subsection prohibits the superintendent from taking any action au-
22 thorized by ORS 327.103 or 334.217.

23 “SECTION 2. (1) The State Board of Education shall adopt the rules described in section
24 1 of this 2022 Act no later than June 1, 2022.

25 “(2) Notwithstanding subsection (1) of this section, the Department of Education shall
26 immediately take the actions described in section 1 (3) of this 2022 Act at any time from the
27 effective date of this 2022 Act until rules are adopted under section 1 of this 2022 Act if the
28 department:

29 “(a) Becomes aware of alleged violations of state or federal law; and

30 “(b) Has reasonable cause to believe that failure to immediately correct the violation may
31 have the result described in section 1 (2)(a)(A), (B) or (C) of this 2022 Act.

32 “SECTION 3. The Department of Education may enter into a contract with a public or
33 private entity for the purpose of carrying out the duties, functions and powers described in
34 section 1 of this 2022 Act. A contract entered into as provided by this section is not subject
35 to the provisions of ORS chapter 279A or 279B.

36 “SECTION 4. Section 3 of this 2022 Act is repealed on October 1, 2022.

37 “SECTION 5. ORS 327.102 is amended to read:

38 “327.102. (1) The State Board of Education shall adopt by rule requirements for the process that
39 a school district must use when the district receives a complaint pertaining to whether a school in
40 the district is a standard school as defined in ORS 327.006.

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

43 “(a) Have specific timelines for the completion of the process by both the district and the person
44 making the complaint;

45 “(b) Have a specific time period within which the district must make a final decision on a

1 complaint, after which the final decision on the complaint may be appealed to the Superintendent
2 of Public Instruction; and

3 “(c) Recognize that if a district does not provide a written decision within the specific time pe-
4 riod, failure to provide such a decision will be regarded as the district’s final decision.

5 “(3) **Nothing in this section prevents the investigation of allegations as described in sec-
6 tion 1 of this 2022 Act.**

7 “**SECTION 6.** ORS 334.217 is amended to read:

8 “334.217. (1) The State Board of Education by rule shall establish standards to determine the
9 adequacy of services and facilities provided by the education service districts. In establishing such
10 standards, the [state] board shall consider the most economic method of providing services and fa-
11 cilities, the quality of the services and facilities according to the best educational standards, and the
12 needs of the students.

13 “(2)(a) **The board shall adopt by rule requirements for the process that an education
14 service district must use when the district receives a complaint pertaining to whether the
15 district meets the standards established under subsection (1) of this section. The rules
16 adopted by the board must require education service districts to establish and implement a
17 process for the prompt resolution of a complaint and must require the education service
18 district to:**

19 “(A) **Have specific timelines for the completion of the process by both the district and
20 the person making the complaint;**

21 “(B) **Have a specific time period within which the district must make a final decision on
22 a complaint, after which the final decision on the complaint may be appealed to the Super-
23 intendent of Public Instruction; and**

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

26 “(b) **Nothing in this subsection prevents the investigation of allegations as described in
27 section 1 of this 2022 Act.**

28 “[2)] (3) When the Superintendent of Public Instruction determines pursuant to rule that an
29 education service district is nonstandard, the district designated nonstandard shall file a plan to
30 meet standards over a specified period of time. The Superintendent of Public Instruction may accept,
31 reject or modify the plan and order the nonstandard district to comply with the plan as approved
32 by the superintendent. Once a plan is approved, the district shall be conditionally standard until all
33 deficiencies are corrected. If a district corrects all deficiencies, the district shall be designated as
34 standard. The district shall have 180 days from the date the plan is accepted to make all corrections.
35 After that time, the Superintendent of Public Instruction may impose sanctions on the district if the
36 district has not made the necessary corrections.

37 “[3)] (4) The [state] board shall establish by rule appropriate sanctions for noncompliance. The
38 sanctions may include:

39 “(a) **Mandatory merger of the nonstandard education service district with a contiguous educa-
40 tion service district that is standard;**

41 “(b) **The sanctions described in ORS 342.173, if applicable;**

42 “(c) **The withholding of funds from the State School Fund;**

43 “(d) **The removal of the superintendent of the education service district;**

44 “(e) **The temporary governance of the education service district by the [state] board; or**

45 “(f) **Dissolution of the education service district.”**

1 In line 8, delete “4” and insert “7”.

2 In line 15, delete “or oral”.

3 In line 23, delete “5” and insert “8”.

4 In line 37, delete “and” and insert “, providing technical guidance or assistance or”.

5 On page 5, after line 19, insert:

6 **“SECTION 9. (1) The Department of Education shall appoint at least two individuals**
7 **employed by the department to act as student and family advocates.**

8 **“(2) A student and family advocate shall have the following duties:**

9 **“(a) Assist students and families seeking a resolution to disputes with school districts**
10 **and education service districts;**

11 **“(b) Assist students and families in determining the appropriate processes for seeking**
12 **redress for violations of state and federal law;**

13 **“(c) Assist students and families with communications with personnel in school districts**
14 **and education service districts, including any communications that may lead to early resolu-**
15 **tion of disputes;**

16 **“(d) Advise students and families about protections available under state and federal law;**

17 **“(e) Make referrals to other organizations that offer advocacy and support to students**
18 **and families related to disputes with school districts and education service districts;**

19 **“(f) Inform the Superintendent of Public Instruction when an advocate:**

20 **“(A) Learns of any violations of state or federal law that may require an investigation**
21 **and resolution as prescribed by section 1 of this 2022 Act; and**

22 **“(B) Recognizes patterns of concern within a school district or an education service dis-**
23 **trict that may be addressed proactively with technical assistance or guidance; and**

24 **“(g) Provide other services similar to those described under paragraphs (a) to (f) of this**
25 **subsection to students and families, as identified by the superintendent.**

26 **“(3) The State Board of Education may adopt any rules necessary for the administration**
27 **of this section.”.**

28 In line 20, delete “6” and insert “10”.

29