

House Bill 3129

Sponsored by Representative MCINTIRE

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 **as introduced**.

Eliminates requirement that school districts and public charter schools provide specified number of minutes of physical education during each school week. Makes recommendations for number of minutes of physical education that school districts and public charter schools provide during each school week.

Declares emergency, effective July 1, 2023.

A BILL FOR AN ACT

1
2 Relating to physical education requirements; creating new provisions; amending ORS 329.496,
3 329.498 and 329.501; and declaring an emergency.

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

5 **SECTION 1.** ORS 329.496, as amended by section 20, chapter 81, Oregon Laws 2022, is amended
6 to read:

7 329.496. (1) Every public school student in kindergarten through grade eight shall participate in
8 physical education for the entire school year.

9 *[(2)(a) Students in kindergarten through grade five, and students in grade six at a school that*
10 *teaches kindergarten through grade six, shall participate in physical education for at least 150 minutes*
11 *during each school week.]*

12 *[(b) Except as provided by paragraph (a) of this subsection, students in grades six through eight*
13 *shall participate in physical education for at least 225 minutes during each school week.]*

14 *[(c) Notwithstanding the time requirements established by paragraphs (a) and (b) of this subsection,*
15 *the State Board of Education shall adopt rules that prorate the time requirements for:]*

16 *[(A) School weeks with scheduled school closures, including closures for holidays, inservice days*
17 *and days scheduled for parent-teacher conferences;]*

18 *[(B) School weeks with unscheduled school closures, including closures for inclement weather and*
19 *emergencies;]*

20 *[(C) School weeks with out-of-school activities that occur during usual school hours, including field*
21 *trips and outdoor school programs;]*

22 *[(D) Part-time school programs, including half-day kindergarten; and]*

23 *[(E) Irregular class schedules, including class schedules based on a four-day week.]*

24 *[(d) School districts and public charter schools are not required to comply with the time require-*
25 *ments established by paragraphs (a) and (b) of this subsection for school years during the biennium in*
26 *which the total amounts appropriated or allocated to the State School Fund and available for distrib-*
27 *ution to school districts are less than the amounts determined to be needed for school districts through*
28 *the State School Fund under the tentative budget prepared as provided by ORS 291.210. After the be-*
29 *ginning of a biennium, a school district or a public charter school may cease to comply with the time*
30 *requirements established by paragraphs (a) and (b) of this subsection if the amounts appropriated or*

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 *allocated to the State School Fund and available for distribution to school districts are less than the*
 2 *amounts determined to be needed for distribution through the State School Fund, as calculated under*
 3 *ORS 291.210.]*

4 [(3)] (2) School districts and public charter schools shall offer instruction in physical education
 5 that meets the academic content standards for physical education adopted by the State Board of
 6 Education under ORS 329.045. The instruction shall be a sequential, developmentally appropriate
 7 curriculum that is designed, implemented and evaluated to help students develop the knowledge,
 8 motor skills, self-management skills, attitudes and confidence needed to adopt and maintain physical
 9 activity throughout their lives.

10 (3) **School districts and public charter schools are encouraged to offer instruction in**
 11 **physical education as follows:**

12 (a) **At least 150 minutes during each school week for students in kindergarten through**
 13 **grade five and for students in grade six at a school that teaches kindergarten through grade**
 14 **six.**

15 (b) **Except as provided by paragraph (a) of this subsection, at least 225 minutes during**
 16 **each school week for students in grades six through eight.**

17 [(4)(a)] (4) School districts and public charter schools [*shall*] **are encouraged to** devote at least
 18 50 percent of physical education class time to actual physical activity in each school week, with as
 19 much class time as possible spent in moderate physical activity.

20 [(b)(A) *For the purpose of satisfying the time requirements established by subsection (2) of this*
 21 *section, school districts and public charter schools may provide up to 45 minutes of activities during*
 22 *each school week that:)]*

23 [(i) *Meet the academic content standards for physical education adopted by the State Board of*
 24 *Education under ORS 329.045;]*

25 [(ii) *Are provided for students by a teacher whose license allows the teacher to provide instruction*
 26 *in physical education to those students, even if the teacher does not have a physical education*
 27 *endorsement; and]*

28 [(iii) *Have been reviewed by a licensed teacher with a physical education endorsement.]*

29 [(B) *The Department of Education shall:)]*

30 [(i) *Review and, as appropriate, approve activities that are developed by nonprofit professional or-*
 31 *ganizations representing health and physical education educators if the activities meet the requirements*
 32 *of subparagraph (A) of this paragraph; and]*

33 [(ii) *Make available to school districts and public charter schools a list of activities approved as*
 34 *provided by this subparagraph.]]*

35 [(C) *School districts and public charter schools may provide activities that meet the requirements*
 36 *of subparagraph (A) of this paragraph even if the activities are not approved as provided by subpara-*
 37 *graph (B) of this paragraph.]]*

38 (5)(a) [*Notwithstanding subsections (1), (2) and (4) of this section,]* A student with disabilities shall
 39 have suitably adapted physical education incorporated as part of the individualized education pro-
 40 gram developed for the student under ORS 343.151.

