



Senator Michael E. Dembrow
Senate District 23

To: Secretary of the Senate
Re: Vote Explanation for HB 4402, School Liability
Date: December 22, 2020

While I voted in support of HB 4402, I want to clarify my understanding regarding the “COVID-19 Emergency Rule” that school districts must follow, if there is a discrepancy between state and federal guidance.

The bill states that “COVID-19 Emergency Rule” means an executive order, order of the Superintendent of Public Instruction, declaration, directive or other state or federal authorization, policy, statement, guidance, rule or regulation that creates a standard or waives, suspends or modifies otherwise applicable state or federal law, regulations or standards regarding the rendering of education services.

One of the questions that arose during public testimony was what happens if “federal authorization” is in conflict with the state policy that was created in order to implement guidance from the Centers for Disease Control. More specifically, what if a district were to seek to defend its inadequate actions by arguing that it was complying with statements made by the President that called for more relaxed standards? Which standards should prevail?

Based on conversations that I had with those involved in the work groups that worked on this issue, I understand the intent to be compliance with the more narrowly-focused rules developed for Oregon, the ODE/OHA “Ready Schools, Safe Learners” requirements, which use CDC guidance and the Governor’s executive orders as the



basis for their policies. My understanding is that it's those requirements that will prevail here, not the changing CDC guidances, and certainly not a presidential tweet.

I would have put this statement on the record in person, but our goal was to keep floor speeches to a minimum yesterday, as a result of the COVID restrictions we are following.

If there is rule-making around HB 4402, I hope that it will reflect this intent.

Sincerely,



Michael E. Dembrow

Senator, SD 23