



TO: Senate Committee on Education
FROM: Emielle Nischik, Executive Director
DATE: March 12, 2025
RE: SB 141 and -1 amendments

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Chair Frederick, Vice-Chair Weber, Members of the Committee:

I'm Emielle Nischik, Executive Director of the Oregon School Boards Association. Our members are deeply committed to achieving the best possible student outcomes, and over the past year, I had the honor of serving on the accountability work group.

Our message has consistently been that we are all in for accountability when measuring the right things and with the right supports in place. We have also been clear in our belief that accountability must be shared between the state and local districts.

We believe SB 141, with the -1 amendments, represents an important step forward in this conversation. There are also areas where the language could be further improved to incorporate the extensive feedback of education partners closest to the work that takes a more system wide approach of shared accountability. We have outlined areas that we find promising and identify some opportunities that could strengthen the bill to bring better clarity and accountability to the whole education system.

Performance Growth Metrics

This section of the bill addresses the heart of the question “are we measuring the right things?” We think that the new metrics are valuable, though we do have some concerns that I will outline.

Definitions

The -1 amendment includes in the definition of “school district:” education service districts, charter schools, approved recovery schools, and the juvenile detention education program (JDEP) and the youth corrections education program (YCEP). I can appreciate the desire for accountability across our various programs, but this expansive definition seems likely to lead to less clarity, rather than more.

JDEP and YCEP are both programs run by ODE, with the Department contracting with local districts and ESDs to act as the local service provider. The department statutorily holds responsibility for the education of students in juvenile detention and corrections settings. Likewise, approved recovery schools are established through contracts between the Department of Education and a local district, ESD, or charter school. It would seem that the Department could address any performance or accountability concerns through the existing contracting process.

The providers for JDEP, YCEP, and approved recovery schools are all school districts, ESDs, or charter schools (for recovery schools only). To create stand-alone accountability processes for each program would add an extra layer of reporting and administrative work to the contractors that would already have to meet accountability metrics and reporting standards generally.

Finally, we have concerns about applying all metrics equally to all of the programs listed under the definition of “school district” in the -1 amendments. JDEP, YCEP, and approved recovery schools all serve older students. The early attendance metric for grades K-2, for example, would not be applicable in these settings. Similarly, JDEP and YCEP are educational programs operated in secure facilities where participation in educational programming is compulsory, so attendance generally is not a metric that would provide any useful information about the contractor providing the educational programming. Lastly, with regard to JDEP specifically, the average length of stay in a juvenile detention facility is less than two weeks; a better metric of performance in this instance would be to look at credit recovery progress rather than graduation rates.

Metrics

We are very pleased to see formative assessments included in the -1 amendments. We would like to make sure that districts will have the flexibility to use their current formative assessments and that funding is provided to districts not already using such an assessment.

We remain concerned about the impact of Oregon’s opt-out law on performance metrics given that 17% of Oregon districts failed to achieve 80% participation in any of the three assessment categories in the 23-24 school year. We also have concerns that allowing students to opt out of testing leads to increased absences, with students opting out of testing being less likely to attend school on the days those tests are administered.

We appreciate the inclusion of local metrics and would like to see those be more expansive. Directing the State Board of Education to develop only three possible local metrics does not offer much ability for our varied 197 districts and 19 ESDs to select the issues that are most relevant to their local communities. We would like to see greater flexibility here for locally-driven metrics.

We do think that the variety of metrics named in the -1 will help paint a fuller picture of how our districts are doing. We support more clarity in the bill around what constitutes a district in need of coaching or further intervention. How many metrics must a district be insufficient to qualify for support? And what level of progress does it take for a district to no longer qualify as needing support/intervention?

Department Capacity, Timeline, and Shared Accountability

We appreciate the intention to provide technical assistance to all school districts, and we are concerned with the Department’s capacity and want to ensure that the implementation timeline is reflective of the needs of the Department. As ODE works to increase their capacity, we also want to ensure that there are appropriate mechanisms for districts to provide the Department with feedback, creating that shared accountability in the system.

ODE Capacity

Currently ODE provides customized coaching and professional learning to 10 districts/schools and 3 ESDs. The Department’s Intensive Program support is more limited, currently serving four districts across three cohorts. For operation of the Intensive Program alone, the Department was awarded \$3.8 million in the 23-25 biennium.

Concerns about capacity largely stem from the Department’s own assessment in the January 2025 Student Investment Account [report to the legislature](#) (see page 14):

The most significant challenge facing the program currently is the procurement of external contractors to serve as stewards. In 2022, the Intensive Program team pursued making a special procurement process permanent practice for contracting additional stewards. This move came after two failed RFPs in 2021 and discussion with ODE and Department of Administrative Services leadership for potential next steps. However, during 2023 and 2024 movement on this special procurement approach has continued to be delayed. Only single-year amendments to extend currently serving stewards have been executed. This has been especially difficult as multiple stewards have shifted roles, which has a direct impact on program fidelity. The program currently has no additional stewards poised to join districts invited in 2025, and current stewards are at capacity. A request has been submitted to procurement to bring in additional stewards. For continued program viability, being able to procure additional stewards through a consistent process is needed to ensure enough stewards can be obtained that have the specific skills and knowledge to support both the geographic and diverse array of districts the program aims to serve.

