

Requested by Senator GELSER BLOUIN

**PROPOSED AMENDMENTS TO
SENATE BILL 819**

1 On page 1 of the printed bill, line 2, delete “amending” and insert “re-
2 pealing”.

3 Delete lines 5 through 29 and delete pages 2 through 7 and insert:

4 **“SECTION 1. As used in sections 1 to 6 of this 2023 Act:**

5 **“(1) ‘Abbreviated school day’ means any school day during which a**
6 **student receives instruction or educational services for fewer hours**
7 **than the majority of other students who are in the same grade within**
8 **the student’s resident school district.**

9 **“(2) ‘Abbreviated school day program’ means an education program:**

10 **“(a) In which a school district restricts a student’s access to hours**
11 **of instruction or educational services to less than the number of hours**
12 **of instruction or educational services that are provided to the majority**
13 **of other students who are in the same grade within the student’s res-**
14 **ident school district; and**

15 **“(b) That results in a student having an abbreviated school day for**
16 **more than 10 school days per school year.**

17 **“(3) ‘Foster youth’ means a child or ward who is in the legal cus-**
18 **tody of the Department of Human Services as provided in ORS 418.015**
19 **or 419B.337 and who has been placed in substitute care.**

20 **“(4) ‘Informed and written consent’ means that a student’s parent**
21 **or foster parent has signed and dated a written consent form affirming**

1 **that:**

2 **“(a) The parent or foster parent received the information described**
3 **in section 3 (2) and (3) of this 2023 Act;**

4 **“(b) The parent or foster parent was not asked to provide consent**
5 **before having an opportunity to meaningfully participate in a meeting**
6 **of the individualized education program team;**

7 **“(c) The school district offered, and the individualized education**
8 **program team considered, at least one reasonable alternative place-**
9 **ment, as described in section 3 (1)(b) of this 2023 Act, prior to re-**
10 **questing that the parent or foster parent provide consent for**
11 **placement of the student on an abbreviated school day program;**

12 **“(d) The parent or foster parent signed the consent form voluntar-**
13 **ily; and**

14 **“(e) The parent or foster parent is informed of the right to revoke**
15 **consent, in writing, at any time.**

16 **“(5) ‘Meaningful access’ means access to full-time, quality, syn-**
17 **chronous instruction or educational services delivered by:**

18 **“(a) A qualified licensed teacher; or**

19 **“(b) Qualified classified staff who are under the direct supervision**
20 **of a qualified licensed teacher.**

21 **“(6) ‘Parent’ includes:**

22 **“(a) The student, if the student is 18 years of age or older or is**
23 **emancipated pursuant to ORS 419B.550 to 419B.558.**

24 **“(b) The student’s surrogate, if the student has a surrogate, as de-**
25 **finied in ORS 419A.004.**

26 **“(7) ‘Resident school district’ means the school district in which a**
27 **student is a resident under ORS 339.133.**

28 **“(8) ‘School district’ includes an education service district.**

29 **“(9) ‘Unilaterally place’ means a placement by a school district**
30 **without the informed and written consent of the student’s parent or**

1 foster parent.

2 **“SECTION 2. (1) The Legislative Assembly finds that students with**
3 **disabilities have a right to meaningful access to the same number of**
4 **hours of instruction or educational services as the majority of stu-**
5 **dents without disabilities who are in the same grade within the**
6 **student’s resident school district.**

7 **“(2) Before considering or recommending a student for an abbrevi-**
8 **ated school day program, a school district must document reasonable**
9 **efforts to provide meaningful access to the same number of hours of**
10 **instruction or educational services that are provided to the majority**
11 **of other students who are in the same grade within the student’s res-**
12 **ident school district.**

13 **“(3) A school district may not consider, recommend or implement**
14 **an abbreviated school day program due to the school district, or a**
15 **contractor with the school district, having inadequate staffing avail-**
16 **able for instruction or educational services.**

