

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 with a disability receives instruction or educational services**  
7 **for fewer hours than the majority of other students who are in the**  
8 **same grade within the student’s resident school district.**

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

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

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

17 **“(3) ‘504 Plan’ means an education plan developed for a student with**  
18 **a disability in accordance with section 504 of the Rehabilitation Act**  
19 **of 1973, 29 U.S.C. 794.**

20 **“(4) ‘Foster youth’ means a child or ward who is in the legal cus-**  
21 **tody of the Department of Human Services as provided in ORS 418.015**

1 or 419B.337 and who has been placed in substitute care.

2 “(5) ‘Individualized education program team’ includes, when appli-  
3 cable, a team that develops a 504 Plan.

4 “(6) ‘Informed and written consent’ means that a student’s parent  
5 or foster parent has signed and dated a written consent form affirming  
6 that:

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

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

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

17 “(d) The parent or foster parent signed the consent form voluntar-  
18 ily; and

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

21 “(7) ‘Meaningful access’ means access to full-time, quality, syn-  
22 chronous instruction or educational services delivered by:

23 “(a) A qualified licensed teacher; or

24 “(b) Qualified classified staff who are under the direct supervision  
25 of a qualified licensed teacher.

26 “(8) ‘Parent’ includes:

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

29 “(b) The student’s surrogate, if the student has a surrogate, as de-  
30 fined in ORS 419A.004.

1       **“(9) ‘Resident school district’ means the school district in which a**  
2 **student is a resident under ORS 339.133.**

3       **“(10) ‘School district’ includes an education service district.**

4       **“(11) ‘Student with a disability’ means a student who:**

5       **“(a) Is eligible for special education and related services, as pro-**  
6 **vided by ORS chapter 343;**

7       **“(b) Has a disability under section 504 of the Rehabilitation Act of**  
8 **1973, 29 U.S.C. 794, regardless of whether the student has a 504 Plan;**

9       **“(c) Has not been determined to be eligible for special education and**  
10 **related services, as provided by ORS chapter 343, or to be eligible for**  
11 **a 504 Plan, but for whom a request or referral for evaluation for el-**  
12 **igibility determination has been made; or**

13       **“(d) Is no longer identified as being eligible for special education**  
14 **and related services under ORS chapter 343 or for a 504 Plan, but who**  
15 **was eligible for special education and related services or a 504 Plan at**  
16 **any time during the prior three school years.**

17       **“(12) ‘Unilaterally place’ means a placement by a school district**  
18 **without the informed and written consent of the student’s parent or**  
19 **foster parent.**

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

25       **“(2) Before considering or recommending a student with a disability**  
26 **for an abbreviated school day program, a school district must docu-**  
27 **ment reasonable efforts to provide meaningful access to the same**  
28 **number of hours of instruction or educational services that are pro-**  
29 **vided to the majority of other students who are in the same grade**  
30 **within the student’s resident school district.**

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

5       **“(4) For the purpose of determining if an abbreviated school day**  
6 **program has been implemented, or of determining if a student with a**  
7 **disability has received an abbreviated school day for more than 10**  
8 **school days, the following are considered examples of an abbreviated**  
9 **school day:**

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

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

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

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

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

25       **“(c) The school district requesting the student to not attend, pro-**  
26 **hibiting the student from attending or otherwise making attendance**  
27 **inaccessible for a planned activity, including a field trip, a special**  
28 **event or an outdoor school program.**

29       **“(d) The school district imposing temporary lack of access to edu-**  
30 **cation facilities due to construction, special events or weather when**

1 that lack of access does not apply to the majority of other students  
2 who are in the same grade within the student’s resident school dis-  
3 trict.

4 “(e) The school district providing transportation that arrives at the  
5 student’s school after the start of the school day or leaves from the  
6 student’s school before the end of the school day and that causes the  
7 student to receive fewer hours of instruction or educational services  
8 than the number of hours provided to the majority of other students  
9 who are in the same grade within the student’s resident school dis-  
10 trict.

11 “(f) The school district failing to provide transportation identified  
12 in the student’s individualized education program or 504 Plan.