The remainder of the 2023-25 biennium will bring a new round of invitations to the Intensive Program to start a Cohort 4. Invitations will begin in early spring 2025, with the intention of new districts beginning participation in July 2025. Inviting two additional districts into Cohort 4 will be possible only if current limited duration positions are made permanent or extended and the procurement of additional steward contractors can be completed within this timeframe.

Timeline

We want whatever efforts result from this legislation to succeed, and that means we need to spend the time to set them up for success. We need to give ODE staff the appropriate amount of time to implement processes for new metrics and districts the time to adapt (e.g., in the case of formative assessments).

Section 4 of the -1 amendments states that new performance metrics shall be utilized beginning in the 26-27 school year – just one school year from now. The amendments would also indicate that ODE shall have technical assistance available to districts beginning that same school year. If the Department is already struggling to meet staffing needs in support of districts, we have concerns about the agency’s ability to staff up in time for 26-27 implementation. This concern is heightened by Section 6 of the amendments, which indicates that districts already receiving intensive support could find themselves fast-tracked to more directive action from the Department.

We have also been assured that the accountability work would include the Department reviewing and reducing administrative burden to districts and working to streamline where possible. Section 33 of the -1 amendments requires ODE to submit a report to the Legislature by December of 2026 detailing any changes necessary to address redundancies. This report deadline falls in the middle of the same school year in which districts are expected to utilize new performance metrics. This overlap leaves us concerned about what early implementation may look like if the new requirements are rolling out before the promised administrative clean-up, leading to an additional burden on districts without taking anything off their plate.

Likewise, Section 35 of the amendments direct the Department to submit a report on district standards to the Legislature in December of 2026, despite the same section requiring the Department to change enforcement practices in the 26-27 school year, which begins in August/September of 2026.

We believe that any required reports to the Legislature should be available prior to the Department adopting new policies and procedures outlined in those reports.

Shared Accountability

OSBA's members are the local faces of their school districts, with accountability to their constituents built into their day-to-day lives. If or when the Department is working with districts, our members will remain the ones that the local community looks to for answers. As we develop this new system, we need to ensure that our local education leaders can reliably count on the state to provide the support needed to make the system work effectively.

The -1 amendments lay out a progression of support and intervention from the Department to local districts and ESDs. If a district is not getting closer to meeting metrics after four years, two of which would have included coaching from the Department, then ODE may direct a portion of the district's spending. It also seems fair to ask, in this equation, if a district is not improving after two years of support from the Department, "how well is that support working?" We believe that in the spirit of shared accountability, it is important for districts to have a mechanism for communicating to the Department when they need more or different support.

We would also like to see stronger language in the amendments with regard to the administrative work that is planned at the Department in order to get up and running and to begin streamlining requirements for districts. There has been very rich discussion with the Governor's office, ODE, and education partners on this topic. Those conversations would carry greater weight if more specific actions were reflected in the legislation. We want to avoid creating a situation where districts are being held to specific standards, but the expectations on the Department are not equally as strong without clear timelines.

Directed Spending and Local Needs

The -1 amendments allow up to 25% of a district or ESD's State School Fund allocation and Student Investment Account grant to be directed by the Department of Education. It is not clear in the amendments who at the Department would be directing spending, or through what decision-making processes. We also have some questions about how this would work, logistically, with regard to local contracts, budgeting law, and federal spending requirements.

- Given that roughly 85% of a district's costs are personnel, we have questions about how this level of direction might impact, or be impacted by, local collective bargaining agreements.
- Districts have "maintenance of effort" requirements that limit flexibility in local budgeting decisions as there are financial consequences for not meeting these standards.
- Districts have a prescribed process for approving their local budgets and we need to ensure that any direction from ODE aligns with these statutory requirements.
- For ESDs specifically, their State School Fund allocation is intended to cover services provided to the component school districts of the ESD, based on input from and approval of those component districts. We are not sure how directed spending for ESDs would align with the statutory requirements to develop a local service plan in partnership with the component districts.

All this to say, we want to ensure that whoever from the Department is engaged in this work with districts has an appropriate level of district budget expertise to avoid unintended consequences. Given

the tight limitations on district budgets, we would prefer to see a tiered approach where direction is given for SIA funds before direction is given for State School Fund spending.

Finally, if or when the Department is providing direction on local school district spending, we believe it would only be appropriate for the Department to participate in public meetings and community conversations about those spending decisions, much the same way districts are directed to do community engagement as part of their SIA and Integrated Guidance work. This approach would ensure that local perspectives, particularly of historically underserved communities, are taken into account prior to the Department making changes to the budget.

In Summary

OSBA sees a great deal of progress and promise in the -1 amendments, incorporating many of the discussions from the past year. We think the legislative language is headed in the right direction. We are eager to engage further with Governor Kotek and her staff regarding opportunities for clarifying language and expectations and ensuring that the timeline and supports provided are setting all of us – districts and ODE alike – up for success.