17 **“(4) For the purpose of determining if an abbreviated school day**
18 **program has been implemented, or of determining if a student has**
19 **received an abbreviated school day for more than 10 school days, the**
20 **following are considered examples of an abbreviated school day:**

21 **“(a) The school district implementing policies or taking actions that**
22 **are not applied to the majority of other students who are in the same**
23 **grade within the student’s resident school district and that cause the**
24 **student to start school late, to leave school early or to not come to**
25 **school due to:**

26 **“(A) Lack of school district personnel, including instructional as-**
27 **sistants, nursing staff and transportation providers;**

28 **“(B) Convenience of school district staff; or**

29 **“(C) Behaviors related to the student’s disability, unless the sched-**
30 **ule is provided pursuant to ORS 339.250.**

1 **“(b) The school district releasing a student early from school or**
2 **requesting or requiring a student not to come to school due to any**
3 **illness that would not typically have the same effect for the majority**
4 **of other students who are in the same grade within the student’s res-**
5 **ident school district.**

6 **“(c) The school district requesting a student to not attend, prohib-**
7 **iting a student from attending or otherwise making attendance inac-**
8 **cessible for a planned activity, including a field trip, a special event**
9 **or an outdoor school program.**

10 **“(d) The school district imposing temporary lack of access to edu-**
11 **cation facilities due to construction, special events or weather when**
12 **that lack of access does not apply to the majority of other students**
13 **who are in the same grade within the student’s resident school dis-**
14 **trict.**

15 **“(e) The school district providing transportation that arrives at the**
16 **student’s school after the start of the school day or leaves from the**
17 **student’s school before the end of the school day and that causes the**
18 **student to receive fewer hours of instruction or educational services**
19 **than the number of hours provided to the majority of other students**
20 **who are in the same grade within the student’s resident school dis-**
21 **trict.**

22 **“(f) The school district failing to provide transportation identified**
23 **in the student’s individualized education program.**

24 **“(5) A school district may not unilaterally place a student on an**
25 **abbreviated school day program, regardless of the age of the student.**

26 **“SECTION 3. A school district may provide an abbreviated school**
27 **day program to a student only if all of the following are satisfied:**

28 **“(1) The student’s individualized education program team:**

29 **“(a) Recommends that the student should be placed on an abbrevi-**
30 **ated school day program:**

1 **“(A) Based on the student’s individual needs, which may not in-**
2 **clude consideration of a lack of school district resources, including:**

3 **“(i) Licensed or classified staff;**

4 **“(ii) Accessible facilities; and**

5 **“(iii) Related services, including nursing services and transportation**
6 **services; and**

7 **“(B) After the opportunity for the student’s parent or foster parent**
8 **to meaningfully participate in a meeting of the individualized educa-**
9 **tion program team to discuss the placement, including the reasonable**
10 **opportunity to physically attend the meeting of the individualized ed-**
11 **ucation program team at which the abbreviated school day program**
12 **is discussed.**

13 **“(b) Documents that the school district offered at least one rea-**
14 **sonable alternative placement that included appropriate supports for**
15 **the student and that could enable the student to have meaningful ac-**
16 **cess to the same number of hours of instruction or educational ser-**
17 **vices that are provided to the majority of other students who are in**
18 **the same grade within the student’s resident school district.**

19 **“(c) Documents the specific provisions of the abbreviated school day**
20 **program, including:**

21 **“(A) How the abbreviated school day program will be designed to:**

22 **“(i) Support the student’s return to a school day program that is**
23 **not an abbreviated school day program; and**

24 **“(ii) Make progress toward the student’s individualized learning**
25 **goals and progress in the general curriculum;**

26 **“(B) How the student’s progress toward the student’s individualized**
27 **learning goals and progress in the general curriculum will be meas-**
28 **ured; and**

29 **“(C) The date by which the student is expected to return to a school**
30 **day program that is not an abbreviated school day program.**

