



Representative Alissa Keny-Guyer
Oregon House District 46
900 Court St. NE, Salem, OR 97301

December 22, 2020

Chief Clerk Tim Sekerak
State Capitol Building, H271
Salem, OR 97301

Re: Vote Explanation for HB 4402, School Liability

Dear Chief Clerk Sekerak,

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.

My understanding of how this rule should be interpreted reflects that of my state Senator, Michael Dembrow, who emailed me today that, “Generally (and this was the intent) the more narrowly-focused rule, the one closest to the parties in question, will prevail... Thus, in this case it’s the ODE/OHA Safe Schools requirements, which use CDC recommendations as the basis of their policies, that will prevail here, not the CDC rules themselves and certainly not a presidential tweet!”

I urge the Oregon Department of Education to clarify in rule that the state guidance, specifically the ODE/OHA Safe Schools mandate, supersedes the federal guidelines, if there is any future question about any discrepancy in guidance between different levels of government. However if no rule is issued that addresses this issue, I want my legislative intent clear on the record.

Sincerely,

Rep. Alissa Keny-Guyer, MPH
House District 46, NE/SE Portland