

**A-Engrossed**  
**Senate Bill 1578**

Ordered by the Senate February 11  
Including Senate Amendments dated February 11

Sponsored by Senator GELSER BLOUIN, Representatives HAYDEN, ALONSO LEON, Senators DEMBROW, PATTERSON, TAYLOR, WAGNER, Representative NOBLE; Senators FREDERICK, KENNEMER, LAWRENCE SPENCE, MANNING JR, Representatives CAMPOS, DEXTER, MCLAIN, RUIZ, WILDE (Presession filed.)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[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.]*

**Directs State Board of Education to adopt by rule procedures for Department of Education to investigate and resolve allegations of violations of state or federal law that may result in physical harm, denial of instructional days or risk of significant harm or substantial interference with student's ability to safely access public education. Prescribes actions department may take if school district or education service district is found to be in violation of state or federal law.**

**Directs board to adopt by rule requirements for process that education service district must use when district receives complaint that district is not meeting standards established by board.**

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

**Requires department to appoint at least two individuals to act as student and family advocates. Prescribes duties of advocates.**

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to violations of education law; creating new provisions; amending ORS 327.102, 334.217,  
3 339.303 and 343.041; and declaring an emergency.

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

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

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

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

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

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (C) Cause a student to be denied 10 or more full or partial instructional days that are  
2 provided in person, as compared to the majority of other students who are in the same grade  
3 within the student's resident school district; or

4 (D) Cause risk of significant harm or substantial interference with a student's ability to  
5 safely access public education because the violation subjects a person to discrimination, as  
6 defined in ORS 659.850.

7 (b) For the purpose of paragraph (a) of this subsection, calculations of denied instruc-  
8 tional days:

9 (A) Must include any full or partial instructional days denied before an investigation is  
10 commenced or completed.

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

12 (i) ORS 339.250;

13 (ii) ORS 433.235 to 433.284 or 433.441 to 433.452;

14 (iii) A court order; or

15 (iv) A written treatment plan from the student's licensed health care professional.

16 (3)(a) When the department becomes aware of an alleged violation of state or federal law  
17 and the department has reasonable cause to believe that failure to immediately correct the  
18 violation may have the result described in subsection (2)(a) of this section, the department  
19 shall immediately:

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

21 (B) Provide written notification of the investigation to the school district or education  
22 service district that is the subject of the investigation; and

23 (C) Instruct the school district or education service district to do the following for the  
24 duration of the investigation and resolution of allegations:

25 (i) Cease actions that may result in physical harm to a student, employee or volunteer;  
26 or

27 (ii) Restore, within five school days, access to instructional time in a manner that is  
28 consistent with the majority of other students who are in the same grade within the  
29 student's resident school district. Instructional time must be provided in person unless pro-  
30 viding instruction virtually is consistent with the majority of other students who are in the  
31 same grade within the student's resident school district.

32 (b) Notwithstanding paragraph (a)(C)(ii) of this subsection, a school district or education  
33 service district may request the Superintendent of Public Instruction to waive the require-  
34 ment to restore access to instructional time if, within three school days of receiving the  
35 written notification described in this subsection, the school district or education service  
36 district provides documentation that:

37 (A) The reduced instructional time should not be calculated as provided by subsection  
38 (2)(b)(B) of this section; or

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

40 (i) Giving the written notice described in ORS 343.159 prior to the initiation of the re-  
41 duction of instructional time or restriction of access to in-person learning as compared to  
42 the majority of other students who are in the same grade within the student's resident  
43 school district;

44 (ii) Satisfying the requirements of ORS 343.161 (3)(a) prior to the reduction of instruc-  
45 tional time or restriction of access to in-person learning as compared to the majority of

1 other students who are in the same grade within the student's resident school district;

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

6 (iv) Satisfying the requirement for a written statement under ORS 343.161 (4)(c) prior to  
7 the reduction of instructional time or restriction of access to in-person learning as compared  
8 to the majority of other students who are in the same grade within the student's resident  
9 school district; and

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

14 (c) Nothing in this section requires the department to officially commence an investi-  
15 gation before taking an action described in this subsection.

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

18 (A) Issue technical guidance;

19 (B) Issue a corrective action plan;

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

21 (D) Make any other advisory actions or take any other similar actions prescribed by the  
22 board by rule.

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

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

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

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

34 (ii) Caused one or more students to be denied five or more full or partial instructional  
35 days, whether provided in person or virtually or any combination thereof, as compared to the  
36 majority of other students who are in the same grade within the student's resident school  
37 district; or

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

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

43 **SECTION 2.** (1) The State Board of Education shall adopt the rules described in section  
44 1 of this 2022 Act no later than June 1, 2022.

45 (2) Notwithstanding subsection (1) of this section, the Department of Education shall

1 immediately take the actions described in section 1 (3) of this 2022 Act at any time from the  
2 effective date of this 2022 Act until rules are adopted under section 1 of this 2022 Act if the  
3 department:

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

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

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

11 **SECTION 4.** Section 3 of this 2022 Act is repealed on October 1, 2022.