13 “(5) A school district may not unilaterally place a student with a  
14 disability on an abbreviated school day program, regardless of the age  
15 of the student.

16 “SECTION 3. A school district may provide an abbreviated school  
17 day program to a student with a disability only if all of the following  
18 are satisfied:

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

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

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

24 “(i) Licensed or classified staff;

25 “(ii) Accessible facilities; and

26 “(iii) Related services, including nursing services and transportation  
27 services; and

28 “(B) After the opportunity for the student’s parent or foster parent  
29 to meaningfully participate in a meeting of the individualized educa-  
30 tion program team to discuss the placement, including the reasonable

1 opportunity to physically attend the meeting of the individualized ed-  
2 ucation program team at which the abbreviated school day program  
3 is discussed.

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

10 “(c) Documents the specific provisions of the abbreviated school day  
11 program, including:

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

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

15 “(ii) Make progress toward the student’s individualized learning  
16 goals and progress in the general curriculum;

17 “(B) How the student’s progress toward the student’s individualized  
18 learning goals and progress in the general curriculum will be meas-  
19 ured; and

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

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

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

29 “(b) The prohibition on the school district to unilaterally place a  
30 student with a disability on an abbreviated school day program; and

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

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

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

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

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

15       “(2) For each student with a disability placed on an abbreviated  
16 school day program, the school district shall, at least once every 30  
17 calendar days during the school year:

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

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

22       “(B) The prohibition against a school district unilaterally placing a  
23 student with a disability on an abbreviated school day program;

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

28       “(D) The parent’s or foster parent’s right, at any time, to withdraw  
29 consent or to request a meeting of the student’s individualized educa-  
30 tion program team to discuss whether the student should no longer

1 be placed on an abbreviated school day program.

2 “(b) Obtain from the parent or foster parent a signed acknowledg-  
3 ment that the parent or foster parent received the information de-  
4 scribed in paragraph (a) of this subsection and does not choose to  
5 withdraw consent.

6 “(c) Hold a meeting of the student’s individualized education pro-  
7 gram team to review the student’s abbreviated school day program and  
8 discuss whether to continue placement on the abbreviated school day  
9 program.

10 “(d) If the parent or foster parent provides a signed acknowledg-  
11 ment under paragraph (b) of this subsection and the placement on the  
12 abbreviated school day program continues, include in the student’s  
13 individualized education program or 504 Plan a written statement that:

14 “(A) Explains the reasons the student was placed on the abbreviated  
15 school day program; and

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

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

20 “(A) The measurable steps the school district is taking to provide  
21 the student with meaningful access to the same number of hours of  
22 instruction or educational services that are provided to the majority  
23 of other students who are in the same grade within the student’s res-  
24 ident school district;

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

28 “(C) The date by which the student is expected to receive mean-  
29 ingful access to the same number of hours of instruction or educa-  
30 tional services that are provided to the majority of other students who



1 are in the same grade within the student’s resident school district.

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

5 “(A) Sixty or more cumulative calendar days during a school year;  
6 or

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

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

12 “(A) Find that the placement is compliant with state and federal  
13 law and document in writing:

14 “(i) The efforts of the school district to facilitate the student’s  
15 meaningful access to the same number of hours of instruction or ed-  
16 ucational services that are provided to the majority of other students  
17 who are in the same grade within the student’s resident school dis-  
18 trict; and

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

20 “(B) Find that the placement is not compliant with state and fed-  
21 eral law and ensure that, within five school days of making the find-  
22 ing, the student has meaningful access to the same number of hours  
23 of instruction or educational services that are provided to the majority  
24 of other students who are in the same grade within the student’s res-  
25 ident school district.

