

House Bill 4078

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Education for Representative Courtney Neron)

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Directs ODE to create and use a method for electronic student data. (Flesch Readability Score: 60.7).

Directs the Department of Education to develop and implement a standardized method to be used by school districts and the department to electronically create, collect, use, maintain, disclose, transfer and access student data. Prescribes requirements of the method.

Takes effect July 1, 2024.

A BILL FOR AN ACT

1
2 Relating to student data; creating new provisions; amending ORS 192.842, 326.565, 338.115, 343.173,
3 346.169 and 433.280; repealing ORS 326.580; and prescribing an effective date.

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

5 **SECTION 1. (1) The Department of Education shall develop and implement a standardized**
6 **method to be used by school districts and the department to electronically create, collect,**
7 **use, maintain, disclose, transfer and access student data.**

8 **(2) The method developed and implemented under this section must:**

9 **(a) Facilitate easy and fast electronic transfers of student records;**

10 **(b) Facilitate the ability of school districts to effectively maximize Medicaid billing;**

11 **(c) Minimize the reporting burdens of school districts;**

12 **(d) Minimize the likelihood that records will be duplicated at the state level when a stu-**
13 **dent transfers to, or is placed in, a different educational setting; and**

14 **(e) Facilitate access by the department to student data for research purposes.**

15 **(3) The method developed and implemented under this section must allow for the col-**
16 **lection of at least the following types of data:**

17 **(a) Student name and state identification number;**

18 **(b) Student demographic information;**

19 **(c) Student statewide assessment data;**

20 **(d) Student course completion data;**

21 **(e) Student education records; and**

22 **(f) Student individualized education program records.**

23 **(4) The department shall provide to school districts training on the method developed and**
24 **implemented under this section in the manner prescribed by the State Board of Education**
25 **by rule.**

26 **(5) The State Board of Education shall adopt any rules necessary for the administration**
27 **of this section.**

28 **SECTION 2. For the purpose of developing the method for electronically creating, col-**

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 lecting, using, maintaining, disclosing, transferring and accessing student data as required
2 under section 1 of this 2024 Act, the Department of Education:

3 (1) May contract with a public or private entity for the development of the method.

4 (2) Shall ensure that the method reduces or eliminates redundancies related to student
5 data and that the method replaces local methods related to student data that are in place
6 prior to the full implementation of the method.

7 (3) Shall establish a schedule to:

8 (a) Test and implement the method;

9 (b) Adequately train school district staff in the use of the method; and

10 (c) Ensure that the method is fully implemented in all school districts no later than
11 September 1, 2034.

12 (4) Shall establish a technical advisory committee to assist in the development and im-
13 plementation of the new method. The committee shall:

14 (a) Include the following members:

15 (A) A representative of a statewide organization that represents school administrators;

16 (B) A representative of a statewide organization that primarily represents licensed
17 teachers;

18 (C) A representative of a statewide organization that primarily represents classified ed-
19 ucators and educator staff;

20 (D) A representative of a statewide organization of school business officials in this state;

21 (E) A representative of a statewide organization that represents education service dis-
22 tricts;

23 (F) A representative of a statewide organization that represents school boards;

24 (G) A representative of the Oregon Youth Authority;

25 (H) An expert on the statewide longitudinal data system;

26 (I) A representative of the office of Enterprise Information Services established in the
27 Oregon Department of Administrative Services; and

28 (J) A member recommended by the Governor.

29 (b) Have the following responsibilities:

30 (A) Study the Juvenile Justice Information System.

31 (B) Provide oversight and technical guidance to staff within the Department of Education
32 regarding the implementation of the method.

33 (C) Make recommendations for legislation to the Legislative Assembly.

34 (D) Coordinate efforts with any state-level committees or organizations that address
35 Medicaid billing by school districts.

36 (E) Oversee the implementation of the method and regularly submit reports on the im-
37 plementation of the method to the State Board of Education and, in the manner provided in
38 ORS 192.245, to the committees or interim committees of the Legislative Assembly related
39 to education.

40 (F) Consider alignment with grant applications and intersecting programs.

41 (G) Recommend attainable schedules for testing, training and implementation in school
42 districts of varying sizes across the state.

43 (H) Analyze and address cybersecurity issues that may affect student data.

44 **SECTION 3.** Section 2 of this 2024 Act is repealed on September 1, 2036.

45 **SECTION 4.** ORS 326.565 is amended to read:

1 326.565. (1) The State Board of Education shall adopt by rule standards for the [*creation, use,*
 2 *custody and disclosure, including access,*] **creation, collection, use, maintenance, disclosure,**
 3 **transfer and access** of student education records held by a school district or another public or
 4 private educational entity that provides educational services to students in any grade from
 5 kindergarten through grade 12. Consistent with the requirements of applicable state and federal law,
 6 the standards:

7 **(a) Shall incorporate the method used to electronically create, collect, use, maintain,**
 8 **disclose, transfer and access student data, as developed and implemented pursuant to section**
 9 **1 of this 2024 Act.**

10 [(a)] **(b)** Shall include requirements under which a school district or other educational entity
 11 will transfer student education records pursuant to ORS 326.575.

