

B-Engrossed Senate Bill 13

Ordered by the House May 10
Including Senate Amendments dated February 11 and House Amendments
dated May 10

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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.

Changes terminology of certain disabilities for purposes of special education statutes.

A BILL FOR AN ACT

1
2 Relating to special education terminology; amending ORS 343.035 and 343.236.

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

4 **SECTION 1.** ORS 343.035 is amended to read:

5 343.035. As used in this chapter unless the context requires otherwise:

6 (1) "Child with a disability" means a school-age child who is entitled to a free appropriate public
7 education as specified by ORS 339.115 and who requires special education because the child has
8 been evaluated as having one of the following conditions as defined by rules established by the State
9 Board of Education:

10 (a) Intellectual disability;

11 [*(b) Hearing impairment, including difficulty in hearing and deafness;*]

12 **(b) Deafness or being hard of hearing;**

13 (c) Speech or language impairment;

14 (d) Visual impairment, including blindness;

15 [*(e) Deaf-blindness;*]

16 **(e) Deafblindness;**

17 (f) Emotional [*disturbance*] **behavior disability;**

18 (g) Orthopedic [*or other health*] impairment;

19 [*(h) Autism;*]

20 **(h) Other health impairment;**

21 **(i) Autism spectrum disorder;**

22 [*(i)*] (j) Traumatic brain injury; or

23 [*(j)*] **(k) Specific learning disabilities.**

24 (2) "Decision" means the decision of the hearing officer.

25 (3) "Determination" means the determination by the school district concerning the identification,
26 evaluation or educational placement of a child with a disability or the provision of a free appropri-
27 ate public education to the child in a program paid for by the district.

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 (4) “Developmental delay” means:
- 2 (a) Delay, at a level of functioning and in accordance with criteria established by rules of the
- 3 State Board of Education, in one or more of the following developmental areas:
- 4 (A) Cognitive development;
- 5 (B) Physical development, including vision and hearing;
- 6 (C) Communication development;
- 7 (D) Social or emotional development; or
- 8 (E) Adaptive development; or
- 9 (b) A disability, in accordance with criteria established by rules of the State Board of Education,
- 10 that can be expected to continue indefinitely and is likely to cause a substantial delay in a child’s
- 11 development and ability to function independently in society.
- 12 (5) “Early childhood special education” means instruction that is:
- 13 (a) Free, appropriate and specially designed to meet the unique needs of a preschool child with
- 14 a disability;
- 15 (b) Provided from three years of age until the age of eligibility for kindergarten; and
- 16 (c) Provided in any of the following settings:
- 17 (A) The home, a hospital, an institution, a special school, a classroom or a community child care
- 18 setting;
- 19 (B) A preschool; or
- 20 (C) A combination of a setting described in subparagraph (A) of this paragraph and a preschool.
- 21 (6) “Early intervention services” means services for preschool children with disabilities from
- 22 birth until three years of age that are:
- 23 (a) Designed to meet the developmental needs of children with disabilities and the needs of the
- 24 family related to enhancing the child’s development;
- 25 (b) Selected in collaboration with the parents; and
- 26 (c) Provided:
- 27 (A) Under public supervision;
- 28 (B) By personnel qualified in accordance with criteria established by rules of the State Board
- 29 of Education; and
- 30 (C) In conformity with an individualized family service plan.
- 31 (7) “Individualized education program” means a written statement of an educational program for
- 32 a child with a disability that is developed, reviewed and revised in a meeting in accordance with
- 33 criteria established by rules of the State Board of Education for each child eligible for special edu-
- 34 cation and related services under this chapter.
- 35 (8) “Individualized family service plan” means a written plan of early childhood special educa-
- 36 tion, related services, early intervention services and other services developed in accordance with
- 37 criteria established by rules of the State Board of Education for each child eligible for services un-
- 38 der this chapter.
- 39 (9) “Instruction” means providing children and families with information and skills that support
- 40 the achievement of the goals and outcomes in the child’s individualized family service plan and
- 41 working with preschool children with disabilities in one or more of the following developmental
- 42 areas:
- 43 (a) Communication development;
- 44 (b) Social or emotional development;
- 45 (c) Physical development, including vision and hearing;

1 (d) Adaptive development; and

2 (e) Cognitive development.

3 (10) "Mediation" means a voluntary process in which an impartial mediator assists and facili-
4 tates two or more parties to a controversy in reaching a mutually acceptable resolution of the
5 controversy and includes all contacts between a mediator and any party or agent of a party, until
6 such time as a resolution is agreed to by the parties or the mediation process is terminated.