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

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

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

7       **“(d) If the student is served by an education program through an**  
8 **education service district, the requirements of paragraphs (a) to (c)**  
9 **of this subsection apply to both the superintendent of the resident**  
10 **school district and the superintendent of the education service district.**

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

15       **“SECTION 5. (1)(a) A parent or a foster parent may, at any time,**  
16 **revoke consent for the placement of a student with a disability on an**  
17 **abbreviated school day program.**

18       **“(b) Consent for the placement on an abbreviated school day pro-**  
19 **gram shall be considered revoked if, at any time, the parent or the**  
20 **foster parent revokes the consent in writing or makes a written ob-**  
21 **jection to the placement.**

22       **“(c) Upon receipt of a written revocation or objection, the school**  
23 **district superintendent shall ensure that, within five school days, the**  
24 **student has meaningful access to the same number of hours of in-**  
25 **struction or educational services that are provided to the majority of**  
26 **other students who are in the same grade within the student’s resident**  
27 **school district. Failure of the school district superintendent to comply**  
28 **with this paragraph shall cause the school district to be found non-**  
29 **standard under ORS 327.103 or 334.217.**

30       **“(2)(a) When the Department of Education receives a complaint or**

1 otherwise has cause to believe a school district is not in compliance  
2 with sections 1 to 6 of this 2023 Act, the department must initiate an  
3 investigation and inform the school district of any noncompliance  
4 within 30 days of receiving the complaint or having cause to believe  
5 the school district is not in compliance.

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

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

21 “(A) Enter an order that any students named in the complaint or  
22 identified in the course of an investigation initiated under paragraph  
23 (a) of this subsection who are placed on an abbreviated school day  
24 program in violation of sections 1 to 6 of this 2023 Act be provided,  
25 within five school days of the final order, with meaningful access to  
26 the same number of hours of instruction or educational services that  
27 are provided to the majority of other students who are in the same  
28 grade within the student’s resident school district.

29 “(B) If the school district fails to comply with the order described  
30 in subparagraph (A) of this paragraph within five days, find the school

1 **district nonstandard under ORS 327.103 or 334.217 until all students**  
2 **subject to the order and placed on an abbreviated school day program**  
3 **in violation of sections 1 to 6 of this 2023 Act are provided with**  
4 **meaningful access to the same number of hours of instruction or ed-**  
5 **ucational services that are provided to the majority of other students**  
6 **who are in the same grade within the student’s resident school dis-**  
7 **trict.**

8 **“(C) If the school district fails to comply with the order within 10**  
9 **days and notwithstanding any timelines or process requirements of**  
10 **ORS 327.103 or 334.217, immediately withhold State School Fund mon-**  
11 **eys that otherwise would be distributed to the school district. Amounts**  
12 **withheld must be calculated based on the weighted average daily**  
13 **membership attributable to the student, as calculated under ORS**  
14 **327.013, and the percentage of the school year that the student was**  
15 **placed on an abbreviated school day program in violation of sections**  
16 **1 to 6 of this 2023 Act.**

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

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

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

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

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

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

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

13       “(5) A student enrolled in a program described in ORS 339.129,  
14 343.261 or 346.010, if the student has access to the same number of  
15 hours of instruction or educational services as the majority of other  
16 students enrolled in the same program as the student.

17       “(6) A student whose parent or foster parent has notified an edu-  
18 cation service district that the student is being taught by a parent,  
19 legal guardian or private teacher under ORS 339.035.

20       “(7) A student who is excluded from, or limited access to, school  
21 due to a court order.

22       “SECTION 7. ORS 343.161 is repealed.

23       “SECTION 8. (1) Sections 1 to 3 of this 2023 Act apply to a student  
24 with a disability who is placed on an abbreviated school day program  
25 on or after the effective date of this 2023 Act.

26       “(2) Notwithstanding section 5 (3) of this 2023 Act, during the  
27 2022-2023 school year only, if a student with a disability was placed on  
28 an abbreviated school day program prior to February 1, 2023, the  
29 Teacher Standards and Practices Commission may not take discipli-  
30 nary action in relation to a school district superintendent unless the

1 **superintendent failed to:**

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

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

8 **“(3) Nothing in this section prevents a parent or foster parent from**  
9 **revoking consent, or the Department of Education or the Superinten-**  
10 **dent of Public Instruction from taking any action related to the**  
11 **placement of a student with a disability on an abbreviated school day**  
12 **program, if the placement occurred before the effective date of this**  
13 **2023 Act and the placement is ongoing on the effective date of this 2023**  
14 **Act.**

15 **“SECTION 9. Section 4 of this 2023 Act becomes operative July 1,**  
16 **2023.**

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

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