12 [(b)] **(c)** May be applied differently to persons 18 years of age or older.

13 (2) The board shall distribute the rules that are adopted under subsection (1) of this section to
 14 all school districts and shall make the rules available on the website of the Department of Educa-
 15 tion.

16 (3) School districts shall make the rules received under subsection (2) of this section available
 17 to the public schools in the district and to the public.

18 **SECTION 5.** ORS 192.842 is amended to read:

19 192.842. (1) A county clerk or other elections official shall use the actual address of a program
 20 participant for voter registration purposes. Except as provided in ORS 192.820 to 192.868, a county
 21 clerk or other elections official may not disclose the actual address.

22 (2) A county clerk or other elections official shall use the substitute address of the program
 23 participant for purposes of mailing a ballot to an elector under ORS 254.470.

24 (3) A school district shall use the actual address of a program participant for any purpose re-
 25 lated to admission or assignment. The school district shall take such measures as necessary to pro-
 26 tect the confidentiality of the actual address of the program participant. Student records created
 27 under ORS 326.565 and [326.580] **section 1 of this 2024 Act** shall use the substitute address of the
 28 program participant.

29 (4) A county clerk shall accept the substitute address of the program participant as the address
 30 of the applicant for the purpose of issuing a marriage license under ORS 106.041 or registering a
 31 Declaration of Domestic Partnership under ORS 106.325.

32 **SECTION 6.** ORS 338.115 is amended to read:

33 338.115. (1) Statutes and rules that apply only to school district boards, school districts or other
 34 public schools do not apply to public charter schools. However, the following laws do apply to public
 35 charter schools:

- 36 (a) Federal law;
- 37 (b) ORS 30.260 to 30.300 (tort claims);
- 38 (c) ORS 192.311 to 192.478 (public records law);
- 39 (d) ORS 192.610 to 192.705 (public meetings law);
- 40 (e) ORS chapters 279A, 279B and 279C (Public Contracting Code);
- 41 (f) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);
- 42 (g) ORS 326.565[,] **and** 326.575 [*and 326.580*] **and section 1 of this 2024 Act** (student records);
- 43 (h) ORS 181A.195, 326.603, 326.607 and 342.223 (criminal records checks);
- 44 (i) ORS 329.045 (academic content standards and instruction);
- 45 (j) ORS 329.451 (high school diploma, modified diploma, extended diploma and certificate of at-

- 1 tendance);
- 2 (k) ORS 329.496 (physical education);
- 3 (L) The statewide assessment system developed by the Department of Education for mathemat-
- 4 ics, science and language arts under ORS 329.485 (2);
- 5 (m) ORS 336.840 (use of personal electronic devices);
- 6 (n) ORS 337.150 (textbooks);
- 7 (o) ORS 339.119 (consideration for educational services);
- 8 (p) ORS 339.141, 339.147 and 339.155 (tuition and fees);
- 9 (q) ORS 339.250 (9) (prohibition on infliction of corporal punishment);
- 10 (r) ORS 339.326 (notice concerning students subject to juvenile court petitions);
- 11 (s) ORS 339.370 to 339.400 (reporting of suspected abuse and suspected sexual conduct);
- 12 (t) ORS 342.856 (core teaching standards);
- 13 (u) ORS chapter 657 (Employment Department Law);
- 14 (v) ORS 332.505 (2), 659.850, 659.855 and 659.860 (discrimination);
- 15 (w) Any statute or rule that establishes requirements for instructional time provided by a school
- 16 during each day or during a year;
- 17 (x) Statutes and rules that expressly apply to public charter schools;
- 18 (y) Statutes and rules that apply to a special government body, as defined in ORS 174.117, or a
- 19 public body, as defined in ORS 174.109;
- 20 (z) Health and safety statutes and rules;
- 21 (aa) Any statute or rule that is listed in the charter; and
- 22 (bb) This chapter.
- 23 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules
- 24 that apply only to school district boards, school districts and other public schools may apply to a
- 25 public charter school.
- 26 (3) If a statute or rule applies to a public charter school, then the terms “school district” and
- 27 “public school” include public charter school as those terms are used in that statute or rule.
- 28 (4) A public charter school may not violate the Establishment Clause of the First Amendment
- 29 to the United States Constitution or Article I, section 5, of the Oregon Constitution, or be religion
- 30 based.
- 31 (5)(a) A public charter school shall maintain an active enrollment of at least 25 students.
- 32 (b) For a public charter school that provides educational services under a cooperative agree-
- 33 ment described in ORS 338.080, the public charter school is in compliance with the requirements of
- 34 this subsection if the public charter school provides educational services under the cooperative
- 35 agreement to at least 25 students, without regard to the school districts in which the students are
- 36 residents.
- 37 (6) A public charter school may sue or be sued as a separate legal entity.
- 38 (7) The sponsor, members of the governing board of the sponsor acting in their official capacities
- 39 and employees of a sponsor acting in their official capacities are immune from civil liability with
- 40 respect to all activities related to a public charter school within the scope of their duties or em-
- 41 ployment.
- 42 (8) A public charter school may enter into contracts and may lease facilities and services from
- 43 a school district, education service district, public university listed in ORS 352.002, other govern-
- 44 mental unit or any person or legal entity.
- 45 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-

1 ability.

