



# Oregon

Tina Kotek, Governor



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**Colt Gill**

Director of the Department of Education

**Senate Bill 215 - Technical Changes & Modifications to Education Statutes**  
**Senate Education Committee**  
**January 18, 2023**

Chair Dembrow, Vice Chair Weber and members of the Senate Education Committee, I am Zoe Larmer, Government Relations Director for the Oregon Department of Education. Thank you for the opportunity to provide written testimony in support of Senate Bill 215. This technical adjustment bill is important to ensure clarity and to improve upon educational services provided throughout Oregon.

The Department has proposed some modifications to statutes that remove outdated language and create more clarity for districts and ODE in our work to support students. There are no anticipated fiscal impacts resulting from these changes. Each section of the bill will be covered in-depth below.

SB 215 contains largely technical changes, including:

- Making changes to Oregon's USDA Foods Program and other child nutrition related statutes to allow for cost coverage for programs and update outdated language.
- Updating the Speech Language Pathology Grant Program to clarify how the program should operate.
- Improving the complaint and appeals process by giving the Oregon Department of Education (ODE) subpoena power where required to investigate and disallowing public disclosure of information pertaining to an ongoing investigation.
- Making additional changes to SB 155 (2019) to clarify ODE's role in the process.
- Requiring Education Service Districts receiving funds from the Student Education Initiatives Account to provide support for school districts, eligible charters, and Youth Corrections & Juvenile Detention Education Programs.
- Changing responsibility for the mobile safety grant over to ODE from Oregon Department of Transportation.
- Updating the Student Success Act to name superintendents as the responsible party to accept and consider recommendations put forward via the Intensive Program.
- Moving media program standards to only one place in statute by amending ORS 329.095.
- Allowing Educational Service Districts the statutory authority to issue high school diplomas to students enrolled in hospital education programs.
- Clarifying uses of the Early Learning Account by ODE as a result of the Department of Early Learning and Care becoming a standalone agency.

### **Section 1 - Food Programs in Schools**

This section requests to remove language that made fees for USDA Foods equal regardless of the kind of product or program costs associated with the product. It also adds language allowing ODE to charge an equitable amount for fees dependent on the kind of product and program costs associated with the product. Finally, ODE requests to update the name of the program from its previous name (donated commodities) to its current federal name of USDA Foods.

### **Section 2 - Food Programs in Schools**

This proposal would change the word “Lunch” in “School Lunch” to “Food,” as the funding relates to other meal programs beyond lunch, i.e. School Breakfast.

### **Section 3 - Food Programs in Schools**

In 2019, the landmark Student Success Act legislation passed, which greatly expanded access to school breakfast programs. This piece of legislation made the current language in ORS 327.535 obsolete, so this proposal would remove the language requiring that schools that provide lunch and have 25% or more eligible students to also make breakfast accessible as well. Removal of ORS 327.535 would lessen confusion for sites around what legislative requirements are for them.

ODE has also included School Breakfast Equipment grant language under this section to house it with the other breakfast language included in this statute.

### **Section 4 – Food Programs in Schools**

This proposal would remove language indicating “summer months” to allow for this particular reimbursement to apply to sites that provide meals during unanticipated closures falling outside of the May-August timeframe. This is especially important as the only programs available federally during unanticipated closures are summer meal programs, regardless of the time of year. With these changes, ODE intends to reduce barriers to providing meals during unanticipated closures.

### **Section 5 – 8 Speech-Language Pathology Program**

[HB 3141](#) established the Speech Language Pathology (SLP) Grant Program (Speech-Language Pathology Training Fund) in 2007 to address the personnel shortage of Speech Language Pathologists (SLPs) and Speech Language Pathology Assistants (SLPAs) available to serve in Oregon’s school districts, Education Service Districts (ESDs), and Early Intervention/Early Childhood Special Education (EI/ECSE) programs.

ODE was granted rulemaking authority for this program but has not done so due to concerns in the way that current statute is written. Namely, it is not in alignment with the education and licensure process for SLPs and the definition of “Participant” and ambiguity in language make payments challenging.

That has made it difficult for this program to be implemented legally and efficiently, impacting program administration and participation, leading to under-subscription, a surplus of funds, and confusion for participants and sponsoring agencies.

