

Enrolled House Bill 3199

Sponsored by Representatives BOWMAN, MCINTIRE; Representatives EVANS, NGUYEN H, WRIGHT (at the request of Coalition of Oregon School Administrators)

CHAPTER

AN ACT

Relating to physical education requirements; creating new provisions; amending ORS 329.496 and 329.498; and declaring an emergency.

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

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

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

[(2)(a)] (1)(a) [Students] **Every public school student** in kindergarten through grade five, and [students] **every public school student** in grade six at a school that teaches kindergarten through grade six, shall participate in physical education **for the entire school year** for at least 150 minutes during each school week.

(b) Except as provided by paragraph (a) of this subsection, [students] **every public school student** in grades six through eight shall participate in physical education for at least [225 minutes during each school week] **an average of 150 minutes during each school week, as calculated over the duration of a school year.**

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

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

(B) School weeks with unscheduled school closures, including closures for inclement weather and emergencies;

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

(D) Part-time school programs, including half-day kindergarten; and

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

(d) School districts and public charter schools are not required to comply with the time requirements established by paragraphs (a) and (b) of this subsection for school years during the biennium in which the total amounts appropriated or allocated to the State School Fund and available for distribution to school districts are less than the amounts determined to be needed for school districts through the State School Fund under the tentative budget prepared as provided by ORS 291.210. After the beginning of a biennium, a school district or a public charter school may cease to comply with the time requirements established by paragraphs (a) and (b) of this subsection if the amounts appropriated or allocated to the State School Fund and available for distribution to school

districts are less than the amounts determined to be needed for distribution through the State School Fund, as calculated under ORS 291.210.

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

[(4)(a)] **(3)(a)** School districts and public charter schools shall devote at least 50 percent of physical education class time to actual physical activity in each school week, with as much class time as possible spent in moderate physical activity.

(b)(A) For the purpose of satisfying the time requirements established by subsection [(2)] **(1)(a)** of this section, school districts and public charter schools may provide up to 45 minutes of activities during each school week that:

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

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

(iii) Have been reviewed by a licensed teacher with a physical education endorsement.

(B) The Department of Education shall:

(i) Review and, as appropriate, approve activities that are developed by nonprofit professional organizations representing health and physical education educators if the activities meet the requirements of subparagraph (A) of this paragraph; and

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

(C) School districts and public charter schools may provide activities that meet the requirements of subparagraph (A) of this paragraph even if the activities are not approved as provided by subparagraph (B) of this paragraph.

[(5)(a)] **(4)(a)** Notwithstanding subsections [(1), (2) and (4)] **(1) and (3)** of this section, a student with disabilities shall have suitably adapted physical education incorporated as part of the individualized education program developed for the student under ORS 343.151.

(b) Notwithstanding subsections [(1), (2) and (4)] **(1) and (3)** of this section, a student who does not have an individualized education program but has chronic health problems, other disabling conditions or other special needs that preclude the student from participating in regular physical education instruction shall have suitably adapted physical education incorporated as part of an individualized health plan developed for the student by the school district or public charter school.

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

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

(b)(A) Notwithstanding any licensing or endorsement requirements established by the Teacher Standards and Practices Commission, a teacher with an elementary multiple subject endorsement may instruct students in activities described in subsection [(4)(b)] **(3)(b)** of this section if the activities are reviewed by a licensed teacher with a physical education endorsement.

(B) A teacher described in this paragraph may provide instruction in activities described in subsection [(4)(b)] **(3)(b)** of this section to students who are not regularly taught by the teacher as long as the instruction in the activities to students who are not regularly taught by the teacher does not exceed 45 minutes during each school week. Nothing in this subparagraph allows a school dis-

trict to employ a teacher for the sole purpose of providing instruction in activities described in subsection [(4)(b)] **(3)(b)** of this section.

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

[(9)(a)] **(8)(a)** Notwithstanding subsection [(8)] **(7)** of this section and pursuant to rules adopted by the State Board of Education, the Superintendent of Public Instruction may grant a waiver of the requirements of this section to a school district or a public charter school if the superintendent finds that the school district or public charter school is unable to meet the requirements because of a human-created disaster or a natural disaster.

(b) A waiver granted under this subsection may be:

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

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

SECTION 2. ORS 329.498 is amended to read:

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

(a) The number of minutes of physical education that are provided to students in kindergarten through grade eight [*each school week*] in each public school within the district, **as calculated on a weekly basis or an average weekly basis as prescribed by ORS 329.496 (1)**;

(b) The physical capacity of public schools to provide students with the number of minutes of physical education specified by ORS 329.496 [(2)] **(1)**; and

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

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

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

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

(3) The department shall provide technical assistance to school districts and public charter schools to enable the school districts and public charter schools to comply with the requirements of ORS 329.496.

SECTION 3. The amendments to ORS 329.496 and 329.498 by sections 1 and 2 of this 2023 Act first apply to the 2023-2024 school year.

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 July 1, 2023.

Passed by House April 18, 2023

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

Passed by Senate June 22, 2023

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Rob Wagner, President of Senate

Received by Governor:

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Approved:

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

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Tina Kotek, Governor

Filed in Office of Secretary of State:

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

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Secretary of State