

SB 819 A -A16 STAFF MEASURE SUMMARY

House Committee On Education

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 5/8, 5/17

WHAT THE MEASURE DOES:

Modifies statutes related to abbreviated school days for students with disabilities or who may have a disability. Establishes requirement that school district must document efforts to provide access to full school days before considering or recommending a student with disabilities for abbreviated school days. Prohibits school districts from considering, recommending, or implementing abbreviated school days due to staffing. Prohibits school districts from unilaterally placing student on abbreviated school days. Allows the student's individualized education program (IEP) team to recommend abbreviated school days based on a student's individual needs only after the opportunity for a parent or foster parent to meaningfully participate in discussion of placement, after the district documents one alternative that was offered as well as the specific provisions of the abbreviated school day program, and only after parent or foster parent is provided with written information and provides informed written consent. Requires documentation to include: how program will support the student's return to full school days, how the program will help the student make progress toward their goals, how progress will be measured, and the date by which the student is expected to return to full days.

Beginning July 1, 2023, establishes requirements for districts when student is placed on abbreviated school day program, including providing written information to parent or foster parent every 30 days, obtaining signed acknowledgment from parent or foster parent every 30 days, holding IEP team meeting every 30 days, and inclusion of written statement in student's IEP. Requires districts to inform Oregon Department of Education (ODE) every 30 days about student's placement on abbreviated school day program and establishes reporting requirements. Requires school district and education service district superintendent to review students' placement on abbreviated school day program if student remains on abbreviated days more than 60 consecutive days. Requires school district and education service district superintendent to find and document that the placement is compliant with state and federal law, or find that the placement is not compliant and return the student to full school days within five school days. Establishes requirement for school district and education service district superintendents to document credit recovery, comprehensive, and compensatory services in cases of high school students not expected to graduate on time and placed on abbreviated days. Requires local superintendents to provide all documentation compiled in reviews to ODE and student's parent or foster parent within five school days. Allows parents or foster parents to revoke consent for abbreviated school days at any time by submitting revocation or objection in writing. Requires local superintendents to ensure that student is placed on full school days within five school days of receiving revocation.

Requires ODE to find a district nonstandard if student is not returned to full school days within specified time. Requires ODE to initiate investigation upon receiving complaint or whenever it has cause to believe a district is not in compliance with Act. Requires ODE to inform district of any noncompliance within 30 days. Requires Superintendent of Public Instruction (SPI) to presume that receipt of a complaint means that consent has been revoked and order student returned to full days. Requires SPI, upon finding that students were placed on abbreviated school days in violation of Act, to order that students be returned to full school days within five school days. Requires SPI to find district nonstandard and withhold prorated State School Fund moneys if district fails to comply within specified timelines. Requires SPI to ensure district provides student with compensatory

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education if district is found to have violated Act. Allows Teacher Standards and Practices Commission (TSPC) to discipline school district superintendents for failing to restore students to full school days when required by Act.

Exempts abbreviated school days imposed as component of disciplinary measures allowed under ORS 339.250, exclusion from school based on immunization status, exclusion from school based on public health emergency, abbreviated days for students who have fulfilled all state requirements for graduation when parent or foster parent agrees to abbreviated day program, students in local and regional correctional facilities who have access to same number of hours of instruction as others in their program, students enrolled in hospital education programs who have access to same number of hours of instruction as others in their program, students enrolled in the School for the Deaf who have access to the same number of hours of instruction as others in their program, students who are homeschooled, and students who are excluded from school based on a court order.

Repeals current abbreviated school day programs law.

Prohibits TSPC from taking disciplinary action against school district superintendent if student was placed on abbreviated school day program prior to February 1, 2023 unless superintendent has failed to restore access to full school days within 10 school days of finding such placement to be in violation of law, finding that parent or foster parent has revoked consent, or complying within 10 school days with order of SPI.

Declares emergency, effective March 27, 2023.

ISSUES DISCUSSED:

- Needs of students with disabilities
- Civil rights protections for students with disabilities
- Individuals with Disabilities Education Act
- Causes of students being placed on abbreviated days
- Effects of abbreviated days on students
- Staffing challenges faced by school districts

EFFECT OF AMENDMENT:

