

Requested by Representative BOWMAN

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3199**

1 In line 2 of the printed bill, after the semicolon insert “creating new  
2 provisions; amending ORS 329.496 and 329.498;”.

3 Delete lines 4 through 17 and insert:

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

6 “329.496. *[(1) Every public school student in kindergarten through grade*  
7 *eight shall participate in physical education for the entire school year.]*

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

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

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

21 “(A) School weeks with scheduled school closures, including closures for

1 holidays, inservice days and days scheduled for parent-teacher conferences;

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

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

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

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

9 “(d) School districts and public charter schools are not required to comply  
10 with the time requirements established by paragraphs (a) and (b) of this  
11 subsection for school years during the biennium in which the total amounts  
12 appropriated or allocated to the State School Fund and available for dis-  
13 tribution to school districts are less than the amounts determined to be  
14 needed for school districts through the State School Fund under the tenta-  
15 tive budget prepared as provided by ORS 291.210. After the beginning of a  
16 biennium, a school district or a public charter school may cease to comply  
17 with the time requirements established by paragraphs (a) and (b) of this  
18 subsection if the amounts appropriated or allocated to the State School Fund  
19 and available for distribution to school districts are less than the amounts  
20 determined to be needed for distribution through the State School Fund, as  
21 calculated under ORS 291.210.

22 “[3] **(2)** School districts and public charter schools shall offer instruction  
23 in physical education that meets the academic content standards for physical  
24 education adopted by the State Board of Education under ORS 329.045. The  
25 instruction shall be a sequential, developmentally appropriate curriculum  
26 that is designed, implemented and evaluated to help students develop the  
27 knowledge, motor skills, self-management skills, attitudes and confidence  
28 needed to adopt and maintain physical activity throughout their lives.

29 “[4)(a)] **(3)(a)** School districts and public charter schools shall devote at  
30 least 50 percent of physical education class time to actual physical activity

1 in each school week, with as much class time as possible spent in moderate  
2 physical activity.

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

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

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

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

14 “(B) The Department of Education shall:

15 “(i) Review and, as appropriate, approve activities that are developed by  
16 nonprofit professional organizations representing health and physical educa-  
17 tion educators if the activities meet the requirements of subparagraph (A)  
18 of this paragraph; and

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

21 “(C) School districts and public charter schools may provide activities  
22 that meet the requirements of subparagraph (A) of this paragraph even if the  
23 activities are not approved as provided by subparagraph (B) of this para-  
24 graph.

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

29 “(b) Notwithstanding subsections [(1), (2) and (4)] **(1) and (3)** of this sec-  
30 tion, a student who does not have an individualized education program but

1 has chronic health problems, other disabling conditions or other special  
2 needs that preclude the student from participating in regular physical edu-  
3 cation instruction shall have suitably adapted physical education incorpo-  
4 rated as part of an individualized health plan developed for the student by  
5 the school district or public charter school.

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

10 “[7)(a)] (6)(a) All teachers of physical education for public school stu-  
11 dents in kindergarten through grade eight shall be adequately prepared and  
12 shall regularly participate in professional development activities to effec-  
13 tively deliver the physical education program.

14 “(b)(A) Notwithstanding any licensing or endorsement requirements es-  
15 tablished by the Teacher Standards and Practices Commission, a teacher  
16 with an elementary multiple subject endorsement may instruct students in  
17 activities described in subsection [(4)(b)] (3)(b) of this section if the activ-  
18 ities are reviewed by a licensed teacher with a physical education endorse-  
19 ment.

20 “(B) A teacher described in this paragraph may provide instruction in  
21 activities described in subsection [(4)(b)] (3)(b) of this section to students  
22 who are not regularly taught by the teacher as long as the instruction in the  
23 activities to students who are not regularly taught by the teacher does not  
24 exceed 45 minutes during each school week. Nothing in this subparagraph  
25 allows a school district to employ a teacher for the sole purpose of providing  
26 instruction in activities described in subsection [(4)(b)] (3)(b) of this section.

27 “[8] (7) A school district that does not comply with the requirements  
28 of this section is considered to be nonstandard under ORS 327.103.

29 “[9)(a)] (8)(a) Notwithstanding subsection [(8)] (7) of this section and  
30 pursuant to rules adopted by the State Board of Education, the Superinten-

1 dent of Public Instruction may grant a waiver of the requirements of this  
2 section to a school district or a public charter school if the superintendent  
3 finds that the school district or public charter school is unable to meet the  
4 requirements because of a human-created disaster or a natural disaster.

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

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

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

11 **“SECTION 2.** ORS 329.498 is amended to read:

12 “329.498. (1) The Department of Education shall collect data from school  
13 districts on:

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

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

21 “(c) The additional facilities required by public schools to provide phys-  
22 ical education to students as described in paragraph (b) of this subsection.

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

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

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

29 “(3) The department shall provide technical assistance to school districts  
30 and public charter schools to enable the school districts and public charter

1 schools to comply with the requirements of ORS 329.496.

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

4 **“SECTION 4. This 2023 Act being necessary for the immediate**  
5 **preservation of the public peace, health and safety, an emergency is**  
6 **declared to exist, and this 2023 Act takes effect July 1, 2023.”.**

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