

Enrolled Senate Bill 577

Sponsored by Senators GELSER BLOUIN, MANNING JR; Senators DEMBROW, PATTERSON
(Presession filed.)

CHAPTER

AN ACT

Relating to the use of force; creating new provisions; amending ORS 161.205 and 339.250; and de-
claring an emergency.

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

SECTION 1. ORS 161.205 is amended to read:

161.205. The use of physical force upon another person that would otherwise constitute an of-
fense is justifiable and not criminal under any of the following circumstances:

*[(1)(a) A parent, guardian or other person entrusted with the care and supervision of a minor or
an incompetent person may use reasonable physical force upon such minor or incompetent person when
and to the extent the person reasonably believes it necessary to maintain discipline or to promote the
welfare of the minor or incompetent person.]*

**(1)(a) A parent or legal guardian of a minor child may use reasonable physical force upon
the minor child when and to the extent the person reasonably believes the physical force is
necessary to maintain discipline or promote the welfare of the minor child, unless the
physical force constitutes abuse as defined in ORS 418.257 or 419B.005.**

(b) Personnel of a public education program, as that term is defined in ORS 339.285, may use
reasonable physical force upon a student *[when and]* **only** to the extent **that** the application of force
is consistent with ORS 339.285 to 339.303 **and is not corporal punishment as defined in ORS
339.250 (9).**

(2) Subject to ORS 161.237 and 421.107, an authorized official of a jail, prison or correctional
facility, **including a youth correction facility as defined in ORS 162.135**, may use physical force
when and to the extent that the official reasonably believes it necessary to maintain order and dis-
cipline or as is authorized by law.

(3) A person responsible for the maintenance of order in a common carrier of passengers, or a
person acting under the direction of the person, may use physical force when and to the extent that
the person reasonably believes it necessary to maintain order, but the person may use deadly
physical force only when the person reasonably believes it necessary to prevent death or serious
physical injury.

(4) A person acting under a reasonable belief that another person is about to commit suicide
or to inflict serious physical self-injury may use physical force upon that person to the extent that
the person reasonably believes it necessary to thwart the result.

(5) A person may use physical force upon another person in self-defense or in defending a third
person, in defending property, in making an arrest or in preventing an escape, as hereafter pre-
scribed in chapter 743, Oregon Laws 1971.

SECTION 2. ORS 339.250 is amended to read:

339.250. (1) Public school students shall comply with rules for the government of such schools, pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' authority.

(2) Each district school board shall adopt written policies for the discipline, suspension or expulsion of any refractory student. The policies:

(a) May allow discipline, suspension or expulsion for conduct that includes, but is not limited to:

- (A) Willful disobedience;
- (B) Open defiance of the authority of a school employee;
- (C) Possession or distribution of tobacco, alcohol, drugs or other controlled substances;
- (D) Use or display of profane or obscene language;
- (E) Willful damage or injury to school property;
- (F) Use of threats, intimidation, harassment or coercion against a student or a school employee;
- (G) Assault of a school employee or another student; or
- (H) Intentional attempts, by word or conduct, to place a school employee or another student in fear of imminent serious physical injury.

(b) Must require consideration of the age of a student and the past pattern of behavior of a student prior to imposing the suspension or expulsion of a student.

(c) Must limit the use of expulsion to the following circumstances:

- (A) For conduct that poses a threat to the health or safety of students or school employees;
- (B) When other strategies to change student conduct have been ineffective, except that expulsion may not be used to address truancy; or
- (C) When the expulsion is required by law.

(d) In addition to any limitations imposed by paragraph (c) of this subsection, for a student who is in fifth grade or lower, must limit the use of out-of-school suspension or of expulsion to the following circumstances:

- (A) For nonaccidental conduct causing serious physical harm to a student or school employee;
- (B) When a school administrator determines, based upon the administrator's observation or upon a report from a school employee, that the student's conduct poses a direct threat to the health or safety of students or school employees; or
- (C) When the suspension or expulsion is required by law.

(e) When an out-of-school suspension is imposed as provided under paragraph (d) of this subsection, must require the school district to take steps to prevent the recurrence of the behavior that led to the out-of-school suspension and return the student to a classroom setting so that the disruption of the student's academic instruction is minimized.

(f) Must be limited so that:

- (A) The duration of an expulsion may not be more than one calendar year.
- (B) The duration of a suspension may not be more than 10 school days.

(g) Notwithstanding ORS 336.010, may require a student to attend school during nonschool hours as an alternative to suspension if the total number of hours does not exceed the equivalent of 10 school days.

(3) Pursuant to the policies adopted as provided by subsection (2) of this section, each school district shall develop a student handbook, code of conduct or other document that:

- (a) Defines and helps create a learning environment that students respect;
- (b) Defines acceptable norms of behavior for students and the types of behavior that are subject to discipline;
- (c) Establishes procedures to address behavior or circumstances that pose a threat to the safety of students or employees of the school;
- (d) Establishes a system of consequences that are designed to correct student misconduct and promote behavior within acceptable norms; and

(e) Makes the system of consequences known to the school community through the dissemination of information to students, parents, legal guardians and school district employees.

(4) Each district school board shall adopt written policies on managing students who threaten violence or harm in public schools. The policies adopted by a district school board under this section shall include all of the following:

(a) Staff reporting methods.

(b) Provisions that allow an administrator to consider and implement any of the following options:

(A) Immediately removing from the classroom setting any student who has threatened to injure another person or to severely damage school property.