7 (11) "Order" has the meaning given that term in ORS chapter 183.

8 (12) "Other services" means those services [*which*] **that** may be provided to preschool children
9 with disabilities and to their families that are not early childhood special education or early inter-
10 vention services and are not paid for with early childhood special education or early intervention
11 funds.

12 (13) "Parent" means the parent, person acting as a parent or a legal guardian, other than a state
13 agency, of the child or the surrogate parent. "Parent" may be further defined by rules adopted by
14 the State Board of Education.

15 (14) "Preschool child with a disability" means a child from:

16 (a) Birth until three years of age who is eligible for early intervention services because the child
17 is experiencing developmental delay or has a diagnosed mental or physical condition that will result
18 in developmental delay; or

19 (b) Three years of age to eligibility for entry into kindergarten who needs early childhood spe-
20 cial education services because the child is experiencing developmental delay or because the child
21 has been evaluated as having one of the conditions listed for a school-age child under subsection (1)
22 of this section.

23 (15)(a) "Related services" means transportation and such developmental, corrective and other
24 supportive services as are required to assist a child with a disability to benefit from special educa-
25 tion, including:

26 (A) Speech-language and audiology services;

27 (B) Interpreting services;

28 (C) Psychological services;

29 (D) Physical and occupational therapy;

30 (E) Recreation, including therapeutic recreation;

31 (F) Social work services;

32 (G) School nurse services designed to enable a child with a disability to receive a free appro-
33 priate public education as described in the individualized education program of the child;

34 (H) Early identification and assessment of disabilities in children;

35 (I) Counseling services, including rehabilitation counseling;

36 (J) Orientation and mobility services;

37 (K) Medical services for diagnostic or evaluation purposes;

38 (L) Parent counseling and training; and

39 (M) Assistive technology.

40 (b) "Related services" does not include a medical device that is surgically implanted or the re-
41 placement of a medical device that is surgically implanted.

42 (16) "School district" means a common or union high school district that is charged with the
43 duty or contracted with by a public agency to educate children eligible for special education.

44 (17) "Service coordination" means the activities carried out by a service coordinator to assist
45 and enable a preschool child with a disability and the child's family to receive the rights, procedural

1 safeguards and services that are authorized under the state’s early intervention and early childhood
2 special education programs and to coordinate access to other services designated on the individ-
3 ualized family service plan.

4 (18) “Special education” means specially designed instruction that is provided at no cost to
5 parents to meet the unique needs of a child with a disability. “Special education” includes instruc-
6 tion that:

7 (a) May be conducted in the classroom, the home, a hospital, an institution, a special school or
8 another setting; and

9 (b) May involve physical education services, speech-language services, transition services or
10 other related services designated by rule to be services to meet the unique needs of a child with a
11 disability.

12 (19) “Transition services” means a coordinated set of activities for a child with a disability that:

13 (a) Is designed to be within a results-oriented process;

14 (b) Is focused on improving the academic and functional achievement of the child to facilitate
15 the child’s transition from school to post-school activities, including post-secondary education, com-
16 petitive employment, independent living and community inclusion;

17 (c) Is based on the individual child’s needs, taking into account the child’s preferences and in-
18 terests; and

19 (d) May be special education, or related services, and may include earning credit at a commu-
20 nity college or public university listed in ORS 352.002.

21 (20) “Unaccompanied homeless youth” has the meaning given that term in the McKinney-Vento
22 Homeless Assistance Act, 42 U.S.C. 11434a(6).

23 (21) “Ward of the state” means a child who is temporarily or permanently in the custody of, or
24 committed to, a public or private agency through the action of the juvenile court. “Ward of the
25 state” may be further defined by rules adopted by the State Board of Education.

26 **SECTION 2.** ORS 343.035, as amended by section 1, chapter 25, Oregon Laws 2018, is amended
27 to read:

28 343.035. As used in this chapter unless the context requires otherwise:

29 (1) “Child with a disability” means a school-age child who is entitled to a free appropriate public
30 education as specified by ORS 339.115 and who requires special education because the child has
31 been evaluated as having one of the following conditions as defined by rules established by the State
32 Board of Education:

33 (a) Intellectual disability;

34 [(b) *Hearing impairment, including difficulty in hearing and deafness;*]

35 **(b) Deafness or being hard of hearing;**

36 (c) Speech or language impairment;

37 (d) Visual impairment, including blindness;

38 [(e) *Deaf-blindness;*]

39 **(e) Deafblindness;**

40 (f) Emotional [*disturbance*] **behavior disability;**

41 (g) Orthopedic [*or other health*] impairment;

42 [(h) *Autism;*]

43 **(h) Other health impairment;**

44 **(i) Autism spectrum disorder;**

45 [(i)] **(j) Traumatic brain injury;**

1 [(j)] (k) Specific learning disabilities; or

2 [(k)] (L) Developmental delay, if the child is [*in third grade or lower*] **three through nine years**
3 **of age.**

4 (2) “Decision” means the decision of the hearing officer.