1 “(2) The school district provides a written statement to the
2 student’s parent or foster parent informing the parent or foster parent
3 of:

4 “(a) The student’s right to have meaningful access to the same
5 number of hours of instruction or educational services as the majority
6 of other students who are in the same grade within the student’s res-
7 ident school district;

8 “(b) The prohibition on the school district to unilaterally place a
9 student on an abbreviated school day program; and

10 “(c) The parent’s or foster parent’s right, at any time, to withdraw
11 consent or to request a meeting of the student’s individualized educa-
12 tion program team to discuss whether the student should no longer
13 be placed on an abbreviated school day program.

14 “(3) The school district provides a written statement summarizing
15 the documentation described in subsection (1)(b) and (c) of this section
16 in a language and format accessible to the parent or foster parent.

17 “(4) The school district receives a signed acknowledgement from the
18 parent or foster parent acknowledging receipt of the written statement
19 described in subsection (2) of this section.

20 “(5) The parent or foster parent provides informed and written
21 consent for the placement.

22 “SECTION 4. (1) When a student is placed on an abbreviated school
23 day program, the provisions of this section apply.

24 “(2) For each student placed on an abbreviated school day program,
25 the school district shall, at least once every 30 calendar days during
26 the school year:

27 “(a) Provide the following information in writing to the parent or
28 foster parent of the student:

29 “(A) The school district’s duty to comply with the requirements of
30 sections 1 to 6 of this 2023 Act;

1 **“(B) The prohibition against a school district unilaterally placing a**
2 **student on an abbreviated school day program;**

3 **“(C) The student’s right to have meaningful access to the same**
4 **number of hours of instruction or educational services as the majority**
5 **of other students who are in the same grade within the student’s res-**
6 **ident school district; and**

7 **“(D) The parent’s or foster parent’s right, at any time, to withdraw**
8 **consent or to request a meeting of the student’s individualized educa-**
9 **tion program team to discuss whether the student should no longer**
10 **be placed on an abbreviated school day program.**

11 **“(b) Obtain from the parent or foster parent a signed acknowledg-**
12 **ment that the parent or foster parent received the information de-**
13 **scribed in paragraph (a) of this subsection and does not choose to**
14 **withdraw consent.**

15 **“(c) Hold a meeting of the student’s individualized education pro-**
16 **gram team to review the student’s abbreviated school day program and**
17 **discuss whether to continue placement on the abbreviated school day**
18 **program.**

19 **“(d) If the parent or foster parent provides a signed acknowledg-**
20 **ment under paragraph (b) of this subsection and the placement on the**
21 **abbreviated school day program continues, include in the student’s**
22 **individualized education program a written statement that:**

23 **“(A) Explains the reasons the student was placed on the abbreviated**
24 **school day program; and**

25 **“(B) Describes in detail other reasonable options that were consid-**
26 **ered and documents why each option considered was not implemented.**

27 **“(e) Inform the Department of Education about the student’s**
28 **placement on an abbreviated school day program, including:**

29 **“(A) The measurable steps the school district is taking to provide**
30 **the student with meaningful access to the same number of hours of**

1 **instruction or educational services that are provided to the majority**
2 **of other students who are in the same grade within the student’s res-**
3 **ident school district;**

4 **“(B) The date the student began the abbreviated school day pro-**
5 **gram and the start and end dates of any prior formal or informal**
6 **placements of the student on an abbreviated school day program; and**

7 **“(C) The date by which the student is expected to receive mean-**
8 **ingful access to the same number of hours of instruction or educa-**
9 **tional services that are provided to the majority of other students who**
10 **are in the same grade within the student’s resident school district.**

11 **“(3)(a) The school district superintendent must review a student’s**
12 **placement on an abbreviated school day program if the student is**
13 **placed on an abbreviated school day program for:**

14 **“(A) Sixty or more cumulative calendar days during a school year;**
15 **or**

