



APPENDIX A
REGULATORY INFORMATION

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INFORMATION**

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ORS 195.110: SCHOOL FACILITY PLAN FOR LARGE DISTRICTS

195.110 School facility plan for large school districts. (1) As used in this section, “large school district” means a school district that has an enrollment of over 2,500 students based on certified enrollment numbers submitted to the Department of Education during the first quarter of each new school year.

(2) A city or county containing a large school district shall:

(a) Include as an element of its comprehensive plan a school facility plan prepared by the district in consultation with the affected city or county.

(b) Initiate planning activities with a school district to accomplish planning as required under ORS 195.020.

(3) The provisions of subsection (2)(a) of this section do not apply to a city or a county that contains less than 10 percent of the total population of the large school district.

(4) The large school district shall select a representative to meet and confer with a representative of the city or county, as described in subsection (2)(b) of this section, to accomplish the planning required by ORS 195.020 and shall notify the city or county of the selected representative. The city or county shall provide the facilities and set the time for the planning activities. The representatives shall meet at least twice each year, unless all representatives agree in writing to another schedule, and make a written summary of issues discussed and proposed actions.

(5)(a) The school facility plan must cover a period of at least 10 years and must include, but need not be limited to, the following elements:

(A) Population projections by school age group.

(B) Identification by the city or county and by the large school district of desirable school sites.

(C) Descriptions of physical improvements needed in existing schools to meet the minimum standards of the large school district.

(D) Financial plans to meet school facility needs, including an analysis of available tools to ensure facility needs are met.

(E) An analysis of:

(i) The alternatives to new school construction and major renovation; and

(ii) Measures to increase the efficient use of school sites including, but not limited to, multiple-story buildings and multipurpose use of sites.

(F) Ten-year capital improvement plans.

(G) Site acquisition schedules and programs.

(b) Based on the elements described in paragraph (a) of this subsection and applicable laws and rules, the school facility plan must also include an analysis of the land required for the 10-year period covered by the plan that is suitable, as a permitted or conditional use, for school facilities inside the urban growth boundary.

(6) If a large school district determines that there is an inadequate supply of suitable land for school facilities for the 10-year period covered by the school facility plan, the city or county, or both, and the large school district shall cooperate in identifying land for school facilities and take necessary actions, including, but not limited to, adopting appropriate zoning, aggregating existing lots or parcels in

more sites designated for school facilities to an urban growth boundary pursuant to applicable law.

(7) The school facility plan shall provide for the integration of existing city or county land dedication requirements with the needs of the large school district.

(8) The large school district shall:

(a) Identify in the school facility plan school facility needs based on population growth projections and land use designations contained in the city or county comprehensive plan; and

(b) Update the school facility plan during periodic review or more frequently by mutual agreement between the large school district and the affected city or county.

(9)(a) In the school facility plan, the district school board of a large school district may adopt objective criteria to be used by an affected city or county to determine whether adequate capacity exists to accommodate projected development. Before the adoption of the criteria, the large school district shall confer with the affected cities and counties and agree, to the extent possible, on the appropriate criteria. After a large school district formally adopts criteria for the capacity of school facilities, an affected city or county shall accept those criteria as its own for purposes of evaluating applications for a comprehensive plan amendment or for a residential land use regulation amendment.

(b) A city or county shall provide notice to an affected large school district when considering a plan or land use regulation amendment that significantly impacts school capacity. If the large school district requests, the city or county shall implement a coordinated process with the district to identify potential school sites and facilities to address the projected impacts.

(10) A school district that is not a large school district may adopt a school facility plan as described in this section in consultation with an affected city or county.

(11) The capacity of a school facility is not the basis for a development moratorium under ORS 197.505 to 197.540.

(12) This section does not confer any power to a school district to declare a building moratorium.

(13) A city or county may deny an application for residential development based on a lack of school capacity if:

(a) The issue is raised by the school district;

(b) The lack of school capacity is based on a school facility plan formally adopted under this section; and

(c) The city or county has considered options to address school capacity. [1993 c.550 §2; 1995 c.508 §1; 2001 c.876 §1; 2007 c.579 §1]

Note: Section 3, chapter 579, Oregon Laws 2007, provides:

Sec. 3. A school district that is a large school district as defined in ORS 195.110 on the effective date of this 2007 Act [January 1, 2008] shall complete a school facility plan within two years after the effective date of this 2007 Act. [2007 c.579 §3]