-A16 Replaces the measure. Modifies statutes related to abbreviated school days for students with disabilities or who may have a disability. Allows the student's individualized education program (IEP) team to recommend abbreviated school days based on a student's individual needs only after the opportunity for a parent or foster parent to meaningfully participate in discussion of placement, after the district documents one alternative that was offered as well as the specific provisions of the abbreviated school day program, and only after parent or foster parent is provided with written information and provides informed written consent. Requires school district to provide written information every 30 calendar days to parent or foster parent for any student placed on an abbreviated school day program. Specifies information to be provided. Establishes timeline and content requirements for school district superintendent reviews and documentation of abbreviated school day program placements. Allows parent or foster parent to revoke consent. Establishes five-day timeline and parameters for returning student to full school days when consent is revoked. Establishes processes for Oregon Department of Education (ODE) upon receipt of complaint or when otherwise believes a school district is not in compliance. Requires ODE to withhold State School Fund moneys commensurate with amount district would be receiving for student when district fails to comply with order issued by ODE. Requires school districts to provide compensatory education. Establishes failure to comply as grounds for discipline by Teacher Standards and Practices Commission (TSPC). Establishes exceptions for specific educational programs. Repeals existing statute related to abbreviated school days.

- Adds definition of educational services (passing time, recess, nonacademic assemblies and field trips, career-related activities, lunch periods, equal access to school facilities).
- Adds definition of foster parent.

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- Specifies that fractions of an hour count as an hour.
- Requires IEP meeting no fewer than 25 calendar days and no more than 35 calendar days after the initial placement on the abbreviated school day program.
- Allows parent or foster parent to consent to IEP team meetings taking place every 90 days rather than every 30 days for a child with an IEP and once each year for a child with a 504 plan, once each year for a student enrolled in a virtual charter school, and once each year for a child in a pediatric nursing facility.
- Requires meeting within 14 days of parent request.
- Adds definition of instruction.
- Narrows the students to whom the bill applies only to those who currently have 504 plans or IEPs as well as to those for whom an eligibility evaluation is in process.
- Adds to examples of abbreviated school days.
- Adds provisions regulating the placement of student with a disability in a program or school that offers fewer hours of instruction and educational services.
- Allows comparison of hours over the course of two ordinary full school weeks rather than on day-by-day basis.
- Adds requirements in all instances in which information is provided to parents that information must be provided in a language and format accessible to the parent or foster parent.
- Specifies that responsibility to provide FAPE rests with resident school district, regardless of location or administrative control of placement.
- Adds requirement that student's IEP team determines instruction and educational services based on student's individual needs.
- Adds requirement that IEP team document the number of hours of instruction and educational services to be provided to the student while placed on abbreviated day program.
- Adds requirement that reporting include the grade level of student and number of hours of instruction and educational services the school district is scheduled to provide each week.
- Adds requirement that reporting include the date the student began the abbreviated school day program and the date by which the student will be returned to full school days.
- Increases the time at which a local superintendent must review placement from 60 days to 90 days.
- Allows parents or foster parents to give school district superintendents one-time five-day extension, once per school year under certain circumstances. Prohibits extension if consent is revoked or written objection is made at least 14 calendar days prior to the start of the 2023-2024 school year.
- Narrows the scope for enforcement actions by ODE to two subsections.
- Adds provisions instructing TSPC to consider a superintendent's responsive efforts and actions of a superintendent to restore full-day access when adjudicating discipline.
- Adds exceptions for high school students voluntarily enrolled in alternative education or accelerated college credit programs under certain circumstances.
- Resolves conflict with Senate Bill 992.
- Requires school districts to provide notification to parents about provisions of Act.
- Declares emergency, effective on passage.

BACKGROUND:

In January, 2019, advocates for students with disabilities filed a class-action lawsuit in federal court, alleging that the State of Oregon had failed to ensure that students with disabilities had access to the educational opportunities guaranteed to them. At issue were instances of Oregon school districts placing students with disabilities onto shortened school days and the Oregon Department of Education's failure to take the steps necessary to ensure these students' rights to a free, appropriate public education were upheld. In June 2022, a court-ordered neutral fact-finder issued a report detailing their findings, including that there is no consistent use of signed parental permission, there are no mandated trainings provided by ODE, districts' record-keeping is often poor or neglected, the state has no effective or efficient way to gather data or monitor the use of shortened days,

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some districts withheld information, students are sometimes placed in permanent shortened-day programs, students are often required to “earn” a full school day, students often did not have any behavioral goals or a behavioral intervention plan, and in many cases, parental consent was not obtained.

The State Board enacted a General Supervision Rule in July 2022 (OAR 581-015-2015) that allows the department to monitor whether school districts are operating in compliance with legal and regulatory requirements. The rule is specific to programs for students with disabilities and allows the department to provide technical assistance, coaching, and professional development; to notify districts of any identified noncompliance within three months (or 30 days in certain cases); and to take any required corrective action. The rule requires districts to take specific actions and provides the department with the ability to withhold funds.

Senate Bill 819 A clarifies existing provisions and enacts new requirements related to the placement of students with disabilities, or who may have disabilities, onto abbreviated school days.