

# Senate Bill 560

Sponsored by Senators GELSER BLOUIN, DEMBROW (Presession filed.)

## 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 **as introduced**.

Directs State Board of Education to establish rules requiring provision of advocacy services to parents of children with disabilities in relation to public education. Requires Department of Education to enter into contract for purpose of services.

Directs department to establish statewide tip line for students, educators and other members of public to use to confidentially report information related to violations of rights of children with disabilities in public schools of this state. Authorizes department to enter into contract with disability protection and advocacy agency for purpose of providing tip line.

## A BILL FOR AN ACT

1  
2 Relating to advocates for children with disabilities in public schools; creating new provisions; and  
3 amending ORS 339.252, 343.151 and 343.155.

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

5 **SECTION 1.** ORS 343.155 is amended to read:

6 343.155. The State Board of Education shall establish by rule procedures to protect the rights  
7 of every child with a disability who is eligible for special education and every child who there is a  
8 reasonable cause to believe has a disability, including:

9 (1) Rules providing for the participation of the parents of a child with a disability in meetings  
10 regarding the child's identification, evaluation, individualized education program, educational place-  
11 ment and the provision of a free appropriate public education to the child.

12 (2) **Rules requiring the provision of assistance, training and information and referral**  
13 **services to parents of a child during the processes of identification, evaluation and educa-**  
14 **tional placement and during the development, review and revision of individualized education**  
15 **programs. The rules must require the Department of Education to enter into a contract with**  
16 **an entity to provide the services described in this subsection. The entity may not be a school**  
17 **district or an education service district and must be independent of any governance or con-**  
18 **trol by a public education provider or by the department.**

19 [(2)] (3) Rules governing the procedures for the appointment of a surrogate for the parent and  
20 other rules necessary to protect the special educational rights of the child, which shall include, but  
21 need not be limited to, rules applicable whenever:

22 (a) No parent of the child can be identified or located after reasonable efforts;

23 (b) There is reasonable cause to believe that the child has a disability and is a ward of the state;

24 (c) The child is an unaccompanied homeless youth;

25 (d) The child reaches the age of majority and has been determined not to have the ability to give  
26 informed consent regarding the child's education; or

27 (e) The parent, guardian or former guardian of the child is disqualified from being appointed as  
28 a surrogate under ORS 343.156.

**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        [(3)] (4) Rules prescribing mediation procedures, resolution sessions and hearings procedures if  
2 identification, evaluation, individualized education program or placement is contested.

3        [(4)] (5) Rules prescribing when notice of procedural safeguards must be given to the parents  
4 or the child with a disability who has reached the age of majority, the content of the notice and the  
5 language of the notice.

6        [(5)] (6) Rules prescribing standards and procedures for disciplinary actions for behavior or  
7 misconduct of a child with a disability.

8        [(6)] (7) Other procedural safeguards as required by law.

9        **SECTION 2.** ORS 343.151 is amended to read:

10        343.151. (1)(a) School districts shall ensure that an individualized education program is devel-  
11 oped, reviewed and revised for each child with a disability, as defined in ORS 343.035, pursuant to  
12 the rules of the State Board of Education.

13        (b) If a child has an individualized education program that has been developed, reviewed and  
14 revised by another school district and the child becomes a resident of a school district as provided  
15 by ORS 339.133 or 339.134 or other law, the school district must implement the individualized edu-  
16 cation program developed by the other school district until a new individualized education program  
17 is developed.

18        (2) The State Board of Education shall establish by rule the contents of an individualized edu-  
19 cation program, including transition services, and the procedures for the development, review and  
20 revision of an individualized education program. **The procedures shall allow a parent of a child**  
21 **with a disability to include an advocate for persons with disabilities at any team meetings**  
22 **related to the development, review and revision of an individualized education program.** The  
23 board shall also adopt by rule standard forms for use in developing an individualized education  
24 program.

25        (3) Each school district shall use the individualized education program forms established by rule  
26 under subsection (2) of this section in the development, review and revision of all individualized  
27 education programs.

28        (4) Notwithstanding subsection (3) of this section, a school district may use alternate forms in  
29 the development, review and revision of an individualized education program if the school district  
30 submits the form to the Department of Education and the department approves the use of the al-  
31 ternate form.

32        (5) In considering whether to approve an alternate form under subsection (4) of this section, the  
33 department shall consider whether the form meets the requirements for the contents of an individ-  
34 ualized education program adopted under subsection (2) of this section and whether the form satis-  
35 fies the intent of subsection (4) of this section to reduce unnecessary or confusing paperwork. The  
36 department shall approve or disapprove an alternate form submitted under subsection (4) of this  
37 section within 10 days of receiving the alternate form.

38        **SECTION 3.** ORS 339.252 is amended to read:

39        339.252. (1) As used in this section, “child with a disability” has the meaning given that term  
40 in ORS 343.035.

41        (2) A child with a disability continues to be entitled to a free appropriate public education if the  
42 child has been removed for disciplinary reasons from the child’s current educational placement for  
43 more than 10 school days in a school year.

44        (3) A disciplinary removal is considered a change in educational placement and the school dis-  
45 trict shall follow special education due process procedures under ORS 343.155 [(5)] (6) if:

1 (a) The removal is for more than 10 consecutive school days; or

2 (b) The child is removed for more than 10 cumulative school days in a school year, and those  
 3 removals constitute a pattern based on the length and total time of removals and the proximity of  
 4 the removals to one another.

5 (4) A child with a disability shall not be removed for disciplinary reasons under subsection (3)  
 6 of this section for misconduct that is a manifestation of the child’s disability, except as provided  
 7 under ORS 343.177.