41 (b) [*Notwithstanding subsections (1), (2) and (4) of this section,]* A student who does not have an
 42 individualized education program but **who** has chronic health problems, other disabling conditions
 43 or other special needs that preclude the student from participating in regular physical education
 44 instruction shall have suitably adapted physical education incorporated as part of an individualized
 45 health plan developed for the student by the school district or public charter school.

1 [(6) *School districts and public charter schools shall assess school curricula at regular intervals*
 2 *to measure the attainment of the minimum number of minutes that students are required to participate*
 3 *in physical education under this section.*]

4 [(7)(a)] **(6)(a)** All teachers of physical education for public school students in kindergarten
 5 through grade eight shall be adequately prepared and shall regularly participate in professional de-
 6 velopment activities to effectively deliver the physical education program.

7 [(b)(A)] **(b)** Notwithstanding any licensing or endorsement requirements established by the
 8 Teacher Standards and Practices Commission, a teacher with an elementary multiple subject
 9 endorsement may instruct students in activities [*described in subsection (4)(b) of this section*] **related**
 10 **to physical education** if the activities are reviewed by a licensed teacher with a physical education
 11 endorsement.

12 [(B) *A teacher described in this paragraph may provide instruction in activities described in sub-*
 13 *section (4)(b) of this section to students who are not regularly taught by the teacher as long as the in-*
 14 *struction in the activities to students who are not regularly taught by the teacher does not exceed 45*
 15 *minutes during each school week. Nothing in this subparagraph allows a school district to employ a*
 16 *teacher for the sole purpose of providing instruction in activities described in subsection (4)(b) of this*
 17 *section.*]

18 [(8) *A school district that does not comply with the requirements of this section is considered to*
 19 *be nonstandard under ORS 327.103.*]

20 [(9)(a) *Notwithstanding subsection (8) of this section and pursuant to rules adopted by the State*
 21 *Board of Education, the Superintendent of Public Instruction may grant a waiver of the requirements*
 22 *of this section to a school district or a public charter school if the superintendent finds that the school*
 23 *district or public charter school is unable to meet the requirements because of a human-created disaster*
 24 *or a natural disaster.*]

25 [(b) *A waiver granted under this subsection may be:*]

26 [(A) *In whole or in part of the requirements prescribed by this section; and*]

27 [(B) *Granted for only one school year, but may be renewed for subsequent school years based on*
 28 *rules adopted by the board if the school district or public charter school continues to be impacted by*
 29 *the disaster.*]

30 **SECTION 2. The amendments to ORS 329.496 by section 1 of this 2023 Act first apply to**
 31 **the 2023-2024 school year.**

32 **SECTION 3.** ORS 329.498 is amended to read:

33 329.498. (1) The Department of Education shall collect data from school districts on:

34 (a) The number of minutes of physical education that are provided to students in kindergarten
 35 through grade eight each school week in each public school within the district;

36 (b) The physical capacity of public schools to provide students with the number of minutes of
 37 physical education [*specified*] **recommended** by ORS 329.496 [(2)] **(3)**; and

38 (c) The additional facilities required by public schools to provide physical education to students
 39 as described in paragraph (b) of this subsection.

40 (2) The department shall collect the data described in subsection (1) of this section:

41 (a) Annually, for data described in subsection (1)(a) of this section.

42 (b) Whenever a public school increases or decreases the school's physical capacity to provide
 43 students with physical education, for data described in subsection (1)(b) and (c) of this section.

44 (3) The department shall provide technical assistance to school districts and public charter
 45 schools to enable the school districts and public charter schools to comply with the requirements

1 **and recommendations** of ORS 329.496.

2 **SECTION 4.** ORS 329.501 is amended to read:

3 329.501. (1) The Department of Education shall award grants to school districts and public
4 charter schools for the purpose of meeting the physical education requirements **and recommen-**
5 **dations** of ORS 329.496.

6 (2) A district or school that receives a grant may use the grant to:

7 (a) Hire teachers who specialize in physical education; and

8 (b) Provide in-service training to teachers on the academic content standards for physical edu-
9 cation and the requirements of ORS 329.496.

10 (3) The department shall determine:

11 (a) The amount of a grant;

12 (b) The criteria for awarding a grant; and

13 (c) The process for awarding grants.

14 (4) The State Board of Education may adopt any rules necessary to administer this section.

15 **SECTION 5. This 2023 Act being necessary for the immediate preservation of the public**
16 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**
17 **July 1, 2023.**

18