OAR 581-027-0040: LONG-RANGE FACILITY PLAN REQUIREMENTS

581-027-0040 Long-Range Facility Plan Requirements

- (1) Each Long Range Facility Plan shall contain the following information:
- a. Population projections by school age group for the next ten years using U.S. Census or Census partner data.
 - b. Collaboration with local government planning agencies (city and/or county):
 - i. Identification of suitable school sites if needed
 - ii. Site acquisition schedules and programs
 - c. Evidence of community involvement in determining:
 - i. Educational vision of local community
 - ii. Proposals to fund long-range facility needs
 - d. Identification of buildings on historic preservation lists including the National Historic Register, State Historical Preservation Office, and local historic building lists.
 - e. Analysis of district's current facilities' ability to meet current national educational adequacy standards:
 - i. Identification of facility standards used to meet district educational vision as well as national educational adequacy standards
 - ii. Identification of deficiencies in current facilities
 - iii. Identification of changes needed to bring current facilities up to standards
 - iv. Identification of alternatives to new construction and major renovation to meet current national educational adequacy standards
 - v. Identification of current facility capacity and ability of current capacity to meet current national educational adequacy standards.
 - f. A description of the plan the district will undertake to change its facility to match the projections and needs for the district for the next ten years.

(2) The Department shall establish a template for Districts and their Certified Contractors to use to collect the information required in OAR 581-027-0040 (1).

(3) Districts and Certified Contractors shall use the template established by the Department to provide the final report to the Department in electronic format.

Stat. Auth.: Sections 2 and 5, Chapter 783, Oregon Laws 2015 (Enrolled Senate Bill 447).

Stats. Implemented: Section 5, Chapter 783, Oregon Laws 2015 (Enrolled Senate Bill 447).

ORS 329-496: PHYSICAL EDUCATION PARTICIPATION

- (1) Every public school student in kindergarten through grade eight shall participate in physical education for the entire school year.
- (2) (a) Students in kindergarten through grade five, and students in grade six at a school that teaches kindergarten through grade six, shall participate in physical education for at least 150 minutes during each school week.
- (b) Except as provided by paragraph (a) of this subsection, students in grades six through eight shall participate in physical education for at least 225 minutes during each school week.
- (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 (Preparing tentative budget). 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 (Preparing tentative budget).

- (3) 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 (Revision of Common Curriculum Goals, performance indicators, diploma requirements, Essential Learning Skills and academic content standards). 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) 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) 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 (Revision of Common Curriculum Goals, performance indicators, diploma requirements, Essential Learning Skills and academic content standards);
- (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) Notwithstanding subsections (1), (2) and (4) 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 (Individualized education program).
- (b) Notwithstanding subsections (1), (2) and (4) 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)** 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) 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) 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) 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 district to employ a teacher for the sole purpose of providing instruction in activities described in subsection (4)(b) of this section.
- (8)** A school district that does not comply with the requirements of this section is considered to be nonstandard under ORS 327.103 (Standard school presumed). [2007 c.839 §5; 2017 c.301 §1]

Note: Sections 2, 3, 5, and 7, chapter 301, Oregon Laws 2017, provide:

Sec. 2. Phase-in of time requirements. (1) Except as provided by subsections (2) and (3) of this section and only for school years prior to the 2022-2023 school year, a school district may not be considered nonstandard under ORS 327.103 (Standard school presumed) and moneys may not be withheld or any other penalty or sanctions imposed on a school district that does not comply with the time requirements established by ORS 329.496 (Physical education participation) (2).

- (2)** (a) For the 2019-2020 school year, students identified in ORS 329.496 (Physical education participation) (2)(a) shall participate in physical education for at least 120 minutes during each

school week.

- (b) For the 2020-2021 school year and every school year thereafter, students identified in ORS 329.496 (Physical education participation) (2)(a) shall participate in physical education for at least 150 minutes during each school week.
 - (c) If a school district fails to comply with paragraph (a) or (b) of this subsection, the school district may be considered nonstandard under ORS 327.103 (Standard school presumed).
- (3) (a) For the 2021-2022 school year, students identified in ORS 329.496 (Physical education participation) (2)(b) shall participate in physical education for at least 180 minutes during each school week.
- (b) For the 2022-2023 school year and every school year thereafter, students identified in ORS 329.496 (Physical education participation) (2)(b) shall participate in physical education for at least 225 minutes during each school week.
 - (c) If a school district fails to comply with paragraph (a) or (b) of this subsection, the school district may be considered nonstandard under ORS 327.103 (Standard school presumed).
- (4) For the purposes of this section, a school district may:
- (a) Prorate time requirements provided by this section in compliance with rules adopted by the State Board of Education under ORS 329.496 (Physical education participation) (2) (c);
 - (b) Apply up to 45 minutes of activities described in ORS 329.496 (Physical education participation) (4)(b) to the time requirements provided by this section; **and**
 - (c) Cease to comply with the time requirements provided by this section if the conditions described in ORS 329.496 (Physical education participation) (2)(d) are satisfied. [2017 c.301 §2]

Sec. 3. Repeal. Section 2 of this 2017 Act is repealed on July 1, 2022. [2017 c.301 §3]

Sec. 5. Recommendations for implementation of time requirements for students in grades six through eight. (1) The Department of Education shall develop recommendations for implementing the provisions of ORS 329.496 (Physical education participation) (2)(b).