(B) Placing the student in a setting where the behavior will receive immediate attention, including, but not limited to, the office of the school principal, vice principal, assistant principal, counselor or a school psychologist licensed by the Teacher Standards and Practices Commission or the office of any licensed mental health professional.

(C) Requiring that a school obtain an evaluation of a student by a licensed mental health professional before allowing the student to return to the classroom setting. A student who is removed from the classroom setting for an evaluation may not be removed for more than 10 school days unless the administrator is able to show good cause that an evaluation could not be completed in that time period. The policy must describe the circumstances under which the district school board may enter into contracts with licensed mental health professionals to perform any evaluations required under this subparagraph.

(c) The requirement that an administrator provide to the parent or legal guardian of the student notification that describes the student's behavior and the school's response.

(d) A provision for the allocation of any funds necessary for the school district to implement the policies described in this subsection.

(5) In establishing and enforcing discipline, suspension and expulsion policies, a district school board shall ensure that the policy is designed to:

(a) Protect students and school employees from harm;

(b) Provide opportunities for students to learn from their mistakes;

(c) Foster positive learning communities;

(d) Keep students in school and attending class;

(e) Impose disciplinary sanctions without bias against students from a protected class, as defined in ORS 339.351;

(f) Implement a graduated set of age-appropriate responses to misconduct that are fair, nondiscriminatory and proportionate in relation to each student's individual conduct;

(g) Employ a range of strategies for prevention, intervention and discipline that take into account a student's developmental capacities and that are proportionate to the degree and severity of the student's misbehavior;

(h) Propose, prior to a student's expulsion or leaving school, alternative programs of instruction or instruction combined with counseling for the student that are appropriate and accessible to the student in the following circumstances:

(A) Following a second or subsequent occurrence within any three-year period of a severe disciplinary problem with the student; or

(B) When a parent or legal guardian applies for the student's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030 (2);

(i) To the extent practicable, use approaches that are shown through research to be effective in reducing student misbehavior and promoting safe and productive social behavior; and

(j) Ensure that school conduct and discipline codes comply with all state and federal laws concerning the education of students with disabilities.

(6) Except for policies adopted under subsection (7) of this section, any policies adopted under this section must provide for the dissemination of information about alternative programs of instruction or instruction combined with counseling, as described in subsection (5)(h) of this section,

in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, unless the information has changed because of the availability of new programs.

(7) Each district school board shall adopt a written policy involving firearms, as defined in 18 U.S.C. 921. The policy shall:

(a) Require expulsion from school for a period of not less than one year of any student who is determined to have:

(A) Brought a firearm to a school, to school property under the jurisdiction of the school district or to an activity under the jurisdiction of the school district;

(B) Possessed, concealed or used a firearm in a school, on school property under the jurisdiction of the school district or at an activity under the jurisdiction of the school district; or

(C) Brought to or possessed, concealed or used a firearm at an interscholastic activity administered by a voluntary organization.

(b) Allow exceptions:

(A) For courses, programs and activities approved by the school district that are conducted on school property, including, but not limited to, hunter safety courses, Reserve Officer Training Corps programs, firearm-related sports or firearm-related vocational courses; and

(B) Identified by and adopted by the State Board of Education by rule.

(c) Allow a superintendent of a school district to:

(A) Modify the expulsion requirement for a student on a case-by-case basis.

(B) Propose alternative programs of instruction or instruction combined with counseling for a student that are appropriate and accessible to the student. If alternative programs are appropriate for a student, the superintendent shall ensure that information about programs of instruction or instruction combined with counseling is provided in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, or at any time the information changes because of the availability of new programs.

(d) Require a referral to the appropriate law enforcement agency of any student who is expelled under this subsection.

(e) Require an annual reporting to the Department of Education of the name of each school that had an expulsion under this subsection and the number of students expelled from each school.

(8) Each district school board shall adopt and disseminate written policies for the use of physical force upon a student. The policies must allow an individual who is a teacher, administrator, school employee or school volunteer to use reasonable physical force upon a student when and to the extent the application of force is consistent with ORS 339.285 to 339.303.

(9)(a) The authority to discipline a student does not authorize the infliction of corporal punishment. Every resolution, bylaw, rule, ordinance or other act of a district school board, a public charter school or the Department of Education that permits or authorizes the infliction of corporal punishment upon a student is void and unenforceable.

(b) As used in this subsection:

(A) "Corporal punishment" means the willful infliction of, or willfully causing the infliction of, physical pain on a student.

(B) "Corporal punishment" does not include:

(i) The use of physical force authorized by ORS 161.205 (2), (4) or (5) for the reasons specified therein; or

(ii) Physical pain or discomfort resulting from or caused by participation in athletic competition or other such recreational activity, voluntarily engaged in by a student.

(10) For purposes of this section, calculations of the number of school days that a student is removed from a classroom setting shall be as follows:

(a) As a half day if the student is out of school for half, or less than half, of the scheduled school day; and

(b) As a full day if the student is out of school for more than half of the scheduled school day.

SECTION 3. The amendments to ORS 161.205 and 339.250 by sections 1 and 2 of this 2023 Act apply to conduct occurring on or after the effective date of this 2023 Act.

SECTION 4. This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.

Passed by Senate February 21, 2023

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Lori L. Brocker, Secretary of Senate

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Rob Wagner, President of Senate

Passed by House April 18, 2023

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Dan Rayfield, Speaker of House

Received by Governor:

.....M.,....., 2023

Approved:

.....M.,....., 2023

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2023

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Shemia Fagan, Secretary of State