8 (5) Notwithstanding ORS 339.250 (5)(h) or (7)(c)(B), a school district shall provide a free appro-  
 9 priate public education in an alternative setting to a child with a disability even if the basis for  
 10 expulsion was a weapon violation pursuant to ORS 339.250 (7).

11 (6) School personnel may consider any unique circumstances on a case-by-case basis when de-  
 12 termining whether to order a change in placement for a child with a disability who violates a code  
 13 of student conduct.

14 **SECTION 4. Section 5 of this 2023 Act is added to and made a part of ORS chapter 343.**

15 **SECTION 5. (1) As used in this section:**

16 (a) **“Disability protection and advocacy agency” means the nonprofit organization that**  
 17 **serves as Oregon’s federally mandated disability and advocacy agency for purposes of the**  
 18 **state protection and advocacy system.**

19 (b) **“Personally identifiable information” includes any information that would permit the**  
 20 **identification of a person who reports information using the tip line, and is not limited to**  
 21 **name, phone number, physical address, electronic mail address, race, gender, gender identity,**  
 22 **sexual orientation, disability designation, religious affiliation, national origin, ethnicity,**  
 23 **school of attendance, city, county or any geographic identifier included in information con-**  
 24 **veyed through the tip line, or information identifying the machine or device used by the**  
 25 **person in making a report using the tip line.**

26 (c) **“Public school” includes schools and other educational programs provided by school**  
 27 **districts and education service districts.**

28 (d) **“Tip line” means a statewide resource designed to accept information concerning the**  
 29 **educational rights of children with disabilities through methods of transmission including:**

- 30 (A) Telephone calls;
- 31 (B) Text messages; and
- 32 (C) Electronically through the Internet.

33 (2) **The Department of Education shall establish a statewide tip line for students, educa-**  
 34 **tors and other members of the public to use to confidentially report information related to**  
 35 **violations of the rights of children with disabilities in the public schools of this state and**  
 36 **other interferences with the ability of a child with a disability to access education in the**  
 37 **public schools of this state. For the purpose of the tip line, the department shall enter into**  
 38 **a contract with a disability protection and advocacy agency.**

39 (3) **The tip line established under this section shall be available for a person to report:**

40 (a) **The use of abbreviated school day programs in a manner that may be in violation of**  
 41 **ORS 343.161.**

42 (b) **The use of restraint or seclusion in a manner that may be in violation of ORS 339.285**  
 43 **to 339.303, including any injuries that may have resulted from the use of restraint or seclu-**  
 44 **sion.**

45 (c) **The exclusion of children with disabilities from extracurricular activities or from ac-**

1 **tivities provided during the normal course of study.**

2 **(d) School-based violations of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101**  
 3 **et seq.) that interfere with a child’s ability to access a comprehensive education program.**

4 **(e) Failure to provide appropriate assistive technology, accommodations and alternative**  
 5 **format materials for educational purposes.**

6 **(f) The disproportionate or inappropriate use of discipline, including referrals to law**  
 7 **enforcement, related to children with disabilities.**

8 **(4) When the disability protection and advocacy agency has reasonable cause to believe**  
 9 **that conduct described in a report made to the tip line constitutes a violation of state or**  
 10 **federal law or otherwise interferes with the ability of a child with a disability to access ed-**  
 11 **ucation, the agency shall:**

12 **(a) Investigate the conduct, including site visits, interviews and examinations of records.**  
 13 **Unless required by federal law, the agency is not required to provide prior notice to a school**  
 14 **district or an education service district before conducting a site visit and the school district**  
 15 **or education service district must immediately comply with requests to access students and**  
 16 **records, consistent with federal law.**

17 **(b) Provide guidance and assistance to families of children who are the subject of the**  
 18 **report regarding the initiation of formal and informal complaints, mediation, due process and**  
 19 **other processes available to ensure timely resolution of the problem and restoration of the**  
 20 **child’s rights.**

21 **(c) Notify the Department of Education of the conduct and request that the department**  
 22 **take action when there is evidence of systemic issues undermining the ability of children**  
 23 **with disabilities to access public education in the public school.**

24 **(d) Make mandatory child abuse reports, as appropriate.**

25 **(5) When the disability protection and advocacy agency does not have reasonable cause**  
 26 **to believe that conduct described in a report made to the tip line constitutes a violation of**  
 27 **state or federal law or otherwise interferes with the ability of a child with a disability to**  
 28 **access education, the agency shall refer the families of any children who are the subject of**  
 29 **the report to the network that provides training and information to parents of children with**  
 30 **disabilities.**

31 **(6) The disability protection and advocacy agency shall prepare an annual report outlining**  
 32 **its findings, resolutions to issues and recommendations about how to prevent future vio-**  
 33 **lations of state and federal law related to children with disabilities in the public schools of**  
 34 **this state or the denial of access to education by children with disabilities in the public**  
 35 **schools of this state. The report may not disclose any personally identifiable information.**  
 36 **The agency must submit the report to the Department of Education.**

37 **(7) The investigations and inquiries of the disability protection and advocacy agency are**  
 38 **separate and distinct from any law enforcement or child abuse investigation.**

39 **(8) In consultation with the disability protection and advocacy agency, the State Board**  
 40 **of Education shall adopt rules necessary to establish and operate the tip line. The rules must**  
 41 **include:**

42 **(a) Provisions that protect the personally identifiable information of a person reporting**  
 43 **information without compromising opportunities for follow-up contact.**

44 **(b) Written policies and procedures for:**

45 **(A) Logging reports received on the tip line; and**

- 1       **(B) Verifying the authenticity and validity of a report.**
  - 2       **(c) A requirement that any person authorized to receive tip line information must use**
  - 3 **the information only for the purpose of making follow-up contact to obtain or provide further**
  - 4 **information.**
  - 5
-