5 (3) “Determination” means the determination by the school district concerning the identification,
6 evaluation or educational placement of a child with a disability or the provision of a free appropri-
7 ate public education to the child in a program paid for by the district.

8 (4) “Developmental delay” means:

9 (a) Delay, at a level of functioning and in accordance with criteria established by rules of the
10 State Board of Education, in one or more of the following developmental areas:

11 (A) Cognitive development;

12 (B) Physical development, including vision and hearing;

13 (C) Communication development;

14 (D) Social or emotional development; or

15 (E) Adaptive development; or

16 (b) A disability, in accordance with criteria established by rules of the State Board of Education,
17 that can be expected to continue indefinitely and is likely to cause a substantial delay in a child’s
18 development and ability to function independently in society.

19 (5) “Early childhood special education” means instruction that is:

20 (a) Free, appropriate and specially designed to meet the unique needs of a preschool child with
21 a disability;

22 (b) Provided from three years of age until the age of eligibility for kindergarten; and

23 (c) Provided in any of the following settings:

24 (A) The home, a hospital, an institution, a special school, a classroom or a community child care
25 setting;

26 (B) A preschool; or

27 (C) A combination of a setting described in subparagraph (A) of this paragraph and a preschool.

28 (6) “Early intervention services” means services for preschool children with disabilities from
29 birth until three years of age that are:

30 (a) Designed to meet the developmental needs of children with disabilities and the needs of the
31 family related to enhancing the child’s development;

32 (b) Selected in collaboration with the parents; and

33 (c) Provided:

34 (A) Under public supervision;

35 (B) By personnel qualified in accordance with criteria established by rules of the State Board
36 of Education; and

37 (C) In conformity with an individualized family service plan.

38 (7) “Individualized education program” means a written statement of an educational program for
39 a child with a disability that is developed, reviewed and revised in a meeting in accordance with
40 criteria established by rules of the State Board of Education for each child eligible for special edu-
41 cation and related services under this chapter.

42 (8) “Individualized family service plan” means a written plan of early childhood special educa-
43 tion, related services, early intervention services and other services developed in accordance with
44 criteria established by rules of the State Board of Education for each child eligible for services un-
45 der this chapter.

1 (9) "Instruction" means providing children and families with information and skills that support
2 the achievement of the goals and outcomes in the child's individualized family service plan and
3 working with preschool children with disabilities in one or more of the following developmental
4 areas:

- 5 (a) Communication development;
- 6 (b) Social or emotional development;
- 7 (c) Physical development, including vision and hearing;
- 8 (d) Adaptive development; and
- 9 (e) Cognitive development.

10 (10) "Mediation" means a voluntary process in which an impartial mediator assists and facili-
11 tates two or more parties to a controversy in reaching a mutually acceptable resolution of the
12 controversy and includes all contacts between a mediator and any party or agent of a party, until
13 such time as a resolution is agreed to by the parties or the mediation process is terminated.

14 (11) "Order" has the meaning given that term in ORS chapter 183.

15 (12) "Other services" means those services [*which*] **that** may be provided to preschool children
16 with disabilities and to their families that are not early childhood special education or early inter-
17 vention services and are not paid for with early childhood special education or early intervention
18 funds.

19 (13) "Parent" means the parent, person acting as a parent or a legal guardian, other than a state
20 agency, of the child or the surrogate parent. "Parent" may be further defined by rules adopted by
21 the State Board of Education.

22 (14) "Preschool child with a disability" means a child from:

23 (a) Birth until three years of age who is eligible for early intervention services because the child
24 is experiencing developmental delay or has a diagnosed mental or physical condition that will result
25 in developmental delay; or

26 (b) Three years of age to eligibility for entry into kindergarten who needs early childhood spe-
27 cial education services because the child has been evaluated as having one of the conditions listed
28 under subsection (1) of this section.

