

Requested by Senator GELSER

**PROPOSED AMENDMENTS TO
SENATE BILL 13**

1 On page 1 of the printed bill, delete lines 4 through 30 and delete pages
2 2 through 8 and insert:

3 **“SECTION 1.** ORS 343.035 is amended to read:

4 “343.035. As used in this chapter unless the context requires otherwise:

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

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

19 “[*(h) Autism;*]

20 **“(h) Other health impairment;**

21 **“(i) Autism spectrum disorder;**

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

2 “[(j)] **(k)** Specific learning disabilities.

3 “(2) ‘Decision’ means the decision of the hearing officer.

4 “(3) ‘Determination’ means the determination by the school district con-
5 cerning the identification, evaluation or educational placement of a child
6 with a disability or the provision of a free appropriate public education to
7 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 es-
10 tablished by rules of the State Board of Education, in one or more of the
11 following developmental areas:

12 “(A) Cognitive development;

13 “(B) Physical development, including vision and hearing;

14 “(C) Communication development;

15 “(D) Social or emotional development; or

16 “(E) Adaptive development; or

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

21 “(5) ‘Early childhood special education’ means instruction that is:

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

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

26 “(c) Provided in any of the following settings:

27 “(A) The home, a hospital, an institution, a special school, a classroom
28 or a community child care setting;

29 “(B) A preschool; or

30 “(C) A combination of a setting described in subparagraph (A) of this

1 paragraph and a preschool.

2 “(6) ‘Early intervention services’ means services for preschool children
3 with disabilities from birth until three years of age that are:

4 “(a) Designed to meet the developmental needs of children with disabili-
5 ties and the needs of the family related to enhancing the child’s development;

6 “(b) Selected in collaboration with the parents; and

7 “(c) Provided:

8 “(A) Under public supervision;

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

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

12 “(7) ‘Individualized education program’ means a written statement of an
13 educational program for a child with a disability that is developed, reviewed
14 and revised in a meeting in accordance with criteria established by rules of
15 the State Board of Education for each child eligible for special education and
16 related services under this chapter.

17 “(8) ‘Individualized family service plan’ means a written plan of early
18 childhood special education, related services, early intervention services and
19 other services developed in accordance with criteria established by rules of
20 the State Board of Education for each child eligible for services under this
21 chapter.

22 “(9) ‘Instruction’ means providing children and families with information
23 and skills that support the achievement of the goals and outcomes in the
24 child’s individualized family service plan and working with preschool chil-
25 dren with disabilities in one or more of the following developmental areas:

26 “(a) Communication development;

27 “(b) Social or emotional development;

28 “(c) Physical development, including vision and hearing;

29 “(d) Adaptive development; and

30 “(e) Cognitive development.

1 “(10) ‘Mediation’ means a voluntary process in which an impartial
2 mediator assists and facilitates two or more parties to a controversy in
3 reaching a mutually acceptable resolution of the controversy and includes
4 all contacts between a mediator and any party or agent of a party, until such
5 time as a resolution is agreed to by the parties or the mediation process is
6 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
9 to preschool children with disabilities and to their families that are not early
10 childhood special education or early intervention services and are not paid
11 for with early childhood special education or early intervention funds.

12 “(13) ‘Parent’ means the parent, person acting as a parent or a legal
13 guardian, other than a state agency, of the child or the surrogate parent.
14 ‘Parent’ may be further defined by rules adopted by the State Board of Edu-
15 cation.

16 “(14) ‘Preschool child with a disability’ means a child from:

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

21 “(b) Three years of age to eligibility for entry into kindergarten who
22 needs early childhood special education services because the child is experi-
23 encing developmental delay or because the child has been evaluated as hav-
24 ing one of the conditions listed for a school-age child under subsection (1)
25 of this section.

26 “(15)(a) ‘Related services’ means transportation and such developmental,
27 corrective and other supportive services as are required to assist a child with
28 a disability to benefit from special education, including:

29 “(A) Speech-language and audiology services;

30 “(B) Interpreting services;

- 1 “(C) Psychological services;
- 2 “(D) Physical and occupational therapy;
- 3 “(E) Recreation, including therapeutic recreation;
- 4 “(F) Social work services;
- 5 “(G) School nurse services designed to enable a child with a disability to
- 6 receive a free appropriate public education as described in the individualized
- 7 education program of the child;
- 8 “(H) Early identification and assessment of disabilities in children;
- 9 “(I) Counseling services, including rehabilitation counseling;
- 10 “(J) Orientation and mobility services;
- 11 “(K) Medical services for diagnostic or evaluation purposes;
- 12 “(L) Parent counseling and training; and
- 13 “(M) Assistive technology.

14 “(b) ‘Related services’ does not include a medical device that is surgically

15 implanted or the replacement of a medical device that is surgically im-

16 planted.

17 “(16) ‘School district’ means a common or union high school district that

18 is charged with the duty or contracted with by a public agency to educate

19 children eligible for special education.