After conducting an extensive legal and program review, ODE determined that the best way forward is through statute revision. These changes would improve execution of the program while still adhering to the original intent of the legislation. These fixes include: redefining “participant” and adjusting the language to reflect the licensing and certification process for SLPs and SLPAs, clarifying who receives the payment, and making language between sections congruent.

If these changes are approved, ODE will embark on the rulemaking process to develop Oregon Administrative Rules (OARs) to support viable and sustainable administration of this program as we work to address the critical shortage of SLPs and SLPAs felt by so many Oregon school districts and ESDs.

### **Section 9 – Complaint and Appeals Process**

By statute, ODE has been given the duty to investigate allegations of religious entanglement, discrimination, retaliation, violations of restraint and seclusion law, and violations of the Division 22 standards. However, currently ODE does not hold subpoena power that would enable it to collect information needed for those investigations.

Under most circumstances, parties to investigations willingly provide the information needed to ODE. There are occasionally circumstances where parties have refused to provide information needed for a Department investigation. This change would give ODE subpoena power related to the areas of law it has been directed to enforce, which would allow it to collect information needed for its investigations.

Additionally, under current public records law, ODE is required to disclose documents related to an investigation while an investigation is still open/pending. Unfortunately, releasing documents while an investigation is still pending can have the adverse impact of creating inaccurate expectations about what the outcome of an investigation might be.

This change would make documents related to an investigation confidential and not subject to public inspection while a case is still pending. Notably, this change would not prevent the disclosure of public records related to an investigation once that investigation concludes.

### **Section 10 – Investigations of Sexual Conduct or Abuse**

Passed in the 2019 session, Senate Bill 155 is a law designed to help ensure the safety of all pre-K-12 students in Oregon. Among other things, SB 155 established new responsibilities for three state agencies (the Oregon Department of Human Services (DHS), the Teacher Standards and Practices Commission (TSPC), and the Oregon Department of Education (ODE)) with respect to suspected abuse or suspected sexual conduct involving school employees, contractors, agents, or volunteers and students. ODE’s specific role is to conduct investigations for reports of sexual conduct involving school employees, contractors, agents, and volunteers who are not licensed by TSPC.

ODE is required to notify certain persons of its findings of fact and final determination upon the completion of an investigation. As currently written, ODE is required to send its determination to the involved student, regardless of that student's age. This proposal would provide flexibility to determine who is the appropriate recipient of the required notification - whether it would be more appropriate to notify the student, the student's parent(s)/legal guardian(s), or both. For example, it may not be appropriate to send a notification to five-year old student on the completion of an investigation. This would allow for flexibility based on the circumstances of the individual case.

Additionally, in SB 242 (2021), language was added to ORS 339.390 (the statute directing TSPC's SB 155 investigations) to prohibit the re-disclosure of confidential documents when those documents are disclosed to others as required by that statute. This bill revises ORS 339.391(4) to add similar language to the statute directing ODE's SB 155 investigations to prohibit the re-disclosure of confidential documents when ODE discloses those documents to others as required by ORS 339.391.

### **Section 12 – Investigations of Sexual Conduct or Abuse**

Under current law, the documents and materials used in a sexual conduct investigation and the report related to the investigation are confidential and not subject to public inspection.

Under existing public records law, public records that are made confidential under Oregon law are exempt from disclosure. But, public records that are otherwise exempt from disclosure under Oregon law become subject to inspection if the records are more than 25 years old. ODE is directed to retain the documents and materials related to any report of sexual conduct for 75 years, well beyond that 25 year mark.

This proposal would request to make records involved in sexual conduct investigations exempt from disclosure if they are less than 75 years old, thereby allowing ODE to maintain the confidentiality of the documents and materials used in sexual conduct investigations for the full 75 years the agency is required to retain those documents.

### **Section 13 & 14 – Investigations of Sexual Conduct or Abuse**

Law enforcement and DHS are required to disclose the outcomes of their investigations to ODE if the alleged abuse occurred "in a school or was related to a school-sponsored activity." ODE's sexual conduct investigations, however, are not limited to those behaviors occurring in a school or related to a school-sponsored activity.

This change adds language to direct law enforcement and DHS also to disclose the outcomes of their investigations to ODE if the alleged child abuse was committed by a school employee, contractor, agent, or volunteer. This will ensure that ODE has access to information from law enforcement and DHS that is needed for its sexual conduct investigations.