- (2) For the purpose of developing the recommendations, the department shall collaborate with advocates for physical education, representatives of school districts, educators and other interested stakeholders. Collaboration may be in person, electronically, or a combination of both.
- (3) When developing the recommendations, the department shall consider:

Best practices for providing physical education to students in grades six through eight and

- (a) balance those best practices with resources available for providing physical education to students in grades six through eight, including scheduling issues, facility availability, costs for adding or upgrading facilities, moneys available for adding or upgrading facilities, the availability and costs of licensed physical education teachers and any other issues identified by the entities identified in subsection (2) of this section.
- (b) All options for implementing the requirements of ORS 329.496 (Physical education participation) (2)(b) and other alternatives to the requirements of ORS 329.496 (Physical education participation) (2)(b) that are available for providing physical education to students in grades six through eight.
- (4) All agencies of state government, as defined in ORS 174.111 (“State government” defined), and school districts are directed to assist the department in the performance of the department’s duties under this section and, to the extent permitted by laws relating to confidentiality, to furnish information and advice the department considers necessary to perform its duties.
- (5) The department may accept donations of time and money for the purpose of fulfilling the duties of the department under this section.
- (6) The department shall submit any recommendations for legislation to the interim committees of the Legislative Assembly related to education no later than November 15, 2018. [2017 c.301 §5]

Sec. 7. Repeal. Section 5 of this 2017 Act is repealed on December 31, 2018. [2017 c.301 §7]

¹ Legislative Counsel Committee, *CHAPTER 329—Oregon Educational Act for the 21st Century; Educational Improvement and Reform*, https://www.oregonlegislature.gov/bills_laws/ors/ors329.-html (2017) (last accessed Mar. 30, 2018).

ORS 455.400: EFFECT OF SEISMIC REHABILITATION PROVISIONS ON EXCLUSIVE REMEDY

Nothing in ORS 455.020 (Purpose), 455.390 (Definitions for ORS 455.020, 455.390, 455.395 and 455.400) and 455.395 (Admissibility of data or agreements as evidence) and this section shall be construed as expanding or limiting the exclusive means by which subject workers and their beneficiaries are compensated for injury, death or disease arising out of and in the course of employment as provided in ORS chapter 656. [1995 c.400 §6]

Note: See note under 455.390 (Definitions for ORS 455.020, 455.390, 455.395 and 455.400).

Note: Section 3, chapter 797, Oregon Laws 2001, provides:

Sec. 3. Subject to available funding, if a building evaluated under section 2 (4), chapter 797, Oregon Laws 2001, is found by a board to pose an undue risk to life safety during a seismic event, the governing board of a public university listed in ORS 352.002 (Public universities), local school district board, community college board or education service district board, as appropriate, shall develop a plan for seismic rehabilitation of the building or for other actions to reduce the risk. For a board that is subject to ORS 291.224 (Inclusion of capital construction program in Governor's budget), the board's plan to rehabilitate or take other action to reduce the seismic risk of a building must be included in the capital construction program of the board. A board that is subject to ORS 291.224 (Inclusion of capital construction program in Governor's budget) shall rank the relative benefit of projects to reduce seismic risk in comparison with other life safety and code requirement projects. Subject to availability of funding, all seismic rehabilitations or other actions to reduce seismic risk must be completed before January 1, 2032. If the building is listed on a national or state register of historic places or properties or is designated as a landmark by local ordinance, the plan for seismic rehabilitation or other action shall be developed in a manner that gives consideration to preserving the character of the building. [2001 c.797 §3; 2013 c.768 §162; 2015 c.767 §177]

Note: Section 3, chapter 798, Oregon Laws 2001, provides:

Sec. 3. Subject to available funding, if a building evaluated under section 2 (4) of this 2001 Act is found to pose an undue risk to life safety during a seismic event, the acute inpatient care facility, fire department, fire district or law enforcement agency using the building shall develop a plan for seismic rehabilitation of the building or for other actions to reduce the risk. Subject to available funding, all seismic rehabilitations or other actions to reduce the risk must be completed before January 1, 2022. If the building is listed on a national or state register of historic places or properties or is designated as a landmark by local ordinance, the plan for seismic rehabilitation or other actions shall be developed in a manner that gives consideration to preserving the character of the building. [2001 c.798 §3]