16 **“(B) Sixty or more cumulative calendar days, excluding summer**
17 **break, when the student is placed on an abbreviated school day pro-**
18 **gram during two or more consecutive school years.**

19 **“(b) The school district superintendent must review a placement**
20 **when required under paragraph (a) of this subsection and:**

21 **“(A) Find that the placement is compliant with state and federal**
22 **law and document in writing:**

23 **“(i) The efforts of the school district to facilitate the student’s**
24 **meaningful access to the same number of hours of instruction or ed-**
25 **ucational services that are provided to the majority of other students**
26 **who are in the same grade within the student’s resident school dis-**
27 **trict; and**

28 **“(ii) The specific barriers that prevent that meaningful access; or**

29 **“(B) Find that the placement is not compliant with state and fed-**
30 **eral law and ensure that, within five school days of making the find-**

1 ing, the student has meaningful access to the same number of hours
2 of instruction or educational services that are provided to the majority
3 of other students who are in the same grade within the student’s res-
4 ident school district.

5 “(c) In addition to a finding made under paragraph (b) of this sub-
6 section, for any student in grades 9 through 12 not expected to grad-
7 uate on time with a high school diploma, a modified diploma or an
8 extended diploma, the school district superintendent must document
9 in writing:

10 “(A) The plan for credit recovery and comprehensive services, in-
11 cluding compensatory services, that is being implemented to ensure
12 the student’s on-time graduation with a high school diploma, a modi-
13 fied diploma or an extended diploma; and

14 “(B) The student’s progress toward on-time graduation with a high
15 school diploma, a modified diploma or an extended diploma.

16 “(d) If the student is served by an education program through an
17 education service district, the requirements of paragraphs (a) to (c)
18 of this subsection apply to both the superintendent of the resident
19 school district and the superintendent of the education service district.

20 “(e) Any findings or documentation required under paragraphs (b)
21 and (c) of this subsection must be provided, within five school days
22 of making the finding, to the Department of Education and to the
23 student’s parent or foster parent.

24 “SECTION 5. (1)(a) A parent or a foster parent may, at any time,
25 revoke consent for a student’s placement on an abbreviated school day
26 program.

27 “(b) Consent for a student’s placement on an abbreviated school day
28 program shall be considered revoked if, at any time, the parent or the
29 foster parent revokes the consent in writing or makes a written ob-
30 jection to the placement.

1 “(c) Upon receipt of a written revocation or objection, the school
2 district superintendent shall ensure that, within five school days, the
3 student has meaningful access to the same number of hours of in-
4 struction or educational services that are provided to the majority of
5 other students who are in the same grade within the student’s resident
6 school district. Failure of the school district superintendent to comply
7 with this paragraph shall cause the school district to be found non-
8 standard under ORS 327.103 or 334.217.

9 “(2)(a) When the Department of Education receives a complaint or
10 otherwise has cause to believe a school district is not in compliance
11 with sections 1 to 6 of this 2023 Act, the department must initiate an
12 investigation and inform the school district of any noncompliance
13 within 30 days of receiving the complaint or having cause to believe
14 the school district is not in compliance.

15 “(b) If a complaint described in paragraph (a) of this subsection
16 relates to a specific student and is submitted by the student’s parent
17 or foster parent, the Superintendent of Public Instruction shall pre-
18 sume that consent has been revoked and is not required to conduct
19 an investigation and the superintendent shall immediately order the
20 school district to provide to the student meaningful access to the same
21 number of hours of instruction or educational services that are pro-
22 vided to the majority of other students who are in the same grade
23 within the student’s resident school district. If the school district fails
24 to comply with the order, the superintendent shall find the school
25 district is not in compliance with sections 1 to 6 of this 2023 Act.