20 “(17) ‘Service coordination’ means the activities carried out by a service

21 coordinator to assist and enable a preschool child with a disability and the

22 child’s family to receive the rights, procedural safeguards and services that

23 are authorized under the state’s early intervention and early childhood spe-

24 cial education programs and to coordinate access to other services desig-

25 nated on the individualized family service plan.

26 “(18) ‘Special education’ means specially designed instruction that is

27 provided at no cost to parents to meet the unique needs of a child with a

28 disability. ‘Special education’ includes instruction that:

29 “(a) May be conducted in the classroom, the home, a hospital, an insti-

30 tution, a special school or another setting; and

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

4 “(19) ‘Transition services’ means a coordinated set of activities for a child
5 with a disability that:

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

7 “(b) Is focused on improving the academic and functional achievement of
8 the child to facilitate the child’s transition from school to post-school ac-
9 tivities, including post-secondary education, competitive employment, inde-
10 pendent living and community inclusion;

11 “(c) Is based on the individual child’s needs, taking into account the
12 child’s preferences and interests; and

13 “(d) May be special education, or related services, and may include earn-
14 ing credit at a community college or public university listed in ORS 352.002.

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

17 “(21) ‘Ward of the state’ means a child who is temporarily or permanently
18 in the custody of, or committed to, a public or private agency through the
19 action of the juvenile court. ‘Ward of the state’ may be further defined by
20 rules adopted by the State Board of Education.

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

23 “343.035. As used in this chapter unless the context requires otherwise:

24 “(1) ‘Child with a disability’ means a school-age child who is entitled to
25 a free appropriate public education as specified by ORS 339.115 and who re-
26 quires special education because the child has been evaluated as having one
27 of the following conditions as defined by rules established by the State Board
28 of Education:

29 “(a) Intellectual disability;

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

1 **“(b) Deafness or being hard of hearing;**
2 “(c) Speech or language impairment;
3 “(d) Visual impairment, including blindness;
4 “[(e) *Deaf-blindness*;]
5 **“(e) Deafblindness;**
6 “(f) Emotional disturbance;
7 “(g) Orthopedic [*or other health*] impairment;
8 “[(h) *Autism*;]
9 **“(h) Other health impairment;**
10 **“(i) Autism spectrum disorder;**
11 “[(i)] (j) Traumatic brain injury;
12 “[(j)] (k) Specific learning disabilities; or
13 “[(k)] (L) Developmental delay, if the child is in third grade or lower.
14 “(2) ‘Decision’ means the decision of the hearing officer.
15 “(3) ‘Determination’ means the determination by the school district con-
16 cerning the identification, evaluation or educational placement of a child
17 with a disability or the provision of a free appropriate public education to
18 the child in a program paid for by the district.
19 “(4) ‘Developmental delay’ means:
20 “(a) Delay, at a level of functioning and in accordance with criteria es-
21 tablished by rules of the State Board of Education, in one or more of the
22 following developmental areas:
23 “(A) Cognitive development;
24 “(B) Physical development, including vision and hearing;
25 “(C) Communication development;
26 “(D) Social or emotional development; or
27 “(E) Adaptive development; or
28 “(b) A disability, in accordance with criteria established by rules of the
29 State Board of Education, that can be expected to continue indefinitely and
30 is likely to cause a substantial delay in a child’s development and ability to

1 function independently in society.

2 “(5) ‘Early childhood special education’ means instruction that is:

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

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

7 “(c) Provided in any of the following settings:

8 “(A) The home, a hospital, an institution, a special school, a classroom
9 or a community child care setting;

10 “(B) A preschool; or

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

13 “(6) ‘Early intervention services’ means services for preschool children
14 with disabilities from birth until three years of age that are:

15 “(a) Designed to meet the developmental needs of children with disabili-
16 ties and the needs of the family related to enhancing the child’s development;

17 “(b) Selected in collaboration with the parents; and

18 “(c) Provided:

19 “(A) Under public supervision;

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

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

23 “(7) ‘Individualized education program’ means a written statement of an
24 educational program for a child with a disability that is developed, reviewed
25 and revised in a meeting in accordance with criteria established by rules of
26 the State Board of Education for each child eligible for special education and
27 related services under this chapter.

28 “(8) ‘Individualized family service plan’ means a written plan of early
29 childhood special education, related services, early intervention services and
30 other services developed in accordance with criteria established by rules of

1 the State Board of Education for each child eligible for services under this
2 chapter.

3 “(9) ‘Instruction’ means providing children and families with information
4 and skills that support the achievement of the goals and outcomes in the
5 child’s individualized family service plan and working with preschool chil-
6 dren with disabilities in one or more of the following developmental areas:

7 “(a) Communication development;

8 “(b) Social or emotional development;

9 “(c) Physical development, including vision and hearing;

10 “(d) Adaptive development; and

11 “(e) Cognitive development.

12 “(10) ‘Mediation’ means a voluntary process in which an impartial
13 mediator assists and facilitates two or more parties to a controversy in
14 reaching a mutually acceptable resolution of the controversy and includes
15 all contacts between a mediator and any party or agent of a party, until such
16 time as a resolution is agreed to by the parties or the mediation process is
17 terminated.