12 **SECTION 5.** ORS 327.102 is amended to read:

13 327.102. (1) The State Board of Education shall adopt by rule requirements for the process that  
14 a school district must use when the district receives a complaint pertaining to whether a school in  
15 the district is a standard school as defined in ORS 327.006.

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

18 (a) Have specific timelines for the completion of the process by both the district and the person  
19 making the complaint;

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

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

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

27 **SECTION 6.** ORS 334.217 is amended to read:

28 334.217. (1) The State Board of Education by rule shall establish standards to determine the  
29 adequacy of services and facilities provided by the education service districts. In establishing such  
30 standards, the [*state*] board shall consider the most economic method of providing services and fa-  
31 cilities, the quality of the services and facilities according to the best educational standards, and the  
32 needs of the students.

33 **(2)(a) The board shall adopt by rule requirements for the process that an education ser-**  
34 **vice district must use when the district receives a complaint pertaining to whether the dis-**  
35 **trict meets the standards established under subsection (1) of this section. The rules adopted**  
36 **by the board must require education service districts to establish and implement a process**  
37 **for the prompt resolution of a complaint and must require the education service district to:**

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

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

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

45 **(b) Nothing in this subsection prevents the investigation of allegations as described in**

1 **section 1 of this 2022 Act.**

2 [(2)] (3) When the Superintendent of Public Instruction determines pursuant to rule that an ed-  
3 ucation service district is nonstandard, the district designated nonstandard shall file a plan to meet  
4 standards over a specified period of time. The Superintendent of Public Instruction may accept, re-  
5 ject or modify the plan and order the nonstandard district to comply with the plan as approved by  
6 the superintendent. Once a plan is approved, the district shall be conditionally standard until all  
7 deficiencies are corrected. If a district corrects all deficiencies, the district shall be designated as  
8 standard. The district shall have 180 days from the date the plan is accepted to make all corrections.  
9 After that time, the Superintendent of Public Instruction may impose sanctions on the district if the  
10 district has not made the necessary corrections.

11 [(3)] (4) The [state] board shall establish by rule appropriate sanctions for noncompliance. The  
12 sanctions may include:

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

20 **SECTION 7.** ORS 339.303 is amended to read:

21 339.303. The State Board of Education shall adopt by rule:

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

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

29 (3) The minimum standards for any rooms used by a public education program for seclusion of  
30 a student. The standards must:

- 31 (a) Take into account the health and safety of students and personnel of the public education  
32 program and the respect and dignity of students; and
- 33 (b) Include consideration of the size, safety features, lighting and ventilation of the rooms.

34 **SECTION 8.** ORS 343.041 is amended to read:

35 343.041. (1) Pursuant to rules of the State Board of Education, the Superintendent of Public In-  
36 struction shall be responsible for the general supervision of all special education programs for  
37 children with disabilities, early childhood special education and early intervention services for pre-  
38 school children with disabilities within the state, including all such programs administered by any  
39 state agency or common or union high school district or education service district.

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

43 (3) The State Board of Education shall adopt by rule procedures whereby the superintendent  
44 investigates and resolves complaints that the Department of Education, a local education agency or  
45 an early intervention or early childhood special education contractor has violated a federal **or state**

1 law or statute that applies to [a] special education or early childhood special education [program].  
2 **Nothing in this subsection may be construed to prevent the superintendent or department**  
3 **from investigating, providing technical guidance or assistance or providing a resolution for**  
4 **any of the following:**

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

8 (b) **Violations of federal or state law or statute that apply to special education or early**  
9 **childhood special education and that are not limited in applicability to a specific child if the**  
10 **complaint alleges, or the superintendent finds, that the violation applies to a class or group**  
11 **of children; or**

12 (c) **Violations of federal or state law or statute that do not apply to special education or**  
13 **early childhood special education if, during the course of an investigation, violations of other**  
14 **federal or state laws or statutes are discovered and the superintendent or department is**  
15 **required or allowed to investigate those violations.**

16 (4) The State Board of Education shall adopt rules relating to the establishment and mainte-  
17 nance of standards to ensure that personnel providing special education and early childhood special  
18 education and early intervention services are appropriately and adequately trained.

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

22 (6) The Governor shall direct that each public agency obligated under federal or state law to  
23 provide or pay for any services that are also considered special education or related services nec-  
24 essary for ensuring a free appropriate public education to children with disabilities, including but  
25 not limited to the Department of Human Services, enter into cooperative agreements with the De-  
26 partment of Education concerning:

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

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

29 (c) Policies and procedures for coordinating timely and appropriate delivery of services.

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

32 **SECTION 9. (1) The Department of Education shall appoint at least two individuals em-**  
33 **ployed by the department to act as student and family advocates.**

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

35 (a) **Assist students and families seeking a resolution to disputes with school districts and**  
36 **education service districts;**

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

39 (c) **Assist students and families with communications with personnel in school districts**  
40 **and education service districts, including any communications that may lead to early resol-**  
41 **ution of disputes;**

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

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

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