26 “(c) If the superintendent finds that a school district is not in
27 compliance with sections 1 to 6 of this 2023 Act, either after an inves-
28 tigation or as provided by paragraph (b) of this subsection, the super-
29 intendent shall:

30 “(A) Enter an order that any students named in the complaint or

1 **identified in the course of an investigation initiated under paragraph**
2 **(a) of this subsection who are placed on an abbreviated school day**
3 **program in violation of sections 1 to 6 of this 2023 Act be provided,**
4 **within five school days of the final order, with meaningful access to**
5 **the same number of hours of instruction or educational services that**
6 **are provided to the majority of other students who are in the same**
7 **grade within the student’s resident school district.**

8 **“(B) If the school district fails to comply with the order described**
9 **in subparagraph (A) of this paragraph within five days, find the school**
10 **district nonstandard under ORS 327.103 or 334.217 until all students**
11 **subject to the order and placed on an abbreviated school day program**
12 **in violation of sections 1 to 6 of this 2023 Act are provided with**
13 **meaningful access to the same number of hours of instruction or ed-**
14 **ucational services that are provided to the majority of other students**
15 **who are in the same grade within the student’s resident school dis-**
16 **trict.**

17 **“(C) If the school district fails to comply with the order within 10**
18 **days and notwithstanding any timelines or process requirements of**
19 **ORS 327.103 or 334.217, immediately withhold State School Fund mon-**
20 **neys that otherwise would be distributed to the school district. Amounts**
21 **withheld must be calculated based on the weighted average daily**
22 **membership attributable to the student, as calculated under ORS**
23 **327.013, and the percentage of the school year that the student was**
24 **placed on an abbreviated school day program in violation of sections**
25 **1 to 6 of this 2023 Act.**

26 **“(D) Require the school district to provide compensatory education**
27 **to the student that is equivalent to at least one hour of direct in-**
28 **struction for every two hours of instruction that were lost due to**
29 **placement on an abbreviated school day program in violation of**
30 **sections 1 to 6 of this 2023 Act.**

1 **“(3) The failure of a school district superintendent to restore**
2 **meaningful access to a student within five school days as required by**
3 **section 4 (3)(b)(B) of this 2023 Act or subsection (1)(c) of this section**
4 **or to comply with an order issued under subsection (2)(c) of this sec-**
5 **tion to restore meaningful access to all students subject to the order**
6 **may be grounds for discipline by the Teacher Standards and Practices**
7 **Commission under ORS 342.175.**

8 **“SECTION 6. Sections 2 to 5 of this 2023 Act do not apply to any**
9 **of the following:**

10 **“(1) Any abbreviated school days that are a component of discipline**
11 **imposed in compliance with ORS 339.250.**

12 **“(2) A student’s exclusion from schools due to the student’s im-**
13 **munization status or due to the student’s exposure to a restrictable**
14 **disease, as provided by ORS 433.235 to 433.284.**

15 **“(3) The exclusion of a student from schools or the closure or re-**
16 **striction of access to schools due to actions taken under a public**
17 **health emergency authorized under ORS 433.441 to 433.452.**

18 **“(4) A student who has fulfilled all state requirements for gradu-**
19 **ation with a high school diploma, as described in ORS 329.451 (2), when**
20 **the parent or foster parent has agreed to the abbreviated school day**
21 **program.**

22 **“(5) A student who, at the start of grade 12, is on track to exceed**
23 **all state requirements for graduation with a high school diploma, as**
24 **described in ORS 329.451 (2), when:**

25 **“(a) The parent or foster parent agrees to the abbreviated school**
26 **day program; and**

27 **“(b) The student, upon request by the parent or foster parent, is**
28 **immediately permitted to access the same number of hours of in-**
29 **struction or educational services as the majority of other students in**
30 **grade 12 within the student’s resident school district.**

1 **“(6) A student who is attending an alternative education program,**
2 **as defined in ORS 336.615, when:**

3 **“(a) The Superintendent of Public Instruction, upon receipt of an**
4 **approved request from the school district board in which the alterna-**
5 **tive education program is located, has granted permission for the al-**
6 **ternative education program to offer fewer hours of instruction or**
7 **educational services than are offered to the majority of other students**
8 **in the same grade within the student’s resident school district;**