18 “(11) ‘Order’ has the meaning given that term in ORS chapter 183.

19 “(12) ‘Other services’ means those services [*which*] **that** may be provided
20 to preschool children with disabilities and to their families that are not early
21 childhood special education or early intervention services and are not paid
22 for with early childhood special education or early intervention funds.

23 “(13) ‘Parent’ means the parent, person acting as a parent or a legal
24 guardian, other than a state agency, of the child or the surrogate parent.
25 ‘Parent’ may be further defined by rules adopted by the State Board of Edu-
26 cation.

27 “(14) ‘Preschool child with a disability’ means a child from:

28 “(a) Birth until three years of age who is eligible for early intervention
29 services because the child is experiencing developmental delay or has a di-
30 agnosed mental or physical condition that will result in developmental delay;

1 or

2 “(b) Three years of age to eligibility for entry into kindergarten who
3 needs early childhood special education services because the child has been
4 evaluated as having one of the conditions listed under subsection (1) of this
5 section.

6 “(15)(a) ‘Related services’ means transportation and such developmental,
7 corrective and other supportive services as are required to assist a child with
8 a disability to benefit from special education, including:

9 “(A) Speech-language and audiology services;

10 “(B) Interpreting services;

11 “(C) Psychological services;

12 “(D) Physical and occupational therapy;

13 “(E) Recreation, including therapeutic recreation;

14 “(F) Social work services;

15 “(G) School nurse services designed to enable a child with a disability to
16 receive a free appropriate public education as described in the individualized
17 education program of the child;

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

19 “(I) Counseling services, including rehabilitation counseling;

20 “(J) Orientation and mobility services;

21 “(K) Medical services for diagnostic or evaluation purposes;

22 “(L) Parent counseling and training; and

23 “(M) Assistive technology.

24 “(b) ‘Related services’ does not include a medical device that is surgically
25 implanted or the replacement of a medical device that is surgically im-
26 planted.

27 “(16) ‘School district’ means a common or union high school district that
28 is charged with the duty or contracted with by a public agency to educate
29 children eligible for special education.

30 “(17) ‘Service coordination’ means the activities carried out by a service

1 coordinator to assist and enable a preschool child with a disability and the
2 child’s family to receive the rights, procedural safeguards and services that
3 are authorized under the state’s early intervention and early childhood spe-
4 cial education programs and to coordinate access to other services desig-
5 nated on the individualized family service plan.

6 “(18) ‘Special education’ means specially designed instruction that is
7 provided at no cost to parents to meet the unique needs of a child with a
8 disability. ‘Special education’ includes instruction that:

9 “(a) May be conducted in the classroom, the home, a hospital, an insti-
10 tution, a special school or another setting; and

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

14 “(19) ‘Transition services’ means a coordinated set of activities for a child
15 with a disability that:

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

17 “(b) Is focused on improving the academic and functional achievement of
18 the child to facilitate the child’s transition from school to post-school ac-
19 tivities, including post-secondary education, competitive employment, inde-
20 pendent living and community inclusion;

21 “(c) Is based on the individual child’s needs, taking into account the
22 child’s preferences and interests; and

23 “(d) May be special education, or related services, and may include earn-
24 ing credit at a community college or public university listed in ORS 352.002.

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

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

1 **“SECTION 3.** ORS 343.236 is amended to read:

2 “343.236. (1)(a) The Superintendent of Public Instruction may provide
3 special education on a local, county or regional basis without regard to
4 county boundaries in all areas of the state for children who [*have*]:

5 “(A) **Have** a visual impairment;

6 “[(B) *A hearing impairment;*]

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

8 “(B) **Are deaf or hard of hearing;**

9 “(C) **Are deafblind;**

10 “(D) **Have** an orthopedic impairment;

11 “[(E) *Autism; or*]

12 “(E) **Have autism spectrum disorder; or**

13 “(F) **Have** traumatic brain injury.

14 “(b) The superintendent shall designate one of the regional programs that
15 provides special education to children who are blind or visually impaired to
16 provide statewide coordination and technical assistance related to the pro-
17 vision of services described in ORS 346.315 (2).

18 “(c) The program designated under paragraph (b) of this subsection may
19 receive moneys from the Blind and Visually Impaired Student Fund estab-
20 lished under ORS 346.315 and distribute those moneys to other regional pro-
21 grams.

22 “(2) The Superintendent of Public Instruction may operate and administer
23 a local, county or regional program of special education or the superinten-
24 dent may contract for the operation and administration of the program with
25 a school district or an education service district.

26 “(3) The State Board of Education by rule shall establish eligibility cri-
27 teria and educational standards for the programs described in subsection (1)
28 of this section and those programs in the school operated under ORS 346.010.

29 “(4) A school district [*which*] **that** contracts to provide a program under
30 this section shall be paid for the state-approved program as determined and

1 funded by the Legislative Assembly. Contracting school districts are au-
2 thorized to negotiate supplemental programs with participating school dis-
3 tricts.”.

4