29 (15)(a) "Related services" means transportation and such developmental, corrective and other
30 supportive services as are required to assist a child with a disability to benefit from special educa-
31 tion, including:

- 32 (A) Speech-language and audiology services;
- 33 (B) Interpreting services;
- 34 (C) Psychological services;
- 35 (D) Physical and occupational therapy;
- 36 (E) Recreation, including therapeutic recreation;
- 37 (F) Social work services;
- 38 (G) School nurse services designed to enable a child with a disability to receive a free appro-
39 priate public education as described in the individualized education program of the child;
- 40 (H) Early identification and assessment of disabilities in children;
- 41 (I) Counseling services, including rehabilitation counseling;
- 42 (J) Orientation and mobility services;
- 43 (K) Medical services for diagnostic or evaluation purposes;
- 44 (L) Parent counseling and training; and
- 45 (M) Assistive technology.

1 (b) "Related services" does not include a medical device that is surgically implanted or the re-
2 placement of a medical device that is surgically implanted.

3 (16) "School district" means a common or union high school district that is charged with the
4 duty or contracted with by a public agency to educate children eligible for special education.

5 (17) "Service coordination" means the activities carried out by a service coordinator to assist
6 and enable a preschool child with a disability and the child's family to receive the rights, procedural
7 safeguards and services that are authorized under the state's early intervention and early childhood
8 special education programs and to coordinate access to other services designated on the individ-
9 ualized family service plan.

10 (18) "Special education" means specially designed instruction that is provided at no cost to
11 parents to meet the unique needs of a child with a disability. "Special education" includes instruc-
12 tion that:

13 (a) May be conducted in the classroom, the home, a hospital, an institution, a special school or
14 another setting; and

15 (b) May involve physical education services, speech-language services, transition services or
16 other related services designated by rule to be services to meet the unique needs of a child with a
17 disability.

18 (19) "Transition services" means a coordinated set of activities for a child with a disability that:

19 (a) Is designed to be within a results-oriented process;

20 (b) Is focused on improving the academic and functional achievement of the child to facilitate
21 the child's transition from school to post-school activities, including post-secondary education, com-
22 petitive employment, independent living and community inclusion;

23 (c) Is based on the individual child's needs, taking into account the child's preferences and in-
24 terests; and

25 (d) May be special education, or related services, and may include earning credit at a commu-
26 nity college or public university listed in ORS 352.002.

27 (20) "Unaccompanied homeless youth" has the meaning given that term in the McKinney-Vento
28 Homeless Assistance Act, 42 U.S.C. 11434a(6).

29 (21) "Ward of the state" means a child who is temporarily or permanently in the custody of, or
30 committed to, a public or private agency through the action of the juvenile court. "Ward of the
31 state" may be further defined by rules adopted by the State Board of Education.

32 **SECTION 3.** ORS 343.236 is amended to read:

33 343.236. (1)(a) The Superintendent of Public Instruction may provide special education on a local,
34 county or regional basis without regard to county boundaries in all areas of the state for children
35 who *[have]*:

36 (A) **Have** a visual impairment;

37 *[(B) A hearing impairment;]*

38 *[(C) Blindness or deafness, or both;]*

39 **(B) Are deaf or hard of hearing;**

40 **(C) Are deafblind;**

41 **(D) Have** an orthopedic impairment;

42 *[(E) Autism; or]*

43 **(E) Have autism spectrum disorder; or**

44 **(F) Have** traumatic brain injury.

45 (b) The superintendent shall designate one of the regional programs that provides special edu-

1 cation to children who are blind or visually impaired to provide statewide coordination and techni-
2 cal assistance related to the provision of services described in ORS 346.315 (2).

3 (c) The program designated under paragraph (b) of this subsection may receive moneys from the
4 Blind and Visually Impaired Student Fund established under ORS 346.315 and distribute those mon-
5 eys to other regional programs.

6 (2) The Superintendent of Public Instruction may operate and administer a local, county or re-
7 gional program of special education or the superintendent may contract for the operation and ad-
8 ministration of the program with a school district or an education service district.

9 (3) The State Board of Education by rule shall establish eligibility criteria and educational
10 standards for the programs described in subsection (1) of this section and those programs in the
11 school operated under ORS 346.010.

12 (4) A school district [*which*] **that** contracts to provide a program under this section shall be paid
13 for the state-approved program as determined and funded by the Legislative Assembly. Contracting
14 school districts are authorized to negotiate supplemental programs with participating school dis-
15 tricts.

16