9 **“(b) The alternative education program uses an evidence-based**
10 **strategy that includes flexible time options;**

11 **“(c) The school district within which the alternative education**
12 **program is located has implemented a system to assess students prior**
13 **to placement to determine whether placement in an alternative edu-**
14 **cation program is appropriate; and**

15 **“(d) The student, upon request by the parent or foster parent, is**
16 **immediately permitted to access the same number of hours of in-**
17 **struction or educational services as the majority of other students**
18 **enrolled in the same alternative education program.**

19 **“(7) A high school student who is earning credits toward a high**
20 **school diploma, as described in ORS 329.451 (2), or a modified diploma,**
21 **as provided by ORS 329.451 (7), through accelerated learning classes**
22 **when:**

23 **“(a) For a student who is not receiving special education and re-**
24 **lated services:**

25 **“(A) The parent or foster parent agrees to the abbreviated school**
26 **day program; and**

27 **“(B) The student, upon request by the parent or foster parent, is**
28 **immediately permitted to access the same number of hours of in-**
29 **struction or educational services as the majority of other students who**
30 **are in the same grade within the student’s resident school district; or**

1 **“(b) For a student who is receiving special education and related**
2 **services:**

3 **“(A) The parent or foster parent provides informed and written**
4 **consent to the abbreviated school day program; and**

5 **“(B) The student, upon revocation of consent by the parent or fos-**
6 **ter parent, is immediately permitted to access the same number of**
7 **hours of instruction or educational services as the majority of other**
8 **students who are in the same grade within the student’s resident**
9 **school district.**

10 **“(8) A student enrolled in a program described in ORS 339.129,**
11 **343.261 or 346.010, if the student has access to the same number of**
12 **hours of instruction or educational services as the majority of other**
13 **students enrolled in the same program as the student.**

14 **“(9) A student whose parent or foster parent has notified an edu-**
15 **cation service district that the student is being taught by a parent,**
16 **legal guardian or private teacher under ORS 339.035.**

17 **“(10) A student who is excluded from, or limited access to, school**
18 **due to a court order.**

19 **“SECTION 7. ORS 343.161 is repealed.**

20 **“SECTION 8. (1) Sections 1 to 3 of this 2023 Act apply to students**
21 **who are placed on an abbreviated school day program on or after the**
22 **effective date of this 2023 Act.**

23 **“(2) Notwithstanding section 5 (3) of this 2023 Act, during the**
24 **2022-2023 school year only, if a student was placed on an abbreviated**
25 **school day program prior to February 1, 2023, the Teacher Standards**
26 **and Practices Commission may not take disciplinary action in relation**
27 **to a school district superintendent unless the superintendent failed to:**

28 **“(a) Restore meaningful access to a student within 10 school days**
29 **under section 4 (3)(b)(B) of this 2023 Act or section 5 (1)(c) of this 2023**
30 **Act; or**

1 **“(b) Comply, within 10 school days, with an order issued under**
2 **section 5 (2)(c) of this 2023 Act to restore meaningful access to all**
3 **students subject to the order.**

4 **“(3) Nothing in this section prevents a parent or foster parent from**
5 **revoking consent, or the Department of Education or the Superinten-**
6 **dent of Public Instruction from taking any action related to the**
7 **placement of a student on an abbreviated school day program, if the**
8 **placement occurred before the effective date of this 2023 Act and the**
9 **placement is ongoing on the effective date of this 2023 Act.**

10 **“SECTION 9. Section 4 of this 2023 Act becomes operative July 1,**
11 **2023.**

12 **“SECTION 10. This 2023 Act being necessary for the immediate**
13 **preservation of the public peace, health and safety, an emergency is**
14 **declared to exist, and this 2023 Act takes effect March 27, 2023.”.**

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