2 (10) A public charter school may receive and accept gifts, grants and donations from any source
3 for expenditure to carry out the lawful functions of the school.

4 (11) The school district in which the public charter school is located shall offer high school di-
5 plomas, modified diplomas, extended diplomas and certificates of attendance to any public charter
6 school students who meet the district’s and state’s standards for a high school diploma, a modified
7 diploma, an extended diploma or a certificate of attendance.

8 (12) A high school diploma, a modified diploma or an extended diploma issued by a public
9 charter school grants to the holder the same rights and privileges as a high school diploma, a
10 modified diploma or an extended diploma issued by a nonchartered public school. A certificate of
11 attendance issued by a public charter school shall have the same restrictions as a certificate of at-
12 tendance issued by a nonchartered public school.

13 (13) Prior to beginning operation, the public charter school shall show proof of insurance to the
14 sponsor as specified in the charter.

15 (14) A public charter school may receive services from an education service district in the same
16 manner as a nonchartered public school in the school district in which the public charter school is
17 located.

18 **SECTION 7.** ORS 343.173 is amended to read:

19 343.173. (1) Notwithstanding the limitation on access to records under ORS 192.311 to 192.478,
20 326.565, 326.575 and 336.187 **and section 1 of this 2024 Act**, the parent is entitled at any reasonable
21 time to examine all of the records of the school district pertaining to the identification, evaluation
22 and educational placement of the child and the provision of a free appropriate public education to
23 the child. Records must be provided without undue delay, which may not exceed 10 business days,
24 as defined in ORS 192.311, from the date of the request for the records. Records may be redacted
25 only to the extent necessary to protect personally identifiable information of other children unless
26 disclosure is authorized by law or court order.

27 (2) Any parent is entitled to obtain an independent evaluation at the expense of the school dis-
28 trict if the parent disagrees with an evaluation obtained by the district.

29 (3) If the school district disagrees with the parent’s request for an independent educational
30 evaluation, the district may initiate a hearing under ORS 343.165 to show that the district’s evalu-
31 ation is appropriate. If the final decision is that the district’s evaluation is appropriate, the parent
32 has the right to an independent educational evaluation, but not at the district’s expense.

33 (4) If the parent requests an independent educational evaluation of the child, the school district
34 shall provide information about where an independent educational evaluation may be obtained.

35 (5) If a hearing officer appointed under ORS 343.165 requests an independent educational eval-
36 uation as part of a hearing, the school district shall pay the cost of the evaluation.

37 (6) For purposes of this section, “independent educational evaluation” means an evaluation
38 conducted by a qualified examiner who is not employed by the school district responsible for the
39 child in question.

40 **SECTION 8.** ORS 346.169 is amended to read:

41 346.169. (1) Notwithstanding the provisions of ORS 346.165 and 346.167, whenever a person who
42 is blind or blind and deaf requests any public or private agency to exchange with another agency
43 the records of the agency concerning the person making the request, the agency shall furnish the
44 records to the designated agency.

45 (2) The request made under subsection (1) of this section may be made by a guardian of the

1 person who is blind or blind and deaf.

2 (3) As used in this section, "record" includes name and address of the person who is blind or
3 blind and deaf, medical and psychological records, and other information designated by the person
4 requesting the exchange of records.

5 (4) Where appropriate, a request for an exchange of records made under the provisions of this
6 section shall be subject to the confidentiality and access provisions of ORS 179.495, 326.565, 326.575,
7 336.187, 341.290, 344.600, 411.320, 419B.035 and 419B.045 **and section 1 of this 2024 Act.**

8 **SECTION 9.** ORS 433.280 is amended to read:

9 433.280. Nothing in ORS 179.505, 192.553 to 192.581, 326.565, 326.575 or 336.187 **or section 1 of**
10 **this 2024 Act** prevents:

11 (1) Inspection by or release to administrators by local health departments of information relating
12 to the status of a person's immunization against restrictable diseases without the consent of the
13 person, if the person has been emancipated or has reached the age of majority, or the parent of a
14 child.

15 (2) Local health departments from releasing information concerning the status of a person's im-
16 munization against restrictable diseases by telephone to the parent, administrators and public health
17 officials.

18 **SECTION 10.** ORS 326.580 is repealed.

19 **SECTION 11.** The amendments to ORS 192.842, 338.115, 343.173, 346.169 and 433.280 by
20 sections 5 to 9 of this 2024 Act and the repeal of ORS 326.580 by section 10 of this 2024 Act
21 become operative July 1, 2034.

22 **SECTION 12.** This 2024 Act takes effect on July 1, 2024.

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