## **Section 15 & 16 – Traffic Patrol**

For decades, ODE has offered Mobile Safety training to elementary school students and its staff in two ways:

- Traffic Patrol training, including crossing guard and safety patrol responsibilities and disbursement of supplies such as signs or safety vests.
- Mobile Safety presentations, including special assembly programs demonstrating safe interaction before, during, and after school bus transportation, presented with the aid of the Buster The Bus robotic school bus character.

Historically, under ORS 339.665, the Oregon Department of Transportation (ODOT) and the Oregon Department of Education (ODE) were instructed to cooperate with local schools to assist in their programs. This was practically interpreted as ODOT providing funding for ODE to provide the assistance to local schools through its Pupil Transportation unit. Since that time, ODOT has discontinued funding of the mobile safety grant, and responsibility for the grant now lies with ODE. This proposal removes ODOT from ORS 339.660 and ORS 339.665 to indicate that change.

## **Section 17 & 18 – Technical Assistance Provided by Education Service Districts**

This proposal would remove “school district” language and replace it with “recipients” so Education Service Districts (ESDs) are required to provide support to all potential grantees in their region – school districts, charter schools, and Youth Corrections Education Programs and Juvenile Detention Education Programs (YCEPs/JDEPs). This ensures all of those eligible to apply for Student Investment Account (SIA) funding also have access to ESD support through the related processes.

Most of Oregon’s ESDs are already supporting the charter schools and YCEPs/JDEPs in their regions with SIA; this bill would simply shift what is currently happening in practice to be a requirement in law.

This change would also require ESDs to consider all of the eligible grantees in their region when designing and planning their technical assistance and supports as part of their Local Service Plan, and clarifies the plan does not need to be in place before technical assistance can occur.

## **Section 19 – Media Standards**

The media program standards are currently housed within two separate rules under Division 22: [OAR 581-022-2340 Media Programs](#) and [OAR 581-022-2250 District Improvement Plan](#). This bifurcated approach has created both ambiguity in interpreting the standards as well as discrepancies in how districts report their compliance with the standards.

Removing the reference to strong school libraries from [ORS 329.095](#), section (4)(a) (J) allows all standards for school libraries to exist within [OAR 581-022-2340 Media Programs](#) and eliminates discrepancies when districts report compliance. ODE will revise OAR 581-022-2340 Media Programs to incorporate those media program standards currently housed within OAR 581-022-2250 District Improvement Plan and remove them from OAR 581-022-2250 District Improvement Plan.

This proposed statutory change comes from the work of an advisory group and report required by a budget note. To review the report, please see [Budget Note for Media Programs Standards Final Report - December 2021](#).

### **Section 20 – Education of Children in Hospital Facilities**

Currently, all hospital programs in the state of Oregon are operated by Education Service Districts (ESDs). This change would allow an ESD to award high school diplomas to students enrolled in these programs; as is, ESD do not have authority to award high school diplomas. Students will be able to graduate without needing another school district to agree to award the diploma, removing some red tape en route to a diploma for students in our hospital programs.

### **Section 21 – Intensive Program for High-Needs School Districts**

Through the passage of the Student Success Act (2019), districts with the highest needs in the state are invited to participate in the Intensive Program, which provides technical assistance, support and resources for the purpose of improving outcomes for their students. Currently three districts are engaged or near finalization of agreement to participate in the program. This change would remove a key barrier that has been named in districts' decisions not to participate in the program. The Student Success Teams - a key part of the Intensive Program - would benefit from conversations that can be highly sensitive and often include discussing focal students, educators and specific schools. As it currently stands, those sensitive conversations must happen in a public manner, and has deterred some districts who are offered invitation to the Intensive Program from accepting.

This change asks that superintendents alone accept and consider recommendations from the Student Success Team, which would create the right structural conditions to promote the type of authentic discourse and collaboration ODE believes was intended when the law was first passed.

### **Section 22 – Uses of Early Learning Account**

The proposal regarding uses of the Early Learning Account will assure that early intervention and early childhood special education (EI/ECSE), under ODE, will continue to receive the funding designated for that program. All of the other programs under the Early Learning Account will reside with the new Department of Early Learning and Care.